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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:	Megasite Authority of West Tennessee
Division:	
Contact Person:	Christy Allen
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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:	William R. Snodgrass Tennessee Tower 312 Rosa L. Parks Avenue, 22nd Floor Nashville, Tennessee 37243
Phone:	629-259-0479 Hearing-impaired callers may use the TN Relay Service 1-800-848-0298
Email:	Steffany.DAngelo@tn.gov

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

Address 1:	Brownsville-Haywood County Parks & Recreation Building		
Address 2:	100 Boyd Ave.		
City:	Brownsville, TN		
Zip:	38012		
Hearing Date:	07/18/2024		
Hearing Time:	10:00 AM	<input type="checkbox"/> _x_CST/CDT	<input type="checkbox"/> _EST/EDT

Alternate Hearing Option

Method 1:	Microsoft Teams Meeting Join on your computer, mobile app or room device Click here to join the meeting Meeting ID: 211 518 813 360 Passcode: kQtAQj
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Method 2:	Join with a video conferencing device stateoftn@m.webex.com Video ID: 115 712 266 0
Method 3:	Or call in (audio only) +1 629-209-4396,409086527# United States, Nashville Phone Conference ID: 409 086 527#

Additional Hearing Information:

If it is hard for you to read, speak, or understand English, the Department of General Services may be able to provide translation or interpretation services free of charge. Please contact Steffany D'Angelo at 629-259-0479 or Steffany.DAngelo@tn.gov for more information. Si le resulta difícil leer, hablar o entender inglés, TDEC puede proporcionar servicios de traducción o interpretación sin cargo. Comuníquese con Steffany D'Angelo at 629-259-0479 o Steffany.DAngelo@tn.gov para obtener más información.

This rulemaking will set forth uniform requirements for users of the domestic wastewater facility (WWF) for the Megasite Authority of West Tennessee, as created in T.C.A. Title 64, Chapter 9, and enables Megasite Authority to comply with all applicable state and federal laws, including the State Pretreatment Requirements (Chapter 0400-40-14), the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations Part 403).

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 General Services, Christy Allen, William R. Snodgrass TN Tower, 312 Rosa L. Parks Avenue, 22nd Floor, Nashville, Tennessee 37243; telephone 615-741-9466, or email: Christy.Allen@tn.gov. However, such written comments must be received by 4:30 PM CST, July 25, 2024, to assure consideration. For further information, please contact Christy Allen at the above address or telephone number, or by e-mail.

Revision Type (check all that apply):

- Amendment
- New
- Repeal

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

Chapter Number	Chapter Title
0690-07-01	Megasite Authority of West Tennessee Pretreatment Requirements
Rule Number	Rule Title
0690-07-01-.01	General Provisions
0690-07-01-.02	General Sewer Use Requirements
0690-07-01-.03	Pretreatment of Wastewater

0690-07-01-.04	Individual Wastewater Discharge Permits
0690-07-01-.05	Individual Wastewater Discharge Permit Issuance
0690-07-01-.06	Reporting Requirements
0690-07-01-.07	Compliance Monitoring
0690-07-01-.08	Confidential Information
0690-07-01-.09	Publication of Users in Significant Noncompliance
0690-07-01-.10	Administrative and Judicial Enforcement Remedies
0690-07-01-.11	Affirmative Defenses to Discharge Violations
0690-07-01-.12	Fees

Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0690-07-01
Megasite Authority of West Tennessee Pretreatment Requirements

New rules

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0690-07-01-.01 General Provisions

(1) Purpose and Scope.

(a) This chapter sets forth uniform requirements for users of the domestic wastewater facility (WWF) for the Megasite Authority of West Tennessee, as created in T.C.A. Title 64, Chapter 9, and enables it to comply with all applicable state and federal laws, including the Tennessee Water Quality Control Act of 1977 (T.C.A. §§ 69-3-101 to -148), the State Pretreatment Requirements (Chapter 0400-40-14), the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations Part 403). The objectives of this chapter are:

1. To prevent the introduction of pollutants into the WWF that will interfere with its operation;
2. To prevent the introduction of pollutants into the WWF that will pass through the WWF or otherwise be incompatible with the WWF;
3. To protect both WWF personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
4. To promote reuse and recycling of industrial wastewater and sludge from the WWF;

5. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the WWF; and
6. To enable the Megasite Authority of West Tennessee to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the WWF is subject.

(b) This chapter shall apply to all users of the WWF and authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established by this chapter.

(2) Administration.

The Board of Directors Megasite Authority of West Tennessee shall appoint an administrative officer to oversee the development and implementation of the authority's pretreatment program as required pursuant to T.C.A. § 64-9-104. Except as otherwise provided herein, the administrative officer shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the administrative officer may be delegated by the administrative officer to a duly authorized individual.

(3) Abbreviations.

BOD – Biochemical Oxygen Demand
 BMP – Best Management Practice
 BMR – Baseline Monitoring Report
 C.F.R. – Code of Federal Regulations
 CIU – Categorical Industrial User
 COD – Chemical Oxygen Demand
 EPA – U.S. Environmental Protection Agency
 gpd – gallons per day
 IU – Industrial User
 mg/l – milligrams per liter
 NPDES – National Pollutant Discharge Elimination System
 NSCIU – Non-Significant Categorical Industrial User
 RCRA – Resource Conservation and Recovery Act
 SIU – Significant Industrial User
 SNC – Significant Noncompliance
 TSS – Total Suspended Solids
 U.S.C. – United States Code
 WWF – wastewater facility

(4) Definitions.

