RULES
OF THE
TENNESSEE DEPARTMENT OF ENVIRONMENT AND CONSERVATION
DIVISION OF WATER RESOURCES

CHAPTER 0400-40-11
ENVIRONMENTAL PROTECTION FUND FEES

TABLE OF CONTENTS

0400-40-11-.01 General
0400-40-11-.02 Fees
0400-40-11-.03 Schedule of Timely Action

0400-40-11-.01 GENERAL.

(1) General

(a) Pursuant to T.C.A. § 68-203-101 et seq. the Department of Environment and Conservation, hereafter referred to as the Department, shall charge fees for the various services and functions it performs under statutes, including the Water Quality Control Act of 1977. Fees under the Act are to be adopted as regulations by the Water Quality Control Board. This Chapter prescribes those fees applicable to categories of applicants for and holders of permits issued under authority of the Act. The Board is further required to establish a schedule for timely action by the Department on permit applications where a permit processing fee is established. This Chapter sets out such a schedule.

(b) Purpose, Scope, and Applicability – This rule provides definitions of terms, general standards and procedures, and overview information applicable to these rules.

(c) Use of the Number and Gender – As used in these rules:

1. Words in the masculine gender also include the feminine and neuter genders; and

2. Words in the singular include the plural; and

3. Words in the plural include the singular.

(d) Rule Structure

These rules are organized, numbered, and referenced according to the following outline form:

(1) paragraph

(a) subparagraph

1. part

(i) subpart

(I) item

I. subitem

A. section

(A) subsection

(2) Definitions

(a) Definitions - When used in this Chapter, the following terms have the meanings given below unless otherwise specified:

"Act" means the Water Quality Control Act, as amended, T.C.A. § 69-3-101 et seq.

"Application" means those forms supplied by the Department, properly completed, together with such technical reports, plans and specifications as may be required to apply for permit.

"ARAP" means Aquatic Resource Alteration Permit, a permit that authorizes the alteration of properties of the waters of the State resulting from activities other than point source wastewater discharges.

"Board" means the Board of Water Quality, Oil and Gas.

"Clean Water Act (CWA)" is the common name for the Federal Water Pollution Control Act, Public law 92–500; 33 U.S.C. § 1251 et seq.; the legislation, which provides statutory authority for both NPDES and Pretreatment Programs.

"Commissioner" means the Commissioner of the Department of Environment and Conservation or the Commissioner's duly authorized representative and, in the event of the Commissioner's absence or a vacancy in the Office of Commissioner, the Deputy Commissioner.

"Concentrated Animal Feeding Operation (CAFO)," means an animal feeding operation that may discharge to waters of the United States, impact groundwater or otherwise adversely impact the water resources of Tennessee.

"Construction Activity" means the disturbance of soils associated with clearing, grading, excavating, filling of land, or other similar activities which may result in soil erosion. Construction activity does not include agriculture and silvicultural practices.

"Control Authority" means:

1. the POTW if the POTW's submission for its pretreatment program has been approved; or

2. the Division if the submission has not been approved.

"Department" means the Department of Environment and Conservation.

"Director" means the Director of the Division of Water Resources.

"Division" means the Division of Water Resources.

"Facility", in the context of stormwater industrial discharges, means those portions of the property on which industrial activity occurs.

"Family Farm" means one or more tracts of land, used for agricultural purposes that are held in private ownership by one or more people related by birth or marriage.

(Rule 0400-40-11-.01, continued)

"Federal Water Pollution Control Act" means the federal law promulgated to control and eliminate pollutants, also known as the Clean Water Act, as amended. 33 U.S.C. § 1251, et seq.

"Incorporated Place" means a city, town, metropolitan government, township, or village that is incorporated under the laws of Tennessee.

"Indirect Discharge" means introduction of pollutants into a POTW from any non–domestic source regulated by the Clean Water Act.

"Industrial Facility" means an activity or facility that is issued a permit for discharge of wastewater other than domestic or municipal wastewater.

"Industrial Flow" means the daily effluent flow occurring on days when the facility is in operation, averaged over the 12-month period preceding the billing date for Permit Annual Maintenance Fees.

