Department of State
Division of Publications
312 Rosa L. Parks, 8th Floor Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615.741.2650
Fax: 615.741.5133
Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 02-18-13
Notice ID(s): 1934-1935
File Date: 2/13/13

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. §4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	Environment and Conservation
Division:	Water Resources
Contact Person:	Bob O'Dette
Address:	6th Floor, L & C Annex 401 Church Street Nashville, Tennessee 37243-1531
Phone:	(615) 253-5319
Email:	Robert.Odette@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	ADA Coordinator
Address:	12th Floor L&C Tower 401 Church Street Nashville, Tennessee 37243
Phone:	1-866-253-5827 (toll free) or (615) 532-0200 Hearing impaired callers may use the TN Relay Service at 1-800-848-0298.
Email:	Beverly.Evans@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	17th Floor Conference Room A, L & C Tower	
Address 2:	401 Church Street	
City:	Nashville, Tennessee	
Zip:	37243	
Hearing Date :	04/09/13	
Hearing Time:	9:00 a.m.	X CST/CDT ___EST/EDT

Additional Hearing Information:

This rulemaking is intended to move the rules from Chapter 1200-04-14 to Chapter 0400-40-14, to edit the document to correct typos and incorrect references, and to add the phrase, "or a list of deletions and additions keyed to a previously submitted list" that was inadvertently missing from subparagraph (9)(a) of Rule 0400-40-14-.12.

Oral or written comments are invited at the hearing. In addition, written comments may be submitted prior to or after the public hearing to: Tennessee Department of Environment and Conservation, Water Resources Division; Attention: Mr. Bob O'Dette, 6th Floor, L & C Annex; 401 Church Street; Nashville, Tennessee 37243; telephone 615-532-0445 or fax 615-532-0199. However, such written comments must be received by 4:30 PM CDT, April 9, 2013, in order to assure consideration. For further information, please contact Mr. Bob O'Dette at the above address or telephone number or by e-mail at Robert.Odette@tn.gov.

Revision Type (check all that apply):

___ Amendment
X New
X Repeal

Rule(s) (**ALL** chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. 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-.02	Objectives of General Pretreatment Regulations
0400-40-14-.03	Definitions
0400-40-14-.04	State and 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 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
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 Procedures
Appendix F	Reserved
Appendix G	Pollutants Eligible for a Removal Credit

Chapter Number	**Chapter Title**
1200-04-14	Pretreatment Requirements
Rule Number	**Rule Title**
1200-04-14-.01	Purpose and Applicability
1200-04-14-.02	Objectives of General Pretreatment Regulations
1200-04-14-.03	Definitions
1200-04-14-.04	State and Local Law
1200-04-14-.05	National Pretreatment Standards: Prohibited Discharges
1200-04-14-.06	National Pretreatment Standards: Categorical Standards
1200-04-14-.07	Removal Credits
1200-04-14-.08	Pretreatment Program Requirements: Development and Implementation by WWF
1200-04-14-.09	WWF Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: Submission for Approval
1200-04-14-.10	Reserved
1200-04-14-.11	Approval Procedures for WWF Pretreatment Programs and WWF Granting of Removal Credits

1200-04-14-.12	Reporting Requirements for WWF's and Industrial Users
1200-04-14-.13	Variances from Categorical Pretreatment Standards for Fundamentally Different Factors
1200-04-14-.14	Confidentiality
1200-04-14-.15	Net/Gross Calculation
1200-04-14-.16	Upset Provision
1200-04-14-.17	Bypass
1200-04-14-.18	Modification of WWF Pretreatment Programs
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 Procedures
Appendix F	Reserved
Appendix G	Pollutants Eligible for a Removal Credit

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to http://state.tn.us/sos/rules/1360/1360.htm)

Repeal

Chapter 1200-04-14
Pretreatment Requirements

Chapter 1200-04-14 Pretreatment Requirements is repealed.

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

New Rules

Chapter 0400-40-14
Pretreatment Requirements

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 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
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

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 pass through or interfere with treatment processes in domestic wastewater facilities (WWF) or which may contaminate sewage sludge.

(2) This chapter applies:

(a) To pollutants from non-domestic sources covered by Pretreatment Standards which 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 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 discharge to a sewer which is not connected to a WWF Treatment Plant.

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

0400-40-14-.02 Objectives of General Pretreatment Regulations

By establishing the responsibilities of government and industry to implement National Pretreatment Standards this regulation fulfills three objectives:

(1) To prevent the introduction of pollutants into WWFs which will interfere with the operation of a WWF, including interference with its use or disposal of municipal sludge or the safety of the workers that operate the plant or maintain the collection system;

(2) To prevent the introduction of pollutants into WWFs which will pass through the treatment works or otherwise be incompatible with such works; and

(3) To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

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

0400-40-14-.03 Definitions

(1) 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 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 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.

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

"Control Authority" refers to 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 of the Division.

"Discharge" means either a direct discharge to waters of the state 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, on quantities, rates, and concentrations of chemical, physical, biological and other constituents which 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 delegated representative.

"Federal Clean Water Act" means the Federal Water Pollution Control 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, alone or in conjunction with a discharge or discharges from other sources, 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 Clean Water Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to Rule 0400-40-14-.05.

"New Source" means

(a) 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 Clean Water Act which 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 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 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 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 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 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 Clean Water Act and T.C.A. § 69-3-108.

"Pass Through" means a discharge which exits the WWF into waters of the United States in quantities or concentrations which, 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.

"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" means any water which, 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 pollutants" means pollutants present in process waste water.

"Regional Administrator" means the regional administrator of the United States 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 causes them to become inoperable, or substantial and permanent loss of natural resources which 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 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 403.6 and 40 CFR 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 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 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 Industrial User, prior to Control Authority's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

2. 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 Industrial User never discharges any untreated concentrated wastewater.

(c) Upon a finding that an 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 or WWF, and in accordance with subparagraph (6)(f) of Rule 0400-40-14-.08, determine that such industrial user is not a 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 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 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.

0400-40-14-.04 Local Law

Nothing in this chapter is intended to affect any Pretreatment Requirements, including any standards or prohibitions, established by local law as long as the local requirements are not less stringent than any set forth in National or State Pretreatment Standards, or any other requirements or prohibitions established by the Department.

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

0400-40-14-.05 Pretreatment Standards: Prohibited Discharges

(1) General prohibitions

(a) A User may not introduce into a WWF any pollutant(s) which cause Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph (2) of this rule apply to each User introducing pollutants into a WWF whether or not the User is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.

(b) Affirmative Defenses.

A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in subparagraph (a) of this paragraph and the specific prohibitions in subparagraphs (2)(c), (d), (e), (f), and (g) of this rule where the User can demonstrate that:

1. It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause Pass Through or Interference; and

2. A local limit designed to prevent Pass Through and/or Interference, as the case may be, fits one of the following descriptions:

(i) The local limit was developed in accordance with paragraph (3) of this rule for each pollutant in the User's discharge that caused Pass Through or Interference, and the User was in compliance with each such local limit directly prior to and during the Pass Through or Interference; or

(ii) The local limit has not been developed in accordance with paragraph (3) of this rule for the pollutant(s) that caused the Pass Through or Interference, the User's discharge directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the User's prior discharge activity when the WWF was regularly in compliance with the WWF's NPDES permit requirements and, in the case of Interference, applicable requirements for sewage sludge use or disposal.

(2) Specific prohibitions.

In addition, the following pollutants shall not be introduced into a WWF:

(a) Pollutants which create a fire or explosion hazard in the WWF, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR 261.21.

(b) Pollutants which will cause corrosive structural damage to the WWF, but in no case discharges with pH lower than 5.0, unless the works is specifically designed to accommodate such discharges;

(c) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the WWF

resulting in Interference;

(d) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the WWF.

(e) Heat in amounts which will inhibit biological activity in the WWF resulting in Interference, but in no case heat in such quantities that the temperature at the WWF Treatment Plant exceeds 40°C (104°F) unless the Approval Authority, upon request of the WWF, approves alternate temperature limits.

(f) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(g) Pollutants which result in the presence of toxic gases, vapors, or fumes within the WWF in a quantity that may cause acute worker health and safety problems;

(h) Any trucked or hauled pollutants, except at discharge points designated by the WWF.

(3) When specific limits must be developed by WWF.

(a) Each WWF developing a WWF Pretreatment Program pursuant to Rule 0400-40-14-.08 shall develop and enforce specific limits to implement the prohibitions listed in subparagraph (1)(a) and paragraph (2) of this rule. Each WWF with an approved pretreatment program shall continue to develop these limits as necessary and effectively enforce such limits.

(b) All other WWF's 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.

(c) Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

(d) WWFs may develop Best Management Practices (BMPs) to implement subparagraphs (a) and (b) of this paragraph. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this chapter.

(4) Local limits.

Where specific prohibitions or limits on pollutants or pollutant parameters are developed by a WWF in accordance with paragraph (3) of this rule, such limits shall be deemed Pretreatment Standards for the purposes of this chapter.

(5) State enforcement actions.

If, within 30 days after notice of an Interference or Pass Through violation has been sent by the Division to the WWF, and to persons or groups who have requested such notice, the WWF fails to commence appropriate enforcement action to correct the violation, the Division may take appropriate enforcement action under the authority provided in T.C.A. § 69-3-115.