For the purpose of this chapter:

- (a) "Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251-1389.
- (b) "Administrator" means the person designated by the Megasite Authority to supervise the operation of the WWF, and who is charged with certain duties and responsibilities by this chapter. The term also means a duly authorized representative of the Administrator.
- (c) "Approval authority" means the Director of the Department of Environment and Conservation's Division of Water Resources or the Director's representative(s).
- (d) "Authorized" or "duly authorized representative of the user" means:

1. If the user is a corporation:
 - (i) The president, secretary, treasurer, or a 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
 - (ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that 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 individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 3. If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 4. The individuals described in parts 1 through 3 of this definition may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Megasite Authority.
- (e) "Biochemical oxygen demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Centigrade, usually expressed as a concentration (e.g., mg/l).
- (f) "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in subparagraphs (1)(a) and (b) of Rule 0690-07-01-.02 (Subparagraph (1)(a) and paragraph (2) of Rule 0400-40-14-.05). BMPs 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. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.
- (g) "Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of users and that appear in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.
- (h) "Categorical industrial user" means an industrial user subject to a categorical pretreatment standard or categorical standard.
- (i) "Chemical oxygen demand" or "COD" means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- (j) "Daily maximum" means the arithmetic average of all effluent samples for a pollutant (except pH) collected during a calendar day.

- (k) "Daily maximum limit" means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (l) "Department" means the Department of Environment and Conservation.
- (m) "Director" means the chief administrative officer of the Department of Environment and Conservation's Division of Water Resources.
- (n) "Division" means the Department of Environment and Conservation's Division of Water Resources, or its successor.
- (o) "Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- (p) "Existing source" means any source of discharge that is not a "new source."
- (q) "Grab sample" means a sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.
- (r) "Indirect discharge" or "discharge" means the introduction of pollutants into the WWF from any nondomestic source.
- (s) "Instantaneous limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (t) "Interference" means a discharge that, 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.
- (u) "Local limit" means the specific discharge limits developed and enforced by the Megasite Authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in Rule 0400-40-14-.05(1)(a) and (2).
- (v) "Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (w) "Megasite Authority" means the Megasite Authority of West Tennessee as established in T.C.A. Title 64, Chapter 9.
- (x) "Monthly average" means the sum of all daily discharges, defined as the arithmetic average of all daily maximum values collected during a calendar month, measured during a calendar month divided by the number of daily discharges measured during that month.
- (y) "Monthly average limit" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- (z) "New source" means:

1. 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 Act that will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (i) The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (iii) 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.
 2. 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 subpart 1(ii) or (iii) of this definition but otherwise alters, replaces, or adds to existing process or production equipment.
 3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (i) 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 that is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- (aa) "Noncontact cooling water" means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (bb) "Pass through" means a discharge that exits the WWF into waters of the state as defined in T.C.A. § 69-3-103 in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Megasite Authority's NPDES permit, including an increase in the magnitude or duration of a violation.
- (cc) "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.
- (dd) "pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.

- (ee) "Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (ff) "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, introducing such pollutants into the WWF. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (gg) "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (hh) "Pretreatment standards" or "standards" mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- (ii) "Prohibited discharge standards" or "prohibited discharges" means an absolute prohibition against the discharge of certain substances; these prohibitions appear in paragraph (1) of Rule 0690-07-01-.02.
- (jj) "Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (kk) "Sewage" means human excrement and gray water (bathroom waste, kitchen waste, etc.).
- (ll) "Significant industrial user" or "SIU," except as provided in parts 3 and 4 of this definition, means:
 1. An industrial user subject to categorical pretreatment standards; or
 2. An Industrial user that:
 - (i) Discharges an average of 25,000 gpd or more of process wastewater to the WWF (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (ii) Contributes a process wastestream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the WWF treatment plant; or
 - (iii) Is designated as such by the Megasite Authority on the basis that it has a reasonable potential for adversely affecting the WWF's operation or for violating any pretreatment standard or requirement.
 3. The Megasite Authority may determine that an industrial user subject to categorical pretreatment standards 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:
 - (i) The industrial user, prior to the Megasite Authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - (ii) The industrial user annually submits the certification statement required in subparagraph (14)(b) of Rule 0690-07-01-.06 (paragraph (17) of Rule 0400-40-14-.12), together with any additional information necessary to support the certification statement; and
 - (iii) The industrial user never discharges any untreated concentrated wastewater.

