

From: [McGill, Richard](#)
To: [Brown, Don](#)
Cc: [Fox, Tim](#)
Subject: FW: First Notice Documents from JCAR
Date: Thursday, May 26, 2022 8:46:11 AM
Attachments: [35-310NT-P JCAR.docx](#)
[35-310RG-P r01 \(46-22\).docx](#)
[Redline - 35-310RG-P\(replacement\) Agency FOR DELTA and 35-310RG-P r01 \(46-22\).pdf](#)

Good morning:

Please docket this email and attachments from JCAR in R18-23.

Thank you.

From: Knudson, Cheryl J. <CherylK@ilga.gov>
Sent: Wednesday, May 25, 2022 3:53 PM
To: McGill, Richard <Richard.McGill@illinois.gov>
Cc: Eastvold, Jonathan C. <JonathanE@ilga.gov>
Subject: [External] RE: First Notice Documents from JCAR

First Notice documents are attached for your review:

- [Notice Page](#)
- [1st Notice – Numbered Line Version](#)
- [Agency vs. JCAR r01](#)

If you have any questions or concerns, please contact Jonathan Eastvold @ 217-524-9010.

Thank you,
Cheryl

Cheryl Knudson
Joint Committee on Administrative Rules
Illinois General Assembly
700 Stratton Building
Springfield, IL 62706

217.785.8993
cherylk@ilga.gov

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POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pretreatment Programs
- 2) Code Citation: 35 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
310.101	Amendment
310.103	Amendment
310.104	Amendment
310.105	Amendment
310.106	Amendment
310.107	Amendment
310.110	Amendment
310.111	Amendment
310.112	Amendment
310.201	Amendment
310.210	Amendment
310.221	Amendment
310.230	Amendment
310.233	Amendment
310.301	Amendment
310.302	Amendment
310.303	Amendment
310.311	Amendment
310.312	Amendment
310.320	Amendment
310.330	Amendment
310.340	Amendment
310.341	Amendment
310.350	Amendment
310.351	Amendment
310.400	Amendment
310.401	Amendment
310.402	Amendment
310.403	Amendment
310.410	Amendment
310.413	Amendment
310.415	Amendment
310.420	Amendment
310.430	Amendment
310.431	Amendment

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

310.432	Amendment
310.443	Amendment
310.501	Amendment
310.502	Amendment
310.503	Amendment
310.504	Amendment
310.505	Amendment
310.510	Amendment
310.511	Amendment
310.521	Amendment
310.522	Amendment
310.524	Amendment
310.531	Amendment
310.532	Amendment
310.541	Amendment
310.542	Amendment
310.543	Amendment
310.545	Amendment
310.602	Amendment
310.603	Amendment
310.604	Amendment
310.605	Amendment
310.606	Amendment
310.610	Amendment
310.611	Amendment
310.612	Amendment
310.613	Amendment
310.621	Amendment
310.631	Amendment
310.632	Amendment
310.633	Amendment
310.634	Amendment
310.635	Amendment
310.636	Amendment
310.637	Amendment
310.703	Amendment
310.705	Amendment
310.706	Amendment
310.711	Amendment
310.712	Amendment

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- | | |
|---------|-----------|
| 310.801 | Amendment |
| 310.902 | Amendment |
| 310.911 | Amendment |
| 310.913 | Amendment |
| 310.920 | Amendment |
| 310.921 | Amendment |
| 310.922 | Amendment |
| 310.923 | Amendment |
- 4) Statutory Authority: Implementing Section 13 and authorized by Sections 11(b) and 27 of the Environmental Protection Act [415 ILCS 5/13, 11(b), and 27].
 - 5) A Complete Description of the Subjects and Issues Involved: In 2016, the Board began reviewing its rules to identify obsolete, repetitive, confusing, or otherwise unnecessary language. These proposed amendments to Part 310 are intended to be non-substantive clarifications.
 - 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
 - 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
 - 8) Does this rulemaking contain an automatic repeal date? No
 - 9) Does this proposed rulemaking contain incorporations by reference? No
 - 10) Are there any proposed rulemakings to this Part pending? No
 - 11) Statement of Statewide Policy Objectives: This proposed amendment does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3].
 - 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should refer to Docket R18-23 and be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may be addressed to:

Clerk's Office

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

Interested persons may download copies of the Board's opinions and orders in R18-23 from the Board's Web site at pcb.illinois.gov and may also request copies by calling the Clerk's office at 312-814-3620.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Board expects that this rulemaking will not have an adverse impact on small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: January 2022

The full text of the Proposed Amendments begins on the next page:

1 TITLE 35: ENVIRONMENTAL PROTECTION
2 SUBTITLE C: WATER POLLUTION
3 CHAPTER I: POLLUTION CONTROL BOARD

4
5 PART 310
6 PRETREATMENT PROGRAMS

7
8 SUBPART A: GENERAL PROVISIONS
9

10	Section	
11	310.101	Applicability
12	310.102	Objectives
13	310.103	Federal Law
14	310.104	State Law
15	310.105	Confidentiality
16	310.106	Electronic Reporting
17	310.107	Incorporations by Reference
18	310.110	Definitions
19	310.111	New Source
20	310.112	Significant Industrial User

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22 SUBPART B: PRETREATMENT STANDARDS
23

24	Section	
25	310.201	General Prohibitions
26	310.202	Specific Prohibitions
27	310.210	Local Limits Developed by POTW
28	310.211	Status of Local Limits
29	310.220	Categorical Standards
30	310.221	Source Category Determination Request
31	310.222	Deadline for Compliance with Categorical Standards
32	310.230	Concentration and Mass Limits
33	310.232	Dilution Prohibited as a Substitute for Treatment
34	310.233	Combined Waste Stream Formula

35
36 SUBPART C: REMOVAL CREDITS
37

38	Section	
39	310.301	Special Definitions
40	310.302	Authority
41	310.303	Conditions for Authorization to Grant Removal Credits
42	310.310	Calculation of Revised Discharge Limits
43	310.311	Demonstration of Consistent Removal
44	310.312	Provisional Credits

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45	310.320	Compensation for Overflow
46	310.330	Exception to POTW Pretreatment Program
47	310.340	Application for Removal Credits Authorization
48	310.341	Agency Review
49	310.343	Assistance of POTW
50	310.350	Continuation of Authorization
51	310.351	Modification or Withdrawal of Removal Credits

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SUBPART D: PRETREATMENT PERMITS

54

55 Section

56	310.400	Preamble
57	310.401	Pretreatment Permits
58	310.402	Time to Apply
59	310.403	Imminent Endangerment
60	310.410	Application
61	310.411	Certification of Capacity
62	310.412	Signatures
63	310.413	Site Visit
64	310.414	Completeness
65	310.415	Time Limits
66	310.420	Standard for Issuance
67	310.421	Final Action
68	310.430	Conditions
69	310.431	Duration of Permits
70	310.432	Schedules of Compliance
71	310.441	Effect of a Permit
72	310.442	Modification
73	310.443	Revocation
74	310.444	Appeal

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SUBPART E: POTW PRETREATMENT PROGRAMS

77

78 Section

79	310.501	Pretreatment Programs Required
80	310.502	Deadline for Program Approval
81	310.503	Incorporation of Approved Programs in Permits
82	310.504	Incorporation of Compliance Schedules in Permits
83	310.505	Reissuance or Modification of Permits
84	310.510	Pretreatment Program Requirements
85	310.511	Receiving Electronic Documents
86	310.521	Program Approval
87	310.522	Contents of Program Submission
88	310.524	Content of Removal Allowance Submission

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89	310.531	Agency Action
90	310.532	Defective Submission
91	310.533	Water Quality Management
92	310.541	Deadline for Review
93	310.542	Public Notice and Hearing
94	310.543	Agency Decision
95	310.544	USEPA Objection
96	310.545	Notice of Decision
97	310.546	Public Access to Submission
98	310.547	Appeal

99

100 SUBPART F: REPORTING REQUIREMENTS

101 Section

102	310.601	Definition of Control Authority (Repealed)
103	310.602	Baseline Report
104	310.603	Compliance Schedule
105	310.604	Report on Compliance with Deadline
106	310.605	Periodic Reports on Compliance
107	310.606	Notice of Potential Problems
108	310.610	Monitoring and Analysis
109	310.611	Requirements for Non-Categorical Standard Users
110	310.612	Annual POTW Reports
111	310.613	Notification of Changed Discharge
112	310.621	Compliance Schedule for POTWs
113	310.631	Signatory Requirements for Industrial User Reports
114	310.632	Signatory Requirements for POTW Reports
115	310.633	Fraud and False Statements
116	310.634	Recordkeeping Requirements
117	310.635	Notification of Discharge of Hazardous Waste
118	310.636	Annual Certification by Non-Significant Categorical Users
119	310.637	Receiving Electronic Documents

120

121 SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

122

123 Section

124	310.701	Definition of Requester
125	310.702	Purpose and Scope
126	310.703	Criteria
127	310.704	Fundamentally Different Factors
128	310.705	Factors that are Not Fundamentally Different
129	310.706	More Stringent State Law
130	310.711	Application Deadline
131	310.712	Contents of FDF Request
132	310.713	Deficient Requests

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133	310.714	Public Notice
134	310.721	Agency Review of FDF Requests
135	310.722	USEPA Review of FDF Requests
136		
137		SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE
138		
139	Section	
140	310.801	Net/Gross Calculation
141		
142		SUBPART I: UPSETS
143		
144	Section	
145	310.901	Definition
146	310.902	Effect of an Upset
147	310.903	Conditions Necessary for an Upset
148	310.904	Burden of Proof
149	310.905	Reviewability of Claims of Upset
150	310.906	User Responsibility in Case of Upset
151		
152		SUBPART J: BYPASS
153		
154	Section	
155	310.910	Definitions
156	310.911	Bypass Not Violating Applicable Pretreatment Standards or Requirements
157	310.912	Notice
158	310.913	Prohibition of Bypass
159		
160		SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS
161		
162	Section	
163	310.920	General
164	310.921	Substantial Modifications Defined
165	310.922	Approval Procedures for Substantial Modifications
166	310.923	Approval Procedures for Non-Substantial Modifications
167	310.924	Incorporation of Modifications into the Permit
168		
169		SUBPART L: FEDERAL PROJECT XL AGREEMENTS
170		
171	Section	
172	310.930	Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL (Repealed)
173		
174		
175		AUTHORITY: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the
176		Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

177
178 SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-
179 18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243,
180 effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990;
181 amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill.
182 Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24,
183 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22
184 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July
185 12, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15
186 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective
187 January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended
188 in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg.
189 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September
190 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18
191 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective
192 October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 19008, effective November
193 26, 2008; amended in R13-7 at 37 Ill. Reg. 1962, effective February 4, 2013; amended in R15-13
194 at 39 Ill. Reg. 12357, effective August 24, 2015; amended in R16-9 at 41 Ill. Reg. 1155, effective
195 January 23, 2017; amended in R21-8 at 44 Ill. Reg. 19486, effective December 3, 2020; amended
196 in R21-15 at 45 Ill. Reg. 8061, effective June 21, 2021; amended in R18-23 at 46 Ill. Reg.
197 _____, effective _____.

198
199 **SUBPART A: GENERAL PROVISIONS**

200
201 **Section 310.101 Applicability**

- 202
203 a) This Section is intended as a general guide to persons using these rules and does
204 not supersede more specific requirements in the rules.
205
206 b) This Part includes the following:
207
208 1) Requirements for submission to the Agency of pretreatment programs by
209 publicly owned treatment works (POTWs). (Subpart E)
210
211 2) Requirements with which persons discharging to sewers must comply.
212 (Subpart B)
213
214 3) Requirements for prior approval by the Control Authority of certain
215 discharges to a sewer. The Control Authority may be either of the
216 following:
217
218 A) The POTW under an approved program; or
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220 B) The Agency in the absence of an approved program. (Subpart D)

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(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.103 Federal Law

- a) The Board intends that this Part be identical in substance with the pretreatment requirements of the federal Clean Water Act (33 U.S.C. 1251 et seq.) and United States Environmental Protection Agency (USEPA) regulations at 40 CFR 401 et seq.
- b) This Part will allow the Agency to issue pretreatment permits, review POTW pretreatment plans and authorize POTWs to issue authorizations to discharge to industrial users when and to the extent USEPA authorizes the Illinois pretreatment program under the federal Clean Water Act (33 U.S.C. 1251 et seq.). After authorization the requirements of the Clean Water Act and 40 CFR 401 et seq. will continue to apply in Illinois. In particular, USEPA has stated that it will do the following:
 - 1) Retain the right to request information under 40 CFR 403.8(f); and
 - 2) Retain the right to inspect and take samples under 40 CFR 403.12(i).
- c) This Part must not be construed as exempting any person from compliance, prior to authorization of the Illinois pretreatment program, with the pretreatment requirements of the Clean Water Act, USEPA regulations, and NPDES permit conditions.
- d) POTW pretreatment programs that have been approved by USEPA under 40 CFR 403 will be deemed approved under this Part, unless the Agency determines that it is necessary to modify the POTW pretreatment program to be consistent with State law.
 - 1) The Agency must notify the POTW of any such determination within 60 days after approval of the program by USEPA, or within 60 days after USEPA authorizes the Illinois pretreatment program, whichever is later.
 - 2) If the Agency so notifies the POTW, the POTW will apply for program approval under 35 Ill. Adm. Code 310.501 et seq.
- e) USEPA's access to Agency records and information in possession of the Agency will be governed by the memorandum of agreement between USEPA and the Agency, subject to confidentiality requirements in 35 Ill. Adm. Code 310.105.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 310.104 State Law

- a) 35 Ill. Adm. Code 307 includes three types of prohibitions and pretreatment standards:
 - 1) Prohibitions, including prohibitions adopted by USEPA at 40 CFR 403.5 and more stringent prohibitions adopted by the Board (e.g., 35 Ill. Adm. Code 307.1101);
 - 2) National pretreatment standards adopted by USEPA at 40 CFR 405 et seq., and incorporated by reference by the Board (e.g., Subparts F through CT of 35 Ill. Adm. Code 307); and
 - 3) More stringent concentration-based standards adopted by the Board (e.g., 35 Ill. Adm. Code 307.1102 and 307.1103).
- b) For subcategories for which there are both categorical pretreatment standards and concentration-based standards adopted by the Board for a pollutant, the Control Authority must apply the standard that is more stringent as applied to the particular discharge.

BOARD NOTE: Derived from 40 CFR 403.4 (2003).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.105 Confidentiality

- a) Information and data provided to the Control Authority under this Part that is effluent data must be available to the public without restriction.
- b) With respect to the Board and Agency, confidentiality must be governed by 35 Ill. Adm. Code 130 and 161.
- c) The Agency and POTWs must make information available to the public at least to the extent provided by 40 CFR 2.302 (2003), incorporated by reference in 35 Ill. Adm. Code 310.107.

BOARD NOTE: Derived from 40 CFR 403.14 (2003).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.106 Electronic Reporting

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309 The submission of any document under any provision of this Part is subject to this Section.

310

311 a) General Federal Requirements for Electronic Reporting

312

313 1) Scope and Applicability

314

315 A) USEPA has established standards for the submission of electronic
316 documents under federally authorized programs. USEPA requires
317 adherence to these standards for all electronic submissions to
318 USEPA and the authorized State, if electronic submissions are
319 authorized by USEPA. USEPA, the Board, the Agency, or the
320 Control Authority may allow for the submission of electronic
321 documents in lieu of paper documents. This subsection (a) does
322 not require submission of electronic documents in lieu of paper
323 documents. This subsection (a) sets forth the requirements for the
324 optional electronic submission of any document that must be
325 submitted to the appropriate of the following:

326

327 i) To USEPA directly, under 40 CFR 127; or

328

329 ii) To the Board, the Agency, or the Control Authority, under
330 any provision of this Part or 35 Ill. Adm. Code 307.

331

332 B) Electronic document submission under this subsection (a) can
333 occur only as follows:

334

335 i) For submissions of documents to USEPA, submissions
336 may occur only after USEPA has published a notice in the
337 Federal Register announcing that USEPA is prepared to
338 receive, in an electronic format, documents required or
339 permitted by the identified part or subpart of Title 40 of the
340 Code of Federal Regulations; or

341

342 ii) For submissions of documents to the State or the Control
343 Authority, submissions may occur only into an electronic
344 document receiving system for which USEPA has granted
345 approval under 40 CFR 3.1000, so long as the system
346 complies with 40 CFR 3.2000, incorporated by reference in
347 Section 310.107, and USEPA has not withdrawn its
348 approval of the system in writing.

349

350 C) This subsection (a) does not apply to any of the following
351 documents, whether or not the document is a document submitted
352 to satisfy the requirements cited in subsection (a)(1)(A):

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- i) Any document submitted via facsimile;
 - ii) Any document submitted via magnetic or optical media, like diskette, compact disc, digital video disc, or tape; or
 - iii) Any data transfer between USEPA, any state, or any local government and any of the Board, the Agency, or the Control Authority as part of administrative arrangements between the parties to the transfer to share data.
- D) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(1)(B)(ii), the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

379 BOARD NOTE: Subsection (a)(1) is derived from 40 CFR 3.1, 3.2, 3.10,
380 3.20, and 3.1000.

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- 2) Definitions. For the purposes of this subsection (a), terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 310.107.
 - 3) Procedures for Submission of Electronic Documents in Lieu of Paper Documents to USEPA. Except as provided in subsection (a)(1)(C), any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
 - A) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in 35 Ill. Adm. Code 310.107; and

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- B) USEPA has first published a notice in the Federal Register as described in subsection (a)(1)(B)(i).
- BOARD NOTE: Subsection (a)(3) is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3.
- 4) Procedures for Submission of Electronic Documents in Lieu of Paper Documents to the Board, the Agency, or the Control Authority
- A) The Board, the Agency, or the Control Authority may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/5]. The Control Authority must establish such procedures under applicable State and local laws.
- B) The Board, the Agency, or the Control Authority may accept electronic documents under this subsection (a) only as provided in subsection (a)(1)(B)(ii).
- BOARD NOTE: Subsection (a)(4) is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3.
- 5) Effects of Submission of an Electronic Document in Lieu of a Paper Document
- A) If a person who submits a document as an electronic document fails to comply with the requirements of this subsection (a), that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
- B) If a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
- C) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.