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

0400-40-14-.06 National Pretreatment Standards: Categorical Standards.

National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a WWF by existing or new industrial users in specific industrial subcategories are established as separate regulations under the appropriate subpart of 40 CFR chapter I, subchapter N. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this chapter.

(1) Category Determination Request

(a) Application Deadline.

Within 60 days after the effective date of a Pretreatment Standard for a subcategory under which an Industrial User may be included, the Industrial User or WWF may request that the Division provide written certification on whether the Industrial User falls within that particular subcategory. If an existing Industrial User adds or changes a process or operation which may be included in a subcategory, the existing Industrial User must request this certification prior to commencing discharge from the added or changed processes or operation. A New Source must request this certification prior to commencing discharge. Where a request for certification is submitted by a WWF, the WWF shall notify any affected Industrial User of such submission. The Industrial User may provide written comments on the WWF submission to the Division within 30 days of notification.

(b) Contents of Application.

Each request shall contain a statement:

1. Describing which subcategories might be applicable; and

2. Citing evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this rule shall make the following certification:

   I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

(c) Deficient requests.

The Division will only act on written requests for determinations that contain all of the information required. Persons who have made incomplete submissions will be notified by the Division that their requests are deficient and, unless the time period is extended, will be given 30 days to correct the deficiency. If the deficiency is not corrected within 30 days or within an extended period allowed by the Division, the request for a determination shall be denied.

(d) Final decision.

1. Under receipt of a complete request, the Division will consider the submission, any additional evidence that may have been requested, and any other available information relevant to the request. The Division will then make a written determination of the applicable subcategory and state the reasons for the determination.

2. The Division shall forward the determination described in this paragraph to the EPA Water Management Division Director who may make a final determination. The EPA Water Management Division Director may waive receipt of these determinations. If the EPA Water Management Division Director does not modify the Division's decision within 60 days after receipt thereof, or if the EPA Water Management Division Director waives receipt of the determination, the Division's decision is final.

3. Where the EPA Water Management Division Director elects to modify the Division's decision, the EPA Water Management Division Director's decision will be final.

4. The Division shall send a copy of the determination to the affected Industrial User and the WWF.

(e) Requests for hearing and/or legal decision.

Within 30 days following the date of receipt of notice of the final determination as provided for by part (d)4 of this paragraph, the Requester may submit a petition to reconsider or contest the decision to the Division Director who shall act on such petition expeditiously and state the reasons for his or her determination in writing.

(2) Deadline for Compliance with Categorical Standards.

Compliance by existing sources with categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR chapter I, subchapter N. Existing sources which become Industrial Users subsequent to promulgation of an applicable categorical Pretreatment Standard shall be considered existing Industrial Users except where such sources meet the definition of a New Source as defined in paragraph (1) of Rule 0400-40-14-.03. New Sources shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable Pretreatment Standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), New Sources must meet all applicable Pretreatment Standards.

(3) Concentration and mass limits.

(a) Pollutant discharge limits in categorical Pretreatment Standards will be expressed either as concentration or mass limits. Wherever possible, where concentration limits are specified in standards, equivalent mass limits will be provided so that local, State or Federal authorities responsible for enforcement may use either concentration or mass limits. Limits in categorical Pretreatment Standards shall apply to the effluent of the process regulated by the Standard, or as otherwise specified by the standard.

(b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating permit limitations applicable to individual Industrial Users.

(c) A Control Authority calculating equivalent mass-per-day limitations under subparagraph (b) of this paragraph shall calculate such limitations by multiplying the limits in the Standard by the Industrial User's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the Industrial User's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.

(d) A Control Authority calculating equivalent concentration limitations under subparagraph (b) of this paragraph shall calculate such limitations by dividing the mass limitations derived under subparagraph (c) of this paragraph by the average daily flow rate of the Industrial User's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the Industrial User's actual long-term average flow rate, such as the average daily flow rate during the representative year. Any day in which a facility does not have a discharge should not be included in the calculation of an average flow.

(e) When the limits in a categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, an Industrial User may request that the Control Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. The Control Authority may establish equivalent mass limits only if the Industrial User meets all the following conditions in subparts 1(i) through (v) of this subparagraph.

1. To be eligible for equivalent mass limits, the Industrial User must:

(i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

(ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

(iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

(iv) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

(v) Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

2. An Industrial User subject to equivalent mass limits must:

(i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(iii) Continue to record the facility's production rates and notify the Control Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in subpart 1(iii) of this subparagraph. Upon notification of a revised production rate, the Control Authority must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subpart 1(i) of this subparagraph so long as it discharges under an equivalent mass limit.

3. A Control Authority which chooses to establish equivalent mass limits:

(i) Must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;

(ii) Upon notification of a revised production rate, must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(iii) May retain the same equivalent mass limit in subsequent control mechanism terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to paragraph (4) of this rule. The Industrial User must also be in compliance with Rule 0400-40-14-.17 (regarding the prohibition of bypass).

4. The Control Authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

(f) The Control Authority may convert the mass limits of the categorical Pretreatment Standards at 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users under the following conditions. When converting such limits to concentration limits, the Control Authority must use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by paragraph (4) of this rule.

(g) Equivalent limitations calculated in accordance with subparagraphs (c), (d), (e) and (f) of this paragraph are deemed Pretreatment Standards for the purposes of section 307(d) of the Federal Clean Water Act and this chapter. The Control Authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the Industrial User must comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.

(h) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

(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 average production rate.

(4) Dilution Prohibited as Substitute for Treatment.

Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The Control Authority may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases where the imposition of mass limitations is appropriate.

(5) Combined wastestream formula.

Where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the Control Authority, or by the Industrial User with the written concurrence of the Control Authority. These alternative limits shall be applied to the mixed effluent. When deriving alternative categorical limits, the Control Authority or Industrial User shall calculate both an alternative daily maximum value using the daily maximum value(s) specified in the appropriate categorical Pretreatment Standard(s) and an alternative consecutive sampling day average value using the monthly average value(s) specified in the appropriate categorical Pretreatment Standard(s). The Industrial User shall comply with the alternative daily maximum and monthly average limits fixed by the Control Authority until the Control Authority modifies the limits or approves an Industrial User modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An Industrial User must immediately report any such material or significant change to the Control Authority. Where appropriate new alternative categorical limits shall be calculated within 30 days.

(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.

$$M_T = \left(\sum_{i=1}^{N} M_i\right)\left(\frac{F_T - F_D}{\sum_{i=1}^{N} F_i}\right)$$

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.

$$C_T = \left(\frac{\sum_{i=1}^{N} C_i F_i}{\sum_{i=1}^{N} F_i}\right)\left(\frac{F_T - F_D}{F_T}\right)$$

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.

(b) Alternate limits below detection limit.

An alternative pretreatment limit may not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.

(c) Self-monitoring.

Self-monitoring required to ensure compliance with the alternative categorical limit shall be conducted in accordance with the requirements of paragraph (7) of Rule 0400-40-14-.12.

(d) Choice of monitoring location.

Where a regulated process wastestream is combined prior to treatment with wastewaters other than those generated by the regulated process, the Industrial User may monitor either the segregated process wastestream or the combined wastestream for the purpose of determining compliance with applicable Pretreatment Standards. If the Industrial User chooses to monitor the segregated process wastestream, it shall apply the applicable categorical Pretreatment Standard. If the User chooses to monitor the combined wastestream, it shall apply an alternative discharge limit calculated using the combined wastestream formula as provided in this paragraph. The Industrial User may change monitoring points only after receiving approval from the Control Authority. The Control Authority shall ensure that any change in an Industrial User's monitoring point(s) will not allow the User to substitute dilution for adequate treatment to achieve compliance with applicable Standards.

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

0400-40-14-.07 Removal Credits.

(1) Introduction

(a) Definitions.

For the purpose of this rule:

1. Removal means a reduction in the amount of a pollutant in the WWF's effluent or alteration of the nature of a pollutant during treatment at the WWF. The reduction or alteration can be obtained by physical, chemical or biological means and may be the result of specifically designed WWF capabilities or may be incidental to the operation of

the treatment system. Removal as used in this rule shall not mean dilution of a pollutant in the WWF.

2. Sludge Requirements shall mean the following statutory provisions and regulations or permits issued thereunder (or more stringent local regulations): Section 405 of the Federal Clean Water Act; the Solid Waste Disposal Act (SWDA) (including title II more commonly referred to as the Resource Conservation Recovery Act (RCRA) and State regulations contained in any State sludge management plan prepared pursuant to subtitle D of SWDA); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

(b) General.

Any WWF receiving wastes from an Industrial User to which a categorical Pretreatment Standard(s) applies may, at its discretion and subject to the conditions of this rule, grant removal credits to reflect removal by the WWF of pollutants specified in the categorical Pretreatment Standard(s). The WWF may grant a removal credit equal to or, at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected Industrial User shall calculate its revised discharge limits in accordance with subparagraph (d) of this paragraph. Removal credits may only be given for indicator or surrogate pollutants regulated in a categorical Pretreatment Standard if the categorical Pretreatment Standard so specifies.

(c) Conditions for authorization to give removal credits.

A WWF is authorized to give removal credits only if the following conditions are met:

1. Application.

The WWF applies for, and receives, authorization from the Approval Authority to give a removal credit in accordance with the requirements and procedures specified in paragraph (5) of this rule.