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

- (mm) "Slug load" or "slug discharge" means any discharge at a flow rate or concentration, that could cause a violation of the prohibited discharge standards in paragraph (1) of Rule 0690-07-01-.02. 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, that 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.
- (nn) "Storm water" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- (oo) "Total suspended solids" or "suspended solids" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
- (pp) "User" or "industrial user" means a source of indirect discharge.
- (qq) "Wastewater" means the liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated that are contributed to the WWF.
- (rr) "Wastewater facility" or "WWF" means any or all of the following: the collection/transmission system, treatment plant, and the reuse or disposal system, that are owned by the Megasite Authority. This definition also includes "treatment works," as defined by section 212 of the Act (33 U.S.C. § 1292), which includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, and other conveyances that convey wastewater to a wastewater treatment plant. This term also means the Megasite Authority.
- (ss) "Wastewater treatment plant" or "treatment plant" means that portion of the WWF that is designed to provide treatment of municipal sewage and industrial waste.

(5) Severability.

If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.02 General Sewer Use Requirements

(1) Prohibited Discharge Standards.

(a) General Prohibitions.

No user may introduce or cause to be introduced into the WWF any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all users of the WWF whether or not they are subject to categorical pretreatment standards or any other federal, state, or local pretreatment standards or requirements.

(b) Specific Prohibitions.

No user may introduce or cause to be introduced into the WWF the following pollutants, substances, or wastewater:

1. Pollutants that create a fire or explosive hazard in the WWF, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in subparagraph (3)(b) of Rule 0400-12-01-.02;
2. Wastewater having a pH less than 5.0, or more than 11.0, without prior notice to and approval by the Administrator, or wastewater otherwise causing corrosive structural damage to the WWF or equipment;
3. Solid or viscous pollutants in amounts that will cause obstruction of the flow in the WWF resulting in interference;
4. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate or concentration that, either singly or by interaction with other pollutants, will cause interference with the WWF;
5. Wastewater having a temperature that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104 degrees Fahrenheit (40 degrees Centigrade);
6. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
7. Pollutants that 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;
8. Trucked or hauled pollutants, except at discharge points designated by the Administrator in accordance with paragraph (4) of Rule 0690-07-01-.03;
9. Noxious or malodorous liquids, gases, solids, or other wastewater that, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
10. Wastewater that imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, that consequently imparts color to the treatment plant's effluent, thereby causing a violation of the Megasite Authority's NPDES permit;
11. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
12. Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Administrator;
13. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
14. Medical wastes, except as specifically authorized by the Administrator in an individual wastewater discharge permit;
15. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail any applicable toxicity test;
16. Detergents, surface-active agents, or other substances that might cause excessive foaming in the WWF or in the discharge from the WWF;

17. Fats, oils, or greases of animal or vegetable origin in concentrations that could disrupt the WWF.

(c) Pollutants, substances, or wastewater prohibited by this paragraph shall not be processed or stored in such a manner that they could be discharged to the WWF.

(2) National Categorical Pretreatment Standards.

Users must comply with the categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405-471, hereby incorporated by reference as published in the July 1, 2022, edition of the Code of Federal Regulations. A user or the Administrator may make a category determination request to the Division in accordance with Rule 0400-04-14-.06. These standards, unless specifically noted otherwise, shall be in addition to all applicable pretreatment standards and requirements set forth in this chapter.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Administrator may impose equivalent concentration or mass limits in accordance with subparagraphs (e) and (f) of this paragraph.

(b) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Administrator may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

(c) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Administrator shall impose an alternate limit in accordance with paragraph (5) of Rule 0400-40-14-.06.

(d) A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with parts 1 and 2 of this subparagraph:

1. 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 Megasite 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 part 2 of this subparagraph are met.

2. Criteria:

(i) Either:

(I) The applicable categorical pretreatment standards contained in 40 C.F.R. Subchapter N specifically provide that they shall be applied on a net basis; or

(II) 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.

(ii) 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.

(iii) 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.

- (iv) 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 Megasite Authority may waive this requirement if it finds that no environmental degradation will result.
- (e) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the Megasite Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Administrator. The Megasite Authority may establish equivalent mass limits only if the industrial user meets all the conditions set forth 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 individual wastewater discharge permit;
 - (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 Administrator 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 Administrator will 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. When developing equivalent mass limits, the Administrator:

- (i) Will 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, will 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 individual wastewater discharger permit 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 (6) of this rule. The industrial user must also be in compliance with paragraph (3) of Rule 0690-07-01-.12 regarding the prohibition of bypass.
- (f) The Administrator may convert the mass limits of the categorical pretreatment standards of 40 C.F.R. Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the Administrator. When converting such limits to concentration limits, the Administrator will use the concentrations listed in the applicable subparts of 40 C.F.R. Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by paragraph (6) of this rule (see 40 C.F.R. § 403.6(d)). In addition, the Administrator will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (see 40 C.F.R. § 403.6(c)(7)).
- (g) Once included in its permit, the industrial user must comply with the equivalent limitations developed in this paragraph 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 four-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 permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Administrator within two 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 Administrator of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.
- (3) State Pretreatment Standards.
- Users must comply with state pretreatment standards established pursuant to Chapter 0400-40-14.
- (4) Local Limits.
- (a) The Administrator is authorized to establish local limits pursuant to paragraph (3) of Rule 0400-40-14-.05.
 - (b) The pollutant limits shall be established to protect against pass through and interference. No person may discharge wastewater containing pollutants in excess of local limits established by the Administrator and made available on a publicly accessible internet site.
 - (c) The Administrator may develop best management practices in individual wastewater discharge permits to implement local limits and the requirements of paragraph (1) of this rule.