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440 D) Nothing in this subsection (a) limits the use of electronic
441 documents or information derived from electronic documents as
442 evidence in enforcement or other proceedings.
443

444 BOARD NOTE: Subsection (a)(5) is derived from 40 CFR 3.4 and
445 3.2000(c).
446

447 6) Public Document Subject to State Laws. Any electronic document filed
448 with the Board is a public document. The document, its submission, its
449 retention by the Board, and its availability for public inspection and
450 copying are subject to various State laws, including the following:
451

452 A) The Illinois Administrative Procedure Act [5 ILCS 100];

453 B) The Freedom of Information Act (FOIA) [5 ILCS 140];

454 C) The State Records Act [5 ILCS 160];

455 D) The Electronic Commerce Security Act [5 ILCS 175];

456 E) The Environmental Protection Act [415 ILCS 5];

457 F) Regulations relating to public access to Board records (2 Ill. Adm.
458 Code 2175); and
459

460 G) Board procedural rules relating to protection of trade secrets and
461 confidential information (35 Ill. Adm. Code 130).
462

463 7) Nothing in this subsection (a) or in any provisions adopted under
464 subsection (a)(4)(A) will create any right or privilege to submit any
465 document as an electronic document.
466

467 BOARD NOTE: Subsection (a)(7) is derived from 40 CFR 3.2(c).
468

469 BOARD NOTE: Subsection (a) is derived from 40 CFR 3 and 403.8(g).
470

471 b) NPDES Electronic Reporting
472

473 1) Purpose and Scope
474

475 A) This subsection (b), in conjunction with the NPDES reporting
476 requirements specified elsewhere in this Part, specifies the
477 requirements for:
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- i) Electronic reporting of information by NPDES permittees;
 - ii) Facilities or entities seeking coverage under NPDES general permits;
 - iii) Facilities or entities submitting waivers from NPDES permit requirements;
 - iv) Industrial users located in municipalities without approved local pretreatment programs;
 - v) Approved pretreatment programs; and
 - vi) (The Board omitted a provision derived from 40 CFR 127.1(a)(6), as subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the corresponding federal provisions.)
 - vii) USEPA and the Agency, to the extent the Agency has received authorization from USEPA to implement the NPDES program. This subsection (b), in conjunction with other segments of this Part, also specifies the requirements for electronic reporting of NPDES information to USEPA by the states, tribes, or territories that have received authorization from USEPA to implement the NPDES program.
- B) To the extent the Agency is authorized to implement a segment of the NPDES program, the Agency must ensure that the required minimum set of NPDES data (appendix A to 40 CFR 127, incorporated by reference in 35 Ill. Adm.Code 310.107) is electronically transferred to USEPA in a timely, accurate, complete, and nationally-consistent manner fully compatible with USEPA's national NPDES data system.
- C) To the extent that the Secretary of Defense has exempted Department of Defense "critical infrastructure security information" from disclosure under the federal Freedom of Information Act under 10 USC 130e, the exempted NPDES program data will be withheld from the public (see also section 7(1)(k) of the FOIA). If an NPDES program data element for a particular facility is designated as critical infrastructure security information in response to a FOIA request, a separate filtered set of

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528 data without the redacted information will be shared with the
529 public; however, all NPDES program data will continue to be
530 provided to USEPA and the Agency under the authorized State
531 NPDES program.

532
533 D) Proper collection, management, and sharing of the data and
534 information listed in appendix A to 40 CFR 127, incorporated by
535 reference in 35 Ill. Adm. Code 310.107, ensures that there is a
536 timely, complete, accurate, and nationally consistent set of data
537 about the NPDES program.

538
539 BOARD NOTE: Subsection (b)(1) is derived from 40 CFR 127.1.

540
541 2) Definitions. For the purposes of this subsection (b), the following terms
542 have the following meanings.

543
544 "Initial recipient of electronic NPDES information from NPDES-
545 regulated facilities" or "initial recipient" means the entity (USEPA
546 or, after Illinois is authorized by USEPA to implement the NPDES
547 program, the Agency) that is the designated entity for receiving
548 electronic NPDES data.

549 BOARD NOTE: Derived from 40 CFR 127.2(b). USEPA is the
550 initial recipient for a specific NPDES data group and NPDES
551 program area until USEPA authorizes the State to act as initial
552 recipient for that NPDES data group and NPDES program area.

553
554 "Minimum set of NPDES data" means the data and information
555 listed in table 1 in appendix A to 40 CFR 127, incorporated by
556 reference in 35 Ill. Adm. Code 310.107.

557
558 BOARD NOTE: Derived from 40 CFR 127.2(e). For the
559 purposes of this Part, the only data and information intended are
560 those associated with NPDES data groups 1 (core NPDES data), 2
561 (general permit reports), 7 (pretreatment program reports), and 8
562 (significant industrial user reports).

563
564 "NPDES data group" means the group of related data elements
565 identified in table 1 in appendix A to 40 CFR 127, incorporated by
566 reference in 35 Ill. Adm. Code 310.107. These NPDES data
567 groups have similar regulatory reporting requirements and have
568 similar data sources.

569
570 BOARD NOTE: Derived from 40 CFR 127.2(c).

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572 "NPDES program", for the purposes of this subsection (b), means
573 the federal pretreatment program adopted by the Board under
574 Section 13.3 of the Act to implement section 307(b) of the Clean
575 Water Act (33 USC 1317(b)). USEPA can implement the NPDES
576 program or authorize the State to implement the NPDES program
577 ("authorized NPDES program"). Identifying the relevant authority
578 must be done for each NPDES subprogram (e.g., NPDES core
579 program, federal facilities, general permits, and pretreatment).

580
581 BOARD NOTE: Derived from 40 CFR 127.2(d). This definition
582 is limited to wastewater pretreatment. The corresponding federal
583 definition includes all other aspects of the NPDES program.
584

585 "NPDES-regulated entity" means any entity regulated by the
586 NPDES program that has a role in the NPDES program, as defined
587 in this subsection (b)(2).
588

589 BOARD NOTE: Derived from 40 CFR 127.2(h). This definition
590 is limited to wastewater pretreatment. The corresponding federal
591 definition includes all other aspects of the NPDES program.
592

593 "Program reports" means the information reported by NPDES-
594 regulated entities and listed in table 1 in appendix A to 40 CFR
595 127, incorporated by reference in 35 Ill. Adm. Code 310.107
596 (except NPDES data groups 1 and 2).
597

598 BOARD NOTE: Derived from 40 CFR 127.2(f). For the purposes
599 of this subsection (b), the only information intended is that
600 associated with NPDES data groups 7 (pretreatment program
601 reports) and 8 (significant industrial user reports).
602

603 BOARD NOTE: Subsection (b)(2) is derived from 40 CFR 127.2.
604

605 3) Data to Be Reported Electronically 606

607 A) An NPDES-regulated entity must electronically submit the
608 minimum set of NPDES data for these NPDES reports, as
609 applicable. The following NPDES reports are the source of the
610 minimum set of NPDES data from NPDES-regulated entities:
611

- 612 i) Discharge monitoring reports (as required by USEPA under
613 40 CFR 122.41(l)(4)).
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- ii) This subsection (b)(3)(A)(ii) corresponds with 40 CFR 127.11(a)(2), which pertains to sewage sludge/biosolids annual reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
 - iii) Concentrated animal feeding operation annual program reports (as required by USEPA under 40 CFR 122.42(e)(4)).
 - iv) This subsection (b)(3)(A)(iv) corresponds with 40 CFR 127.11(a)(4), which pertains to municipal separate storm sewer system program reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
 - v) Pretreatment program annual reports (see 35 Ill. Adm. Code 310.612).
 - vi) Sewer overflow and bypass incident event reports (as required by USEPA under 40 CFR 122.41(l)(6) and (l)(7)).
 - vii) This subsection (b)(3)(A)(vii) corresponds with 40 CFR 127.11(a)(7), which pertains to cooling water intake structure reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
- B) A facility or entity seeking coverage under or termination from an NPDES general permit must electronically submit the minimum set of NPDES data for the following notices, certifications, and waivers (if those reporting requirements are applicable):
- i) Notice of intent (NOI) to discharge by facilities seeking coverage under a general NPDES permit (rather than an individual NPDES permit), as described in 40 CFR 122.28(b)(2); and
 - ii) Notice of termination (NOT), as described in 40 CFR 122.64.
- C) An industrial user located in a municipality without an approved local pretreatment program must electronically submit the

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658 minimum set of NPDES data for the following self-monitoring
659 reports (if those reporting requirements are applicable):

- 660
- 661 i) Periodic reports on continued compliance, as described in
 - 662 Section 310.605; and
 - 663
 - 664 ii) Reporting requirements for industrial users not subject to
 - 665 categorical pretreatment standards, as described in Section
 - 666 310.611.
 - 667

668 D) The minimum set of NPDES data for NPDES-regulated facilities is
669 identified in appendix A to 40 CFR 127, incorporated by reference
670 in 35 Ill. Adm. Code 310.107.

671

672 BOARD NOTE: Subsection (b)(3) is derived from 40 CFR 127.11.

673

674 4) Signature and Certification Standards for Electronic Reporting. The
675 signatory and certification requirements identified in subsection (a) and 35
676 Ill. Adm. Code 310.631 also apply to electronic submissions of NPDES
677 information (see subsection (b)(2)) by NPDES permittees, facilities, and
678 entities subject to this subsection (b).

679

680 BOARD NOTE: Subsection (b)(4) is derived from 40 CFR 127.12.

681

682 5) Requirements Regarding Quality Assurance and Quality Control

683

- 684 A) Responsibility for the quality of the information provided
- 685 electronically in compliance with this subsection (b) by the
- 686 NPDES permittees, facilities, and entities subject to this subsection
- 687 (b) rests with the owners and operators of those facilities or
- 688 entities. NPDES permittees, facilities, and entities subject to this
- 689 subsection (b) must use quality assurance and quality control
- 690 procedures to ensure the quality of the NPDES information
- 691 submitted in compliance with this subsection (b).
- 692

- 693 B) NPDES permittees, facilities, and entities subject to this subsection
- 694 (b) must electronically submit their NPDES information in
- 695 compliance with the data quality requirements specified in
- 696 subsection (b)(6). NPDES permittees, facilities, and entities
- 697 subject to this subsection (b) must electronically submit their
- 698 NPDES information unless a waiver is granted in compliance with
- 699 this subsection (b) (see subsections (b)(7) and (b)(7)(G)).
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- 701 BOARD NOTE: Subsection (b)(5) is derived from 40 CFR
702 127.13.
703
- 704 6) Requirements Regarding Timeliness, Accuracy, Completeness, and
705 National Consistency. NPDES permittees, facilities, and entities subject
706 to this subsection (b) must comply with all requirements in this subsection
707 (b) and electronically submit the minimum set of NPDES data in the
708 following nationally-consistent manner:
709
- 710 A) Timely. Electronic submissions of the minimum set of NPDES
711 data to the appropriate initial recipient, as defined in subsection
712 (b)(2), must be timely.
713
- 714 i) Measurement Data (including information from discharge
715 monitoring reports, self-monitoring data from industrial
716 users located outside of approved local pretreatment
717 programs, and similar self-monitoring data). The electronic
718 submission of these data is due when that monitoring
719 information is required to be reported in compliance with
720 statutes, regulations, the NPDES permit, another control
721 mechanism, or an enforcement order.
722
- 723 ii) Program Report Data. The electronic submission of this
724 data is due when that program report data is required to be
725 reported in compliance with statutes, regulations, the
726 NPDES permit, another control mechanism, or an
727 enforcement order.
728
- 729 B) Accurate. Electronic submissions of the minimum set of NPDES
730 data must be identical to the actual measurements taken by the
731 owner or operator, or their duly authorized representative;
732
- 733 C) Complete. Electronic submission of the minimum set of NPDES
734 data must include all required data (see appendix A to 40 CFR 127,
735 incorporated by reference in 35 Ill. Adm. Code 310.107) and these
736 electronic submissions must be sent to the NPDES data system of
737 the initial recipient, as defined in subsection (b)(2); and
738
- 739 D) Consistent. Electronic submissions of the minimum set of NPDES
740 data must be compliant with USEPA data standards as set forth in
741 this subsection (b) and in a form (including measurement units)
742 fully compatible with USEPA's national NPDES data system.
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744 BOARD NOTE: Subsection (b)(6) is derived from 40 CFR 127.14.

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- 7) Waivers from Electronic Reporting
 - A) NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit the minimum set of NPDES data in compliance with this Section and 35 Ill. Adm. Code 310.631 unless a waiver is granted in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).
 - B) USEPA or the Board, by an adjusted standard or variance issued under Section 28.1 or Sections 35 through 37 of the Act and Subpart D or B of 35 Ill. Adm. Code 104, to the extent that the State is authorized to administer a segment of the NPDES program, may grant to an NPDES permittee, facility, or entity subject to this subsection (b) a temporary waiver from electronic reporting in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).
 - i) Each temporary waiver must not extend beyond five years. However, NPDES-regulated entities may re-apply for a temporary waiver. It is the duty of the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) to re-apply for a new temporary waiver. The Board cannot grant a temporary waiver to an NPDES-regulated entity without first receiving a temporary waiver request from the NPDES-regulated entity.
 - ii) To apply for a temporary waiver, the owner, operator, or duly authorized representative of the NPDES permittee, facility, and entity subject to this subsection (b) must submit the information listed in subsection (b)(7)(E) in the petition for temporary waiver.

BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.
 - iii) The Board will determine whether to grant a temporary waiver to the extent Illinois is authorized to administer the pertinent NPDES program area. The Board will provide notice to the owner, operator, or duly authorized facility

- 788 representative submitting a temporary waiver request, in
789 compliance with the requirements of subsection (b)(7)(G).
790
- 791 iv) An NPDES permittee, facility, or entity subject to this
792 subsection (b) that has received a temporary waiver must
793 continue to provide the minimum set of NPDES data (as
794 well as other required information in compliance with
795 statutes, regulations, the NPDES permit, another control
796 mechanism, or an enforcement order) in hard-copy format
797 to the authorized NPDES program. The Agency must
798 electronically transfer these data to USEPA in accordance
799 with subsection (b)(7)(G).
800
- 801 v) An approved temporary waiver is not transferrable.
802
- 803 C) USEPA or the Board, by an adjusted standard under Section 28.1
804 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code
805 104, to the extent that the State is authorized to administer a
806 segment of the NPDES program, may grant to an NPDES
807 permittee, facility, or entity subject to this subsection (b) a
808 permanent waiver from electronic reporting in compliance with
809 this subsection (b)(7) and the procedures of subsection (b)(7)(G).
810
- 811 i) A permanent waiver is only available to a facility or entity
812 that is owned or operated by members of a religious
813 community that chooses not to use certain modern
814 technologies (e.g., computers, electricity). The Board
815 cannot grant a permanent waiver to an NPDES-regulated
816 entity without first receiving a permanent waiver request
817 from the NPDES-regulated entity.
818
- 819 ii) To apply for a permanent waiver, the owner, operator, or
820 duly authorized representative of the NPDES permittee,
821 facility, and entity subject to this subsection (b) must
822 submit the information listed in subsection (b)(7)(E) in the
823 petition for permanent waiver.
824
- 825 iii) An approved permanent waiver is not transferrable.
826
- 827 iv) An NPDES permittee, facility, or entity subject to this
828 subsection (b) that has received a permanent waiver must
829 continue to provide the minimum set of NPDES data (as
830 well as other required information in compliance with
831 statutes, regulations, the NPDES permit, another control

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832 mechanism, or an enforcement order) in hard-copy format
833 to the authorized NPDES program. The Agency must
834 electronically transfer these data to USEPA in accordance
835 with subsection (b)(7)(G).
836

837 D) The Agency, by a provisional variance under Sections 35 through
838 37 of the Act and Subpart C of 35 Ill. Adm. Code 104, to the extent
839 that the State is authorized to administer a segment of the NPDES
840 program, may grant to an NPDES permittee, facility, or entity
841 subject to this subsection (b) an episodic waiver from electronic
842 reporting in compliance with subsections (b)(7)(G) and (b)(9). The
843 following conditions apply to an episodic waiver:
844

845 i) No waiver request from the NPDES permittee, facility or
846 entity is required to obtain an episodic waiver from
847 electronic reporting.
848

849 ii) An episodic waiver is not transferrable.
850

851 iii) An episodic waiver cannot last more than 60 days.
852

853 BOARD NOTE: Section 36(c) of the Act provides a
854 maximum duration of 45 days for a provisional variance,
855 allowing a single extension of up to 45 days. No
856 combination of a provisional variance and an extension can
857 exceed 60 days in total duration under this subsection
858 (b)(7)(D)(iii).
859

860 iv) The Agency will decide if the episodic waiver provision
861 allows facilities and entities to delay their electronic
862 submissions or to send hardcopy (paper) submissions. An
863 episodic waiver is only available to a facility or entity in
864 the circumstances listed in subsection (b)(7)(F).
865

866 BOARD NOTE: The Board moved the text of 40 CFR
867 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm.
868 Code 310.106(b)(7)(F)(i) and (b)(7)(E)(ii) to comport with
869 codification requirements.
870

871 E) The following information items must be included in any petition
872 for a temporary or permanent waiver issued under subsection
873 (b)(7)(B) or (b)(7)(C):
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875 i) The facility name;

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- ii) The NPDES permit number (if applicable);
 - iii) The facility address;
 - iv) The name, address and contact information for the owner, operator, or duly authorized facility representative;
 - v) A brief written statement regarding the basis for claiming such a temporary waiver; and
 - vi) Any other information required by the Act or Board regulations (35 Ill. Adm. Code: Subtitle C, Chapter I).

BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.

- F) A temporary waiver is limited to the following circumstances:
 - i) A large-scale emergency involving catastrophic circumstances beyond the control of the facility, like a force of nature (e.g., a hurricane, flood, fire, or earthquake) or other national disaster. The Agency must make the determination of whether an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.
 - ii) A prolonged electronic reporting system outage (i.e., an outage longer than 96 hours). The Agency must make the determination if an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.

BOARD NOTE: The Board moved the text of 40 CFR 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm. Code 310.106(b)(7)(F)(i) and (b)(7)(F)(ii) to comport with codification requirements.

- G) Procedural Requirements for Waivers
 - i) USEPA requires that the Board grant or deny a request for temporary or permanent waiver from electronic reporting in writing within 120 days after receiving the request.

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921 BOARD NOTE: Subsection (b)(7)(G)(i) is derived from
922 40 CFR 127.24(a) and (b).
923
924 ii) The Agency must provide notice of an episodic waiver
925 individually or through means of mass communication if an
926 episodic waiver is available. The notice must state the
927 facilities and entities that may use the episodic waiver, the
928 likely duration of the episodic waiver, and any other
929 directions regarding how facilities and entities should
930 provide the minimum set of NPDES data (as well as other
931 required information in compliance with statutes,
932 regulations, the NPDES permit, another control
933 mechanism, or an enforcement order) to the initial
934 recipient, as defined in subsection (b)(2). No waiver
935 request from the NPDES permittee, facility or entity is
936 required to obtain an episodic waiver from electronic
937 reporting. The Agency, when granting the episodic waiver,
938 must determine whether to allow facilities and entities to
939 delay their electronic submissions for a short time (i.e., no
940 more than 40 days) or to have the facilities and entities
941 send hardcopy (paper) submissions.

942
943 BOARD NOTE: Subsection (b)(7)(G)(ii) is derived from
944 40 CFR 127.24(d).

945
946 iii) The Agency must electronically transfer to USEPA the
947 minimum set of NPDES data (as defined in 35 Ill. Adm.
948 Code 310.106(b)(2)) that it receives from a permittee,
949 facility, or entity that has received a waiver under this
950 subsection (b)(7).

951
952 BOARD NOTE: Subsection (b)(7)(G)(iii) is derived from
953 40 CFR 127.24(c).

954
955 BOARD NOTE: Subsections (b)(7)(A) through (b)(7)(F) are derived
956 from 40 CFR 127.15.

957
958 8) Implementation of Electronic Reporting Requirements for NPDES
959 Permittees, Facilities, and Entities Subject to This Subsection (b)
960
961 A) Scope and Schedule. An NPDES permittee, facility, or entity
962 subject to this subsection (b), with the exception of those covered
963 by waivers under subsection (b)(7), must electronically submit the

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following NPDES information (reports, notices, waivers, and certifications) after the compliance deadlines listed in the following table.