2. Consistent removal determination.

The WWF demonstrates and continues to achieve consistent removal of the pollutant in accordance with paragraph (2) of this rule.

3. WWF local pretreatment program.

The WWF has an approved pretreatment program in accordance with and to the extent required by this chapter; provided, however, a WWF which does not have an approved pretreatment program may, pending approval of such a program, conditionally give credits as provided in paragraph (4) of this rule.

4. Sludge requirements.

The granting of removal credits will not cause the WWF to violate the local, State and Federal Sludge Requirements which apply to the sludge management method chosen by the WWF. Alternatively, the WWF can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable Sludge Requirements, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical Pretreatment Standard(s) as modified by the removal credit. If granting removal credits forces a WWF to incur greater sludge management costs than would be incurred in the absence of granting removal credits, the additional sludge management costs will not be eligible for EPA grant assistance. Removal credits may be made available for the following pollutants.

(i) For any pollutant listed in appendix G section I of this chapter for the use or disposal practice employed by the WWF, when the requirements in 40 CFR part 503 for that practice are met.

(ii) For any pollutant listed in appendix G section II of this chapter for the use or disposal practice employed by the WWF when the concentration for a pollutant listed in appendix G section II of this chapter in the sewage sludge that is used or disposed does not exceed the concentration for the pollutant in appendix G section II of this chapter.

(iii) For any pollutant in sewage sludge when the WWF disposes all of its sewage sludge in a municipal solid waste landfill unit that meets the criteria in 40 CFR part 258.

5. NPDES permit limitations.

The granting of removal credits will not cause a violation of the WWF's permit limitations or conditions. Alternatively, the WWF can demonstrate to the Approval Authority that even though it is not presently in compliance with applicable limitations and conditions in its NPDES permit, it will be in compliance when the Industrial User(s) to whom the removal credit would apply is required to meet its categorical Pretreatment Standard(s), as modified by the removal credit provision.

(d) Calculation of revised discharge limits.

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

$Y=X/(1-r)$

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)

(2) Establishment of Removal Credits; Demonstration of Consistent Removal

(a) Definition of Consistent Removal.

"Consistent Removal" shall mean the average of the lowest 50 percent of the removal measured according to subparagraph (b) of this paragraph. All sample data obtained for the measured pollutant during the time period prescribed in subparagraph (b) of this paragraph must be reported and used in computing Consistent Removal. If a substance is measurable in the influent but not in the effluent, the effluent level may be assumed to be the limit of measurement, and those data may be used by the WWF at its discretion and subject to approval by the Approval Authority. If the substance is not measurable in the influent, the data may not be used. Where the number of samples with concentrations equal to or above the limit of measurement is between 8 and 12, the average of the lowest 6 removals shall be used. If there are less than 8 samples with concentrations equal to or above the limit of measurement, the Approval Authority may approve alternate means for demonstrating Consistent Removal. The term "measurement" refers to the ability of the analytical method or protocol to quantify as well as identify the presence of the substance in question.

(b) Consistent Removal Data.

Influent and effluent operational data demonstrating Consistent Removal or other information, as provided for in subparagraph (a) of this paragraph, which demonstrates Consistent Removal of the pollutants for which discharge limit revisions are proposed. This data shall meet the following requirements:

1. Representative Data; Seasonal.

The data shall be representative of yearly and seasonal conditions to which the WWF is

subjected for each pollutant for which a discharge limit revision is proposed.

2. Representative Data; Quality and Quantity.

The data shall be representative of the quality and quantity of normal effluent and influent flow if such data can be obtained. If such data are unobtainable, alternate data or information may be presented for approval to demonstrate Consistent Removal as provided for in subparagraph (a) of this paragraph.

3. Sampling Procedures: Composite.

(i) The influent and effluent operational data shall be obtained through 24-hour flow-proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. For discrete sampling, at least 12 aliquots shall 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 must be flow-proportional to each stream flow at time of collection of 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.

(ii) Sampling frequency and historical data.

(I) Twelve samples shall be taken at approximately equal intervals throughout one full year. Sampling must be evenly distributed over the days of the week so as to include no-workdays as well as workdays. If the Approval Authority determines that this schedule will not be most representative of the actual operation of the WWF Treatment Plant, the Control Authority must submit an alternative sampling schedule for approval. The alternative sampling schedule shall not be implemented until written approval is obtained from the Approval Authority.

(II) In addition, upon the Approval Authority's concurrence, a WWF may utilize an historical data base amassed prior to the effective date of these rules provided that such data otherwise meet the requirements of this paragraph. In order for the historical database to be approved it must present a statistically valid description of daily, weekly and seasonal sewage treatment plant loadings and performance for at least one year.

(iii) 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 be 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 is to be based on a 24-hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year.

4. Sampling Procedures: Grab.

Where composite sampling is not an appropriate sampling technique, a grab sample(s) shall be taken to obtain influent and effluent operational data. Collection of influent grab samples should precede collection of effluent samples by approximately one detention period. The detention period is to be based on a 24-hour average daily flow value. The average daily flow used will be based upon the average of the daily flows during the same month of the previous year. Grab samples will be required, for example, where the parameters being evaluated are those, such as cyanide and phenol, which may not be held for any extended period because of biological, chemical or physical interactions which take place after sample collection and affect the results. A grab sample is an

individual sample collected over a period of time not exceeding 15 minutes.

5. Analytical methods.

The sampling referred to in parts 1 through 4 of this subparagraph and an analysis of these samples shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Director determines that the 40 CFR part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the WWF or other parties, approved by the Director.

6. Calculation of removal.

All data acquired under the provisions of this paragraph must be submitted to the Approval Authority. Removal for a specific pollutant shall be determined either, for each sample, by measuring the difference between the concentrations of the pollutant in the influent and effluent of the WWF and expressing the difference as a percent of the influent concentration, or, where such data cannot be obtained, Removal may be demonstrated using other data or procedures subject to concurrence by the Approval Authority as provided for in subparagraph (a) of this paragraph.

(3) Provisional credits.

For pollutants which are not being discharged currently (i.e., new or modified facilities, or production changes) the WWF may apply for authorization to give removal credits prior to the initial discharge of the pollutant. Consistent removal shall be based provisionally on data from treatability studies or demonstrated removal at other treatment facilities where the quality and quantity of influent are similar. Within 18 months after the commencement of discharge of pollutants in question, consistent removal must be demonstrated pursuant to the requirements of paragraph (2) of this rule. If, within 18 months after the commencement of the discharge of the pollutant in question, the WWF cannot demonstrate consistent removal pursuant to the requirements of paragraph (2) of this rule, the authority to grant provisional removal credits shall be terminated by the Approval Authority and all 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.

(4) Exception to WWF Pretreatment Program Requirement.

A WWF required to develop a local pretreatment program by Rule 0400-40-14-.08 may conditionally give removal credits pending approval of such a program in accordance with the following terms and conditions:

(a) All Industrial Users who are currently subject to a categorical Pretreatment Standard and who wish conditionally to receive a removal credit must submit to the WWF the information required in subparagraphs (2)(a) through (g) of Rule 0400-40-14-.12 (except new or modified industrial users must only submit the information required by subparagraphs (2)(a) through (f) of Rule 0400-40-14-.12), pertaining to the categorical Pretreatment Standard as modified by the removal credit. The Industrial Users shall indicate what additional technology, if any, will be needed to comply with the categorical Pretreatment Standard(s) as modified by the removal credit;

(b) The WWF must have submitted to the Approval Authority an application for pretreatment program approval meeting the requirements of Rules 0400-40-14-.08 and 0400-40-14-.09 in a timely manner, not to exceed the time limitation set forth in a compliance schedule for development of a pretreatment program included in the WWF's NPDES permit;

(c) The WWF must:

1. Compile and submit data demonstrating its consistent removal in accordance with paragraph (2) of this rule;

2. Comply with the conditions specified in subparagraph (c) of this paragraph; and

3. Submit a complete application for removal credit authority in accordance with paragraph (5) of this rule;

(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 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.

(e) If a WWF grants conditional removal credits and the WWF or the Approval Authority subsequently makes a final determination, after appropriate notice, that the Industrial User(s) failed to comply with the conditions in subparagraph (a) of this paragraph, the conditional credit shall be terminated by the WWF or the Approval Authority for the non-complying Industrial User(s) and the Industrial User(s) 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. The conditional credit shall not be terminated where a violation of the provisions of this paragraph results from causes entirely outside of the control of the Industrial User(s) or the Industrial User(s) had demonstrated substantial compliance.

(f) The Approval Authority may elect not to review an application for conditional removal credit authority upon receipt of such application, in which case the conditionally revised discharge limits will remain in effect until reviewed by the Approval Authority. This review may occur at any time in accordance with the procedures of Rule 0400-40-14-.11, but in no event later than the time of any pretreatment program approval or any NPDES permit reissuance thereunder.

(5) WWF application for authorization to give removal credits and Approval Authority review—

(a) Who must apply.

Any WWF that wants to give a removal credit must apply for authorization from the Approval Authority.

(b) To whom application is made.

An application for authorization to give removal credits (or modify existing ones) shall be submitted by the WWF to the Approval Authority.

(c) When to apply.

A WWF may apply for authorization to give or modify removal credits at any time.