(5) Megasite Authority's Right of Revision.

The Megasite Authority reserves the right to establish, by rule or in individual wastewater discharge permits, more stringent standards or requirements on discharges to the WWF consistent with the purpose of this chapter.

(6) Dilution.

No user may increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Administrator may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.03 Pretreatment of Wastewater

(1) Pretreatment Facilities.

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in paragraph (1) of Rule 0690-07-01-.02 within the time limitations specified by EPA, the Department, or the Administrator, whichever is most stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Administrator for review and shall be acceptable to the Administrator before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Megasite Authority under the provisions of this chapter.

(2) Additional Pretreatment Measures.

- (a) Whenever deemed necessary, the Administrator may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the WWF and determine the user's compliance with the requirements of this chapter.
- (b) The Administrator may require any person discharging into the WWF to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- (c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Administrator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the Administrator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at the user's expense.
- (d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(3) Accidental Discharge/Slug Discharge Control Plans.

The Administrator shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. The Administrator may require any user to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively,

the Administrator may develop such a plan for any user. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including nonroutine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the Administrator of any accidental or slug discharge, as required by paragraph (6) of Rule 0690-07-01-.06; and
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(4) Hauled Wastewater.

- (a) Septic tank waste may be introduced into the WWF only at locations designated by the Administrator, and at such times as are established by the Administrator. Such waste shall not violate Rule 0690-07-01-.02 or any other requirements established by the Megasite Authority. The Administrator may require septic tank waste haulers to obtain individual wastewater discharge permits.
- (b) The Administrator may require haulers of industrial waste to obtain individual wastewater discharge permits. The Administrator may require generators of hauled industrial waste to obtain individual wastewater discharge permits. The Administrator also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.
- (c) Industrial waste haulers may discharge loads only at locations designated by the Administrator. No load may be discharged without prior consent of the Administrator. The Administrator may collect samples of each hauled load to ensure compliance with applicable standards. The Administrator may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are hazardous wastes as defined in subparagraph (1)(c) of Rule 0400-12-01-.02.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.04 Individual Wastewater Discharge Permits

(1) Wastewater Analysis.

When requested by the Administrator, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The Administrator is authorized to prepare a form for this purpose and may periodically require users to update this information.

(2) Permit Requirement.

- (a) No SIU shall discharge wastewater into the WWF without first obtaining an individual wastewater discharge permit from the Administrator, except that a SIU that has filed a timely application pursuant to paragraph (3) of this rule may continue to discharge for the time period specified therein.

- (b) The Administrator may require other users to obtain individual wastewater discharge permit as necessary to carry out the purposes of this chapter.
- (c) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this rule and subjects the wastewater discharge permittee to the sanctions set out in Rules 0690-07-01-.10 and 0690-07-01-.11. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

(3) Reserved.

(4) New Connections.

Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the WWF must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with paragraph (5) of this rule, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.

(5) Permit Application Contents.

(a) All users required to obtain an individual wastewater discharge permit must submit a permit application. The Administrator may require users to submit all or some of the following information as part of a permit application:

1. Identifying Information.

- (i) The name and address of the facility, including the name of the operator and owner.
- (ii) Contact information, description of activities, facilities, and plant production processes on the premises.

2. Environmental Permits.

A list of any environmental control permits held by or for the facility.

3. Description of Operations.

- (i) A brief description of the nature, average rate of production (including product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, that indicates points of discharge to the WWF from the regulated processes.
- (ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility that are, or could accidentally or intentionally be, discharged to the WWF.
- (iii) Number and type of employees, hours of operation, and proposed or actual hours of operation.
- (iv) Type and amount of raw materials processed (average and maximum per day).
- (v) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

4. Time and duration of discharges.

5. The location for monitoring all wastes covered by the permit.

6. Flow Measurement.

Information showing the measured average daily and maximum daily flow, in gallons per day, to the WWF from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in subparagraph (2)(c) of Rule 0690-07-01-.02 (paragraph (5) of Rule 0400-40-14-.06).

7. Measurement of Pollutants.

(i) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Administrator, of regulated pollutants in the discharge from each regulated process.

(iii) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in paragraph (10) of Rule 0690-07-01-.06. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Administrator or the applicable standards to determine compliance with the standard.

(v) Sampling must be performed in accordance with procedures set out in paragraph (11) of Rule 0690-07-01-.06.

8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on subparagraph (4)(b) of Rule 0690-07-01-.06 (subparagraph (5)(b) of Rule 0400-40-14-.12).

9. Any other information as may be deemed necessary by the Administrator to evaluate the permit application.

(b) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(6) Application Signatories and Certifications.

(a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in subparagraph (14)(a) of Rule 0690-07-01-.06.

(b) If the designation of an authorized representative 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 written authorization satisfying the requirements of this paragraph must be submitted to the Administrator prior to or together with any reports to be signed by an authorized representative.

(c) A facility determined to be a non-significant categorical industrial user by the Administrator pursuant to part (4)(II)3 of Rule 0690-07-01-.01 must annually submit the signed certification statement in subparagraph (14)(b) of Rule 0690-07-01-.06.