"Industrial User" means the facility that is the source of an Indirect Discharge.

"Large Municipal Separate Storm Sewer System" means all municipal separate storm sewers which, are either:

1. Located in an incorporated place with a population of 250,000 or more as determined by the latest Decennial census by the Bureau of Census; or

2. Located in the counties with unincorporated urbanized areas with a population of 250,000 or more according to the latest Decennial census by the Bureau of Census except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

3. Owned or operated by a municipality other than those described in part 1 or 2 of this definition and that are designated by the Director as part of the large or medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under part 1 or 2 of this definition; or

4. Designated by the Director, upon petition, as a large municipal separate storm sewer system, if the municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis includes one or more of the systems described in parts 1, 2, or 3 of this definition.

"Large Pretreatment Program" means an approved program which has issued permits, for the purpose of controlling the discharge of process wastewater, to twenty or more significant industrial users.

"Major" means an NPDES permit classified as such by the Regional Administrator of the Environmental Protection Agency, or the Director of the Division of Water Resources.

"Medium Municipal Separate Storm Sewer System" means all municipal separate storm sewers that are either:

(Rule 0400-40-11-.01, continued)

1. Located in an incorporated place with a population of 100,000 or more but less than 250,000, as determined by the latest Decennial Census by the Bureau of Census; or

2. Located in counties with unincorporated urbanized areas greater than 100,000, but less than 250,000, as determined by the latest Decennial Census by the Bureau of Census, except municipal separate storm sewers that are located in the incorporated places, townships or towns within such counties; or

3. Owned or operated by a municipality other than those described in part 1 or 2 of this definition and that are designated by the Director as part of the medium municipal separate storm sewer system due to the interrelationship between the discharges of the designated storm sewer and the discharges from municipal separate storm sewers described under part 1 or 2 of this definition; or

4. Designated by the Director upon petition, as a medium municipal separate storm sewer system, if the municipal separate storm sewers located within the boundaries of a region defined by a storm water management regional authority based on a jurisdictional, watershed, or other appropriate basis that includes one or more of the systems described in parts 1, 2, or 3 of this definition.

"Medium Pretreatment Program" means an approved program which has issued permits, for the purpose of controlling the discharge of process wastewater, to 8 or more, but less than 20, significant industrial users.

"Mining" means a permit for discharge of wastewater from mining operations, including operations to obtain minerals, limestone, coal, marble, chert, gravel, sand, sandstone, dimension stone, phosphate, barite, shale, clay, fullers earth and those mining operations regulated by T.C.A. § 59-8-201 et seq.

"Mining Reclamation" means an NPDES permit for the reclamation phase of mining operation.

"Minor" means an NPDES permit not classified as a major by the Regional Administrator of the Environmental Protection Agency, in conjunction with the Director of the Division of Water Resources.

"Municipal Separate Storm Sewer System" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains):

Owned or operated by a state, city, town, county, metropolitan government, utility district, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under state law, or a designated and approved management agency that discharges to waters of the United States:

Designed or used for collecting or conveying storm water;

Which is not a combined sewer; and,

Which is not part of a Publicly Owned Treatment Works (POTW).

"National Pollutant Discharge Elimination System (NPDES)" is the national program for issuing, modifying, revoking and terminating permits for wastewater discharges to

(Rule 0400-40-11-.01, continued)

waters of the state and imposing conditions for those discharges, including pretreatment requirements.

"Natural Person" means an individual distinguished from an artificial person such as a corporation.

"Non–Discharging System" means a system issued a permit under the Act for treatment and disposal of wastewater by means other than discharge to waters of the State. Such means may include, but are not limited to, recycle, irrigation, and evaporation.

"Owner or Operator" means any person who owns, leases, operates, controls, or supervises a source.

"Permit" means a permit issued under authority of T.C.A. § 69-3-108.

"Permit Annual Maintenance Fee" means a fee, which is due to be paid annually by a person issued a permit.

"Permit Application Fee" means a fee which is required to be paid upon application for a permit or a notice of intent to be covered by a general permit.

"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.

"Personal Residence" means a natural person's primary place of abode.

"Pretreatment Program" means a program that has been authorized by the Division in which a POTW regulates indirect discharges.