NPDES Information	Compliance Deadlines for Electronic Submissions
General Permit Reports Notices of Intent to Discharge, Notices of Termination, and Other Waivers	December 21, 2025
Discharge Monitoring Reports	December 21, 2016
POTW Pretreatment Program Annual Reports (see 35 Ill. Adm. Code 310.612)	December 21, 2025
Significant Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs (see 35 Ill. Adm. Code 310.605 and 310.611)	December 21, 2025

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BOARD NOTE: EPA may approve an alternative compliance deadline for general permit reports and program reports in accordance with 40 CFR 127.24(e) and (f).

- B) Electronic Reporting Standards. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) in compliance with this Section and 35 Ill. Adm. Code 310.631.
- C) Initial Recipient. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) to USEPA Region 5, the Control Authority, the Approval Authority, or the initial recipient (as identified under 40 CFR 127.27 and defined in subsection (b)(2)). USEPA was to identify and publish the initial recipient on a USEPA website and in the Federal Register, by state and by NPDES data group (see subsection (b)(7)).

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987 BOARD NOTE: The procedure by which USEPA determines the
988 initial recipient is 40 CFR 127.27. That procedure provides that
989 USEPA is the initial recipient if the State is not approved by
990 USEPA to act as initial recipient.

991
992 D) Standards for NPDES-Regulated Entities with Electronic
993 Reporting Waivers. An NPDES permittee, facility, or entity
994 subject to this subsection (b) that has received a waiver from
995 electronic reporting must continue to provide the minimum set of
996 NPDES data (as well as other required information in compliance
997 with statutes, regulations, the NPDES permit, another control
998 mechanism, or an enforcement order) to the Agency or initial
999 recipient (see subsection (b)(7)).

1000
1001 BOARD NOTE: Subsection (b)(8) is derived from 40 CFR 127.16.

1002
1003 9) Inclusion of Electronic Reporting Requirements in NPDES Permits. All
1004 permits issued by the Agency must contain permit conditions requiring
1005 compliance with the electronic reporting requirements in this Section. An
1006 NPDES-regulated facility already having an electronic reporting
1007 requirement in its permit that meets the requirements in this Section must
1008 continue its electronic reporting to the initial recipient.

1009
1010 BOARD NOTE: Subsection (b)(9) is derived from 40 CFR 127.26(f).

1011
1012 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1013 1014 **Section 310.107 Incorporations by Reference**

1015
1016 a) The following publications are incorporated by reference for the purposes of this
1017 Part and 35 Ill. Adm. Code 307:

1018
1019 Combined Sewer Overflow (CSO) Control Policy (April 1994) (USEPA
1020 document number EPA-830-B-94-001), available from National Service
1021 Center for Environmental Publications (NSCEP), P.O. Box 42419,
1022 Cincinnati, OH 45242-0419, 800-490-9198 or online for download in an
1023 electronic format at <http://nepis.epa.gov/EPA/html/pubindex.html>,
1024 referenced in 35 Ill. Adm. Code 310.320.

1025
1026 BOARD NOTE: USEPA published the Combined Sewer Overflow
1027 (CSO) Control Policy in the Federal Register at 59 Fed. Reg. 18688 (Apr.
1028 19, 1994).

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1030 Standard Industrial Classification Manual (1987) (document no.
1031 PB87-100012) (referred to as "1987 SIC Manual"), available from the
1032 National Technical Information Service, 5285 Port Royal Road,
1033 Springfield, Virginia 22161, referenced in 35 Ill. Adm. Code 307.2201,
1034 307.2400, 307.2402 through 307.2407, and 307.3901 and 35 Ill. Adm.
1035 Code 310.602.
1036
1037 BOARD NOTE: The 1987 SIC Manual is available for online search
1038 through the U.S. Department of Labor, at http://www.osha.gov/pls/imis/sic_manual.html. In 1997, the federal Office of Management and Budget
1039 (OMB) announced that the North American Industry Classification
1040 System (NAICS) was replacing the SIC (62 Fed. Reg. 17288 (Apr. 9,
1041 1997)) for statistical purposes. OMB announced adoption of a 2012
1042 edition of NAICS (76 Fed. Reg. 51240 (Aug. 17, 2011)). The 1997
1043 NAICS Manual is available for online search or purchase (as electronic or
1044 hard copy) at <http://www.naics.com>. Until USEPA amends its regulations
1045 to change references to SIC codes to references to NAICS codes, the
1046 Board will continue to use the 1987 SIC codes.
1047
1048
1049 b) The following provisions of the Code of Federal Regulations are incorporated by
1050 reference for the purposes of this Part and 35 Ill. Adm. Code 307:
1051
1052 40 CFR 2.302 (2020) (Special Rules Governing Certain Information
1053 Obtained Under the Clean Water Act), referenced in 35 Ill. Adm. Code
1054 310.105.
1055
1056 40 CFR 3.2 (2020) (How Does This Part Provide for Electronic
1057 Reporting?), referenced in 35 Ill. Adm. Code 310.106.
1058
1059 40 CFR 3.3 (2020) (What Definitions Are Applicable to This Part?),
1060 referenced in 35 Ill. Adm. Code 310.106.
1061
1062 40 CFR 3.10 (2020) (What Are the Requirements for Electronic Reporting
1063 to EPA?), referenced in 35 Ill. Adm. Code 310.106.
1064
1065 40 CFR 3.2000 (2020) (What Are the Requirements Authorized State,
1066 Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in
1067 35 Ill. Adm. Code 310.106.
1068
1069 40 CFR 25 (2020) (Public Participation in Programs Under the Resource
1070 Conservation and Recovery Act, the Safe Drinking Water Act, and the
1071 Clean Water Act), referenced in 35 Ill. Adm. Code 310.510.
1072
1073 Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis

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1074 by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other
1075 Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D
1076 to 40 CFR 122 (2020) (NPDES Permit Application Testing
1077 Requirements), referenced in 35 Ill. Adm. Code 307.1005.
1078
1079 40 CFR 122.23(b) and (c) (2020) (Concentrated Animal Feeding
1080 Operations), referenced in 35 Ill. Adm. Code 307.2201.
1081
1082 Appendix A to 40 CFR 127 (2020), as amended at 85 Fed. Reg. 69189
1083 (Nov. 2, 2020) (Minimum Set of NPDES Data), referenced in 35 Ill. Adm.
1084 Code 310.106 and 310.612.
1085
1086 BOARD NOTE: Only those segments relevant to electronic reporting
1087 under the wastewater pretreatment program (NPDES data groups 1, 2, 3,
1088 7, and 8) are intended.
1089
1090 40 CFR 136 (2020) (Guidelines Establishing Test Procedures for the
1091 Analysis of Pollutants), referenced in 35 Ill. Adm. Code 307.1003 and
1092 307.6500 and 35 Ill. Adm. Code 310.605, 310.610, and 310.611.
1093
1094 40 CFR 401.15 (2020) (Toxic Pollutants), referenced in 35 Ill. Adm. Code
1095 307.1005.
1096
1097 40 CFR 403 (2020) (General Pretreatment Regulations for Existing and
1098 New Sources of Pollution), referenced in 35 Ill. Adm. Code 310.432.
1099
1100 40 CFR 403.12(b) (2020) (Reporting Requirements for POTWs and
1101 Industrial Users), referenced in 35 Ill. Adm. Code 310.602.
1102
1103 40 CFR 403.15 (2020) (Net/Gross Calculation), referenced in 35 Ill. Adm.
1104 Code 310.801.
1105
1106 Appendix D to 40 CFR 403 (2020) (Selected Industrial Subcategories
1107 Considered Dilute for Purposes of the Combined Wastestream Formula),
1108 referenced in 35 Ill. Adm. Code 310.233.
1109
1110 Appendix G to 40 CFR 403 (2020) (Pollutants Eligible for a Removal
1111 Credit), referenced in 35 Ill. Adm. Code 310.303.
1112
1113 40 CFR 503 (2020) (Standards for the Use or Disposal of Sewage Sludge),
1114 referenced in 35 Ill. Adm. Code 310.303.
1115
1116 c) The following federal statutes are incorporated by reference:
1117

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1118 Section 1001 of federal Crimes and Criminal Procedure (18 U.S.C. 1001
1119 (2019)), referenced in 35 Ill. Adm. Code 310.633.
1120
1121 The federal Clean Water Act (CWA) (33 U.S.C. 1251 et seq. (2019)),
1122 referenced in 35 Ill. Adm. Code 310.110 and 310.705.
1123
1124 Section 204(b) of the federal Clean Water Act (33 U.S.C. 1284(b) (2019)),
1125 referenced in 35 Ill. Adm. Code 310.510.
1126
1127 Section 212(2) of the federal Clean Water Act (33 U.S.C. 1292(2) (2019)),
1128 referenced in 35 Ill. Adm. Code 310.110.
1129
1130 Section 307(b), (c), and (d) of the federal Clean Water Act (33 U.S.C.
1131 1317(b), (c), and (d) (2019)), referenced in 35 Ill. Adm. Code 310.110.
1132
1133 Section 308 of the federal Clean Water Act (33 U.S.C. 1318 (2019)),
1134 referenced in 35 Ill. Adm. Code 310.510.
1135
1136 Section 309(c)(4) of the federal Clean Water Act (33 U.S.C. 1319(c)(4)
1137 (2019)), referenced in 35 Ill. Adm. Code 310.633.
1138
1139 Section 309(c)(6) of the federal Clean Water Act (33 U.S.C. 1319(c)(6)
1140 (2019)), referenced in 35 Ill. Adm. Code 310.633.
1141
1142 Section 405 of the federal Clean Water Act (33 U.S.C. 1345 (2019)),
1143 referenced in 35 Ill. Adm. Code 310.510.
1144
1145 Subtitles C and D of the federal Resource Conservation and Recovery Act
1146 (42 USC 6921-6939g and 6941-6949a) (2019)), referenced in 35 Ill. Adm.
1147 Code 310.510.
1148

1149 d) This Part incorporates no future editions or amendments.
1150

1151 BOARD NOTE: The Board has located the incorporations by reference for the purposes of this
1152 Part and the more general incorporations by reference for the purposes of 35 Ill. Adm. Code 307
1153 in this Section to aid future review and updates. The Board has located the incorporations by
1154 reference of the federal categorical standards scattered throughout 35 Ill. Adm. Code 307 at the
1155 segments appropriate to each individual categorical standard. This aids future review and
1156 updates of the categorical standards.
1157

1158 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1159

1160 **Section 310.110 Definitions** 1161

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1162 The following definitions, derived from the general definitions of 40 CFR 401.11 and the
1163 pretreatment-specific definitions of 40 CFR 403.3, apply for the purposes of this Part and 35 Ill.
1164 Adm. Code 307:

1165
1166 "Act" means the Environmental Protection Act [415 ILCS 5].
1167

1168 "Agency" means the Illinois Environmental Protection Agency.
1169 BOARD NOTE: The Board has consistently rendered "Director", as defined in
1170 corresponding 40 CFR 403.3(g), as "Agency" for all functions within the
1171 Agency's statutory authority and that USEPA has not clearly reserved the function
1172 to itself.
1173

1174 "Approval Authority" means the Agency after USEPA has approved the Illinois
1175 wastewater pretreatment program. "Approval Authority" means USEPA prior to
1176 USEPA approval of the Illinois wastewater pretreatment program.
1177 BOARD NOTE: Derived from 40 CFR 403.3(c) (2016).
1178

1179 "Approved POTW pretreatment program" or "program" or "POTW pretreatment
1180 program" means a program administered by a POTW that has been approved by
1181 USEPA, under 40 CFR 403.11, or the Agency, in accordance with 35 Ill. Adm.
1182 Code 310.541 through 310.546.
1183 BOARD NOTE: Derived from 40 CFR 403.3(d) (2016).
1184

1185 "Authorization to discharge" means an authorization issued to an industrial user
1186 by a POTW that has an approved pretreatment program. The authorization may
1187 consist of a permit, license, ordinance, or other mechanism as specified in the
1188 approved pretreatment program.
1189 BOARD NOTE: The Board added this term to distinguish a "pretreatment
1190 permit," which is a control mechanism issued by the Agency.
1191

1192 "Best management practices" or "BMPs" means schedules of activities,
1193 prohibitions of practices, maintenance procedures, and other management
1194 practices to implement the prohibitions listed in 35 Ill. Adm. Code 310.201(a)
1195 and (c) and 310.202. BMPs also include treatment requirements, operating
1196 procedures, and practices to control plant site runoff, spillage or leaks, sludge
1197 or waste disposal, or drainage from raw materials storage.
1198 BOARD NOTE: Derived from 40 CFR 403.3(e) (2016).
1199

1200 "Blowdown" means the minimum discharge of recirculating water for the purpose
1201 of discharging materials contained in the water, the further buildup of which
1202 would cause concentration in amounts exceeding limits established by best
1203 engineering practice.
1204 BOARD NOTE: Derived from 40 CFR 401.11(p) (2016).
1205

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1206 "Board" means the Illinois Pollution Control Board.
1207 BOARD NOTE: The Board has consistently rendered "Director," as defined in
1208 corresponding 40 CFR 403.3(g), as "Board" for all functions within the Board's
1209 statutory authority and that USEPA has not clearly reserved the function to itself.
1210
1211 "CWA" means Federal Water Pollution Control Act, also known as the Clean
1212 Water Act, as amended (33 U.S.C. 1251 et seq.).
1213 BOARD NOTE: Derived from 40 CFR 403.3(b) (2016).
1214
1215 "Control Authority" refers to the appropriate of the following:
1216
1217 The POTW, if the POTW's pretreatment program submission has been
1218 approved by the Agency, in accordance with the requirements of 35 Ill.
1219 Adm. Code 310.541 through 310.546 or by USEPA in accordance with 40
1220 CFR 403.11; or
1221
1222 The Approval Authority, if no pretreatment program submission has yet
1223 been approved.
1224
1225 BOARD NOTE: Derived from 40 CFR 403.3(f) (2016).
1226
1227 "Existing source" means any building, structure, facility, or installation from
1228 which there is or may be a discharge of pollutants the construction of which
1229 occurred prior to the date that would qualify the building, structure, facility, or
1230 installation for definition as a "new source", as defined in 35 Ill. Adm. Code
1231 310.111.
1232 BOARD NOTE: The Board added this definition of a fundamental term that is
1233 used throughout the categorical standards to determine the applicability of those
1234 standards.
1235
1236 "Indirect discharge" or "discharge" means the introduction of pollutants into a
1237 POTW from any non-domestic source regulated under 35 Ill. Adm. Code 307(b),
1238 (c), or (d) of the CWA (33 U.S.C. 1317 (b), (c), or (d)), incorporated by reference
1239 in 35 Ill. Adm. Code 310.107.
1240 BOARD NOTE: Derived from 40 CFR 403.3(i) (2016).
1241
1242 "Industrial user" or "user" means a source of indirect discharge.
1243 BOARD NOTE: Derived from 40 CFR 403.3(j) (2016).
1244
1245 "Industrial wastewater" means the spent or used water containing dissolved or
1246 suspended matter discharged by an industrial user to a sewer tributary to a POTW.
1247
1248 "Interference" means a discharge, alone or in conjunction with a discharge or
1249 discharges from other sources, for which both of the following is true:

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The discharge inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and

As a result of the inhibition or disruption, the discharge is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or the prevention of sewage sludge use or disposal in compliance with applicable laws and permits issued under those laws, including 33 U.S.C. 405 and 40 CFR 503 (federal standards for sewage sludge use and disposal) and State standards relating to sludge use and disposal (such as 415 ILCS 5/21 and 22.56a and 35 Ill. Adm. Code 309.155, 309.208, and 391), 42 U.S.C. 6901 et seq. (the federal Resource Conservation and Recovery Act (hazardous waste and municipal solid waste disposal requirements)) and 35 Ill. Adm. Code: Subtitle G derived from the federal solid waste and hazardous waste management standards, 42 U.S.C. 7401 et seq. (the federal Clean Air Act) and 35 Ill. Adm. Code: Subtitle B derived from the federal Clean Air Act standards, 53 U.S.C. 2601 et seq. (the federal Toxic Substances Control Act) or any Illinois requirements relating to toxic substances (such as 415 ILCS 5/21 and 35 Ill. Adm. Code 742, 807, and 810), and 33 U.S.C. 1401 et seq. (the federal Marine Protection, Research, and Sanctuaries Act).

BOARD NOTE: Derived from 40 CFR 403.3(k) (2016).

"Municipality". See "unit of local government".

"New source" means a new source as defined in 35 Ill. Adm. Code 310.111.

BOARD NOTE: Derived from 40 CFR 401.11(e) and 403.3(m) (2016).

"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.

BOARD NOTE: Derived from 40 CFR 401.11(n) (2016).

"Noncontact cooling water pollutants" means pollutants present in noncontact cooling waters.

BOARD NOTE: Derived from 40 CFR 401.11(o) (2016).

"NPDES permit" means a permit issued to a POTW under Section 402 of the CWA, or Section 12(f) of the Act and Subpart A of 35 Ill. Adm. Code 309.

BOARD NOTE: Derived from 40 CFR 403.3(n) (2016).

"Pass through" means a discharge of pollutants that exits the POTW into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any

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1294 requirement of the POTW's NPDES permit (including an increase in the
1295 magnitude or duration of a violation).
1296 BOARD NOTE: Derived from 40 CFR 403.3(p) (2016).
1297
1298 "Person" means an individual, corporation, partnership, association, State, unit of
1299 local government, commission, or any interstate body. This term includes the
1300 United States government, the State of Illinois, and their political subdivisions.
1301 BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 U.S.C. 1362(5)
1302 (2014).
1303
1304 "Point source" means any discernible, confined, and discrete conveyance,
1305 including but not limited to any pipe, ditch, channel, tunnel, conduit, well,
1306 discrete fissure, container, rolling stock, concentrated animal feeding operation, or
1307 vessel or other floating craft, from which pollutants are or may be discharged.
1308 BOARD NOTE: Derived from 40 CFR 401.11(d) (2016).
1309
1310 "Pollutant" means dredged spoil; solid waste; incinerator residue; sewage;
1311 garbage; sewage sludge; munitions; chemical wastes; biological materials;
1312 radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar
1313 dirt; and industrial, municipal, and agricultural waste discharged into a sewer.
1314 BOARD NOTE: Derived from 40 CFR 401.11(f) (2016).
1315
1316 "Pollution" means the man-made or man-induced alteration of the chemical,
1317 physical, biological, and radiological integrity of water.
1318 BOARD NOTE: Derived from 40 CFR 401.11(g) (2015).
1319
1320 "POTW treatment plant" means that portion of the POTW that is designed to
1321 provide treatment (including recycling and reclamation) of municipal sewage and
1322 industrial wastewater.
1323 BOARD NOTE: Derived from 40 CFR 403.3(r) (2016).
1324
1325 "Pretreatment" means the reduction of the amount of pollutants, the elimination of
1326 pollutants, or the alteration of the nature of pollutant properties in wastewater
1327 prior to or in lieu of discharging or otherwise introducing such pollutants into a
1328 POTW. The reduction or alteration may be obtained by physical, chemical, or
1329 biological processes; process changes; or by other means, except as prohibited by
1330 35 Ill. Adm. Code 310.232. Appropriate pretreatment technology includes control
1331 equipment, such as equalization tanks or facilities, for protection against surges or
1332 slug loadings that might interfere with or otherwise be incompatible with the
1333 POTW. However, where wastewater from a regulated process is mixed in an
1334 equalization facility with unregulated wastewater or with wastewater from
1335 another regulated process, the effluent from the equalization facility must meet an
1336 adjusted pretreatment limit calculated in accordance with 35 Ill. Adm. Code
1337 310.233.