(d) Contents of the Application.

An application for authorization to give removal credits must be supported by the following information:

1. List of pollutants.

A list of pollutants for which removal credits are proposed.

2. Consistent Removal Data.

The data required pursuant to paragraph (2) of this rule.

3. Calculation of revised discharge limits.

Proposed revised discharge limits for each affected subcategory of Industrial Users calculated in accordance with subparagraph (1)(d) of this rule.

4. Local Pretreatment Program Certification.

A certification that the WWF has an approved local pretreatment program or qualifies for the exception to this requirement found at paragraph (4) of this rule.

5. Sludge Management Certification.

A specific description of the WWF's current methods of using or disposing of its sludge and a certification that the granting of removal credits will not cause a violation of the sludge requirements identified in part 4 of this subparagraph.

6. NPDES Permit Limit Certification.

A certification that the granting of removal credits will not cause a violation of the WWF's NPDES permit limits and conditions as required in part 5 of this subparagraph.

(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 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 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 except to the extent 40 CFR 123.24(d) allows such restriction.

(g) Nothing in this chapter precludes an Industrial User or other interested party from assisting the WWF in preparing and presenting the information necessary to apply for authorization.

(6) Continuation and withdrawal of authorization—

(a) Effect of authorization.

Once a WWF has received authorization to grant removal credits for a particular pollutant regulated in a categorical Pretreatment Standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the WWF to violate the sludge requirements identified in part (1)(c)4 of this rule or its NPDES permit limits and conditions as required by part (1)(c)5 of this rule. If a WWF elects at a later time to extend removal credits to a certain categorical Pretreatment Standard, industrial subcategory or one or more Industrial Users that initially were not granted removal credits, it must notify the Approval Authority.

(b) Inclusion in WWF permit.

Once authority is granted, the removal credits shall be included in the WWF's NPDES Permit as soon as possible and shall become an enforceable requirement of the WWF's NPDES permit. The removal credits will remain in effect for the term of the WWF's NPDES permit, provided the

WWF maintains compliance with the conditions specified in subparagraph (d) of this paragraph.

(c) Compliance monitoring.

Following authorization to give removal credits, a WWF shall continue to monitor and report on (at such intervals as may be specified by the Approval Authority, but in no case less than once per year) the WWF's removal capabilities. A minimum of one representative sample per month during the reporting period is required, and all sampling data must be included in the WWF's compliance report.

(d) Modification or withdrawal of removal credits

1. Notice of WWF.

The Approval Authority shall notify the WWF if, on the basis of pollutant removal capability reports received pursuant to subparagraph (c) of this paragraph or other relevant information available to it, the Approval Authority determines:

(i) That one or more of the discharge limit revisions made by the WWF, of the WWF itself, no longer meets the requirements of this rule, or

(ii) That such discharge limit revisions are causing a violation of any conditions or limits contained in the WWF's NPDES Permit.

2. Corrective action.

If appropriate corrective action is not taken within a reasonable time, not to exceed 60 days unless the WWF or the affected Industrial Users demonstrate that a longer time period is reasonably necessary to undertake the appropriate corrective action, the Approval Authority shall either withdraw such discharge limits or require modifications in the revised discharge limits.

3. Public notice of withdrawal or modification.

The Approval Authority shall not withdraw or modify revised discharge limits unless it shall first have notified the WWF and all Industrial Users to whom revised discharge limits have been applied, and made public, in writing, the reasons for such withdrawal or modification, and an opportunity is provided for a hearing. Following such notice and withdrawal or modification, all Industrial Users to whom revised discharge limits had been applied, shall be subject to the modified discharge limits or the discharge limits prescribed in the applicable categorical Pretreatment Standards, as appropriate, and shall achieve compliance with such limits 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).

(7) Compensation for overflow.

"Overflow" means the intentional or unintentional diversion of flow from the WWF before the WWF Treatment Plant. WWFs which at least once annually Overflow untreated wastewater to receiving waters may claim Consistent Removal of a pollutant only by complying with either subparagraph (a) or (b) of this paragraph. However, this paragraph shall not apply where Industrial User(s) can demonstrate that Overflow does not occur between the Industrial User(s) and the WWF Treatment Plant;

(a) The Industrial User provides containment or otherwise ceases or reduces discharges from the regulated processes which contain the pollutant for which an allowance is requested during all circumstances in which an Overflow event can reasonably be expected to occur at the WWF or at a sewer to which the Industrial User is connected. Discharges must cease or be reduced, or pretreatment must be increased, to the extent necessary to compensate for the removal not being provided by the WWF. Allowances under this provision will only be granted where the WWF submits to the Approval Authority evidence that:

1. All Industrial Users to which the WWF proposes to apply this provision have demonstrated the ability to contain or otherwise cease or reduce, during circumstances in which an Overflow event can reasonably be expected to occur, discharges from the regulated processes which contain pollutants for which an allowance is requested;

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 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 that Industrial Users are containing, ceasing or reducing operations during WWF System Overflow; and

3. All Industrial Users to which the WWF proposes to apply this provision have demonstrated the ability and commitment to collect and make available, upon request by the WWF, State Director or EPA Regional Administrator, daily flow reports or other data sufficient to demonstrate that all discharges from regulated processes containing the pollutant for which the allowance is requested were contained, reduced or otherwise ceased, as appropriate, during all circumstances in which an Overflow event was reasonably expected to occur; or

(b) 1. The Consistent Removal claimed is reduced pursuant to the following equation:

$$r_c = r_m \frac{8760-Z}{8760}$$

where:
r_m = WWF's Consistent Removal rate for that pollutant as established under subparagraphs (1)(a) and (2)(b) of this rule
r_c = removal corrected by the Overflow factor
Z = hours per year that Overflow occurred between the Industrial User(s) and the WWF Treatment Plant, the hours either to be shown in the WWF's current NPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular Industrial User's Discharge Overflows between the Industrial User and the WWF Treatment Plant; and

2. The POTW is complying with all NPDES permit requirements and any additional requirements in any order or decree, issued pursuant to the 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.

0400-40-14-.08 Pretreatment Program Requirements: Development and Implementation by WWF.

(1) WWFs required to develop a pretreatment program.

(a) Subparagraphs (b) and (c) of this paragraph apply to any WWF that discharges treated effluent to waters of the state or applies treated effluent to land.

(b) Any WWF (or combination of WWFs operated by the same authority) with a total design flow greater than 5 million gallons per day (mgd) and receiving from Industrial Users pollutants which will or will likely Pass Through or Interfere with the operation of the WWF or are otherwise subject to Pretreatment Standards will be required to establish a WWF Pretreatment Program.

(c) The Division may require that a WWF with a design flow of 5 mgd or less develop a WWF Pretreatment Program upon determination that the nature or volume of the industrial influent,

treatment process upsets, violations of WWF effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent Interference with the WWF, Pass Through, or permit violations by the WWF.

(2) WWFs identified as being required to develop a WWF Pretreatment Program under paragraph (1) of this rule shall develop and submit such a program for approval as soon as possible, but in no case later than one year after written notification from the Approval Authority of such identification. The WWF Pretreatment Program shall meet the criteria set forth in paragraph (6) of this rule and shall be administered by the WWF to ensure compliance by Industrial Users with applicable Pretreatment Standards and Requirements.

(3) Incorporation of approved programs in permits.

A WWF may develop an appropriate WWF Pretreatment Program any time before the time limit set forth in paragraph (2) of this rule. The WWF's NPDES Permit will be reissued or modified by the Division to incorporate the approved Program as enforceable conditions of the Permit. The modification of a WWF's NPDES Permit for the purposes of incorporating a WWF Pretreatment Program approved in accordance with the procedure in Rule 0400-40-14-.11 shall be deemed a minor Permit modification subject to the procedures in paragraph (5) of Rule 0400-40-14-.06.

(4) Incorporation of compliance schedules in permits. [Reserved]

(5) Cause for reissuance or modification of Permits.

The Approval Authority may modify, or alternatively, revoke and reissue a WWF's Permit in order to:

(a) Put the WWF on a compliance schedule for the development of a WWF Pretreatment Program where the addition of pollutants into a WWF by an Industrial User or combination of Industrial Users presents a substantial hazard to the functioning of the treatment works, quality of the receiving waters, human health, or the environment;

(b) Coordinate the issuance of a section 201 construction grant with the incorporation into a permit of a compliance schedule for WWF Pretreatment Program;

(c) Incorporate a modification of the permit approved under section 301(h) or 301(i) of the Federal Clean Water Act;

(d) Incorporate an approved WWF Pretreatment Program in the WWF permit; or

(e) Incorporate a compliance schedule for the development of a WWF pretreatment program in the WWF permit.

(f) Incorporate the removal credits (established under Rule 0400-40-14-.07) in the WWF permit.

(6) WWF pretreatment requirements.

A WWF pretreatment program must be based on the following legal authority and include the following procedures. These authorities and procedures shall at all times be fully and effectively exercised and implemented.

(a) Legal authority.

The WWF shall operate pursuant to legal authority enforceable in Federal, State or local courts, which authorizes or enables the WWF to apply and to enforce the requirements of this chapter. Such authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements which the WWF is authorized to enact, enter into or implement, and which are authorized by State law. At a minimum, this legal authority shall enable the WWF to:

1. Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the WWF by Industrial Users where such contributions do not meet

applicable Pretreatment Standards and Requirements or where such contributions would cause the WWF to violate its NPDES permit;

2. Require compliance with applicable Pretreatment Standards and Requirements by Industrial Users;

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 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 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 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 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.