"Process Wastewater" means any water which, during manufacturing or processing, comes into direct contract with or results from the production or use of any raw material, intermediate product, finished product, by product, or waste product. This does not include sanitary, boiler blow-down, or non–contact cooling water.

"Project" in the context of 401 certification, ARAP, and construction stormwater, means the area in which vegetation is removed, or excavation or grading occurs.

"Publicly Owned Treatment Works (POTW)" means a treatment works as defined by Section 212 of the Clean Water Act, which is owned by a state, city, town, county, utility district, metropolitan government or other public body (created by or pursuant to State law). This definition includes any devices and systems used in the storage 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 POTW treatment plant.

"Regional Administrator" means the Regional Administrator of EPA's Region IV office in Atlanta, Georgia.

"Sewage Treatment Facility" means a treatment works that has been issued a permit for discharge of municipal or domestic wastewater.

(Rule 0400-40-11-.01, continued)

"Sewage Treatment Facility Flow" means the average daily effluent flow over the 12-month period preceding the fee billing date. The averaging basis shall include all days during which the treatment facility was in operation, whether or not there was any discharge.

"Significant Industrial User" means:

1. all industrial users subject to Categorical Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, and

2. any other industrial user that:

   (i) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non–contact cooling and boiler blow-down wastewater) or;

   (ii) contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant or;

   (iii) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

"Small Municipal Separate Storm Sewer System" means all separate storm sewers that are:

1. Owned or operated by the United States, a State Agency, city, town, county, utility district, metropolitan government, or other public body (created by or pursuant to State law) having jurisdiction over disposal of sewage, industrial wastes, storm water, or other wastes, including special districts under State law or a designated and approved management agency that discharges to waters of the United States; and,

2. Not defined as "large" or "medium" municipal separate storm sewer systems.

(Note: This term includes systems similar to separate storm sewer systems in municipalities, such as systems at military bases, large hospital or prison complexes, and highways and other thoroughfares. The term does not include separate storm sewers in very discrete areas, such as individual buildings.)

"Small Pretreatment Program" means an approved program, which has issued permits, for the purpose of controlling the discharge of process wastewater, to less than eight significant industrial users.

"Stormwater" means rain water, snow melt, and surface runoff and drainage.

"Stormwater Discharges Associated with Construction Activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to construction activity.

"Stormwater Discharges Associated with Industrial Activity" means the discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage area at an industrial plant.

(Rule 0400-40-11-.01, continued)

"Treated Washwater Discharge" means treated wastewater from a washing process such as a laundromat, but not including rinseate from manufacturing processes.

"Urbanized Area (UA)" means a land area comprising one or more places-central place(s) and the adjacent densely settled surrounding area-that together have a residential population of at least 50,000 and an overall population density of at least 1,000 people per square mile.

"Watershed District" means a nonprofit corporation composed of not less than twenty percent (20%) of such landowners who represent at least 25 percent (25%) of the acreage within the defined geographic area, and recognized by the state soil conservation committee.

"Watershed District Project" means a project sponsored or conducted by a watershed district.

"401 Certification" means certification under section 401 of the Federal Water Pollution Control Act, for activities that require permits issued by the U.S. Corps of Engineers for discharges of dredge and fill material under section 404 of that Act.

Authority: *T.C.A. § 69-3-101 et seq., 68-203-101 et seq. and 4-5-201 et seq.* ***Administrative History:*** *Original rule filed September 17, 2013; effective December 16, 2013. Rule renumbered from 1200-04-11.*

0400-40-11-.02 FEES.

(1) Types of Fees

(a) Application fees for permit issuance or renewal shall be paid in full upon submittal of an application. The Department will not process an application without having received the fee. No refunds of permit application fees may be made for any reason, other than as required by T.C.A. § 68-203-101 et seq.

(b) Fees for 401 Certification of permits issued by the U.S. Army Corps of Engineers shall be sent to the Department by the applicant with either a copy of or reference to the application filed with the Corps.

(c) 1. Except for part 2 of this subparagraph, permit annual maintenance fees shall be paid to the Department for every year the permit is in effect by the permittee. The annual maintenance fee shall be due within 45 days of issuance of an invoice.