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1338 BOARD NOTE: Derived from 40 CFR 403.3(s) (2016).
1339
1340 "Pretreatment permit" means a permit to discharge to a sewer that is issued by the
1341 Agency as the Control Authority.
1342 BOARD NOTE: The Board added this term to distinguish an "authorization to
1343 discharge," which is a control mechanism issued by a POTW.
1344
1345 "Pretreatment requirement" means any substantive or procedural requirement
1346 related to pretreatment imposed on an industrial user by a pretreatment permit or
1347 lawful order, other than a pretreatment standard.
1348 BOARD NOTE: Derived from 40 CFR 403.3(t) (2016).
1349
1350 "Pretreatment standard" or "standard" means any regulation containing pollutant
1351 discharge limits promulgated by USEPA, and incorporated by reference in 35 Ill.
1352 Adm. Code 307. This term includes prohibitive discharge limits established
1353 under 35 Ill. Adm. Code 310.201 through 310.213 or 35 Ill. Adm. Code 307.1101.
1354 This term also includes more stringent prohibitions and standards adopted by the
1355 Board in this Part or 35 Ill. Adm. Code 307, including 35 Ill. Adm. Code
1356 307.1101, 307.1102, and 307.1103. The term also includes local limits that are a
1357 part of an approved pretreatment program, as provided in 35 Ill. Adm. Code
1358 310.211.
1359 BOARD NOTE: Derived from 40 CFR 403.3(l) (2016).
1360
1361 "Process wastewater" means any water that, during manufacturing or processing,
1362 comes into direct contact with or results from the production or use of any raw
1363 material, intermediate product, finished product, by-product, or waste product.
1364 BOARD NOTE: Derived from 40 CFR 401.11(q) (2016).
1365
1366 "Process wastewater pollutants" means pollutants present in process wastewater.
1367 BOARD NOTE: Derived from 40 CFR 401.11(r) (2016).
1368
1369 "Publicly owned treatment works" or "POTW" means a "treatment works" that is
1370 owned by the State of Illinois or a "unit of local government." This definition
1371 includes any devices and systems used in the storage, treatment, recycling, and
1372 reclamation of municipal sewage or industrial wastewater. It also includes
1373 sewers, pipes, and other conveyances only if they convey wastewater to a POTW
1374 treatment plant. The term also means the "unit of local government" that has
1375 jurisdiction over the indirect discharges to and the discharges from such a
1376 treatment works.
1377 BOARD NOTE: Derived from 40 CFR 403.3(q) (2016).
1378
1379 "Schedule of compliance" means a schedule of remedial measures included in an
1380 authorization to discharge or a pretreatment permit, or an NPDES permit,
1381 including an enforceable sequence of interim requirements (for example, actions,

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1382 operations, or milestone events) leading to compliance with this Part and 35 Ill.
1383 Adm. Code 307. A schedule of compliance does not protect an industrial user or
1384 POTW from enforcement.

1385 BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 U.S.C.
1386 1362(17).

1387
1388 "Significant industrial user" means significant industrial user as defined in 35 Ill.
1389 Adm. Code 310.112.

1390 BOARD NOTE: Derived from 40 CFR 403.3(v) (2016).

1391
1392 "Sludge requirements" means any of the following permits or regulations: 35 Ill.
1393 Adm. Code 309.155 (NPDES Permits), 309.208 (Permits for Sites Receiving
1394 Sludge for Land Application), 703.121 (RCRA Permits), 807.202 (Solid Waste
1395 Permits); Section 39(b) of the Act (NPDES Permits); Section 405(b) of the federal
1396 Clean Water Act (federally-imposed sludge use and management requirements);
1397 and 40 CFR 501 and 503.

1398 BOARD NOTE: Derived from 40 CFR 403.3(k)(2) and 403.7(a) (2016).

1399
1400 "Submission" means a request to the Agency by a POTW for approval of a
1401 pretreatment program, or for authorization to grant removal credits.

1402 BOARD NOTE: Derived from 40 CFR 403.3(w) (2016).

1403
1404 "Treatment works" is as defined in 33 U.S.C. 1292(2), incorporated by reference
1405 in 35 Ill. Adm. Code 310.107. It includes any devices and systems used in the
1406 storage, treatment, recycling, and reclamation of municipal or industrial
1407 wastewater to implement 33 U.S.C. 1281, or necessary to recycle or reuse water
1408 at the most economical cost over the estimated life of the works, including
1409 intercepting sewers, outfall sewers, sewage collection systems, pumping, power,
1410 and other equipment.

1411 BOARD NOTE: Derived from 40 CFR 403.3(q) (2016) and 33 U.S.C. 1292(2).

1412
1413 "Unit of local government" means a unit of local government, as defined by Art.
1414 7, Sec. 1 of the Illinois Constitution. Unit of local government includes
1415 municipalities and sanitary districts.

1416 BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 U.S.C. 1362(4).

1417
1418 "USEPA" means the United States Environmental Protection Agency.

1419
1420 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1421 1422 **Section 310.111 New Source**

1423
1424 a) "New source" means any building, structure, facility, or installation from which
1425 there is or may be a discharge of pollutants, the construction of which commenced

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- 1426 after the date specified in 35 Ill. Adm. Code 307 for the particular source category
1427 or subcategory applicable to the source, provided that one of the following is true:
1428
- 1429 1) The building, structure, facility, or installation is constructed at a site at
1430 which no other source is located;
1431
 - 1432 2) The building, structure, facility, or installation totally replaces the process
1433 or production equipment that causes the discharge of pollutants at an
1434 existing source; or
1435
 - 1436 3) The production or wastewater generating processes of the building,
1437 structure, facility, or installation are substantially independent of an
1438 existing source at the same site. In determining whether these are
1439 substantially independent, factors such as the extent to which the new
1440 facility is integrated with the existing plant and the extent to which the
1441 new facility is engaged in the same general type of activity as the existing
1442 source should be considered.
1443
- 1444 b) Construction on a site at which an existing source is located results in a
1445 modification, rather than a new source, if the construction does not create a new
1446 building, structure, facility, or installation that meets the criteria of subsection
1447 (a)(2) or (a)(3), but which otherwise alters, replaces, or adds to existing process or
1448 production equipment.
1449
- 1450 c) Construction of a new source, as defined in this Section, has commenced if the
1451 owner or operator has done either of the following:
1452
- 1453 1) It has begun or caused either of the following to begin as part of a
1454 continuous onsite construction program:
1455
 - 1456 A) Any placement assembly or installation of facilities or equipment;
1457 or
1458
 - 1459 B) Significant site preparation work including clearing, excavation or
1460 removal of existing buildings, structures, or facilities that is
1461 necessary for the placement, assembly, or installation of new
1462 source facilities or equipment; or
1463
 - 1464 2) It has entered into a binding contractual obligation for the purchases of
1465 facilities or equipment that are intended to be used in its operation within a
1466 reasonable time. An option to purchase or a contract that can be
1467 terminated or modified without substantial loss and contracts for
1468 feasibility, engineering, and design studies does not constitute a
1469 contractual obligation under this subsection (c)(2).

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- d) A new source must install and have in operating condition and must "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), a new source must meet all applicable pretreatment standards.

BOARD NOTE: Derived from 40 CFR 403.3(m) (2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.112 Significant Industrial User

- a) Except as provided in subsections (b) and (c), the term "significant industrial user" means the following:
 - 1) An industrial user subject to any of the categorical pretreatment standards under 35 Ill. Adm. Code 310.220 through 310.222, 310.230, 310.232, and 310.233 and 35 Ill. Adm. Code 307; and
 - 2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 35 Ill. Adm. Code 310.510(f)).
- b) The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 35 Ill. Adm. Code 310.220 through 310.222, 310.230, 310.232, and 310.233 and 35 Ill. Adm. Code 307 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, noncontact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard), and the industrial user meets the following conditions:
 - 1) That, prior to the Control Authority's finding, the industrial user has consistently complied with all applicable categorical pretreatment standards and requirements;

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- 1513 2) That the industrial user annually submits the certification statement
1514 required in 35 Ill. Adm. Code 310.636 together with any additional
1515 information necessary to support the certification statement; and
1516
1517 3) The industrial user never discharges any untreated concentrated
1518 wastewater.
1519
1520 c) Upon a finding that an industrial user meeting the criteria in subsection (a)(2) has
1521 no reasonable potential for adversely affecting the POTW's operation or for
1522 violating any pretreatment standards or requirement, the Control Authority may at
1523 any time, on its own initiative or in response to a petition received from an
1524 industrial user or POTW, and in accordance with 35 Ill. Adm. Code 310.510(f),
1525 determine that such industrial user is not a significant industrial user.
1526

1527 BOARD NOTE: Derived from 40 CFR 403.3(v) (2005), as renumbered and amended at
1528 70 Fed. Reg. 60134 (Oct. 14, 2005).

1529
1530 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1531

SUBPART B: PRETREATMENT STANDARDS

Section 310.201 General Prohibitions

- 1532
1533
1534 a) No industrial user may introduce into a POTW any pollutant that causes pass
1535 through or interference.
1536
1537 b) Affirmative defenses. An industrial user has an affirmative defense in any action
1538 brought against it alleging a violation of subsection (a) or 35 Ill. Adm. Code
1539 307.1101(b)(6) through (b)(9) or (b)(11) through (b)(12) if the industrial user
1540 demonstrates the following:
1541 1) That the industrial user did not know or have reason to know that its
1542 discharge, alone or in conjunction with a discharge or discharges from
1543 other sources, would cause pass through or interference; and
1544 2) Either of the following:
1545 A) That the POTW developed in accordance with 35 Ill. Adm. Code
1546 310.210 a local limit that was designed to prevent pass through or
1547 interference for each pollutant in the industrial user's discharge that
1548 caused pass through or interference, and the industrial user was in
1549 compliance with each such local limit immediately prior to and
1550 during the pass through or interference; or
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1557 B) If the POTW has not developed local limits in accordance with 35
1558 Ill. Adm. Code 310.210 that are designed to prevent pass through
1559 or interference for the pollutants that caused the pass through or
1560 interference, that the industrial user's discharge immediately prior
1561 and during the pass through or interference did not change
1562 substantially in nature or constituents from the industrial user's
1563 prior discharge activity during which the POTW was regularly in
1564 compliance with the POTW's NPDES permit requirements and, in
1565 the case of interference, sludge requirements.
1566

1567 c) These general prohibitions and the specific prohibitions in 35 Ill. Adm. Code
1568 310.202 apply to each industrial user introducing pollutants into a POTW whether
1569 or not the industrial user is subject to other pretreatment standards or any national,
1570 State, or local pretreatment requirements.
1571

1572 BOARD NOTE: Derived from 40 CFR 403.5(a) (2003).

1573
1574 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1575

1576 **Section 310.210 Local Limits Developed by POTW**
1577

1578 a) Each POTW that is required to develop a pretreatment program must develop and
1579 enforce, as part of the program, local limits to implement the prohibitions listed in
1580 35 Ill. Adm. Code 310.201(a) and 310.202. Each POTW with an approved
1581 pretreatment program must continue to develop these local limits as necessary and
1582 to effectively enforce such limits.
1583

1584 b) A POTW that is not required to develop a pretreatment program must, in cases
1585 where pollutants contributed by one or more industrial users result in interference
1586 or pass through, and such violation is likely to recur, develop and enforce local
1587 limits for industrial users, which, together with appropriate changes in the POTW
1588 treatment plant's facilities or operation, are necessary to ensure renewed and
1589 continued compliance with the POTW's NPDES permit, and sludge requirements.
1590

1591 c) Before developing local limits, a POTW must give individual notice and an
1592 opportunity to respond to persons or groups that have requested notice.
1593

1594 d) A POTW may develop best management practices (BMPs) to implement
1595 subsections (a) and (b). Such BMPs are to be considered local limits and
1596 pretreatment standards for the purposes of this Part.
1597

1598 e) The POTW must base limitations developed pursuant to this Section on the
1599 characteristics and treatability of the wastewater by the POTW, effluent
1600 limitations that the POTW must meet, sludge requirements, water quality

1601 standards in the receiving stream, and the pretreatment standards and
1602 requirements of this Part and 35 Ill. Adm. Code 307.

1603
1604 BOARD NOTE: Subsections (a) through (d) are derived from 40 CFR 403.5(c)
1605 (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005). The Board added
1606 subsection (e) to provide standards for development of local limits.

1607
1608 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1609

1610 **Section 310.221 Source Category Determination Request**

1611
1612 a) Application deadline.

1613
1614 1) The industrial user or POTW may request that the Agency provide written
1615 certification as to whether the industrial user falls within that particular
1616 source category or subcategory. If an existing industrial user adds or
1617 changes a process or operation that may be included in a source category
1618 or subcategory, the existing industrial user must request this certification
1619 prior to commencing discharge from the added or changed processes or
1620 operation. With respect to new standards, the following apply:

1621
1622 A) The POTW or industrial user must direct to USEPA any source
1623 category determination requests for pretreatment standards adopted
1624 by USEPA prior to authorization of the Illinois program.

1625
1626 B) After authorization of the Illinois program, the POTW or industrial
1627 user must direct to the Agency any source category determination
1628 requests within 60 days after the Board adopts or incorporates by
1629 reference a pretreatment standard for a source category or
1630 subcategory under which an industrial user may be included.

1631
1632 2) A new source must request this certification prior to commencing
1633 discharge.

1634
1635 3) If a request for certification is submitted by a POTW, the POTW must
1636 notify any affected industrial user of such applications. The industrial user
1637 may provide written comments on the POTW submissions to the Agency
1638 within 30 days of notification.

1639
1640 b) Contents of application. Each request must contain a statement that includes the
1641 following information:

1642
1643 1) Describing which source category or subcategories might be applicable;
1644 and

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- 2) Citing evidence and reasons why a particular source category or subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this Section must make the following certification:

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

- c) Deficient requests. The Agency must act only on written requests for determinations that contain all of the information required. The Agency must notify persons who have made incomplete submissions that their requests are deficient and that, unless the time period is extended, they have 30 days to correct the deficiency. If the deficiency is not corrected within 30 days, or within an extended period allowed by the Agency, the Agency must deny the request for a determination.

- d) Final determination.

- 1) When the Agency receives a submission, the Agency shall, if it determines that the submission contains all of the information required by subsection (b), consider the submission, any additional evidence that may have been requested and any other available information relevant to the request. The Agency must then make a written determination of the applicable source category or subcategory and state the reasons for the determination.
- 2) The Agency must forward the determination described in subsection (d)(1) to USEPA. If USEPA does not modify the Agency's decision within 60 days after its receipt, the Agency's decision is final.
- 3) If USEPA modifies the Agency's decision, USEPA's decision will be final.
- 4) The Agency must send a copy of the determination to the affected industrial user and the POTW. If the final determination is made by USEPA, the Agency must send a copy of the determination to the user.

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- e) Requests for hearing or legal decision.
 - 1) Within 30 days following the date of receipt of notice of the final determination as provided for by subsection (d)(4), the requester may submit a petition to reconsider or contest the decision to USEPA, which will act pursuant to 40 CFR 403.6(a)(5).
 - 2) Within 35 days following the date of receipt of notice of the final determination as provided for by subsection (c), (d)(2), or (d)(4), the requester may appeal a final decision made by the Agency to the Board.

BOARD NOTE: Derived from 40 CFR 403.6(a) (2005).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.230 Concentration and Mass Limits

- a) Pollutant discharge limits in categorical pretreatment standards will be expressed either as concentration or mass limits. Limits in categorical pretreatment standards must apply to the discharge from the process regulated by the standard or as otherwise specified by the standard.
- b) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.
- c) A Control Authority calculating equivalent mass-per-day limitations under subsection (b) must calculate such limitations by multiplying the limits in the standard by the industrial user's average rate of production. This average rate of production must be based not upon the designed production capacity, but rather upon a reasonable measure of the industrial user's actual long-term daily production during a representative year. For new sources, actual production must be estimated using projected production.
- d) A Control Authority calculating equivalent concentration limitations under subsection (b) must calculate such limitations by dividing the mass limitations derived under subsection (c) by the average daily flow rate of the industrial user's regulated process wastewater. This average daily flow rate must be based upon a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year.

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- 1733 e) When the limits in a categorical pretreatment standard are expressed only in
1734 terms of pollutant concentrations, an industrial user may request that the
1735 Control Authority convert the limits to equivalent mass limits. The
1736 determination to convert concentration limits to mass limits is within the
1737 discretion of the Control Authority. The Control Authority may establish
1738 equivalent mass limits only if the industrial user meets all the following
1739 conditions in subsections (e)(1)(A) through (e)(1)(E).
1740
- 1741 1) To be eligible for equivalent mass limits, the industrial user must
1742 undertake the following actions:
1743
- 1744 A) It must employ or demonstrate that it will employ water
1745 conservation methods and technologies that substantially reduce
1746 water use during the term of its control mechanism;
1747
- 1748 B) It must currently use control and treatment technologies adequate
1749 to achieve compliance with the applicable categorical
1750 pretreatment standard, and it must not have used dilution as a
1751 substitute for treatment;
1752
- 1753 C) It must provide sufficient information to establish the facility's
1754 actual average daily flow rate for all wastestreams, based on data
1755 from a continuous effluent flow monitoring device, as well as the
1756 facility's long-term average production rate. Both the actual
1757 average daily flow rate and long-term average production rate must
1758 be representative of current operating conditions;
1759
- 1760 D) It must not have daily flow rates, production levels, or pollutant
1761 levels that vary so significantly that equivalent mass limits are not
1762 appropriate to control the discharge; and
1763
- 1764 E) It must have consistently complied with all applicable categorical
1765 pretreatment standards during the period prior to the industrial
1766 user's request for equivalent mass limits.
1767
- 1768 2) An industrial user subject to equivalent mass limits must undertake the
1769 following actions:
1770
- 1771 A) It must maintain and effectively operate control and treatment
1772 technologies adequate to achieve compliance with the
1773 equivalent mass limits;
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- B) It must continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - C) It must continue to record the facility's production rates and notify the Control Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in subsection (e)(1)(C). Upon notification of a revised production rate, the Control Authority must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - D) It must continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subsection (e)(1)(A) so long as it discharges under an equivalent mass limit.
- 3) A Control Authority that chooses to establish equivalent mass limits must undertake the following actions:
- A) It must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated processes 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;
 - B) Upon notification of a revised production rate, it must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - C) It may retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 310.232. The industrial user must also be in compliance with Subpart J of this Part (regarding the prohibition of bypass).