(7) Individual Wastewater Discharge Permit Decisions.

The Administrator will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete permit application, the Administrator will determine whether to issue an individual wastewater discharge permit. The Administrator may deny any application for an individual wastewater discharge permit.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.05 Individual Wastewater Discharge Permit Issuance

(1) Permit Duration.

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five years, at the discretion of the Administrator. Each individual wastewater discharge permit will indicate a specific date upon which it will expire.

(2) Permit Contents.

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Administrator to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the WWF.

(a) Individual wastewater discharge permits must contain:

1. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
2. A statement that the wastewater discharge permit is nontransferable without prior notification to the Megasite Authority in accordance with paragraph (5) of this rule, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
3. Effluent limits, including best management practices, based on applicable pretreatment standards;
4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
5. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with subparagraph (4)(b) of Rule 0690-07-01-.06.
6. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law;
7. Requirements to control slug discharge, if determined by the Administrator to be necessary; and
8. Any grant of the monitoring waiver by the Administrator (subparagraph (4)(b) of Rule 0690-07-01-.06) must be included as a condition in the user's permit.

(b) Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirement for flow regulation and equalization;
2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WWF;
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the WWF;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
7. A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those that become effective during the term of the individual wastewater discharge permit; and
8. Other conditions as deemed appropriate by the Administrator to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(3) Permit Issuance Process.

(a) Public Notification.

The Administrator will publish in an official government publication or newspaper(s) of general circulation that provides meaningful public notice with the jurisdiction(s) served by the WWF, or on a web page, a notice to issue a pretreatment permit, at least 30 days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.

(b) Permit Appeals.

1. The Administrator shall provide public notice of the issuance or denial of an individual wastewater discharge permit. The applicant may file a petition for declaratory order pursuant to T.C.A. § 4-5-223 with the Megasite Authority to reconsider the terms of an individual wastewater discharge permit, or the denial of a permit, within 30 days after notice of the issuance or denial is provided.
2. In its petition, the applicant must indicate the individual wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit.
3. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
4. The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.

(4) Permit Modification.

- (a) The Administrator may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
1. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 2. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
 3. A change in the WWF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 4. Information indicating that the permitted discharge poses a threat to the Megasite Authority's WWF, Megasite personnel, or the receiving waters;
 5. Violation of any terms or conditions of the individual wastewater discharge permit;
 6. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 7. Revision of or a grant of variance from categorical pretreatment standards pursuant to Rule 0400-40-14-.13;
 8. To correct typographical or other errors in the individual wastewater discharge permit; or
 9. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with paragraph (5) of this rule.
- (b) The Administrator shall not modify a permit for cause except in compliance with the procedures of T.C.A. § 4-5-320. The permittee may file a petition for declaratory order pursuant to T.C.A. § 4-5-223 to appeal the Administrator's modification of its permit within 30 days of notice of modification.

(5) Permit Transfer.

- (a) Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Administrator and the Administrator approves the individual wastewater discharge permit transfer. The notice to the Administrator must include a written certification by the new owner or operator which:
1. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
 2. Identifies the specific date on which the transfer is to occur; and
 3. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.
- (b) Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

(6) Permit Revocation.

- (a) The Administrator may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify the Administrator of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to the Administrator of changed conditions pursuant to paragraph (5) of Rule 0690-07-01-.06;
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports and certification statements;
5. Tampering with monitoring equipment;
6. Refusing to allow the Administrator timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;
12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

(b) Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a user are void upon the issuance of a new individual wastewater discharge permit to that user.

(c) The Administrator shall not revoke a permit except in compliance with the procedures of T.C.A. § 4-5-320. The permittee may file a petition for declaratory order pursuant to T.C.A. § 4-5-223 to appeal the Administrator's revocation of its permit within 30 days of notice of revocation.

(7) Permit Reissuance.

A user with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with paragraph (5) of Rule 0690-07-01-.04, a minimum of 180 days prior to the expiration of the user's existing individual wastewater discharge permit. The permittee may file a petition for declaratory order pursuant to T.C.A. § 4-5-223 to appeal the Administrator's denial of reissuance of its permit within 30 days of notice of denial.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.06 Reporting Requirements

(1) Baseline Monitoring Reports.

(a) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under subparagraph (1)(d) of Rule 0400-40-14-.06, whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge

to the WWF shall submit to the Administrator a report which contains the information listed in subparagraph (b) of this paragraph. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the Administrator a report which contains the information listed in subparagraph (b) of this paragraph. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users shall submit the following information:

1. All information required in subpart (5)(a)1(i), part (5)(a)2, subpart (5)(a)3(i), and part (5)(a)6 of Rule 0690-07-01-.04.
2. Measurement of pollutants.
 - (i) The user shall provide the information required in subparts (5)(a)7(i) through (iv) of Rule 0690-07-01-.04.
 - (ii) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this part.
 - (iii) 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 in paragraph (5) of Rule 0400-40-14-.06 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 Megasite Authority.
 - (iv) Sampling and analysis shall be performed in accordance with paragraph (10) of this rule.
 - (v) The Administrator 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.
 - (vi) 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.

3. Compliance Certification.

A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required to meet the pretreatment standards and requirements.