4. Require (i) the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements and (ii) the submission of all notices and self–monitoring reports from Industrial Users as are necessary to assess and assure compliance by Industrial Users with Pretreatment Standards and Requirements, including but not limited to the reports required in Rule 0400-40-14-.12.

5. Carry out all inspection, surveillance and monitoring procedures necessary to determine, independent of information supplied by Industrial Users, compliance or noncompliance with applicable Pretreatment Standards and Requirements by Industrial Users. Representatives of the WWF shall be authorized to enter any premises of any Industrial User in which a discharge source or treatment system is located or in which records are required to be kept under paragraph (15) of Rule 0400-40-14-.12 to assure compliance with Pretreatment Standards. Such authority shall be at least as extensive as the authority provided under section 308 of the Federal Clean Water Act;

6. Obtain remedies for noncompliance by any Industrial User with any Pretreatment Standard and Requirement.

(i) All WWF's 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.

(ii) Pretreatment requirements which will be enforced through the remedies set forth in subpart (i) of this part, will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the WWF; any requirements set forth in control mechanisms issued by the WWF; or any reporting requirements imposed by the WWF or these regulations. The WWF shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge of pollutants to the WWF which reasonably appears to present an imminent endangerment to the health or welfare of persons. The WWF shall also have authority and procedures (which shall include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the WWF which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the WWF. The Approval Authority shall have authority to seek judicial relief and may also use

administrative penalty authority when the WWF has sought a monetary penalty which the Approval Authority believes to be insufficient.

7. Comply with the confidentiality requirements set forth in Rule 0400-40-14-.14.

(b) Procedures.

The WWF shall develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program. At a minimum, these procedures shall enable the WWF to:

1. Identify and locate all possible Industrial Users which might be subject to the WWF Pretreatment Program. Any compilation, index or inventory of Industrial Users made under this paragraph shall be made available to the Regional Administrator or Director upon request;

2. Identify the character and volume of pollutants contributed to the WWF by the Industrial Users identified under part 1 of this subparagraph. This information shall be made available to the Regional Administrator or Director upon request;

3. Notify Industrial Users identified under part 1 of this subparagraph, of applicable Pretreatment Standards and any applicable requirements under sections 204(b) and 405 of the Federal Clean Water Act and subtitles C and D of the Resource Conservation and Recovery Act. Within 30 days of approval pursuant to subparagraph (6)(f) of this rule, of a list of significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status.

4. Receive and analyze self-monitoring reports and other notices submitted by Industrial Users in accordance with the self-monitoring requirements in Rule 0400-40-14-.12;

5. Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each Significant Industrial User at least once every 12 months, except as otherwise specified below:

   (i) Where the WWF has authorized the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard in accordance with subparagraph (5)(b) of Rule 0400-40-14-.12, the WWF must sample for the waived pollutant(s) at least once during the term of the Categorical Industrial User's control mechanism. In the event that the WWF subsequently determines that a waived pollutant is present or is expected to be present in the Industrial User's wastewater based on changes that occur in the User's operations, the WWF must immediately begin effluent monitoring of the User's discharge and inspections of the industrial facility at least once every 12 months.

   (ii) Where the WWF has determined that an Industrial User meets the criteria for classification as a Non-Significant Categorical Industrial User, the WWF must evaluate, at least once every 12 months, whether an Industrial User continues to meet the criteria in subparagraph (b) of the definition of "Significant Industrial User" in paragraph (1) of Rule 0400-40-14-.03.

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 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;

7. Investigate instances of noncompliance with Pretreatment Standards and Requirements, as indicated in the reports and notices required under Rule 0400-40-14-.12, or indicated by analysis, inspection, and surveillance activities described in part 5 of this subparagraph. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

8. Comply with the public participation requirements of 40 CFR part 25 in the enforcement of national pretreatment standards. These procedures shall include provision for at least annual public notification, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the WWF, of industrial users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a significant industrial user (or any industrial user which violates subparts (iii), (iv), or (viii) of this part) is in significant noncompliance if its violation meets one or more of the following criteria:

(i) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements for each pollutant parameter taken during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by paragraph (1) of Rule 0400-40-14-.03;

(ii) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a 6-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by paragraph (1) of Rule 0400-40-14-.03 multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH). TRC calculations for pH are not required by this rule.

(iii) Any other violation of a pretreatment standard or requirement as defined by Rule 0400-40-14-.03 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the WWF determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of WWF personnel or the general public);

(iv) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the WWF's exercise of its emergency authority under subpart (a)6(ii) of this paragraph to halt or prevent

such a discharge;

(v) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

(vi) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(vii) Failure to accurately report noncompliance;

(viii) Any other violation or group of violations, which may include a violation of Best Management Practices, which the WWF determines will adversely affect the operation or implementation of the local pretreatment program.

(c) Funding.

The WWF shall have sufficient resources and qualified personnel to carry out the authorities and procedures described in subparagraphs (a) and (b) of this paragraph. In some limited circumstances, funding and personnel may be delayed where

1. The WWF has adequate legal authority and procedures to carry out the Pretreatment Program requirements described in this paragraph, and

2. A limited aspect of the Program does not need to be implemented immediately.

(d) Local limits.

The WWF shall develop local limits as required in subparagraph (3)(a) of Rule 0400-40-14-.05, or demonstrate that they are not necessary.

(e) The WWF shall develop and implement an enforcement response plan.

This plan shall contain detailed procedures indicating how a WWF will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

1. Describe how the WWF will investigate instances of noncompliance;

2. Describe the types of escalating enforcement responses the WWF will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;

3. Identify (by title) the official(s) responsible for each type of response;

4. Adequately reflect the WWF's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in this rule.

(f) The WWF shall prepare and maintain a list of its industrial users meeting the criteria in subparagraph (a) in the definition of "Significant Industrial User" in paragraph (1) of Rule 0400-40-14-.03. The list shall identify the criteria in subparagraph (a) in the definition of "Significant Industrial User" in paragraph (1) of Rule 0400-40-14-.03 applicable to each industrial user and, where applicable, shall also indicate whether the WWF has made a determination pursuant to subparagraph (b) in the definition of "Significant Industrial User" in paragraph (1) of Rule 0400-40-14-.03 that such industrial user should not be considered a significant industrial user. The initial list shall be submitted to the Approval Authority pursuant to Rule 0400-40-14-.09 as a non-substantial modification pursuant to paragraph (4) of Rule 0400-40-14-.18. Modifications to the list shall be submitted to the Approval Authority pursuant to subparagraph (9)(a) of Rule 0400-40-14-.12.

(7) A WWF that chooses to receive electronic documents must satisfy the requirements of 40 CFR Part 3 (Electronic reporting).

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

0400-40-14-.09 WWF Pretreatment Programs and/or Authorization to Revise Pretreatment Standards: Submission for Approval.

(1) Who approves Program.

A WWF requesting approval of a WWF Pretreatment Program shall develop a program description which includes the information set forth in subparagraphs (2)(a) through (e) of this rule. This description shall be submitted to the Approval Authority which will make a determination on the request for program approval in accordance with the procedures described in Rule 0400-40-14-.11.

(2) Contents of WWF program submission.

The program description must contain, at a minimum, the following information:

(a) A statement from the City Attorney or a city official acting in a comparable capacity (or the attorney for those WWFs which have independent legal counsel) that the WWF has authority adequate to carry out the programs described in Rule 0400-40-14-.08. This statement shall:

1. Identify the provision of the legal authority under subparagraph (6)(a) of Rule 0400-40-14-.08 which provides the basis for each procedure under subparagraph (6)(b) of Rule 0400-40-14-.08;

2. Identify the manner in which the WWF will implement the program requirements set forth in Rule 0400-40-14-.08, including the means by which Pretreatment Standards will be applied to individual Industrial Users (e.g., by order, permit, ordinance, etc.); and,

3. Identify how the WWF intends to ensure compliance with Pretreatment Standards and Requirements, and to enforce them in the event of noncompliance by Industrial Users;

(b) A copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the WWF for its administration of the Program. This Submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising and/or funding the WWF Pretreatment Program if approved;

(c) A brief description (including organization charts) of the WWF organization which will administer the Pretreatment Program. If more than one agency is responsible for administration of the Program the responsible agencies should be identified, their respective responsibilities delineated, and their procedures for coordination set forth;

(d) A description of the funding levels and full- and part-time manpower available to implement the Program; and

(e) Any additional information requested by the Approval Authority.

(3) Conditional WWF program approval.

The WWF may request conditional approval of the Pretreatment Program pending the acquisition of funding and personnel for certain elements of the Program. The request for conditional approval must meet the requirements set forth in paragraph (2) of this rule except that the requirements of paragraph (2) of this rule, may be relaxed if the Submission demonstrates that:

(a) A limited aspect of the Program does not need to be implemented immediately;

(b) The WWF had adequate legal authority and procedures to carry out those aspects of the Program which will not be implemented immediately; and

(c) Funding and personnel for the Program aspects to be implemented at a later date will be available when needed. The WWF will describe in the Submission the mechanism by which this funding will be acquired. Upon receipt of a request for conditional approval, the Approval Authority will establish a fixed date for the acquisition of the needed funding and personnel. If funding is not acquired by this date, the conditional approval of the WWF Pretreatment Program and any removal allowances granted to the WWF, may be modified or withdrawn.