- 1816 4) The Control Authority may not express limits in terms of mass for
1817 pollutants such as pH, temperature, radiation, or other pollutants that
1818 cannot appropriately be expressed as mass.
1819
- 1820 f) The Control Authority may convert the mass limits of the categorical
1821 pretreatment standards of Subparts O, T, and CD of 35 Ill. Adm. Code 307 to
1822 concentration limits for purposes of calculating limitations applicable to
1823 individual industrial users under the following conditions. When converting
1824 such limits to concentration limits, the Control Authority must use the
1825 concentrations listed in the applicable provisions of Subparts O, T, and CD of
1826 35 Ill. Adm. Code 307 and document that dilution is not being substituted for
1827 treatment as prohibited by 35 Ill. Adm. Code 310.232.
1828
- 1829 g) Equivalent limitations calculated in accordance with subsections (c) through (f)
1830 are deemed pretreatment standards. The Control Authority must document
1831 how the equivalent limits were derived and make this information publicly
1832 available. Once incorporated into its control mechanism, the industrial users
1833 must comply with the equivalent limitations instead of the promulgated
1834 categorical standards from which the equivalent limitations were derived.
1835
- 1836 h) Many categorical pretreatment standards specify one limit for calculating
1837 maximum daily discharge limitations and a second limit for calculating maximum
1838 monthly average or four-day average limitations. Where such standards are being
1839 applied, the same production or flow figure must be used in calculating both the
1840 average and the maximum equivalent limitation.
1841
- 1842 i) Any industrial user operating under a control mechanism incorporating equivalent
1843 mass or concentration limits calculated from a production based standard must
1844 notify the Control Authority within two business days after the user has a
1845 reasonable basis to know that the production level will significantly change within
1846 the next calendar month. Any user not notifying the Control Authority of such
1847 anticipated change will be required to meet the mass or concentration limits in its
1848 control mechanism that were based on the original estimate of the long term
1849 average production rate.
1850

1851 BOARD NOTE: Derived from 40 CFR 403.6(c) (2005), as amended at 70 Fed. Reg.
1852 60134 (Oct. 14, 2005).

1853
1854 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1855

1856 **Section 310.233 Combined Waste Stream Formula**
1857

1858 Where process wastewater is mixed prior to treatment with wastewaters other than those
1859 generated by the regulated process, the Control Authority (or the industrial user with the written

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1860 concurrence of the Control Authority) must derive fixed alternative discharge limits. When it is
1861 deriving alternative categorical limits, the Control Authority must calculate both an alternative
1862 daily maximum value using the daily maximum values specified in the appropriate categorical
1863 pretreatment standards and an alternative consecutive sampling day average value using the
1864 average monthly values specified in the appropriate categorical pretreatment standards. The
1865 industrial user must comply with the alternative daily maximum and average monthly limits
1866 fixed by the Control Authority until the Control Authority modifies the limits or approves an
1867 industrial user modification request. Modification is authorized whenever there is a material or
1868 significant change in the values used in the calculation to fix alternative limits for the regulated
1869 pollutant. An industrial user must immediately report any such material or significant change to
1870 the Control Authority. Where appropriate, the Control Authority must calculate new alternative
1871 categorical limits within 30 days.

1872

1873 a) Alternative limit calculation. For purposes of these formulas, the "average daily
1874 flow" means a reasonable measure of the average daily flow for a 30-day period.
1875 For new sources, flows must be estimated using projected values. The Control
1876 Authority must derive the alternative limit for a specified pollutant by the use of
1877 either of the following formulas:

1878

1879 1) Alternative concentration limit.

1880

$$C = \frac{(T - D)\sum C_i F_i}{(T)\sum F_i}$$

1881

1882

1883

where

C = The alternative concentration limit for the combined waste stream.

C_i = The categorical pretreatment standard concentration limit for a pollutant in the regulated stream i.

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

" $\sum G_i$ " = The sum of the results of calculation G for streams i = 1 to i = N.

N = The total number of regulated streams.

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

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- 1884 D = The average daily flow (at least a 30-day average) from:
1885
1886 A) Boiler blowdown streams, non-contact cooling streams,
1887 stormwater streams and demineralizer backwash streams, subject
1888 to the proviso of subsection (d);
1889 B) Sanitary waste streams where such waste streams are not regulated
1890 by a categorical pretreatment standard; and
1891
1892 C) From any process waste streams that were or could have been
1893 entirely exempted from categorical pretreatment standards as
1894 specified in subsection (e).
1895
1896 2) Alternative mass limit
1897

$$M = \frac{(T - D)\sum M_i}{\sum F_i}$$

1898 where
1899
1900

- M = The alternative mass limit for a pollutant in the combined waste stream.
- M_i = The categorical pretreatment standard mass limit for a pollutant in the regulated stream i (the categorical pretreatment mass limit multiplied by the appropriate measure of production).
- F_i = The average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.
- " $\sum G_i$ " means the sum of the results of calculation G for streams $i = 1$ to $i = N$.
- N = The total number of regulated streams.
- T = The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes F_i , D and unregulated streams).
- D = The average daily flow (at least a 30-day average)

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1943
- A) Boiler blowdown streams, non-contact cooling streams, stormwater streams and demineralizer backwash streams subject to the proviso of subsection (d);
 - B) Sanitary waste streams where such waste streams are not regulated by a categorical pretreatment standard; and
 - C) From any process waste streams that were or could have been entirely exempted from categorical pretreatment standards, as specified in subsection (e).
- b) Alternative limits below detection. An alternative pretreatment limit must not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.
- c) Self-monitoring. Self-monitoring required to insure compliance with the alternative categorical limit must be as follows:
- 1) The type and frequency of sampling, analysis, and flow measurement must be determined by reference to the self-monitoring requirements of the appropriate categorical pretreatment standards.
 - 2) Where the self-monitoring schedules for the appropriate standards differ, monitoring must be done according to the most frequent schedule.
 - 3) Where flow determines the frequency of self-monitoring in a categorical pretreatment standard, the sum of all regulated flows (F_i) is the flow that must be used to determine self-monitoring frequency.
- d) Proviso to subsections (a)(1) and (a)(2). Where boiler blowdown, non-contact cooling streams, stormwater streams, and demineralizer backwash streams contain a significant amount of a pollutant, and the combination of such streams, prior to pretreatment, with the industrial user's regulated process waste streams will result in a substantial reduction of that pollutant, the Control Authority, upon application of the industrial user, must determine whether such waste streams should be classified as diluted or unregulated. In its application to the Control Authority, the industrial user must provide engineering, production, sampling, and analysis and such other information so the Control Authority can make its determination.
- e) Exemptions from categorical pretreatment standards. Process waste streams were or could have been entirely exempted from categorical pretreatment standards

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1944 pursuant to paragraph 8 of the NRDC v. Costle consent decree, incorporated by
1945 reference in 35 Ill. Adm. Code 310.107, for one or more of the following reasons
1946 (see appendix D to 40 CFR 403, incorporated by reference in 35 Ill. Adm. Code
1947 310.107):

- 1948
- 1949 1) The pollutants of concern are not detectable in the discharge from the
1950 industrial user;
- 1951
- 1952 2) The pollutants of concern are present only in trace amounts and are neither
1953 causing nor are likely to cause toxic effects;
- 1954
- 1955 3) The pollutants of concern are present in amounts too small to be
1956 effectively reduced by technologies known to USEPA;
- 1957
- 1958 4) The waste stream contains only pollutants that are compatible with the
1959 POTW.

1960

1961 f) Where a treated regulated process waste stream is combined prior to treatment
1962 with wastewaters other than those generated by the regulated process, the
1963 industrial user may monitor either the segregated process waste stream or the
1964 combined waste stream for the purpose of determining compliance with
1965 applicable pretreatment standards. If the industrial user chooses to monitor the
1966 segregated process waste stream, it must apply the applicable categorical
1967 pretreatment standard. If the user chooses to monitor the combined waste stream,
1968 it must apply an alternative discharge limit calculated using the combined waste
1969 stream formula as provided in this Section. The industrial user may change
1970 monitoring points only after receiving approval from the Control Authority. The
1971 Control Authority must ensure that any change in an industrial user's monitoring
1972 point or points will not allow the user to substitute dilution for adequate treatment
1973 to achieve compliance with applicable standards.

1974

1975 BOARD NOTE: Derived from 40 CFR 403.6(e) (2005), as amended at 70 Fed. Reg. 60134
1976 (Oct. 14, 2005).

1977

1978 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1979

1980 SUBPART C: REMOVAL CREDITS

1981

1982 Section 310.301 Special Definitions

1983

1984 For purposes of Subpart C, the following definitions apply:

1985

1986 "Consistent removal" means the average of the lowest 50% of the removals
1987 measured according to 35 Ill. Adm. Code 310.311. All sample data obtained for

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1988 the measured pollutant during the time period prescribed in 35 Ill. Adm. Code
1989 310.311 must be reported and used in computing consistent removal. If a
1990 substance is measurable in the influent but not in the effluent, the effluent level
1991 may be assumed to be the limit of measurement, and those data may be used by
1992 the POTW at its discretion and subject to approval by the Agency. If the
1993 substance is not measurable in the influent, the data may not be used. Where the
1994 number of samples with concentrations equal to or above the limit of
1995 measurement is between eight and twelve, the average of the lowest six removals
1996 must be used. If there are less than eight samples with concentrations equal to or
1997 less than the limit of measurement, the Agency may approve alternate means of
1998 demonstrating consistent removal. "Measurement" refers to the ability of the
1999 analytical method or protocol to quantify as well as identify the presence of the
2000 substance in question.

2001 BOARD NOTE: Derived from 40 CFR 403.7 (2005).

2002
2003 "Industrial user" means industrial user or users, as is appropriate from the context.

2004
2005 "Overflow" means the intentional or unintentional diversion of flow from the
2006 POTW before the POTW treatment plant.

2007 BOARD NOTE: Derived from 40 CFR 403.7 (2005), as amended at 70 Fed. Reg.
2008 60134 (Oct. 14, 2005).

2009
2010 "Removal" means a reduction in the amount of a pollutant in the POTW's effluent
2011 or alteration of the nature of a pollutant during treatment at the POTW. The
2012 reduction or alteration can be obtained by physical, chemical, or biological means
2013 and may be the result of specifically designed POTW capabilities, or may be
2014 incidental to operation of the treatment system. Removal does not mean dilution
2015 of a pollutant in a POTW.

2016 BOARD NOTE: Derived from 40 CFR 403.7(a) (2005).

2017
2018 "Sludge requirements" is as defined in 35 Ill. Adm. Code 310.110.

2019 BOARD NOTE: Derived from 40 CFR 403.7(a) (2005).

2020
2021 "Standard" means standard or standards as is appropriate from the context.

2022
2023 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2024 2025 **Section 310.302 Authority**

2026
2027 Any POTW receiving wastes from an industrial user to which a categorical pretreatment
2028 standard applies may, at its discretion and subject to the conditions of Subpart C, grant removal
2029 credits to reflect removal by the POTW of pollutants specified in the categorical pretreatment
2030 standard. The POTW may grant a removal credit equal to, or at its discretion, less than its
2031 consistent removal rate. Upon being granted a removal credit, each affected industrial user must

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2032 calculate its revised discharge limits in accordance with 35 Ill. Adm. Code 310.310. Removal
2033 credits must be given for indicator or surrogate pollutants regulated in a categorical pretreatment
2034 standard only if the categorical pretreatment standard so specifies.

2035
2036 BOARD NOTE: Derived from 40 CFR 403.7(a)(2) (2003).

2037
2038 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2039 2040 **Section 310.303 Conditions for Authorization to Grant Removal Credits**

2041
2042 The Agency must authorize a POTW to grant removal credits only if the following conditions
2043 are met:

- 2044
- 2045 a) The POTW applies for and receives authorization from the Agency to grant a
2046 removal credit in accordance with the requirements and procedures specified in
2047 35 Ill. Adm. Code 310.330 and 310.340.
 - 2048 b) The POTW demonstrates and continues to achieve consistent removal of the
2049 pollutant.
 - 2050 c) The POTW has an approved pretreatment program in accordance with and to the
2051 extent required by this Part; provided, however, that a POTW that does not have
2052 an approved pretreatment program may, pending approval of such a program,
2053 give removal credits conditionally as provided in 35 Ill. Adm. Code 310.330.
 - 2054 d) The granting of removal credits will not cause the POTW to violate sludge
2055 requirements that apply to the sludge management method chosen by the POTW.
2056 ("Sludge requirements" is defined in 35 Ill. Adm. Code 310.110.) Alternatively,
2057 the POTW demonstrates to the Agency that even though it is not presently in
2058 compliance with applicable sludge requirements, it will be in compliance when
2059 each industrial user to whom the removal credit would apply is required to meet
2060 its categorical pretreatment standard as modified by the removal credit. Removal
2061 credits may be made available for any of the following pollutants:
2062
2063 1) For any pollutant listed in appendix G, section I of 40 CFR 403,
2064 incorporated by reference in 35 Ill. Adm. Code 310.107, for the use or
2065 disposal practice employed by the POTW, when the requirements in 40
2066 CFR 503, incorporated by reference in 35 Ill. Adm. Code 310.107, for that
2067 practice are met;
2068
2069 2) For any pollutant listed in appendix G, section II of 40 CFR 403,
2070 incorporated by reference in 35 Ill. Adm. Code 310.107, for the use or
2071 disposal practice employed by the POTW when the concentration for a
2072 pollutant listed in appendix G, section II of 40 CFR 403 in the sewage
2073
2074
2075

2076 sludge that is used or disposed of does not exceed the concentration for the
2077 pollutant in appendix G, section II of 40 CFR 403; or

2078
2079 3) For any pollutant in sewage sludge when the POTW disposes all of its
2080 sewage sludge in a municipal solid waste landfill unit that meets the
2081 criteria in 35 Ill. Adm. Code 810 through 813 that are derived from 40
2082 CFR 258.

2083
2084 e) The granting of removal credits will not cause a violation of the POTW's NPDES
2085 permit limitations or conditions. Alternatively, the POTW demonstrates to the
2086 Agency that even though it is not presently in compliance with applicable
2087 limitations and conditions in its NPDES permit, it will be in compliance when
2088 each industrial user to whom the removal credit would apply is required to meet
2089 its categorical pretreatment standard, as modified by the removal credit.

2090
2091 BOARD NOTE: Derived from 40 CFR 403.7(a)(3) (2005).

2092
2093 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2094
2095 **Section 310.311 Demonstration of Consistent Removal**

2096
2097 The Agency must authorize a POTW to grant a removal credit that does not exceed the POTW's
2098 consistent removal rate. In order to demonstrate consistent removal, the POTW must, for each
2099 pollutant with respect to which removal credit authorization is sought, collect influent and
2100 effluent data, and calculate consistent removal in accordance with the following requirements.
2101 As a condition of retaining removal credits authorization, the POTW's consistent removal must
2102 continue to be equal or greater than the removal credit.

2103
2104 a) Representative data. Seasonal. The data must be representative of yearly and
2105 seasonal conditions to which the POTW is subjected for each pollutant for which
2106 a discharge limit revision is proposed.

2107
2108 b) Representative data. Quality and quantity. The data must be representative of the
2109 quality and quantity of normal effluent and influent flow if such data can be
2110 obtained. If such data are unobtainable, alternate data or information may be
2111 presented for approval to demonstrate consistent removal.

2112
2113 c) Sampling procedures

2114
2115 1) Composite. The influent and effluent operational data must be obtained
2116 through 24-hour flow-proportional composite samples. Sampling may be
2117 done manually or automatically, and discretely or continuously. For
2118 discrete sampling, at least 12 aliquots must be composited. Discrete
2119 sampling may be flow-proportioned either by varying the time interval

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- 2120 between each aliquot or the volume of each aliquot. All composites must
2121 be flow-proportional to either stream flow at time of collection of influent
2122 aliquot or to the total influent flow since the previous influent aliquot.
2123 Volatile pollutant aliquots must be combined in the laboratory
2124 immediately before analysis.
2125
- 2126 2) Number of samples
2127
- 2128 A) Twelve samples must be taken at approximately equal intervals
2129 throughout the full year. Sampling must be evenly distributed over
2130 the days of the week so as to include non-workdays. If the Agency
2131 determines that this schedule will not be most representative of the
2132 actual operation of the POTW treatment plant, the Agency must
2133 approve an alternative sampling schedule.
2134
- 2135 B) Upon concurrence of the Agency, a POTW may utilize a historical
2136 data base amassed during the three years immediately preceding
2137 the application, provided that such data otherwise meet the
2138 requirements of this Section. In order for the historical data base
2139 to be approved, it must present a statistically valid description of
2140 daily, weekly, and seasonal sewage treatment plant loadings and
2141 performance for at least one year.
2142
- 2143 3) Effluent sample collection need not be delayed to compensate for
2144 hydraulic detention time unless the POTW elects to include detention time
2145 compensation or unless the Agency requires detention time compensation.
2146 The Agency must require that each effluent sample be taken
2147 approximately one detention time later than the corresponding influent
2148 sample when failure to do so would result in an unrepresentative portrayal
2149 of actual POTW operation. The detention period must be based on a 24-
2150 hour average daily flow value. The average daily flow used must be based
2151 upon the average of the daily flows during the same month of the previous
2152 year.
2153
- 2154 d) Sampling procedures. Grab. Where composite sampling is not an appropriate
2155 sampling technique, one or more grab samples must be taken to obtain influent
2156 and effluent operational data. Collection of influent grab samples must precede
2157 collection of effluent samples by approximately one detention period. A
2158 detention period is to be based on a 24-hour average daily flow value. The
2159 average daily flow used must be based upon the average of the daily flows during
2160 the same month of the previous year. Grab samples are required, for example,
2161 where the parameters being evaluated are those such as cyanide and phenol,
2162 which may not be held for any extended period because of biological, chemical,
2163 or physical interactions that take place after sample collection and affect the

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2164 results. A grab sample is an individual sample collected over a period of time not
2165 exceeding 15 minutes.

2166
2167 e) Analytical methods. The POTW must analyze the samples for pollutants in
2168 accordance with the analytical techniques prescribed in 35 Ill. Adm. Code
2169 307.1003. If 35 Ill. Adm. Code 307.1003 does not reference analytical techniques
2170 for the pollutant in question, or if USEPA determines, as provided in 35 Ill. Adm.
2171 Code 310.602, that the 35 Ill. Adm. Code 307.1003 analytical techniques are
2172 inappropriate, the analysis must be performed using validated analytical methods
2173 or any other applicable analytical procedures approved by USEPA, including
2174 procedures suggested by the POTW.

2175
2176 f) Calculation of removal. All data acquired under provisions of this Subpart must
2177 be submitted to the Agency. Removal for the specific pollutant must be
2178 determined for each sample by measuring the difference between the
2179 concentrations of the pollutant in the influent and effluent of the POTW and
2180 expressing the difference as a percent of the influent concentration. Where such
2181 data cannot be obtained, the POTW may demonstrate removal using other data or
2182 procedures subject to concurrence by the Agency.

2183
2184 BOARD NOTE: Derived from 40 CFR 403.7(b) (2003), as modified to reflect NRDC v.
2185 USEPA, 790 F.2d 289 (3d Cir. 1986)

2186
2187 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2188 2189 **Section 310.312 Provisional Credits**

2190
2191 For pollutants that are not currently being discharged (new or modified facilities, or production
2192 changes) the POTW may apply for provisional authorization to revise the applicable categorical
2193 pretreatment standard prior to initial discharge of the pollutant. Consistent removal may be
2194 based provisionally on data from treatability studies or demonstrative removal at other treatment
2195 facilities where the quality and quantity of influent are similar. In calculating and applying for
2196 provisional removal allowances, the POTW must comply with provisions of this Subpart. The
2197 POTW must demonstrate consistent removal within 18 months after the commencement of
2198 discharge of the pollutants in question. If, within 18 months after the commencement of the
2199 discharge of the pollutant in question, the POTW cannot demonstrate consistent removal
2200 pursuant to 35 Ill. Adm. Code 310.311, the Agency must terminate the authority to grant removal
2201 credits, and all industrial users to whom the revised discharge limits had been applied must
2202 achieve compliance with the applicable categorical pretreatment standards within a reasonable
2203 time, not to exceed the period of time prescribed in the standards, as the Agency must specify.