2. Maintenance fees for post-project monitoring with fixed time periods shall be assessed in total at the time of permit issuance.

(d) Plan review fees must be submitted before the review will be conducted or approval granted.

(2) Schedule of Fees

(a) The Application Fees for the processing of applications for 401 certifications and ARAP permits and notices of intent for coverage under a general permit and for decentralized wastewater systems shall be as follows:

1. 401 Certification or ARAP (Capped at $5,000):

(Rule 0400-40-11-.02, continued)

(i) Projects with 5 or more points of impact and requiring compensatory mitigation $5,000

(ii) Projects not requiring compensatory mitigation, any number of impact points $2,500

(iii) Projects with less than 5 points of impact, with or without mitigation requirements $2,500

(iv) Watershed District Projects $1,000

(v) Projects seeking Notice of Coverage under a general permit $500

(Note: Multiple impact points may be covered under one general permit provided the impacts are of the same general permit type, such that each impact would be subject to identical general permit conditions, and provided the cumulative degradation or other aspect of the activities does not require coverage under an individual permit.)

(vi) Personal Residence or Family Farm $50

(vii) Projects that replace, restore or repair public infrastructure or remediate damages from flooding or storm events and qualify for federal disaster assistance are exempt from subparts (i), (ii), (iii), (iv), (v) and (vi) of this part.

For the purposes of part 1 of this subparagraph, points of impact shall mean discreet physical locations on one or more jurisdictional water features within an overall project (common plan of development), at which regulated alteration activities are proposed.

2. Construction Stormwater permits:

(i) Projects equal to or greater than 150 acres $10,000

(ii) Projects equal to or greater than 50 acres and less than 150 acres $6,000

(iii) Projects equal to or greater than 20 acres and less than 50 acres $3,000

(iv) Projects equal to or greater than 5 acres and less than 20 acres $1,000

(v) Projects equal to or greater than 1 acre and less than 5 acres $250

(vi) Projects seeking subsequent coverage under an actively covered larger common plan of development or sale $100

3. Decentralized Wastewater Systems

(i) Systems greater than 0.075 MGD $1,000 plus $150 for each additional 0.02 MGD

(ii) Systems greater than 0.05 MGD and less than 0.075 MGD $1,000

(Rule 0400-40-11-.02, continued)

(iii) Systems greater than 0.02 MGD and less than 0.05 MGD $750

(iv) Systems less than 0.02 MGD $500

(b) Permit Annual Maintenance Fees shall be as follows for these categories of permitted activities (Capped at $15,000):

1. Gravel Dredging $300

2. Gravel Dredging for Personal Residence or Family Farm $0

3. Major Industrial Treatment Facility:

(i) Flow equal to or greater than 10 MGD $10,380

(ii) Flow equal to or greater than 1 MGD and less than 10 MGD $8,650

(iii) Flow equal to or greater than 0.5 MGD and less than 1 MG $6,920

(iv) Flow equal to or greater than 0.1 MGD and less than 0.5 MGD $5,190

(v) Flow less than 0.1 MGD $3,460

4. Minor Industrial Treatment Facility:

(i) Flow equal to or greater than 10 MGD $6,920

(ii) Flow equal to or greater than 1 MGD and less than 10 MGD $5,190

(iii) Flow equal to or greater than 0.5 MGD and less than 1 MGD $3,460

(iv) Flow equal to or greater than 0.1 MGD and less than 0.5 MGD $1,380

(v) Flow less than 0.1 MGD $690

5. Treated Wastewater Dischargers with flows <0.001 MGD $140

6. Stormwater Discharge Permits associated with Industrial Activities:

(i) Facilities equal to or greater than 500 acre $970

(ii) Facilities equal to or greater than 400 acres and less than 500 acres $900

(iii) Facilities equal to or greater than 300 acres and less than 400 acres $830

(iv) Facilities equal to or greater than 200 acres and less than 300 acres $760

(v) Facilities equal to or greater than 100 acres and less than 200 acres $690

(vi) Facilities equal to or greater than 50 acres and less than 100 acres $620

(vii) Facilities equal to or greater than 25 acres and less than 50 acres $550

(viii) Facilities equal to or greater than 10 acres and less than 25 acres $480

(Rule 0400-40-11-.02, continued)