(4) Content of removal allowance Submission.

The request for authority to revise categorical Pretreatment Standards must contain the information required in paragraph (4) of Rule 0400-40-14-.07.

(5) Approval authority action.

Any WWF requesting WWF Pretreatment Program approval shall submit to the Approval Authority three copies of the Submission described in paragraph (2) of this rule, and if appropriate, paragraph (4) of this rule (two copies mailed to the central office and one copy mailed to the appropriate field office). Within 60 days after receiving the Submission, the Approval Authority shall make a preliminary determination of whether the Submission meets the requirements of paragraph (2) of this rule and, if appropriate, paragraph (4) of this rule. If the Approval Authority makes the preliminary determination that the Submission meets these requirements, the Approval Authority shall:

(a) Notify the WWF that the Submission has been received and is under review; and

(b) Commence the public notice and evaluation activities set forth in Rule 0400-40-14-.11.

(6) Notification where Submission is defective.

If, after review of the Submission as provided for in paragraph (5) of this rule, the Approval Authority determines that the Submission does not comply with the requirements of paragraph (2) or (3) of this rule, and, if appropriate, paragraph (4) of this rule, the Approval Authority shall provide notice in writing to the applying WWF and each person who has requested individual notice. This notification shall identify any defects in the Submission and advise the WWF and each person who has requested individual notice of the means by which the WWF can comply with the applicable requirements of paragraphs (2), and (3) of this rule, and, if appropriate, paragraph (4) of this rule.

(7) Consistency with water quality management plans.

(a) In order to be approved the WWF Pretreatment Program shall be consistent with any approved water quality management plan developed in accordance with 40 CFR parts 130, 131, as revised, where such 208 plan includes Management Agency designations and addresses pretreatment in a manner consistent with this chapter. In order to assure such consistency the Approval Authority shall solicit the review and comment of the appropriate 208 Planning Agency during the public comment period provided for in part (2)(a)2 of Rule 0400-40-14-.11 prior to approval or disapproval of the Program.

(b) Where no 208 plan has been approved or where a plan has been approved but lacks Management Agency designations and/or does not address pretreatment in a manner consistent with this regulation, the Approval Authority shall nevertheless solicit the review and comment of the appropriate 208 planning agency.

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

0400-40-14-.10 Reserved

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

0400-40-14-.11 Approval Procedures for WWF Pretreatment Programs and WWF Granting of Removal Credits.

The following procedures shall be adopted in approving or denying requests for approval of WWF Pretreatment Programs and applications for removal credit authorization:

(1) Deadline for review of Submission.

The Approval Authority shall have 90 days from the date of public notice of any Submission complying with the requirements of paragraph (2) of Rule 0400-40-14-.09 and, where removal credit authorization is sought with paragraph (5) of Rule 0400-40-14-.07 and paragraph (4) of Rule 0400-40-14-.09, to review the Submission. The Approval Authority shall review the Submission to determine compliance with the requirements of paragraphs (2) and (6) of Rule 0400-40-14-.08, and, where removal credit authorization is sought, with Rule 0400-40-14-.07. The Approval Authority may have up to an additional 90 days to complete the evaluation of the Submission if the public comment period provided for in part (2)(a)2 of this rule is extended beyond 30 days or if a public hearing is held as provided for in subparagraph (2)(b) of this rule. In no event, however, shall the time for evaluation of the Submission exceed a total of 180 days from the date of public notice of a Submission meeting the requirements of paragraph (2) of Rule 0400-40-14-.09 and, in the case of a removal credit application, paragraph (5) of Rule 0400-40-14-.07 and paragraph (2) of Rule 0400-40-14-.09.

(2) Public notice and opportunity for hearing.

Upon receipt of a Submission the Approval Authority shall commence its review. Within 20 work days after making a determination that a Submission meets the requirements of paragraph (2) of Rule 0400-40-14-.09 and, where removal allowance approval is sought, paragraph (4) of Rule 0400-40-14-.07 and paragraph (4) of Rule 0400-40-14-.09, the Approval Authority shall:

(a) Issue a public notice of request for approval of the Submission;

1. This public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the Submission. Procedures for the circulation of public notice shall include:

(i) Mailing notices of the request for approval of the Submission to designated 208 planning agencies, Federal and State fish, shellfish and wildfish resource agencies (unless such agencies have asked not to be sent the notices); and to any other person or group who has requested individual notice, including those on appropriate mailing lists; and

(ii) Publication of a notice of request for approval of the Submission in a newspaper(s) of general circulation within the jurisdiction(s) served by the WWF that provides meaningful public notice. The Approval Authority may require that the WWF provide the public notification detailed in this subpart.

2. The public notice shall provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the Submission.

3. All written comments submitted during the 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

(b) Provide an opportunity for the applicant, any affected State, any interested State or Federal agency, person or group of persons to request a public hearing with respect to the Submission.

1. This request for public hearing shall be filed within the 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.

2. The Approval Authority shall hold a hearing if the WWF so requests. In addition, a hearing will be held if there is a significant public interest in issues relating to whether or

not the Submission should be approved. Instances of doubt should be resolved in favor of holding the hearing.

3. Public notice of a hearing to consider a Submission, sufficient to inform interested parties of the nature of the hearing and the right to participate, shall be published in the same newspaper as the notice of the original request for approval of the Submission under subpart (a)1(ii) of this paragraph. In addition, notice of the hearing shall be sent to those persons requesting individual notice.

(3) Approval authority decision.

At the end of the 30 day (or extended) comment period and within the 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.

(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 (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.

(5) Notice of decision.

The Approval Authority shall notify those persons who submitted comments and participated in the public hearing, if held, of the approval or disapproval of the Submission. In addition, the Approval Authority shall cause to be published a notice of approval or disapproval in the same newspapers as the original notice of request for approval of the Submission was published. The Approval Authority shall identify in any notice of WWF Pretreatment Program approval any authorization to modify categorical Pretreatment Standards which the WWF may make, in accordance with Rule 0400-40-14-.07, for removal of pollutants subject to Pretreatment Standards.

(6) Public access to Submission.

The Approval Authority shall ensure that the Submission and any comments upon such Submission are available to the public for inspection and copying.

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

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

(1) [Reserved]

(2) Reporting requirements for industrial users upon effective date of categorical pretreatment standard—baseline report.

Within 180 days after the effective date of a categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under subparagraph (1)(d) of Rule 0400-40-14-.06, whichever is later, existing Industrial Users subject to such categorical Pretreatment Standards and currently discharging to or scheduled to discharge to a WWF shall be required to submit to

the Control Authority a report which contains the information listed in subparagraphs (a) through (g) of this paragraph. At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall be required to submit to the Control Authority a report which contains the information listed in subparagraphs (a) through (e) of this paragraph. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New Sources shall give estimates of the information requested in subparagraphs (d) and (e) of this paragraph:

(a) Identifying information.

The User shall submit the name and address of the facility including the name of the operator and owners;

(b) Permits.

The User shall submit a list of any environmental control permits held by or for the facility;

(c) Description of operations.

The User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram which indicates points of discharge to the WWF from the regulated processes.

(d) Flow measurement.

The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the WWF from each of the following:

1. Regulated process streams; and

2. Other streams as necessary to allow use of the combined wastestream formula of paragraph (5) of Rule 0400-40-14-.06. (See part (e)4 of this paragraph.) The Control Authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(e) Measurement of pollutants.

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

2. In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or Control Authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard;

3. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

4. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of paragraph (5) of Rule 0400-40-14-.06 in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with paragraph (5) of Rule 0400-40-14-.06 this adjusted limit along with supporting data shall be submitted to the Control

Authority;

5. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the WWF or other parties, approved by the Administrator;

6. The Control Authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

7. The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the WWF;

(f) Certification.

A statement, reviewed by an authorized representative of the Industrial User (as defined in paragraph (12) of this rule) and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements; and

(g) Compliance schedule.

If additional pretreatment and/or O and M will be required to meet the Pretreatment Standards; the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

1. Where the Industrial User's categorical Pretreatment Standard has been modified by a removal allowance (Rule 0400-40-14-.07), the combined wastestream formula (paragraph (5) of Rule 0400-40-14-.06), and/or a Fundamentally Different Factors variance (Rule 0400-40-14-.13) at the time the User submits the report required by paragraph (2) of this rule, the information required by subparagraphs (f) and (g) of this paragraph shall pertain to the modified limits.

2. If the categorical Pretreatment Standard is modified by a removal allowance (Rule 0400-40-14-.07), the combined wastestream formula (paragraph (5) of Rule 0400-40-14-.06), and/or a Fundamentally Different Factors variance (Rule 0400-40-14-.13) after the User submits the report required by paragraph (2) of this rule, any necessary amendments to the information requested by subparagraphs (f) and (g) of this paragraph shall be submitted by the User to the Control Authority within 60 days after the modified limit is approved.

(3) Compliance schedule for meeting categorical Pretreatment Standards.