2204
2205 BOARD NOTE: Derived from 40 CFR 403.7(c) (2003).

2206
2207 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 310.320 Compensation for Overflow

A POTW that overflows untreated wastewater to receiving waters one or more times in a year may claim consistent removal of a pollutant only by complying with subsection (a) or (b). However, this Section will not apply where an industrial user demonstrates that overflow does not occur between the industrial user and the POTW treatment plant.

- a) The industrial user provides containment or otherwise ceases or reduces discharges from the regulated processes that contain the pollutant for which an allowance is requested during all circumstances in which an overflow event can reasonably be expected to occur at the POTW or at a sewer to which the industrial user is connected. Discharges must cease or be reduced, or pretreatment must be increased, to the extent necessary to compensate for the removal not being provided by the POTW. The Agency must allow allowances under this subsection only if the POTW demonstrates the following to the Agency:
 - 1) That all industrial users to which the POTW proposes to apply this subsection (a) have demonstrated the ability to contain or otherwise cease or reduce, during circumstances in which an overflow event can reasonably be expected to occur, discharges from the regulated processes that contain pollutants for which an allowance is requested;
 - 2) That the POTW has identified circumstances in which an overflow event can reasonably be expected to occur, and has a notification or other viable plan to insure that industrial users will learn of an impending overflow in sufficient time to contain, cease, or reduce discharging to prevent untreated overflows from occurring. The POTW must also demonstrate that it will monitor and verify the data required in subsection (a)(3) to insure that industrial users are containing, ceasing, or reducing operations during POTW system overflow; and
 - 3) That all industrial users to which the POTW proposes to apply this subsection have demonstrated the ability and commitment to collect and make available upon request by the POTW or the Agency daily flow reports or other data sufficient to demonstrate that all discharges from regulated processes containing the pollutant for which the allowance is requested were contained, reduced, or otherwise stopped as appropriate during all circumstances in which an overflow event was reasonably expected to occur; or
- b) Reduction in removal.
 - 1) The consistent removal claimed is reduced pursuant to the following

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2252 equation:
2253
2254

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

2255 where:
2256
2257

r_m = POTW's consistent removal rate for that pollutant as established under this Subpart.

r_c = Removal corrected by the overflow factor.

Z = Hours per year that overflow occurred between the industrial user and the POTW treatment plant, the hours either to be shown in the POTW's current NPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular industrial user's discharge overflows between the industrial user and the POTW treatment plan.

2258
2259 2) The industrial user can claim consistent removal only where the POTW is
2260 complying with all NPDES permit requirements and any additional
2261 requirements in any order or decree that affects combined sewer
2262 overflows. These requirements include any combined sewer overflow
2263 requirements that conform to the "Combined Sewer Overflow (CSO)
2264 Control Policy," USEPA document number EPA-830/Z-94-001,
2265 incorporated by reference in 35 Ill. Adm. Code 310.107.
2266

2267 BOARD NOTE: Derived from 40 CFR 403.7(h) (2005), as amended at 70 Fed. Reg. 60134
2268 (Oct. 14, 2005).

2269 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2270

2271 2272 **Section 310.330 Exception to POTW Pretreatment Requirement**

2273
2274 A POTW required to develop a local pretreatment program under Subpart E may grant removal
2275 credits conditionally pending approval of such a program in accordance with the following terms
2276 and conditions:
2277

2278 a) All industrial users who are currently subject to a categorical pretreatment
2279 standard and who wish to receive conditionally a removal credit must submit to
2280 the POTW the information required by 35 Ill. Adm. Code 310.602(a) through (g)
2281 (except new or modified industrial users must only submit the information
2282 required by 35 Ill. Adm. Code 310.602(a) through (f)), pertaining to the

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- 2283 categorical pretreatment standard as modified by the removal credit. The
2284 industrial users must indicate what additional technology, if any, will be needed to
2285 comply with the categorical pretreatment standard as modified by the removal
2286 credit;
- 2287
- 2288 b) The POTW must have submitted to the Agency an application for pretreatment
2289 program approval meeting the requirements of Subpart E in a timely manner, not
2290 to exceed the time limitations set forth in a compliance schedule for development
2291 of a pretreatment program included in the POTW's NPDES permit.
- 2292
- 2293 c) The POTW must do the following:
- 2294
- 2295 1) Compile and submit data demonstrating its consistent removal;
- 2296
- 2297 2) Comply with the conditions specified in 35 Ill. Adm. Code 310.303; and
- 2298
- 2299 3) Submit a complete application for removal credit authority in accordance
2300 with 35 Ill. Adm. Code 310.340.
- 2301
- 2302 d) If a POTW receives authority to grant conditional removal credits and the Agency
2303 subsequently makes a final determination, after appropriate notice, that the POTW
2304 failed to comply with the conditions in subsections (b) and (c), the Agency must
2305 terminate the authority to grant conditional removal credits and all industrial users
2306 to whom the revised discharge limits had been applied must achieve compliance
2307 with the applicable categorical pretreatment standards within a reasonable time,
2308 not to exceed the period of time prescribed in the applicable categorical
2309 pretreatment standard.
- 2310
- 2311 e) If a POTW grants conditional removal credits and the POTW or the Agency
2312 subsequently makes a final determination, after appropriate notice, that the
2313 industrial user failed to comply with the conditions in subsection (a), the POTW
2314 or Agency must terminate the conditional credit for the non-complying industrial
2315 user and the industrial user to whom the revised discharge limits had been applied
2316 must achieve compliance with the applicable categorical pretreatment standard
2317 within a reasonable time, not to exceed the period of time prescribed in the
2318 applicable categorical pretreatment standard. The conditional credit must not be
2319 terminated where a violation of the provisions of this Section results from causes
2320 entirely outside of the control of the industrial user or the industrial user has
2321 demonstrated substantial compliance.
- 2322
- 2323 f) The Agency may elect not to review an application for conditional removal credit
2324 authority upon receipt of such application, in which case the conditionally revised
2325 discharge limits remain in effect until reviewed by the Agency. This review may
2326 occur at any time in accordance with the procedures of Section 310.541 through

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2327 Section 310.547, but in any event no later than the time of any pretreatment
2328 program approval or any NPDES permit reissuance.
2329

2330 BOARD NOTE: Derived from 40 CFR 403.7(d)(2003).

2331
2332 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2333

2334 **Section 310.340 Application for Removal Credits Authorization** 2335

2336 a) Any POTW that wants to grant a removal credit may apply for authorization from
2337 the Agency.
2338

2339 b) The POTW must submit to the Agency an application for authorization to grant
2340 removal credits (or modify existing ones).
2341

2342 c) A POTW may apply for authorization to grant or modify removal credits at any
2343 time.
2344

2345 d) An application for authorization to grant removal credits must be supported by the
2346 following information:
2347

2348 1) A list of pollutants for which removal credits are proposed.
2349

2350 2) The data required pursuant to 35 Ill. Adm. Code 310.311.
2351

2352 3) Proposed revised discharge limits for each affected subcategory of
2353 industrial users calculated in accordance with 35 Ill. Adm. Code 310.310.
2354

2355 4) A certification that the POTW has an approved local pretreatment program
2356 or qualifies for the exception to this requirement under 35 Ill. Adm. Code
2357 310.330.
2358

2359 5) A specific description of the POTW's current method of using or disposing
2360 of its sludge and a certification that the granting of removal credits will
2361 not cause a violation of the sludge requirements identified in 35 Ill. Adm.
2362 Code 310.303(d).
2363

2364 6) A certification that the granting of removal credits will not cause a
2365 violation of the POTW's NPDES permit limits and conditions as required
2366 in 35 Ill. Adm. Code 310.303(e).
2367

2368 BOARD NOTE: Derived from 40 CFR 403.7(e)(1) – through (e)(4) (2003).

2369
2370 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 310.341 Agency Review

The Agency must review the POTW's application for authorization to grant or modify removal credits in accordance with the procedures of 35 Ill. Adm. Code 310.541 through 310.547.

BOARD NOTE: Derived from 40 CFR 403.7(e)(5) (2003).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.350 Continuation of Authorization

- a) Inclusion in POTW permit. Once a POTW has received authorization to grant removal credits for a particular pollutant regulated in a categorical pretreatment standard it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in 35 Ill. Adm. Code 310.303(d) or its NPDES permit limitations and conditions as required by 35 Ill. Adm. Code 310.303(e). If a POTW elects at a later time to extend removal credits to a certain categorical pretreatment standard, industrial subcategory, or one or more industrial users that initially were not granted removal credits, it must notify the Agency.
- b) Compliance Monitoring. Once authority is granted, the removal credits must be included in the POTW's NPDES permit as soon as possible and must become an enforceable requirement of the POTW's NPDES permit. The removal credits will remain in effect for the term of the POTW's NPDES permit, provided the POTW maintains compliance with the conditions specified in 35 Ill. Adm. Code 310.351.
- c) Modification or withdrawal of removal credits. Following authorization to grant removal credits, a POTW must continue to monitor and report the POTW's removal capabilities at such intervals as are specified by the Agency in the pretreatment program and NPDES permit, but in no case less than once per year. The Agency must require a minimum of one representative sample per month during the reporting period. The POTW must include all sampling data in the POTW's compliance report.

BOARD NOTE: Derived from 40 CFR 403.7(f)(1) through (f)(3) (2003).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.351 Modification or Withdrawal of Removal Credits

- a) Notice to POTW. The Agency must notify the POTW if, on the basis of pollutant

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- 2415 removal capability reports received pursuant to Section 310.350(c) or other
2416 information available to it, the Agency determines:
2417
2418 1) That one or more of the discharge limits revisions made by the POTW, or
2419 the POTW itself, no longer meets the requirements of this Subpart; or
2420
2421 2) That such discharge limit revisions are causing or significantly
2422 contributing to a violation of any conditions or limits contained in the
2423 POTW's NPDES permit. A revised discharge limit is significantly
2424 contributing to a violation of the POTW's permit if it satisfies the
2425 definition of pass through or interference as defined in 35 Ill. Adm. Code
2426 310.110.
2427
- 2428 b) Corrective action. If appropriate corrective action is not taken within a reasonable
2429 time, not to exceed 60 days unless the POTW or an affected industrial user
2430 demonstrates that a longer time period is reasonably necessary to undertake the
2431 appropriate corrective action, the Agency must either withdraw such discharge
2432 limits or require modifications in the revised discharge limits.
2433
- 2434 c) Public notice of withdrawal or modification. The Agency must not withdraw,
2435 modify, or revise discharge limits unless it first notifies the POTW and all
2436 industrial users to whom revised discharge limits have been applied, and made
2437 public in writing the reasons for such withdrawal or modification and provided an
2438 opportunity for public hearing. Following such notice and withdrawal or
2439 modification, all industrial users to whom revised discharge limits had been
2440 applied must be subject to the modified discharge limits or the discharge limits
2441 prescribed in the applicable categorical pretreatment standards as appropriate and
2442 must achieve compliance with such limits within a reasonable time, not to exceed
2443 the period of time prescribed in the applicable categorical pretreatment standard.
2444

2445 BOARD NOTE: Derived from 40 CFR 403.7(f)(4) (2003), as modified to reflect NRDC
2446 v. USEPA, 790 F.2d 289 (3d Cir. 1986).

2447
2448 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2449

SUBPART D: PRETREATMENT PERMITS

Section 310.400 Preamble

- 2451
2452
2453
- 2454 a) Subpart D contains rules for the issuance of pretreatment permits by the Agency
2455 when the Agency is acting as the Control Authority. Subpart D does not apply if
2456 the POTW is the Control Authority.
2457
- 2458 b) Industrial users with pretreatment permits are not required to have operating

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2459 permits under Subpart B of 35 Ill. Adm. Code 309. However, sources may be
2460 required to have construction permits under Subpart B of 35 Ill. Adm. Code 309.

2461
2462 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2463

2464 **Section 310.401 Pretreatment Permits**

2465
2466 a) No industrial user shall, without a pretreatment permit, discharge to a POTW,
2467 unless the discharge is to a POTW with a pretreatment program approved under
2468 Subpart E.

2469
2470 b) An industrial user that does not have a pretreatment permit must apply for a
2471 pretreatment permit within 30 days after the Agency notifies the user that the user
2472 meets any of the following criteria:

2473
2474 1) The user has caused pass through or interference.

2475
2476 2) The user's discharge presents an imminent endangerment to the health or
2477 welfare of persons.

2478
2479 c) No person may cause or allow any discharge for which a pretreatment permit has
2480 been issued unless the discharge is in compliance with the conditions of the
2481 pretreatment permit.

2482
2483 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2484

2485 **Section 310.402 Time to Apply**

2486
2487 a) Any person required to have a pretreatment permit must file an application with
2488 the Agency at least 90 days before the date on which the permit is required.

2489
2490 b) Any permittee who wishes to continue to discharge after the expiration date of a
2491 pretreatment permit must apply for reissuance of the permit at least 90 days
2492 before the expiration date of the permit.

2493
2494 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2495

2496 **Section 310.403 Imminent Endangerment**

2497
2498 Under Section 34 of the Act [415 ILCS 5/34] the Agency must declare an emergency and seal
2499 any wastewater source or discharge if it determines that the discharge presents an imminent
2500 endangerment to the health or welfare of persons.

2501
2502 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 310.410 Application

- a) Applications for pretreatment permits must include the following information:
 - 1) The location of the wastewater source and discharge;
 - 2) The location of the sewer to which the industrial user will discharge;
 - 3) The POTW and treatment works that will receive the discharge;
 - 4) The volume discharged;
 - 5) A description of the wastewater before any pretreatment and before discharge, including a statement as to the presence or absence of all contaminants for which pretreatment requirements have been established in 35 Ill. Adm. Code 307;
 - 6) Any projected changes in the volume or description of the wastewater that the industrial user desires to have included in the terms of the permit;
 - 7) A certification of capacity to transport and treat the wastewater as specified in 35 Ill. Adm. Code 310.411; and
 - 8) Such additional information as the Agency determines is necessary to determine whether the industrial user will meet the requirements of this Part and 35 Ill. Adm. Code 307.
- b) The Agency must promulgate application forms for pretreatment permits.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.413 Site Visit

If the Agency determines that a site visit is necessary for the Agency to evaluate the application, it must notify the applicant within 30 days after receiving the application and arrange to visit the site. Failure to allow a site visit renders the application incomplete.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.415 Time Limits

- a) If a permittee files a timely application for renewal of an existing pretreatment permit, the existing permit must continue until the Agency takes final action on

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2547 the new application.

2548

2549 b) If the Agency fails to take action on an application for a new permit within 90
2550 days after it receives the application, the applicant may deem the permit issued for
2551 a period of one year from the end of the 90 day period. This excuses the applicant
2552 only from the requirement to obtain a permit.

2553

2554 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2555

2556 **Section 310.420 Standard for Issuance**

2557

2558 The Agency must issue a pretreatment permit to the industrial user in either of the following
2559 circumstances:

2560

2561 a) If the industrial user demonstrates that the discharge will meet the requirements
2562 and standards of this Part and 35 Ill. Adm. Code 307; or

2563

2564 b) If the Agency imposes in the pretreatment permit conditions sufficient to assure
2565 future compliance with the requirements and standards of this Part and 35 Ill.
2566 Adm. Code 307, including a schedule of compliance under 35 Ill. Adm. Code
2567 310.432.

2568

2569 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2570

2571 **Section 310.430 Conditions**

2572

2573 The Agency must impose the following conditions in each permit:

2574

2575 a) Discharge limitations based on 35 Ill. Adm. Code 307.

2576

2577 b) More stringent discharge limitations based the ability of the POTW to treat the
2578 discharge without interference or pass through.

2579

2580 c) Requirements that the industrial user collect and analyze samples of the discharge.

2581

2582 d) Requirements that the industrial user report the results of sample analysis to the
2583 Agency.

2584

2585 e) Requirements that the industrial user allow authorized representatives of the
2586 Agency, at reasonable times, upon presentation of credentials, to inspect its
2587 premises and collect samples of the discharge.

2588

2589 f) An expiration date, as specified in 35 Ill. Adm. Code 310.431.

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- 2591 g) If the applicant does not demonstrate compliance with this Part and 35 Ill. Adm.
2592 Code 307, a schedule of compliance as specified in 35 Ill. Adm. Code 310.432.
2593
2594 h) A requirement that the applicant file an application to modify the permit when
2595 notified under 35 Ill. Adm. Code 310.442.
2596
2597 i) Such additional conditions as the Agency determines are necessary to assure that
2598 the discharge complies with the requirements of this Part and 35 Ill. Adm. Code
2599 307.

2600
2601 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2602

2603 **Section 310.431 Duration of Permits**

2604
2605 No pretreatment permit may have a duration longer than five years. In establishing earlier
2606 expiration dates, the Agency must consider the following:

- 2607
2608 a) Coordination with future compliance deadlines;
2609
2610 b) Maintenance of intensive control over new or experimental processes; and
2611
2612 c) Whether the permit addresses an emergency situation.

2613
2614 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2615

2616 **Section 310.432 Schedules of Compliance**

2617
2618 a) The Agency must establish a schedule of compliance in any pretreatment permit
2619 unless the industrial user demonstrates compliance with this Part and 35 Ill. Adm.
2620 Code 307.

2621
2622 b) Schedules of compliance must require the permittee to take specific steps to
2623 achieve compliance within the shortest practicable period of time, and must be
2624 consistent with requirements in the Clean Water Act and 40 CFR 403,
2625 incorporated by reference in 35 Ill. Adm. Code 310.107.

2626
2627 c) The schedule of compliance must contain the following:

2628
2629 1) Increments of progress in the form of dates to commence and complete
2630 major events leading to the construction and operation of additional
2631 pretreatment required to meet the standards of 35 Ill. Adm. Code 307. No
2632 increment of progress may exceed nine months.