	(ix)	Facilities equal to or greater than 5 acres and less than 10 acres	$420
	(x)	Facilities equal to or greater than 1 acres and less than 5 acres	$350
	(xi)	Facilities equal to or greater than 0 acres and less than 1 acre	$0
7.	Sewage Treatment Facility Flow:		
	(i)	Flow equal to or greater than 5 MGD	$10,380
	(ii)	Flow equal to or greater than 4.5 MGD and less than 5 MGD	$10,030
	(iii)	Flow equal to or greater than 4 MGD and less than 4.5 MGD	$9,690
	(iv)	Flow equal to or greater than 3.5 MGD and less than 4 MGD	$9,340
	(v)	Flow equal to or greater than 3 MGD and less than 3.5 MGD	$9,000
	(vi)	Flow equal to or greater than 2.5 MGD and less than 3 MGD	$8,300
	(vii)	Flow equal to or greater than 2 MGD and less than 2.5 MGD	$7,610
	(viii)	Flow equal to or greater than 1.5 MGD and less than 2 MGD	$6,920
	(ix)	Flow equal to or greater than 1 MGD and less than 1.5 MGD	$6,230
	(x)	Flow equal to or greater than 0.75 MGD and less than 1 MGD	$5,540
	(xi)	Flow equal to or greater than 0.5 MGD and less than 0.75 MGD	$4,840
	(xii)	Flow equal to or greater than 0.25 MGD and less than 0.5 MGD	$3,460
	(xiii)	Flow equal to or greater than 0.1 MGD and less than 0.25 MGD	$1,730
	(xiv)	Flow equal to or greater than 0.075 MGD and less than 0.1 MGD	$1,040
8.	Small Mechanical Facility flow less than 0.075 MGD		$690
9.	Small Non-Mechanical Facility flow less than 0.075 MGD		$350
10.	Non-Discharging Facility:		
	(i)	Influent flow equal to or greater than 0.5 MGD	$4,840
	(ii)	Influent flow equal to or greater than 0.1 MGD and less than 0.5 MGD	$2,770
	(iii)	Influent flow equal to or greater than 0.075 MGD and less than 0.1 MGD	$1,380
	(iv)	Influent flow less than 0.075 MGD	$350
	(v)	Satellite collection systems	$1,380
	(vi)	Pump and haul	$350

(Rule 0400-40-11-.02, continued)

11. Other Waste or Wastewater Operations Requiring Permit $1,380

12. General Permits

(i) For construction activities that exceed 1 year under general permit coverage:

(I) Projects equal to or greater than 150 acres $3,750

(II) Projects equal to or greater than 50 acres and less than 150 acres $2,000

(III) Projects equal to or greater than 20 acres and less than 50 acres $1,000

(IV) Projects equal to or greater than 5 acres and less than 20 acres $500

(V) Projects equal to or greater than 1 acre and less than 5 acres $125

(ii) All other activities (other than concentrated animal feeding operations or minor activities that require no notification to obtain general permit coverage) $350

13. Concentrated animal feeding operations covered by an individual permit $350

14. Municipal Pretreatment Programs as defined in subparagraph (2)(a) of Rule 0400-40-11-.01:

(i) Large Pretreatment Program $6,920

(ii) Medium Pretreatment Program $4,150

(iii) Small Pretreatment Program $1,380

15. Mining:

(i) Area equal to or greater than 500 acres $6,920

(ii) Area equal to or greater than 400 acres and less than 500 acres $6,230

(iii) Area equal to or greater than 300 acres and less than 400 acres $5,540

(iv) Area equal to or greater than 200 acres and less than 300 acres $4,840

(v) Area equal to or greater than 100 acres and less than 200 acres $4,150

(vi) Area equal to or greater than 75 acres and less than 100 acres $3,460

(vii) Area equal to or greater than 50 acres and less than 75 acres $2,770

(viii) Area equal to or greater than 25 acres and less than 50 acres $2,080

(ix) Area equal to or greater than 10 acres and less than 25 acres $1,380

(Rule 0400-40-11-.02, continued)

(x) Area equal to or greater than 5 acres and less than 10 acres $1,040

(xi) Area less than 5 acres $690

(Note: Fees are based on area being mined or area not yet reclaimed.)

