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NEW STATE LAW GIVES TEETH TO LOCAL GOVERNMENTS IN ENFORCING SEWAGE PRETREATMENT PROGRAMS

by Sharon L. Rollins

The Pretreatment Enforcement Act of 1987 (Public Chapter No. 111) amends Tennessee Code Annotated, Title 69, Chapter 3, Part 1 to expand the enforcement powers of owners of publicly owned sewage treatment facilities which are required to adopt and enforce pretreatment programs for sewage.

Background

Federal pretreatment regulations require all states which administer the National Pollution Discharge Elimination System (NPDES) permit program to develop and implement pretreatment programs. The State of Tennessee has adopted and administers such a program. All publicly owned treatment plants in Tennessee are required to have a pretreatment program if: (a) they have a total design flow of five million gallons per day (mgd)*; (b) they have categorical industries (textile mills, foundries, organic chemical plants); or (c) they have other significant industrial contributors which discharge wastewater to the plant.

The reason for requiring pretreatment programs is to prevent damage to the sewage treatment plant and the receiving stream caused by discharging hazardous or toxic wastes. The major problems which a pretreatment program prevents are:

1. Harm to the sewage treatment plant operation. Industrial wastes often inhibit sewage treatment processes designed primarily to treat domestic waste.

2. Harm to the receiving stream's ecology. Toxic pollutants may pass through the treatment process without being removed.

* Some exceptions do apply
3. Contamination of sludge by pollutants such as metals or organic compounds rendering it unacceptable for disposal in landfills or landspreading.

4. Exposure of publicly owned sewage treatment plant workers to toxic or hazardous wastes.

There are very good reasons for local authorities to diligently implement and enforce pretreatment programs. In Tennessee, there are 81 publicly owned treatment plants required to develop and implement pretreatment programs; five systems are not in compliance with that requirement.

Summary Of The Act

* The Act authorizes the local administrative officer to issue written complaints when he has reason to believe the pretreatment program has been, is being, or is about to be violated; he can order the alleged violator to take corrective action or take that action himself if the violator can/will not. The local administrative officer is the chief administrative officer of a pretreatment agency which has adopted and implemented a pretreatment program.

* The alleged violator may request a hearing. The Act establishes hearing procedures for the local pretreatment agency.

* The Act authorizes the assessment of civil penalties of up to $10,000/day for various acts or omissions on the part of the violator, and it establishes standards to be used by the pretreatment agency in assessing those penalties.

* The Act authorizes the local administrative officer to initiate court proceedings to obtain relief.

* Any damages or penalties collected by the pretreatment authority must be placed in a special fund and used for administration of the pretreatment program. If net expenditures exceed net gains from damages and penalties, the Act specifies that this cost will be borne equally by the local government and the Department of Health and Environment.
This Act became effective April 9, 1987. If you have questions regarding any matter relating to the new state laws, please contact your MTAS Management Consultant or Sharon L. Rollins, Nashville, (615) 256-8141.
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