4. Compliance Schedule.

If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or operation and maintenance must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this part must meet the requirements set out in paragraph (2) of this rule.

5. Signature and Report Certification.

All baseline monitoring reports must be certified in accordance with subparagraph (14)(a) of this rule and signed by a duly authorized representative.

(2) Compliance Schedule Progress Reports.

The following conditions shall apply to the compliance schedule required by part (1)(b)4 of this rule:

- (a) The schedule shall contain progress increments 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 user to meet the applicable pretreatment standards. Such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;
- (b) No increment referred to above may exceed nine months;
- (c) The user shall submit a progress report to the Administrator no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event may more than nine months elapse between such progress reports to the Administrator.

(3) Reports 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 user subject to such pretreatment standards and requirements shall submit to the Administrator a report containing the information described in parts (5)(a)6 and 7 of Rule 0690-07-01-.04 and part (1)(b)2 of this rule. For users subject to equivalent mass or concentration limits established in accordance with the procedures in paragraph (2) of Rule 0690-07-01-.02, this report shall contain a reasonable measure of the user's long-term production rate. For all other 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. All compliance reports must be signed and certified in accordance with subparagraph (14)(a) of this rule. All sampling will be done in conformance with paragraph (11) of this rule.

(4) Periodic Compliance Reports.

- (a) All significant industrial users and non-significant categorical industrial users must, at a frequency determined by the Administrator, submit no less than twice per year (June and December [or on dates specified]) reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation required by the Administrator or the pretreatment standard necessary to determine the compliance status of the user.
- (b) The Megasite Authority may authorize an 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. [See subparagraph (5)(b) of Rule 0400-40-14-.12.] This authorization is subject to the following conditions:

1. The waiver may be authorized 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 individual wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See part (5)(a)8 of Rule 0690-07-01-.04.
 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.
 4. The request for a monitoring waiver must be signed in accordance with subparagraph (4)(d) of Rule 0690-07-01-.01 and include the certification statement in subparagraph (14)(a) of this rule (part (1)(b)2 of Rule 0400-40-14-.06).
 5. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 C.F.R. Part 136, hereby incorporated by reference as published in the July 1, 2022, edition of the Code of Federal Regulations, with the lowest minimum detection level for that pollutant was used in the analysis.
 6. Any grant of the monitoring waiver by the Administrator must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the Administrator for three years after expiration of the waiver.
 7. Upon approval of the monitoring waiver and revision of the user's permit by the Administrator, the industrial user must certify on each report with the statement in subparagraph (14)(c) of this rule, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.
 8. In the event that a waived pollutant is found to be present or is expected to be present because of 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 Administrator and notify the Administrator.
 9. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- (c) All periodic compliance reports must be signed and certified in accordance with subparagraph (14)(a) of this rule.
 - (d) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
 - (e) If a user subject to the reporting requirement in this paragraph monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Administrator, using the procedures prescribed in paragraph (11) of this rule, the results of this monitoring shall be included in the report.
 - (f) Users that send electronic (digital) documents to the Megasite Authority to satisfy the requirements of this paragraph must satisfy the requirements of Chapter 0400-01-40.

(5) Reports of Changed Conditions.

Each user must notify the Administrator of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 60 days before the change.

- (a) The Administrator may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under paragraph (5) of Rule 0690-07-01-.04.
- (b) The Administrator may issue an individual wastewater discharge permit under paragraph (7) of Rule 0690-07-01-.05 or modify an existing wastewater discharge permit under paragraph (4) of Rule 0690-07-01-.05 in response to changed conditions or anticipated changed conditions.

(6) Reports of Potential Problems.

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the WWF, the user shall immediately telephone and notify the Administrator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five days following such discharge, the user shall, unless waived by the Administrator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subparagraph (a) of this paragraph. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) Significant industrial users are required to notify the Administrator immediately of any changes at its facility affecting the potential for a slug discharge.

(7) Reports from Unpermitted Users.

All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Administrator as the Administrator may require.

(8) Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by a user indicates a violation, the user must notify the Administrator 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 Administrator within 30 days after becoming aware of the violation. Resampling by the industrial user is not required if the Megasite Authority performs sampling at the user's facility at least once a month, or if the Megasite Authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the Megasite Authority receives the results of this sampling, or if the Megasite Authority has performed the sampling and analysis in lieu of the industrial user. If the Megasite Authority performed the sampling and analysis in lieu of the industrial user, the Megasite Authority will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis.

(9) Notification of the Discharge of Hazardous Waste.

- (a) Any user who commences the discharge of hazardous waste shall notify the WWF, the EPA Regional Waste Management Division Director, and the Department, in writing, of any discharge into the WWF of a substance that, if otherwise disposed of, would be a hazardous waste under Rule 0400-12-01-.02. Such notification must include the name of the hazardous waste as set forth in Rule 0400-12-01-.02, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the WWF, the notification also shall contain the following information to the extent such information is known and readily available to the 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 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subparagraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under paragraph (5) of this rule. The notification requirement in this paragraph does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of paragraphs (1), (3), and (4) 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 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in parts (4)(a)4 and (4)(d)5 of Rule 0400-12-01-.02. Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in parts (4)(a)4 and (4)(d)5 of Rule 0400-12-01-.02, requires a one-time notification. Subsequent months during which the 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 user must notify the Administrator, the EPA Regional Waste Management Waste Division Director, and the Department 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 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.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(10) Analytical Requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the 40 C.F.R. Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Administrator or other parties approved by EPA.