16. Mining Reclamation $350

17. Stormwater Discharge Permits for Municipal Separate Storm Sewer Systems (MS4):

(i) Large MS4s $10,380

(ii) Medium MS4s $6,920

(iii) Small MS4s $3,460

18. 401 Certification or ARAP permits that require monitoring of permitted activities or compensatory mitigation $500

19. Water Withdrawal ARAP permits that require monthly operational reports, provided an annual maintenance fee has not been paid under Rule 0400-45-01-.32 $1,000

(c) Plan Review Fees shall apply to new facilities as well as the expansion or modification of existing facilities. If the submittal includes more than one listed category, the fee will be the sum of the fees listed for each individual category. Review of plans documents will not commence until all fees required by these rules are paid in full. Plan Review Fees shall be as follows (Capped at $1,500):

1. Major Industrial Wastewater Treatment Facility:

(i) Flow equal to or greater than 5 MGD $1,500

(ii) Flow less than 5 MGD $1,000

2. Minor Industrial Wastewater Treatment Facility:

(i) Flow equal to or greater than 0.1 MGD $ 500

(ii) Flow less than 0.1 MGD $ 250

3. Sewage Treatment Facility:

(i) Flow equal to or greater than 5 MGD $1,500

(ii) Flow equal to or greater than 1 MGD and less than 5 MGD $1,000

(iii) Flow equal to or greater than 0 .075 MGD and less than 1 MGD $ 500

(iv) Flow less than 0.075 MGD $ 250

4. Collection Systems or Force Main:

$25.00 per 250 feet or portion thereof of sewage collection line or force main excluding service laterals. Total fee not to exceed $1,500.

(Rule 0400-40-11-.02, continued)

5. Equalization Basins:

(i)	Holding capacity equal to or greater than 5 million gallons (MG)	$ 300
(ii)	Holding capacity equal to or greater than 1 MG and less than 5 MG	$ 200
(iii)	Holding capacity equal to or greater than 0.075 MG and less than 1 MG	$ 100
(iv)	Holding capacity less than 0.075 MG	$ 50

6. Pumping Stations:

(i)	Design capacity equal to or greater than 5 MGD	$ 300
(ii)	Design capacity equal to or greater than 1 MGD and less than 5 MGD	$ 200
(iii)	Design capacity equal to or greater than 0.075 MGD and less than 1 MGD	$ 100
(iv)	Design capacity less than 0.075 MGD (Does not include grinder pumps for septic tanks and septic tank effluent pumps)	$ 50

7. Mining Operations:

(i)	Coal	$ 250
(ii)	Non-Coal — $25.00 per acre, not to exceed	$1,500
(iii)	Reclamation	$ 250
(iv)	Quarries	$ 250

8. Wastewater Plant and/or Collection System Modification:

The plans review fee for modifications to wastewater plants and/or collection systems shall be 20% of the full review fee based on the category and size of the resulting facility.

(d) Delegated Plans Review Authority:

Units of local government, which have been granted plans review authority, shall pay an annual fee of $1,000. Failure of local government to pay this fee will be cause for the revocation of plans review authority.

(e) Engineering Report Review

1. Major Industrial Wastewater Treatment Facility:

(i)	Flow equal to or greater than 5 MGD	$1,500
(ii)	Flow less than 5 MGD	$1,000

(Rule 0400-40-11-.02, continued)

2. Minor Industrial Wastewater Treatment Facility:

(i)	Flow equal to or greater than 0.1 MGD	$500
(ii)	Flow less than 0.1 MGD	$250

3. Sewage Treatment Facility:

(i)	Flow equal to or greater than 5 MGD	$1,500
(ii)	Flow equal to or greater than 1 MGD and less than 5 MGD	$1,000
(iii)	Flow equal to or greater than 0.075 MGD and less than 1 MGD	$500
(iv)	Flow less than 0.075 MGD	$250

(3) Collection of Fees

(a) Fees resulting from application for a permit, maintenance of a permit or plans review, shall be made Payable and Mailed to the Department of Environment and Conservation; Attention: Environmental Protection Fees — Water Resources.