The following conditions shall apply to the schedule required by subparagraph (2)(g) of this rule:

(a) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable categorical Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(b) No increment referred to in subparagraph (a) of this paragraph shall exceed 9 months.

(c) Not later than 14 days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority including, at 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 being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Control Authority.

(4) Report on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the WWF, any Industrial User subject to Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information described in subparagraphs (2)(d) through (f) of this rule. For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in paragraph (3) of Rule 0400-40-14-.06, this report shall contain a reasonable measure of the User's long-term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

(5) Periodic reports on continued compliance.

(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, 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.

(b) The Control Authority may authorize the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

1. The Control Authority may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

2. The monitoring waiver is valid only for the duration of the effective period of the Permit or other equivalent individual control mechanism, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

3. In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with subparagraph (a) of this paragraph, and include the certification statement in part (1)(b)2 of Rule 0400-40-14-.06. Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

4. Any grant of the monitoring waiver by the Control Authority must be included as a condition in the User's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Control Authority for 3 years after expiration of the waiver.

5. Upon approval of the monitoring waiver and revision of the User's control mechanism by the Control Authority, the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:

   Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under subparagraph (5)(a) of Rule 0400-40-14-.12.

6. In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of subparagraph (a) of this paragraph or other more frequent monitoring requirements imposed by the Control Authority, and notify the Control Authority.

7. This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

(c) Where the Control Authority has imposed mass limitations on Industrial Users as provided for by paragraph (4) of Rule 0400-40-14-.06, the report required by subparagraph (a) of this paragraph shall indicate the mass of pollutants regulated by Pretreatment Standards in the discharge from the Industrial User.

(d) For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in paragraph (3) of Rule 0400-40-14-.06, the report required by subparagraph (a) of this paragraph shall contain a reasonable measure of the User's long-term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by subparagraph (a) of this paragraph shall include the User's actual average production rate for the reporting period.

(6) Notice of potential problems, including slug loading.

All categorical and non-categorical Industrial Users shall notify the WWF immediately of all discharges that could cause problems to the WWF, including any slug loadings, as defined by paragraph (2) of Rule 0400-40-14-.05, by the Industrial User.

(7) Monitoring and analysis to demonstrate continued compliance.

(a) Except in the case of Non-Significant Categorical Users, the reports required in paragraphs (2), (4), (5), and (8) of this rule shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by

the Control Authority, of pollutants contained therein which are limited by the applicable Pretreatment Standards. This sampling and analysis may be performed by the Control Authority in lieu of the Industrial User. Where the WWF performs the required sampling and analysis in lieu of the Industrial User, the User will not be required to submit the compliance certification required under subparagraph (2)(f) and paragraph (4) of this rule. In addition, where the WWF itself collects all the information required for the report, including flow data, the Industrial User will not be required to submit the report.

(b) If sampling performed by an Industrial User indicates a violation, the user shall notify the Control Authority within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within 30 days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the Industrial User, the Control Authority must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

1. The Control Authority performs sampling at the Industrial User at a frequency of at least once per month, or

2. The Control Authority performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Control Authority receives the results of this sampling.

(c) The reports required in paragraphs (2), (4), (5), and (8) of this rule must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.

(d) For sampling required in support of baseline monitoring and 90-day compliance reports required in paragraphs (2) and (4) of this rule, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by paragraphs (5) and (8) of this rule, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

(e) All analyses shall be performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Federal Clean Water Act and contained in 40 CFR part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See, §§136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and

analytical procedures, including procedures suggested by the WWF or other parties, approved by the Administrator.

(f) If an Industrial User subject to the reporting requirement in paragraph (5) or (8) of this rule monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in subparagraph (e) of this paragraph, the results of this monitoring shall be included in the report.

(8) Reporting requirements for Industrial Users not subject to categorical Pretreatment Standards.

The Control Authority must require appropriate reporting from those Industrial Users with discharges that are not subject to categorical Pretreatment Standards. Significant Noncategorical Industrial Users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in 40 CFR part 136 and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the significant noncategorical industrial user.

(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 day of the month following each reporting period. A WWF may request approval from the Divison 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. Both semiannual and annual reports shall conform to the format set forth in the State POTW Pretreatment Semiannual Report Package, which includes, at a minimum, the following:

(a) 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. 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) A summary of the status of Industrial User compliance over the reporting period;

(c) A summary of compliance and enforcement activities (including inspections) conducted by the WWF during the reporting period;

(d) A summary of changes to the WWF's pretreatment program that have not been previously reported to the Approval Authority; and

(e) Any other relevant information requested by the Approval Authority.

(10) Notification of changed discharge.

All Industrial Users shall promptly notify the Control Authority (and the WWF if the WWF is not the Control Authority) in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under paragraph (16) of this rule.

(11) Compliance schedule for WWF's.

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 president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

2. 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 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 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.

(13) Signatory requirements for WWF reports.

Reports submitted to the Approval Authority by the WWF in accordance with paragraph (9) of this rule must be signed by a principal executive officer, ranking elected official or other duly authorized employee. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the Pretreatment Program. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the Approval Authority prior to or together with the report being submitted.

(14) Provisions Governing Fraud and False Statements.

The reports and other documents required to be submitted or maintained under this rule shall be subject to:

(a) The provisions of 18 U.S.C. section 1001 relating to fraud and false statements;

(b) The provisions of section 309(c)(4) of the Federal Clean Water Act, as amended, governing false statements, representation or certification; and

(c) The provisions of section 309(c)(6) regarding responsible corporate officers.

(15) Record-keeping requirements.

(a) Any Industrial User and WWF subject to the reporting requirements established in this rule shall maintain records of all information resulting from any monitoring activities required by this rule, including documentation associated with Best Management Practices. Such records shall include for all samples:

1. The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;

2. The dates analyses were performed;

3. Who performed the analyses;

4. The analytical techniques/methods use; and

5. The results of such analyses.

(b) Any Industrial User or WWF subject to the reporting requirements established in this rule (including documentation associated with Best Management Practices) shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this rule) and shall make such records available for inspection and copying by the Director and the Regional Administrator (and WWF in the case of an Industrial User). This period of retention shall be extended during the course of any unresolved litigation regarding the Industrial User or WWF or when requested by the Director or the Regional Administrator.

(c) Any WWF to which reports are submitted by an Industrial User pursuant to paragraphs (2), (4),

(5), and (8) of this rule shall retain such reports for a minimum of 3 years and shall make such reports available for inspection and copying by the Director and the Regional Administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Industrial User or the operation of the WWF Pretreatment Program or when requested by the Director or the Regional Administrator.

(16) The Industrial User shall notify the WWF, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the WWF of a substance, which, if otherwise disposed of, would be a hazardous waste under chapter 0400-12-01.

(a) Such notification must include the name of the hazardous waste as set forth in chapter 0400-12-01, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the WWF, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under paragraph (10) of this rule. The notification requirement in this rule does not apply to pollutants already reported under the self-monitoring requirements of paragraphs (2), (4), and (5) of this rule.

(b) Dischargers are exempt from the requirements of subparagraph (a) of this paragraph during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in subparagraphs (4)(a) and (d) of Rule 0400-12-01-.02. Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in subparagraphs (4)(a) and (d) of Rule 0400-12-01-.02, requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the WWF, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this paragraph, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(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 ____, 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 facility compiled with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) 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.

_____

_____

(18) The Control Authority that chooses to receive electronic documents must satisfy the requirements of 40 CFR Part 3 (Electronic reporting).

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

0400-40-14-.13 Variances from Categorical Pretreatment Standards for Fundamentally Different Factors.

(1) Definition.

The term Requester means an Industrial User or a WWF or other interested person seeking a variance from the limits specified in a categorical Pretreatment Standard.

(2) Purpose and scope.

In establishing categorical Pretreatment Standards for existing sources, the Division will take into account all the information it can collect, develop and solicit regarding the factors relevant to pretreatment standards under section 307(b) of the Federal Clean Water Act. In some cases, information which may affect these Pretreatment Standards will not be available or, for other reasons, will not be considered during their development. As a result, it may be necessary on a case-by-case basis to adjust the limits in categorical Pretreatment Standards, making them either more or less stringent, as they apply to a certain Industrial User within an industrial category or subcategory. This will only be done if data specific to that Industrial User indicates it presents factors fundamentally different from those considered by EPA in developing the limit at issue. Any interested person believing that factors relating to an Industrial User are fundamentally different from the factors considered during development of a categorical Pretreatment Standard applicable to that User and further, that the existence of those factors justifies a different discharge limit than specified in the applicable categorical Pretreatment Standard, may request a fundamentally different factors variance under this rule or such a variance request may be initiated by the Division.

(3) Criteria—

(a) General criteria.

A request for a variance based upon fundamentally different factors shall be approved only if:

1. There is an applicable categorical Pretreatment Standard which specifically controls the pollutant for which alternative limits have been requested; and

2. Factors relating to the discharge controlled by the categorical Pretreatment Standard are fundamentally different from the factors considered by EPA in establishing the Standards; and

3. The request for a variance is made in accordance with the procedural requirements in paragraphs (7) and (8) of this rule.

(b) Criteria applicable to less stringent limits.