2633
2634 2) A requirement that the industrial user submit progress reports no later than

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- 2635 14 days following each date in the schedule, including the final date for
2636 compliance. The progress report must include, at a minimum, the
2637 following:
2638
- 2639 A) Whether or not the industrial user met the date specified in the
2640 schedule of compliance; and
 - 2641
 - 2642 B) If the industrial user did not meet the dates, the date on which the
2643 user expects to accomplish this increment of progress, the reason
2644 for the delay and steps being taken to return construction to the
2645 schedule of compliance.
 - 2646
 - 2647 3) A requirement that in no event do more than nine months elapse between
2648 progress reports.
 - 2649
 - 2650 4) A statement that the schedule of compliance does not protect the industrial
2651 user from enforcement.
 - 2652
 - 2653 d) The schedule of compliance does not protect the industrial user from enforcement.
2654 It is not necessary to show a violation of a pretreatment standard or requirement to
2655 enforce interim and final compliance dates.
 - 2656

2657 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2658

Section 310.443 Revocation

2659 The Board may revoke a pretreatment permit under Section 33 of the Act [415 ILCS 5/33] and
2660 35 Ill. Adm. Code 103. Causes for revocation of a permit include:

- 2661 a) Violating permit conditions, including schedules of compliance, monitoring, and
2662 inspection;
- 2663
- 2664 b) Obtaining a permit by misrepresentation or failure to disclose fully all relevant
2665 facts; or
- 2666
- 2667 c) A change in circumstances that mandates either a temporary or permanent
2668 reduction or elimination of the discharge.
- 2669

2670 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2671

SUBPART E: POTW PRETREATMENT PROGRAMS

Section 310.501 Pretreatment Programs Required

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- 2679 a) The Agency must require any POTW (or combination of POTWs operated by the
2680 same authority) with a total design flow greater than five million gallons per day
2681 (mgd) that receives discharges that fulfill either of the following conditions to
2682 establish a pretreatment program:
2683
- 2684 1) The POTW receives discharges from industrial users that pass through or
2685 interfere with the operation of the POTW; or
2686
 - 2687 2) The POTW receives discharges from industrial users that are otherwise
2688 subject to categorical standards in 35 Ill. Adm. Code 307.
2689
- 2690 b) The Agency must require that a POTW with a design flow of five mgd or less
2691 develop a POTW pretreatment program if the Agency finds that the nature or
2692 volume of the industrial influent, treatment process upsets, violations of POTW
2693 effluent limitations, contamination of municipal sludge, or other circumstances
2694 require a pretreatment program in order to prevent interference or pass through.
2695
- 2696 c) Subsections (a) and (b) notwithstanding, the Agency may, in its discretion, waive
2697 the requirement that any POTW develop a pretreatment program.
2698
- 2699 1) Waivers must be in writing.
2700
 - 2701 2) The Agency may, in its discretion, rescind any waiver by giving written
2702 notice to the POTW, giving sufficient time for the POTW to develop the
2703 program.
2704

2705 BOARD NOTE: Derived from 40 CFR 403.8(a) (2003).

2706 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2707
2708

Section 310.502 Deadline for Program Approval

2709 A POTW that meets the criteria of 35 Ill. Adm. Code 310.501 must receive approval of a POTW
2710 pretreatment program no later than one year after the issuance, reissuance, or renewal of the
2711 POTW's NPDES permit to require development of a pretreatment program. The POTW
2712 pretreatment program must meet the criteria set forth in 35 Ill. Adm. Code 310.510 and must be
2713 administered by the POTW to ensure compliance by industrial users with applicable pretreatment
2714 standards and requirements.
2715
2716

2717 BOARD NOTE: Derived from 40 CFR 403.8(b) (2003).

2718 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2719
2720

Section 310.503 Incorporation of Approved Programs in Permits

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2723
2724 A POTW may develop an appropriate POTW pretreatment program any time before the time
2725 limit set forth in 35 Ill. Adm. Code 310.502. The approved POTW pretreatment program must
2726 be incorporated into the POTW's NPDES permit. The modification of a POTW's NPDES permit
2727 for the purposes of incorporating a POTW pretreatment program approved in accordance with
2728 the procedure in 35 Ill. Adm. Code 310.541 through 310.547 must be deemed a minor permit
2729 modification subject to 35 Ill. Adm. Code 310.442.

2730
2731 BOARD NOTE: Derived from 40 CFR 403.8(c) (2003).

2732
2733 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2734 2735 **Section 310.504 Incorporation of Compliance Schedules in Permits**

2736
2737 If the POTW does not have an approved pretreatment program at the time the POTW's existing
2738 NPDES permit is reissued or modified, the reissued or modified permit must contain the shortest
2739 reasonable compliance schedule, not to exceed one year, for the approval of the legal authority,
2740 procedures, and funding required by 35 Ill. Adm. Code 310.510. The schedule of compliance
2741 does not protect the POTW from enforcement.

2742
2743 BOARD NOTE: Derived from 40 CFR 403.8(d) (2003).

2744
2745 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2746 2747 **Section 310.505 Reissuance or Modification of Permits**

2748
2749 The Agency must modify or, alternatively, reissue a POTW's NPDES permit in order to
2750 accomplish any of the following:

- 2751
- 2752 a) Put the POTW on a compliance schedule for the development of a POTW
2753 pretreatment program where the addition of pollutants into a POTW by an
2754 industrial user or combination of industrial users presents a substantial hazard to
2755 the functioning of the treatment works, quality of the receiving waters, human
2756 health, or the environment;
 - 2757
 - 2758 b) Incorporate an approve POTW pretreatment program in the POTW permit;
 - 2759
 - 2760 c) Incorporate a compliance schedule for the development of a POTW pretreatment
2761 program in the POTW permit; or
 - 2762
 - 2763 d) Incorporate the removal credits established under Subpart C in the POTW permit.

2764
2765 BOARD NOTE: Derived from 40 CFR 403.8(e) (2003).

2766

2767 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2768

2769 **Section 310.510 Pretreatment Program Requirements**
2770

2771 A POTW pretreatment program must be based on the following legal authority and include the
2772 following procedures, and these authorities and procedures must at all times be fully and
2773 effectively exercised and implemented:
2774

2775 a) Legal authority. The POTW must operate pursuant to legal authority enforceable
2776 in federal, State, or local courts, which authorizes or enables the POTW to apply
2777 and to enforce the requirements of this Part and 35 Ill. Adm. Code 307. Such
2778 authority may be contained in a statute, ordinance, or series of joint powers
2779 agreements that the POTW is authorized to enact, enter into or implement, and
2780 which are authorized by State law. At a minimum, this legal authority must enable
2781 the POTW to:

2782
2783 1) Deny or condition new or increased contributions of pollutants, or changes
2784 in the nature of pollutants, to the POTW by industrial users where such
2785 contributions do not meet applicable pretreatment standards and
2786 requirements or where such contributions would cause the POTW to
2787 violate its NPDES permit;

2788
2789 2) Require compliance with applicable pretreatment standards and
2790 requirements by industrial users;

2791
2792 3) Control, through ordinance, permit, order, or similar means, the
2793 contribution to the POTW by each industrial user to ensure compliance
2794 with applicable pretreatment standards and requirements, and in the case
2795 of each significant industrial users, as defined at 35 Ill. Adm. Code
2796 310.110, this control must be achieved through individual permits or
2797 equivalent individual control mechanisms issued to each such user except
2798 as follows:
2799

2800 A) At the discretion of the POTW, this control may include use of
2801 general control mechanisms if the conditions of subsection (g) are
2802 met.
2803

2804 BOARD NOTE: Subsection (g) is derived from 40 CFR
2805 403.8(f)(1)(iii)(A)(1)(i) through (f)(1)(iii)(A)(2), as added at 70
2806 Fed. Reg. 60134 (Oct. 14, 2005), which would normally appear at
2807 this subsection (a)(3)(A), but which the Board moved to subsection
2808 (g) to comply with Illinois Administrative Code codification
2809 requirements.
2810

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- 2811 B) All individual control mechanisms and general control
2812 mechanisms must be enforceable and contain, at a minimum, the
2813 following conditions:
2814
- 2815 i) A statement of duration (in no case more than five years);
2816
 - 2817 ii) A statement of non-transferability without, at a minimum,
2818 prior notification to the POTW and provision of a copy of
2819 the existing control mechanism to the new owner or
2820 operator;
2821
 - 2822 iii) Effluent limits, including best management practices, based
2823 on applicable general pretreatment standards in this Part
2824 and 35 Ill. Adm. Code 307, categorical pretreatment
2825 standards, local limits, and local law;
2826
 - 2827 iv) Self-monitoring, sampling, reporting, notification, and
2828 recordkeeping requirements, including an identification of
2829 the pollutants to be monitored, including the process for
2830 seeking a waiver for a pollutant neither present nor
2831 expected to be present in the discharge in accordance with
2832 35 Ill. Adm. Code 310.605(b), or a specific waived
2833 pollutant in the case of an individual control mechanism),
2834 sampling location, sampling frequency, and sample type,
2835 based on the applicable general pretreatment standards of
2836 this Part and 35 Ill. Adm. Code 307, categorical
2837 pretreatment standards, local limits, and local law;
2838
 - 2839 v) A statement of applicable civil and criminal penalties for
2840 violation of pretreatment standards and requirements, and
2841 any applicable compliance schedule; however, such
2842 schedules may not extend the compliance date beyond
2843 applicable federal deadlines; and
2844
 - 2845 vi) Requirements to control slug discharges, if such are
2846 determined by the POTW to be necessary;
2847
- 2848 4) Require the following:
2849
- 2850 A) The development of a compliance schedule by each industrial user
2851 for the installation of technology required to meet applicable
2852 pretreatment standards and requirements; and
2853
 - 2854 B) The submission of all notices and self-monitoring reports from

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- 2855 industrial users as are necessary to assess and assure compliance
2856 by industrial users with pretreatment standards and requirements,
2857 including, but not limited, to the reports required in Subpart F;
2858
- 2859 5) Carry out all inspection, surveillance, and monitoring procedures
2860 necessary to determine, independent of information supplied by industrial
2861 users, compliance or noncompliance with applicable pretreatment
2862 standards and requirements by industrial users. Representatives of the
2863 POTW must be authorized to enter any premises of any industrial user in
2864 which a discharge source or treatment system is located or in which
2865 records are required to be kept under 35 Ill. Adm. Code 310.634 to assure
2866 compliance with pretreatment standards. Such authority must be at least
2867 as extensive as the authority provided under section 308 of the federal
2868 CWA (33 USC 1318), incorporated by reference in 35 Ill. Adm. Code
2869 310.107(c);
2870
- 2871 6) Obtain remedies for noncompliance by any industrial user with any
2872 pretreatment standard or requirement.
2873
- 2874 A) All POTWs must be able to seek injunctive relief for
2875 noncompliance by industrial users with pretreatment standards or
2876 requirements. All POTWs must also have authority to seek or
2877 assess civil or criminal penalties in at least the amount of \$1,000 a
2878 day for each violation by industrial users of pretreatment standards
2879 and requirements.
2880
- 2881 B) Pretreatment requirements that will be enforced through the
2882 remedies set forth in subsection (a)(6)(A) will include but not be
2883 limited to: the duty to allow or carry out inspections, entry, or
2884 monitoring activities; any rules, regulations, or orders issued by the
2885 POTW; any requirements set forth in control mechanisms issued
2886 by the POTW; or any reporting requirements imposed by the
2887 POTW, this Part or 35 Ill. Adm. Code 307. The POTW must have
2888 authority and procedures (after notice to the industrial user)
2889 immediately and effectively to halt or prevent any discharge of
2890 pollutants to the POTW that reasonably appears to present an
2891 imminent endangerment to the health or welfare of persons. The
2892 POTW must also have authority and procedures (which must
2893 include notice to the affected industrial users and an opportunity to
2894 respond) to halt or prevent any discharge to the POTW that
2895 presents or may present an endangerment to the environment or
2896 which threatens to interfere with the operation of the POTW. The
2897 Agency must have authority to seek judicial relief when the POTW
2898 has sought a monetary penalty that the Agency finds to be

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- 2943 waived pollutants at least once during the term of the categorical
2944 industrial user's control mechanism. In the event that the POTW
2945 subsequently determines that a waived pollutant is present or is
2946 expected to be present in the industrial user's wastewater based on
2947 changes that occur in the industrial user's operations, the POTW
2948 must immediately begin at least annual effluent monitoring of the
2949 industrial user's discharge and inspection.
2950
- 2951 B) Where the POTW has determined that an industrial user meets the
2952 criteria for classification as a non-significant categorical industrial
2953 user, the POTW must evaluate at least once per year whether an
2954 industrial user continues to meet the definition of significant
2955 industrial user in 35 Ill. Adm. Code 310.110.
2956
- 2957 C) In the case of industrial users subject to reduced reporting
2958 requirements under 35 Ill. Adm. Code 310.605(c), the POTW must
2959 randomly sample and analyze the effluent from the industrial user
2960 and conduct inspections at least once every two years. If the
2961 industrial user no longer meets the conditions for reduced reporting
2962 in 35 Ill. Adm. Code 310.605(c), the POTW must immediately
2963 begin sampling and inspecting the industrial user at least once a
2964 year.
2965
- 2966 6) Evaluate whether each such significant industrial user needs a plan or
2967 other action to control slug discharges. For industrial users identified as
2968 significant prior to November 14, 2005, this evaluation must have been
2969 conducted at least once by October 14, 2006; an additional significant
2970 industrial user must be evaluated within one year after being designated a
2971 significant industrial user. For purposes of this subsection (b)(6), a slug
2972 discharge is any discharge of a non-routine, episodic nature, including, but
2973 not limited to, an accidental spill or a non-customary batch discharge,
2974 which has a reasonable potential to cause interference or pass through, or
2975 in any other way violate the POTW's regulations, local limits or permit
2976 conditions. The results of such activities shall be available to the
2977 Approval Authority upon request. Significant industrial users are required
2978 to notify the POTW immediately of any changes at its facility affecting
2979 potential for a slug discharge. If the POTW decides that a slug control
2980 plan is needed, the plan shall contain, at a minimum, the following
2981 elements:
2982
- 2983 A) Description of discharge practices, including non-routine batch
2984 discharges;
2985
- 2986 B) Description of stored chemicals;

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- C) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 35 Ill. Adm. Code 310.202 with procedures for follow-up written notification within five days;

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

- 7) Investigate instances of noncompliance with pretreatment standards and requirements, as indicated in the reports and notices required under Subpart D or as indicated by analysis, inspection, and surveillance activities described in subsection (b)(5). Sample taking and analysis, and the collection of other information, must be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

- 8) Comply with the public participation requirements of 40 CFR 25, incorporated by reference in 35 Ill. Adm. Code 310.107, in the enforcement of pretreatment standards. These procedures must include provision for providing, at least annually, public notification, in a newspaper of general circulation in the jurisdictions served by the POTW of industrial users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a significant industrial user (or any industrial user that violates subsection (b)(8)(C), (b)(8)(D), or (b)(8)(H) is in significant noncompliance if its violation meets one or more of the following criteria:
 - A) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as such are defined in 35 Ill. Adm. Code 310.110;

 - B) "Technical review criteria" (TRC) violations, which mean those violations in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a six-month period

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- 3031 equal or exceed the product of the numeric pretreatment standard
3032 or requirement, including instantaneous limits, as such are defined
3033 in 35 Ill. Adm. Code 310.110, multiplied by the applicable TRC
3034 (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all
3035 other pollutants, except pH);
3036
- 3037 C) Any other violation of a pretreatment standard or requirement, as
3038 such are defined in 35 Ill. Adm. Code 310.110, (daily maximum,
3039 long-term average, instantaneous limit, or narrative standard) that
3040 the POTW determines has caused, alone or in combination with
3041 other discharges, interference, or pass through (including
3042 endangering the health of POTW personnel or the general public);
3043
- 3044 D) Any discharge of a pollutant that has caused imminent
3045 endangerment to human health, welfare, or the environment or has
3046 resulted in the POTW's exercise of its emergency authority under
3047 subsection (a)(6)(B) to halt or prevent such a discharge;
3048
- 3049 E) Failure to meet, within 90 days after the schedule date, a
3050 compliance schedule milestone contained in a local control
3051 mechanism or enforcement order for starting construction,
3052 completing construction, or attaining final compliance;
3053
- 3054 F) Failure to provide, within 45 days after the due date, required
3055 reports, such as baseline monitoring reports, 90-day compliance
3056 reports, periodic self-monitoring reports, and reports on
3057 compliance with compliance schedules;
3058
- 3059 G) Failure to accurately report noncompliance; or
3060
- 3061 H) Any other violation or group of violations, which may include a
3062 violation of best management practices, that the POTW determines
3063 will adversely affect the operation or implementation of the local
3064 pretreatment program.
3065
- 3066 c) The POTW must have sufficient resources and qualified personnel to carry the
3067 authorities and procedures described in subsections (a) and (b).
3068
- 3069 d) Local limits. The POTW must develop local limits as required in 35 Ill. Adm.
3070 Code 310.210 or demonstrate that they are not necessary.
3071
- 3072 e) The POTW must develop and implement an enforcement response plan. This
3073 plan must contain detailed procedures indicating how a POTW will investigate
3074 and respond to instances of industrial user noncompliance. The plan shall, at a

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- 3075 minimum, do the following:
3076
3077 1) Describe how the POTW will investigate instances of noncompliance;
3078
3079 2) Describe the types of escalating enforcement responses the POTW will
3080 take in response to all anticipated types of industrial user violations and
3081 the time periods within which responses will take place;
3082
3083 3) Identify (by title) the officials responsible for each type of response; and
3084
3085 4) Adequately reflect the POTW's primary responsibility to enforce all
3086 applicable pretreatment requirements and standards, as detailed in
3087 subsections (a) and (b).
3088
- 3089 f) The POTW must prepare and maintain a list of its industrial users meeting the
3090 criteria in the first paragraph of the definition of "significant industrial user" at 35
3091 Ill. Adm. Code 310.110. The list must identify the criteria in the first paragraph
3092 of the definition of "significant industrial user" at 35 Ill. Adm. Code 310.110
3093 applicable to each industrial user and, where applicable, must also indicate
3094 whether the POTW has made a determination pursuant to the second paragraph of
3095 that definition that such industrial user should not be considered a significant
3096 industrial user. The initial list must be submitted to the Approval Authority
3097 pursuant to 35 Ill. Adm. Code 310.521 through 310.533 as a non-substantial
3098 program modification pursuant to 35 Ill. Adm. Code 310.923. Any modification
3099 to the list must be submitted to the Approval Authority pursuant to 35 Ill. Adm.
3100 Code 310.612(a).
3101
- 3102 g) Alternative use of general control mechanisms.
3103
- 3104 1) A POTW may use a single general control mechanism that applies to
3105 several facilities in place of several individual control mechanisms
3106 applicable to individual facilities. To use a general control mechanism,
3107 the following must be true of all of the facilities to be covered by the
3108 general control mechanism:
3109
- 3110 A) The covered facilities must all involve the same or substantially
3111 similar types of operations;
3112
- 3113 B) The covered facilities must all discharge the same types of wastes;
3114
- 3115 C) The covered facilities must all require the same effluent
3116 limitations;
3117

- 3118 D) The covered facilities must all require the same or similar
- 3119 monitoring; and
- 3120
- 3121 E) In the opinion of the POTW, the covered facilities are more
- 3122 appropriately controlled under a general control mechanism than
- 3123 under individual control mechanisms.
- 3124
- 3125 2) To be covered by the general control mechanism, the significant industrial
- 3126 user must file a written request for coverage that identifies its contact
- 3127 information, production processes, the types of wastes generated, the
- 3128 location for monitoring all wastes covered by the general control
- 3129 mechanism, any requests in accordance with 35 Ill. Adm. Code 310.605(b)
- 3130 for a monitoring waiver for a pollutant neither present nor expected to be
- 3131 present in the discharge, and any other information the POTW deems
- 3132 appropriate. A monitoring waiver for a pollutant neither present nor
- 3133 expected to be present in the discharge is not effective in the general
- 3134 control mechanism until after the POTW has provided written notice to
- 3135 the significant industrial user that such a waiver request has been granted
- 3136 in accordance with 35 Ill. Adm. Code 310.605(b). The POTW must retain
- 3137 a copy of the general control mechanism, documentation to support the
- 3138 POTW's determination that a specific significant industrial user meets the
- 3139 criteria in subsections (a)(3)(i)(A) through (a)(3)(i)(E), and a copy of the
- 3140 significant industrial user's written request for coverage for three years
- 3141 after the expiration of the general control mechanism. A POTW may not
- 3142 control a significant industrial user through a general control mechanism
- 3143 where the facility is subject to production-based categorical pretreatment
- 3144 standards or categorical pretreatment standards expressed as mass of
- 3145 pollutant discharged per day or for a significant industrial user whose
- 3146 limits are based on the combined wastestream formula or net/gross
- 3147 calculations (35 Ill. Adm. Code 310.233 and 310.801).
- 3148

BOARD NOTE: Subsection (g) is derived from 40 CFR 403.8(f)(1)(iii)(A)(1)(i) through (f)(1)(iii)(A)(2), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005). The Board moved the text of these subsections, which would normally appear at subsection (a)(3)(A), to this subsection (g) to comply with Illinois Administrative Code codification requirements.