(b) Payments shall be clearly identified as to the permit, application, or plans to which they apply.

(c) Fees are to be paid in full by the due date or, if required, at time of application.

(4) Penalties

(a) Any unpaid fee or portion thereof is subject to penalty.

(b) For any part of any fee imposed but not paid within the specified period of 15 days of the due date, a penalty of five percent (5%) of the amount due shall at once accrue and be added thereto. Thereafter, on the first day of each month during which any part of any fee or any prior accrued penalty remains unpaid, an additional penalty of five percent (5%) of the then unpaid balance shall accrue and be added thereto. In addition, the fees not paid within 15 days after the due date shall bear interest at the maximum lawful rate from the due date to the date paid. However, the total of the penalties and interest that accrue pursuant to this paragraph shall not exceed three times the amount of the original fee.

(c) The Commissioner of Environment and Conservation may file an action in the Chancery Court of Davidson County or any Court of competent jurisdiction for a judgment in the amount owed the State under the Water Quality Control Act, T.C.A. §§ 69-3-101 et seq.

(5) Hearings

(a) Any person required to pay any fee specified in this rule, who disagrees with the calculation or applicability of the fee, may petition the Board of Water Quality, Oil and Gas for a hearing. In order to perfect a hearing, the objecting party must present to the Technical Secretary of the Board, not later than 15 days after the fee due date:

1. a petition for hearing, and

2. the total amount of the fee.

(Rule 0400-40-11-.02, continued)

(b) Such hearing shall be in accordance with contested case provisions set forth in T.C.A. Title 4, Chapter 5.

(c) If the fee was improperly assessed, the Technical Secretary shall return the amount determined to be improperly assessed plus interest on the excess accrued from the date the fee was presented to the Technical Secretary.

Authority: *T.C.A. §§ 69-3-101 et seq., 68-203-101 et seq. and 4-5-201 et seq.* ***Administrative History:*** *Original rule filed September 17, 2013; effective December 16, 2013. Rule renumbered from 1200-04-11. Amendments filed January 14, 2014; effective April 14, 2014. Amendment filed June 13, 2014; effective September 11, 2014.*

0400-40-11-.03 SCHEDULE FOR TIMELY ACTION.

(1) General

(a) Permits required under part (2)(a)1 of Rule 0400-40-11-.02 shall be issued or denied within 90 days of receipt of the application. If a public hearing is scheduled, in response to comments by interested parties or the applicant requests additional time, an additional 90 days may be added to the allowable timeframe.

(b) Permits required under part (2)(a)2 of Rule 0400-40-11-.02 shall be issued or denied within 30 days of receipt of the application.

(c) Permits for major industries or sewage treatment facilities with flow over 1 MGD shall be issued or denied within 1 year of receipt of the application. If a public hearing is scheduled, in response to comments by interested parties, additional time is requested by the applicant, or EPA requests additional time, an additional 90 days may be added to the allowable timeframe.

(d) All other permits for wastewater treatment systems required under paragraph (2) of Rule 0400-40-11-.02 shall be issued or denied within 180 days of receipt of the application. If a public hearing is scheduled, in response to comments by interested parties, additional time is requested by the applicant, or additional time is requested by EPA, an additional 90 days may be added to the allowable timeframe.

(e) The Division shall complete its review of plan documents within 30 days of receipt, provided the plans contain sufficient information to make the necessary determinations.

(f) If the Division fails to issue or deny the permit or review plans within the time frames specified in subparagraphs (a) through (e) of the paragraph, the permit application filing/processing fee and/or plans review fee will be refunded to the applicant.

(g) A quarterly report will be provided to the Board of Water Quality, Oil and Gas. The report shall contain information on the timeliness of permit processing and plans review.

Authority: *T.C.A. § 69-3-101 et seq., 68-203-101 et seq., and 4-5-201 et seq.* ***Administrative History:*** *Original rule filed September 17, 2013; effective December 16, 2013. Rule renumbered from 1200-04-11.*