A variance request for the establishment of limits less stringent than required by the Standard shall be approved only if:

1. The alternative limit requested is no less stringent than justified by the fundamental difference;

2. The alternative limit will not result in a violation of prohibitive discharge standards prescribed by or established under Rule 0400-40-14-.05;

3. The alternative limit will not result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the Pretreatment Standards; and

4. Compliance with the Standards (either by using the technologies upon which the Standards are based or by using other control alternatives) would result in either:

(i) A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the Standards; or

(ii) A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the Standards.

(c) Criteria applicable to more stringent limits.

A variance request for the establishment of limits more stringent than required by the Standards shall be approved only if:

1. The alternative limit request is no more stringent than justified by the fundamental difference; and

2. Compliance with the alternative limit would not result in either:

(i) A removal cost (adjusted for inflation) wholly out of proportion to the removal cost considered during development of the Standards; or

(ii) A non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the Standards.

(4) Factors considered fundamentally different.

Factors which may be considered fundamentally different are:

(a) The nature or quality of pollutants contained in the raw waste load of the User's process wastewater:

(b) The volume of the User's process wastewater and effluent discharged;

(c) Non-water quality environmental impact of control and treatment of the User's raw waste load;

(d) Energy requirements of the application of control and treatment technology;

(e) Age, size, land availability, and configuration as they relate to the User's equipment or facilities; processes employed; process changes; and engineering aspects of the application of control technology;

(f) Cost of compliance with required control technology.

(5) Factors which will not be considered fundamentally different.

A variance request or portion of such a request under this rule may not be granted on any of the following grounds:

(a) The feasibility of installing the required waste treatment equipment within the time the Federal

Clean Water Act allows;

(b) The assertion that the Standards cannot be achieved with the appropriate waste treatment facilities installed, if such assertion is not based on factors listed in paragraph (4) of this rule;

(c) The User's ability to pay for the required waste treatment; or

(d) The impact of a discharge on the quality of the WWF's receiving waters.

(6) Local law.

Nothing in this chapter shall be construed to impair the right of any locality under section 510 of the Clean Water Act to impose more stringent limitations than required by State or Federal law.

(7) Application deadline.

(a) Requests for a variance and supporting information must be submitted in writing to the Director or to the Administrator (or his delegate), as appropriate.

(b) In order to be considered, a request for a variance must be submitted no later than 180 days after the date on which a categorical Pretreatment Standard is published in the Federal Register.

(c) Where the User has requested a categorical determination pursuant to paragraph (1) of Rule 0400-40-14-.06, the User may elect to await the results of the category determination before submitting a variance request under this rule. Where the User so elects, he or she must submit the variance request within 30 days after a final decision has been made on the categorical determination pursuant to subparagraph (1)(d) of Rule 0400-40-14-.06.

(8) Contents submission.

Written submissions for variance requests, whether made to the Administrator (or his delegate) or the Director, must include:

(a) The name and address of the person making the request;

(b) Identification of the interest of the Requester, which is affected by the categorical Pretreatment Standard for which the variance is requested;

(c) Identification of the WWF currently receiving the waste from the Industrial User for which alternative discharge limits are requested;

(d) Identification of the categorical Pretreatment Standards which are applicable to the Industrial User;

(e) A list of each pollutant or pollutant parameter for which an alternative discharge limit is sought;

(f) The alternative discharge limits proposed by the Requester for each pollutant or pollutant parameter identified in subparagraph (e) of this paragraph;

(g) A description of the Industrial User's existing water pollution control facilities;

(h) A schematic flow representation of the Industrial User's water system including water supply, process wastewater systems, and points of discharge; and

(i) A Statement of facts clearly establishing why the variance request should be approved, including detailed support data, documentation, and evidence necessary to fully evaluate the merits of the request, e.g., technical and economic data collected by the EPA and used in developing each pollutant discharge limit in the Pretreatment Standard.

(9) Deficient requests.

The Administrator (or his delegate) or the Director will only act on written requests for variances that contain all of the information required. Persons who have made incomplete submissions will be notified by the Administrator (or his delegate) or the Director that their requests are deficient and unless the time period is extended, will be given up to thirty days to remedy the deficiency. If the deficiency is not corrected within the time period allowed by the Administrator (or his delegate) or the Director, the request for a variance shall be denied.

(10) Public notice.

Upon receipt of a complete request, the Administrator (or his delegate) or the Director will provide notice of receipt, opportunity to review the submission, and opportunity to comment.

(a) The public notice shall be circulated in a manner designed to inform interested and potentially interested persons of the request. Procedures for the circulation of public notice shall include mailing notices to:

1. The WWF into which the Industrial User requesting the variance discharges;

2. Adjoining States whose waters may be affected; and

3. Designated 208 planning agencies, Federal and State fish, shellfish and wildlife resource agencies; and to any other person or group who has requested individual notice, including those on appropriate mailing lists.

(b) The public notice shall provide for a period not less than 30 days following the date of the public notice during which time interested persons may review the request and submit their written views on the request.

(c) Following the comment period, the Administrator (or his delegate) or the Director will make a determination on the request taking into consideration any comments received. Notice of this final decision shall be provided to the requester (and the Industrial User for which the variance is requested if different), the WWF into which the Industrial User discharges and all persons who submitted comments on the request.

(11) Review of requests by state.

(a) Where the Director finds that fundamentally different factors do not exist, he may deny the request and notify the requester (and Industrial User where they are not the same) and the WWF of the denial.

(b) Where the Director finds that fundamentally different factors do exist, he shall forward the request, with a recommendation that the request be approved, to the Administrator (or his delegate).

(12) Review of requests by EPA.

See 40 CFR Part 403.13(l) for the procedures EPA uses to review requests.

(13) Request for hearing.

(a) Within 30 days following the date of receipt of the notice of the decision of the Administrator's delegate on a variance request, the requester or any other interested person may submit a petition to the Regional Administrator for a hearing to reconsider or contest the decision. If such a request is submitted by a person other than the Industrial User the person shall simultaneously serve a copy of the request on the Industrial User.

(b) If the Regional Administrator declines to hold a hearing and the Regional Administrator affirms the findings of the Administrator's delegate the requester may submit a petition for a hearing to the Environmental Appeals Board (which is described in 40 CFR part 1.25) within 30 days of the

Regional Administrator's decision.

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

0400-40-14-.14 Confidentiality.

(1) In accordance with T.C.A. § 69-3-113, any information submitted to the Division pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the Division may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in 40 CFR part 2 (Public Information).

(2) Effluent data.

Information and data provided to the Control Authority pursuant to this chapter which is effluent data shall be available to the public without restriction.

(3) State or WWF.

All other information which is submitted to the State or WWF shall be available to the public at least to the extent provided by T.C.A. §§ 10-7-501 et seq.

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

0400-40-14-.15 Net/Gross Calculation.

(1) Application.

Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this rule. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Control Authority. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this rule are met.

(2) Criteria.

(a) Either:

1. The applicable categorical Pretreatment Standards contained in 40 CFR Chapter I, subchapter N specifically provide that they shall be applied on a net basis; or

2. The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

(b) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(c) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this rule.

(d) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the WWF discharges. The Control Authority may waive this

requirement if it finds that no environmental degradation will result.

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

0400-40-14-.16 Upset Provision.

(1) Definition.

For the purposes of this chapter, "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.

(2) Effect of an upset.

An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (3) of this rule are met.

(3) Conditions necessary for a demonstration of upset.

An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An Upset occurred and the Industrial User can identify the cause(s) of the Upset;

(b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;

(c) The Industrial User has submitted the following information to the WWF and Control Authority within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five days):

1. A description of the Indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;

3. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

(4) Burden of proof.

In any enforcement proceeding the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.

(5) Reviewability of agency consideration of claims of upset.

In the usual exercise of prosecutorial discretion, Agency enforcement personnel should review any claims that non-compliance was caused by an Upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Industrial Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

(6) User responsibility in case of upset.

The Industrial User shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced,

lost or fails.

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

0400-40-14-.17 Bypass.

(1) Definitions.

(a) Bypass means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.

(b) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which 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.

(2) Bypass not violating applicable Pretreatment Standards or Requirements.

An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (3) and (4) of this rule.

(3) Notice.

(a) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten days before the date of the bypass.

(b) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(4) Prohibition of bypass.

(a) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless;

1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

3. The Industrial User submitted notices as required under paragraph (3) of this rule.

(b) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in subparagraph ~~(4)~~(a) of this paragraph.

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

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 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 122.63(g).

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

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 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 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 Components [1] (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
Swithchgear
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-sided 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 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

[1]Footnote: 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).
[2]Footnote: Except for production attributed to lead-sheathed hose manufacturing operations.
[3]Footnote: Except for production attributed to chromic acid form-cleaning operations.
[4]Footnote: 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

	Use or disposal practice		
Pollutants	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 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		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 weight basis.
Key: LA_land application.
I_incineration.

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

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 2/12/13

Signature: Sandra K Dudley

Name of Officer: SANDRA K. DUDLEY

Title of Officer: DIRECTOR, WATER RESOURCES

BETH B. SMITH
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY, TENN.
My Commission Expires JULY 6, 2015

Subscribed and sworn to before me on: 2-12-13

Notary Public Signature: Beth B. Smith

My commission expires on: July 6, 2015

Department of State Use Only

Filed with the Department of State on: 2/13/13

Tre Hargett
Secretary of State

RECEIVED
2013 FEB 13 AM 11:33
OFFICE OF SECRETARY OF STATE