(11) Sample Collection.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

- (a) Except as indicated in subparagraphs (b) and (c) of this paragraph, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Administrator. Where time-proportional

composite sampling or grab sampling is authorized by the Megasite Authority, the samples must be representative of the discharge. Using protocols, including appropriate preservation, specified in 40 C.F.R. 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 and 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 Megasite Authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- (b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (c) For sampling required in support of baseline monitoring and 90-day compliance reports required in paragraphs (1) and (3) of this rule, a minimum of four 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 Administrator may authorize a lower minimum. For the reports required by paragraph (4) of this rule, the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(12) Date of Receipt of Reports.

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(13) Recordkeeping.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under subparagraph (4)(c) of Rule 0690-07-01-.02. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the Megasite Authority, or where the user has been specifically notified of a longer retention period by the Administrator.

(14) Certification Statements.

- (a) The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with paragraph (6) of Rule 0690-07-01-.04; users submitting baseline monitoring reports under part (1)(b)5 of this rule; users submitting reports on compliance with the categorical pretreatment standard deadlines under paragraph (3) of this rule; users submitting periodic compliance reports required by subparagraphs (4)(a), (b), and (c) of this rule, and users submitting an initial request to forego sampling of a pollutant on the basis of part (4)(b)4 of this rule. The following certification statement must be signed by an Authorized Representative as defined in subparagraph (4)(d) of Rule 0690-07-01-.01:

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.

- (b) A facility determined to be a non-significant categorical industrial user by the Administrator pursuant to part (4)(II)3 of Rule 0690-07-01-.01 and subparagraph (6)(c) of Rule 0690-07-01-.04 must annually submit the following certification statement signed in accordance with the signatory requirements in subparagraph (4)(d) of Rule 0690-07-01-.01. This certification must accompany an alternative report required by the Administrator:

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

1. The facility described as _____ [facility name] met the definition of a non-significant categorical industrial user as described in part (4)(II)3 of Rule 0690-07-01-.01;
2. The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
3. 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 on the following information.

- (c) Users that have an approved monitoring waiver based on subparagraph (4)(b) of this rule must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user:

Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 C.F.R. _____ [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 (4)(a) of this rule.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.07 Compliance Monitoring

- (1) Right of Entry: Inspection and Sampling.

The Administrator or his or her authorized representative shall have the right to enter the premises of any user in which a discharge source or treatment system is located or in which records required to be kept under this chapter are located to determine whether the user is complying with all requirements of this chapter and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Administrator ready access at reasonable times to the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Administrator shall be permitted to enter without delay for the purposes of performing specific responsibilities.

- (b) The Administrator shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (c) The Administrator may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated according to the manufacturer's specifications to ensure their accuracy.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Administrator and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (e) Unreasonable delays in allowing the Administrator access to the user's premises constitute a violation of this chapter.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.08 Confidential Information

The Megasite Authority shall maintain its records in accordance with T.C.A. § 64-9-113. Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Administrator's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Administrator, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 C.F.R. § 2.302, hereby incorporated by reference as published in the July 1, 2022, edition of the Code of Federal Regulations, shall not be recognized as confidential information and shall be available to the public without restriction.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, 64-9-113, and 69-3-101 et seq.

0690-07-01-.09 Publication of Users in Significant Noncompliance

The Administrator shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the WWF, a list of the users which, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users or any other industrial user that violates paragraph (3), (4), or (8) of this rule and shall mean:

- (1) Chronic violations of wastewater discharge limits: 66% or more of all the measurements taken for the same pollutant parameter taken during a six-month period exceed by any magnitude a numeric pretreatment standard or requirement, including instantaneous limits as defined in Rule 0690-07-01-.02;
- (2) Technical review criteria violations: 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by Rule 0690-07-01-.02 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- (3) Any other violation of a pretreatment standard or requirement as defined by Rule 0690-07-01-.02 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Administrator 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;
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Administrator's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet within 90 days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s), which may include a violation of best management practices, which the Administrator determines will adversely affect the operation or implementation of the local pretreatment program.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.10 Administrative and Judicial Enforcement Remedies

(1) Notification of Violation.

When the Administrator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Administrator may serve upon that user a written Notice of Violation. Within 30 days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Administrator. Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this rule shall limit the authority of the Administrator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(2) Consent Orders.

The Administrator may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to paragraph (4) of this rule and shall be judicially enforceable.

(3) Show Cause Hearing.

The Administrator may order a user that has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Administrator and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 45 days prior to the hearing. Such notice may be served on any authorized representative of the user as defined in subparagraph (4)(d) of Rule 0690-07-01-.01 and required by

subparagraph (6)(a) of Rule 0690-07-01-.04. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(4) Compliance Orders.

When the Administrator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Administrator may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(5) Emergency Suspensions.

(a) The Administrator may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The user shall have the opportunity to respond, through informal hearing, review, or conference before the Administrator, within seven days of the suspension. The Administrator may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the WWF, or which presents, or may present, an endangerment to the environment.

1. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply with the suspension order, the Administrator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWF, its receiving stream, or endangerment to any individuals. The Administrator may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Administrator that the period of endangerment has passed, unless the termination proceedings in paragraph (6) of this rule are initiated against the user.

2. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Administrator prior to the date of any show cause or termination hearing under paragraph (3) or (6) of this rule.

(b) Nothing in this paragraph shall be interpreted as requiring a hearing prior to any emergency suspension under this paragraph.

(6) Termination of Discharge.

(a) In addition to the provisions in paragraph (6) of Rule 0690-07-01-.05, any user who violates the following conditions is subject to discharge termination:

1. Violation of individual wastewater discharge conditions;

2. Failure to accurately report the wastewater constituents and characteristics of its discharge;

3. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

4. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
5. Violation of the pretreatment standards in Rule 0690-07-01-.02.

(b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under paragraph (3) of this rule why the proposed action should not be taken. Exercise of this option by the Administrator shall not be a bar to, or a prerequisite for, taking any other action against the user.

(7) Injunctive Relief.

When the Administrator finds that a user has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Administrator, through the Office of the Attorney General, may petition the Chancery Court in the county in which the activities occurred the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The Administrator may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(8) Civil Penalties.

- (a) The Administrator may assess a civil penalty of up to \$1,000 per violation, per day to a user who has violated, or continues to violate, any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement. In the case of a monthly or other long-term average discharge limit, the Administrator may assess a penalty for each day during the period of the violation.
- (b) The Administrator may also recover damages, including any expenses incurred in investigating and enforcing the pretreatment program, in removing, correcting, and terminating any pollution, and also compensation for any actual damages caused by the pollution or violation.
- (c) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(9) Criminal Enforcement.

The Administrator may refer for investigation or prosecution to the Department pursuant to T.C.A. 69-3-112 or appropriate law enforcement authority any person or user who:

- (a) Willfully or negligently violates any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement;
- (b) Willfully or negligently introduces any substance into the WWF which causes personal injury or property damage; or
- (c) Knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter.

(10) Remedies Nonexclusive.

The remedies provided for in this chapter are not exclusive. The Administrator may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Megasite Authority's enforcement response plan. However, the Administrator may take other action against any user when the circumstances warrant. Further, the Administrator is empowered to take more than one enforcement action against any noncompliant user.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

0690-07-01-.11 Affirmative Defenses to Discharge Violations

(1) Upset.

- (a) For the purposes of this paragraph, 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 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.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subparagraph (c) of this paragraph are met.
- (c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and the user can identify the cause(s) of the upset;
 - 2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - 3. The user has submitted the following information to the Administrator within 24 hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five days]:
 - (i) A description of the indirect discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (e) Users shall have the opportunity for a determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (f) Users 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.

(2) Prohibited Discharge Standards.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subparagraph (1)(a) of Rule 0690-07-01-.02 or the specific prohibitions in part (1)(b)3 through (1)(b)17 of Rule 0690-07-01-.02 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Megasite Authority was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(3) Bypass.

(a) For the purposes of this paragraph,

- 1. Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- 2. 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.

(b) A 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 provision of subparagraphs (c) and (d) of this paragraph.

(c) Bypass Notifications.

- 1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Administrator, at least 10 days before the date of the bypass, if possible.
- 2. A user shall submit oral notice to the Administrator of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the 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 Administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) Bypass.

- 1. Bypass is prohibited, and The Administrator may take an enforcement action against a User for a bypass, unless:
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) 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 preventive maintenance; and

- (iii) The user submitted notices as required under subparagraph (c) of this paragraph.
- 2. The Administrator may approve an anticipated bypass, after considering its adverse effects, if the Administrator determines that it will meet the three conditions listed in subpart 1 of this subparagraph.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 et seq.

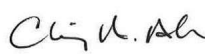
0690-07-01-.12 Fees

- (1) The Megasite Authority may adopt reasonable fees for reimbursement of costs of setting up and operating the Megasite Authority's Pretreatment Program, which may include:
 - (a) Fees for wastewater discharge permit applications including the cost of processing such applications;
 - (b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certification statements submitted by users;
 - (c) Fees for reviewing and responding to accidental discharge procedures and construction;
 - (d) Fees for filing appeals;
 - (e) Fees to recover administrative and legal costs (not included in subparagraph (b) of this paragraph) associated with the enforcement activity taken by the Administrator to address industrial user noncompliance; and
 - (f) Other fees as the Megasite Authority may deem necessary to carry out the requirements contained in this chapter. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the Authority.
- (2) Reserved.

Authority: T.C.A. §§ 64-9-104(a)(11), (14), 64-9-107, and 69-3-101 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: May 24, 2024

Signature: 

Digitally signed by Christy Allen
DN: cn=Christy Allen, o=Department of General services,
ou=General Counsel, email=christy.allen@tn.gov, c=US
Date: 2024.05.24 11:10:24 -05'00'

Name of Officer: Christy Allen

General Counsel, Department of General Services, and

Title of Officer: Counsel to the Megasite Authority of West Tennessee

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Tre Hargett
Secretary of State

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