BOARD NOTE: Derived from 40 CFR 403.8(f) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.511 Receiving Electronic Documents

3161

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3162 A POTW that chooses to receive electronic documents must satisfy the requirements of 35 Ill.
3163 Adm. Code 310.106.

3164
3165 BOARD NOTE: Derived from 40 CFR 403.8(g), as added at 70 Fed. Reg. 59848 (Oct. 13,
3166 2005).

3167
3168 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3169

3170 **Section 310.521 Program Approval**

3171
3172 A POTW requesting approval of a POTW pretreatment program must develop a program
3173 description that includes the information set forth in 35 Ill. Adm. Code 310.522(a) through (d).
3174 This description must be submitted to the Agency, which will make a determination on the
3175 request for program approval in accordance with the procedures described in 35 Ill. Adm. Code
3176 310.540 through 310.546.

3177
3178 BOARD NOTE: Derived from 40 CFR 403.9(a) (2003).

3179
3180 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3181

3182 **Section 310.522 Contents of Program Submission**

3183
3184 The program description must contain the following information:
3185

3186 a) A statement from the attorney or other official acting in a comparable capacity for
3187 the unit of local government that the POTW has authority adequate to carry out
3188 the programs described in 35 Ill. Adm. Code 310.501 through 310.510. This
3189 statement must do the following:

3190
3191 1) Identify the provision of the legal authority under 35 Ill. Adm. Code
3192 310.510(a) that provides the basis for each procedure under 35 Ill. Adm.
3193 Code 310.510(b);
3194

3195 2) Identify the manner in which the POTW will implement the program
3196 requirements set forth in 35 Ill. Adm. Code 310.501 through 310.510,
3197 including the means by which pretreatment standards will be applied to
3198 individual industrial users (e.g., by order, permit, ordinance, etc.); and
3199

3200 3) Identify how the POTW intends to ensure compliance with pretreatment
3201 standards and requirements, and to enforce them in the event of
3202 noncompliance by industrial users;
3203

3204 b) A copy of any statutes, ordinances, regulations, agreements, or other authorities
3205 relied upon by the POTW for its administration of the program. This submission

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3206 must include a statement reflecting the endorsement or approval of the local
3207 boards or bodies responsible for supervising or funding the POTW pretreatment
3208 program if approved;

3209
3210 c) A brief description (including organization charts) of the POTW organization that
3211 will administer the pretreatment program. If more than one agency is responsible
3212 for administration of the program the responsible agencies should be identified,
3213 their respective responsibilities delineated, and their procedures for coordination
3214 set forth; and

3215
3216 d) A description of the funding levels and full- and part-time manpower available to
3217 implement the program.

3218
3219 BOARD NOTE: Derived from 40 CFR 403.9(b) (2003).

3220
3221 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3222 **Section 310.524 Content of Removal Allowance Submission**

3224
3225 The request for authority to revise categorical pretreatment standards must contain the
3226 information required in 35 Ill. Adm. Code 310.340.

3227
3228 BOARD NOTE: Derived from 40 CFR 403.9(d) (2003).

3229
3230 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3231 **Section 310.531 Agency Action**

3232
3233 Any POTW requesting POTW pretreatment program approval must submit to the Agency three
3234 copies of the submission described in 35 Ill. Adm. Code 310.522, and, if appropriate, 35 Ill.
3235 Adm. Code 310.524. Within 60 days after receiving the submission, the Agency must make a
3236 preliminary determination of whether the submission meets the requirements of 35 Ill. Adm.
3237 Code 310.522 and, if appropriate, 35 Ill. Adm. Code 310.524. If the Agency makes the
3238 preliminary determination that the submission meets these requirements, the Agency shall do the
3239 following:
3240

3241 a) Notify the POTW that the submission has been received and is under review; and

3242
3243 b) Commence the public notice and evaluation activities set forth in 35 Ill. Adm.
3244 Code 310.540 through 310.546.

3245
3246
3247 BOARD NOTE: Derived from 40 CFR 403.9(e) (2003).

3248
3249 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3250

3251 **Section 310.532 Defective Submission**

3252

3253 If, after review of the submission as provided for in 35 Ill. Adm. Code 310.531, the Agency
3254 determines that the submission does not comply with the requirements of 35 Ill. Adm. Code
3255 310.522, or, if appropriate, 35 Ill. Adm. Code 310.524, the Agency must provide notice in
3256 writing to the applying POTW and each person who has requested individual notice. This
3257 notification must identify any defects in the submission and advise the POTW, and each person
3258 who has requested individual notice, of the means by which the POTW can comply with the
3259 applicable requirements of 35 Ill. Adm. Code 310.522 and, if appropriate, 35 Ill. Adm. Code
3260 310.524.

3261

3262 BOARD NOTE: Derived from 40 CFR 403.9(f) (2003).

3263

3264 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3265

3266 **Section 310.541 Deadline for Review**

3267

3268 The Agency has 90 days from the date of public notice of any submission complying with the
3269 requirements of 35 Ill. Adm. Code 310.522, and, where removal credit authorization is sought,
3270 with 35 Ill. Adm. Code 310.340 and 310.524, to review the submission. The Agency must
3271 review the submission to determine compliance with the requirements of 35 Ill. Adm. Code
3272 310.502 and 310.510, and, where removal credit authorization is sought, with Subpart C. The
3273 Agency may have up to an additional 90 days to complete the evaluation of the submission if the
3274 public comment period provided for in 35 Ill. Adm. Code 310.542(a)(2) is extended beyond 30
3275 days or if a public hearing is held as provided for in 35 Ill. Adm. Code 310.542(b). In no event,
3276 however, must the time for evaluation of the submission exceed a total of 180 days from the date
3277 of public notice of a submission meeting the requirements of 35 Ill. Adm. Code 310.522 and, in
3278 the case of a removal credit application, 35 Ill. Adm. Code 310.522 and 310.524.

3279

3280 BOARD NOTE: Derived from 40 CFR 403.11(a) (2003).

3281

3282 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3283

3284 **Section 310.542 Public Notice and Hearing**

3285

3286 Upon receipt of a submission the Agency must commence its review. Within 20 work days after
3287 making a determination that a submission meets the requirements of 35 Ill. Adm. Code 310.522,
3288 and, where removal allowance approval is sought, 35 Ill. Adm. Code 310.340 and 310.524, the
3289 Agency must perform the following actions:

3290

3291 a) Issue a public notice of request for approval of the submission.

3292

3293 1) This public notice must be circulated in a manner designed to inform

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- 3294 interested and potentially interested persons of the submission.
3295 Procedures for the circulation of public notice must include the following
3296 actions:
3297
3298 A) Mailing notices of the request for approval of the submission to the
3299 following entities:
3300
3301 i) Federal agencies as designated by USEPA;
3302
3303 ii) Regional planning agencies that participate in development
3304 of water quality management plans (unless such agencies
3305 have specifically requested not to receive such notices); and
3306
3307 iii) Any other person or group who has requested individual
3308 notice, including those on appropriate mailing lists; and
3309
3310 B) Publication of a notice of request for approval of the submission in
3311 a newspaper or newspapers of general circulation within the
3312 jurisdiction or jurisdictions served by the POTW that would
3313 provide meaningful public notice.
3314
3315 2) The public notice must provide a period of not less than 30 days following
3316 the date of the public notice during which time interested persons may
3317 submit their written views on the submission.
3318
3319 3) All written comments submitted during the 30-day comment period must
3320 be retained by the Agency and considered in the decision on whether or
3321 not to approve the submission. The period for comment may be extended
3322 at the discretion of the Agency.
3323
3324 b) Provide an opportunity for the applicant, any affected state, any interested State or
3325 federal agency, person, or group of persons to request a public hearing with
3326 respect to the submission.
3327
3328 1) This request for public hearing must be filed within the 30 day (or
3329 extended) comment period described in subsection (a)(2) and must
3330 indicate the interest of the person filing such request and the reasons why
3331 a hearing is warranted.
3332
3333 2) The Agency must hold a hearing if the POTW so requests. In addition, a
3334 hearing will be held if there is a significant public interest in issues
3335 relating to whether or not the submission should be approved. Instances
3336 of doubt should be resolved in favor of holding the hearing.
3337

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- 3338 3) Public notice of a hearing to consider a submission and sufficient to
3339 inform interested parties of the nature of the hearing and the right to
3340 participate must be published in the same newspaper as the notice of the
3341 original request for approval of the submission under subsection (a)(1)(B).
3342 In addition, notice of the hearing must be sent to those persons requesting
3343 individual notice.

3344

3345 BOARD NOTE: Derived from 40 CFR 403.11(b) (2003).

3346

3347 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3348

3349 **Section 310.543 Agency Decision**

3350

3351 At the end of the 30-day (or extended) comment period and within the 90-day (or extended)
3352 period provided for in 35 Ill. Adm. Code 310.541, the Agency must approve or deny the
3353 submission based upon the evaluation in 35 Ill. Adm. Code 310.541 and taking into
3354 consideration comments submitted during the comment period and the record of the public
3355 hearing, if held. Where the Agency makes a determination to deny the request, the Agency must
3356 so notify the POTW and each person who has requested individual notice. This notification must
3357 include suggested modifications and the Agency may allow the requestor additional time to bring
3358 the submission into compliance with applicable requirements.

3359

3360 BOARD NOTE: Derived from 40 CFR 403.11(c) (2003).

3361

3362 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3363

3364 **Section 310.545 Notice of Decision**

3365

3366 The Agency must notify those persons who submitted comments and participated in the public
3367 hearings, if held, of the approval or disapproval of the submission. In addition, the Agency must
3368 cause to be published a notice of approval or disapproval in the same newspaper as the original
3369 notice of request for approval of the submission was published. The Agency must identify, in
3370 any notice of POTW pretreatment program approval, any authorization to modify categorical
3371 pretreatment standards that the POTW may make in accordance with Subpart C for removal of
3372 pollutants subject to pretreatment standards.

3373

3374 BOARD NOTE: Derived from 40 CFR 403.11(e) (2003).

3375

3376 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3377

3378

SUBPART F: REPORTING REQUIREMENTS

3379

3380 **Section 310.602 Baseline Report**

3381

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3382 Within the time limits specified in subsection (h), existing industrial users subject to such
3383 categorical pretreatment standards and currently discharging to or scheduled to discharge to a
3384 POTW must submit to the Control Authority a report that contains the information listed in
3385 subsections (a) through (g). New sources, and sources that become industrial users subsequent to
3386 the promulgation of an applicable categorical standard, must submit to the Control Authority a
3387 report that contains the information listed in subsections (a) through (e). Where reports
3388 containing this information already have been submitted to the USEPA in compliance with 40
3389 CFR 128.140(b) (1977), the industrial user must not be required to submit this information again.
3390 New sources must also include in the report information on the method of pretreatment the
3391 source intended to use to meet applicable pretreatment standards. New sources must give
3392 estimates of the information requested in subsections (d) and (e).

3393
3394 a) Identifying information. The industrial user must submit the name and address of
3395 the facility including the name of the operator and owners.

3396
3397 b) Permits. The industrial user must submit a list of any environmental control
3398 permits held by or for the facility.

3399
3400 c) Description of operations. The industrial user must submit a brief description of
3401 the nature, average rate of production, and standard industrial classification (SIC
3402 Code) of the operations carried out by such industrial user, as determined using
3403 the Standard Industrial Classification Manual, incorporated by reference in 35 Ill.
3404 Adm. Code 310.107(a). This description should include a schematic process
3405 diagram that indicates points of discharge to the POTW from the regulated
3406 processes.

3407
3408 d) Flow measurement. The industrial user must submit information that shows the
3409 measured average daily and maximum daily flow, in gallons per day, to the
3410 POTW from each of the following:

3411
3412 1) Regulated process streams; and

3413
3414 2) Other streams as necessary to allow use of the combined waste stream
3415 formula of 35 Ill. Adm. Code 310.233. (See subsection (e)(4).)

3416
3417 e) Measurement of pollutants.

3418
3419 1) The industrial user must identify the pretreatment standards applicable to
3420 each regulated process.

3421
3422 2) In addition, the industrial user must submit the results of sampling and
3423 analysis identifying the nature and concentration (or mass, where required
3424 by the standard or Control Authority) of regulated pollutants in the
3425 discharge from each regulated process. Both daily maximum and average

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- 3426 concentration (or mass, where required) must be reported. The sample
3427 must be representative of daily operations. In cases where the categorical
3428 standard requires compliance with a best management practice or
3429 pollution prevention alternative, the industrial user shall submit
3430 documentation as required by the Control Authority or the applicable
3431 categorical standards to determine compliance with the categorical
3432 standard.
3433
- 3434 3) The user must take a minimum of one representative sample to compile
3435 that data necessary to comply with the requirements of this subsection.
3436
- 3437 4) Samples must be taken immediately downstream from pretreatment
3438 facilities if such exist or immediately downstream from the regulated
3439 process if no pretreatment exists. If other wastewaters are mixed with the
3440 regulated wastewater prior to pretreatment the industrial user must
3441 measure the flows and concentrations necessary to allow use of the
3442 combined waste stream formula of 35 Ill. Adm. Code 310.233 in order to
3443 evaluate compliance with the pretreatment standards. Where an alternate
3444 concentration or mass limit has been calculated in accordance with 35 Ill.
3445 Adm. Code 310.233, this adjusted limit along with supporting data must
3446 be submitted to the Control Authority.
3447
- 3448 5) Analytical methods. Sampling and analysis must be performed in
3449 accordance with the techniques prescribed in 35 Ill. Adm. Code 307.1003.
3450 When 35 Ill. Adm. Code 307.1003 does not reference sampling or
3451 analytical techniques for the pollutant in question or where USEPA has
3452 determined that sampling and analysis techniques are inappropriate
3453 pursuant to 40 CFR 403.12(b), incorporated by reference in 35 Ill. Adm.
3454 Code 310.107(c), sampling and analysis must be performed by using
3455 validated analytical methods or any other applicable sampling and
3456 analytical procedures approved by the Agency, including procedures
3457 suggested by the POTW or other parties.
3458
- 3459 6) The Control Authority may allow the submission of a baseline report that
3460 utilizes only historical data so long as the data provides information
3461 sufficient to determine the need for industrial pretreatment measures.
3462
- 3463 7) The baseline report must indicate the time, date, and place of sampling,
3464 and methods of analysis, and must certify that such sampling and analysis
3465 is representative of normal work cycles and expected pollutant discharges
3466 to the POTW.
3467
- 3468 f) Certification. A statement, reviewed by an authorized representative of the
3469 industrial user (as defined in 35 Ill. Adm. Code 310.633) and certified to by a

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3470 qualified professional, indicating whether pretreatment standards are being met on
3471 a consistent basis, and, if not, whether additional operation and maintenance (O
3472 and M) or additional pretreatment is required for the industrial user to meet the
3473 pretreatment standards and requirements.
3474

3475 g) Compliance schedule. If additional pretreatment or O and M will be required to
3476 meet the pretreatment standards; the shortest schedule by which the industrial user
3477 will provide such additional pretreatment or O and M. The completion date in this
3478 schedule must not be later than the compliance date established for the applicable
3479 pretreatment standard.
3480

3481 1) Where the industrial user's categorical pretreatment standard has been
3482 modified by a removal allowance (Subpart C), by the combined waste
3483 stream formula (35 Ill. Adm. Code 310.233) or a fundamentally different
3484 factors determination (Subpart E) at the time the user submits the report
3485 required by this Section, the information required by subsections (f) and
3486 (g) must pertain to the modified limits.
3487

3488 2) If the categorical pretreatment standard is modified by a removal
3489 allowance (Subpart C), by the combined waste stream formula (35 Ill.
3490 Adm. Code 310.233) or a fundamentally different factors determination
3491 (Subpart E) after the user submits the report required by this Section, any
3492 necessary amendments to the information requested by subsections (f) and
3493 (g) must be submitted by the user to the Control Authority within 60 days
3494 after the modified limit is approved.
3495

3496 h) Deadlines for baseline reports.
3497

3498 1) For standards adopted by USEPA prior to authorization of the Illinois
3499 pretreatment program, baseline reports must be submitted pursuant to 40
3500 CFR 403.12(b).
3501

3502 2) For standards adopted by USEPA after authorization of the Illinois
3503 pretreatment program:
3504

3505 A) Baseline reports for existing sources are due within 180 days after
3506 the Board adopts or incorporates a categorical pretreatment
3507 standard or 180 days after the final administrative decision made
3508 upon a category determination submission under 35 Ill. Adm. Code
3509 310.221(d), whichever is later.
3510

3511 B) New sources and sources that become industrial users subsequent
3512 to the promulgation of an applicable categorical standard must
3513 submit the baseline report within 90 days before beginning

3514 discharge.

3515

3516 C) New sources already in existence and discharging on the date the
3517 Board adopts or incorporates a categorical pretreatment standard or
3518 180 days after the final administrative decision made upon a
3519 category determination submission under 35 Ill. Adm. Code
3520 310.221(d), as described for existing sources under subsection
3521 (h)(1)(A), are considered existing sources for the purposes of the
3522 due date provisions of this subsection.

3523

3524 BOARD NOTE: Derived from 40 CFR 403.12(b) (2012).

3525

3526 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3527

3528 **Section 310.603 Compliance Schedule**

3529

3530 The following conditions apply to the schedule required by 35 Ill. Adm. Code 310.602(g):

3531

3532 a) The schedule must contain increments of progress in the form of dates for the
3533 commencement and completion of major events leading to the construction and
3534 operation of additional pretreatment required for the industrial user to meet the
3535 applicable categorical pretreatment standards (e.g., hiring an engineer, completing
3536 preliminary plans, completing final plans, executing contract for major
3537 components, commencing construction, completing construction, etc.).

3538

3539 b) No increment referred to in subsection (a) must exceed nine months.

3540

3541 c) Not later than 14 days following each date in the schedule and the final date for
3542 compliance, the industrial user must submit a progress report to the Control
3543 Authority including, at a minimum, whether or not it complied with the increment
3544 of progress to be met on such date and, if not, the date on which it expects to
3545 comply with this increment of progress, the reasons for delay and the steps being
3546 taken by the industrial user to return the construction to the schedule established.
3547 In no event may more than nine months elapse between such progress reports to
3548 the Control Authority.

3549

3550 BOARD NOTE: Derived from 40 CFR 403.12(c) (2003).

3551

3552 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3553

3554 **Section 310.604 Report on Compliance with Deadline**

3555

3556 Within 90 days following the date for final compliance with applicable categorical pretreatment
3557 standards or, in the case of a new source following commencement of the introduction of

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3558 wastewater into the POTW, any industrial user subject to pretreatment standards and
3559 requirements must submit to the Control Authority a report containing the information described
3560 in 35 Ill. Adm. Code 310.602(d) through (f). For industrial users subject to equivalent mass or
3561 concentration limits established by the Control Authority in accordance with procedures in 35 Ill.
3562 Adm. Code 310.230, this report must contain a reasonable measure of the user's long-term
3563 production rate. For all other industrial users subject to categorical pretreatment standards
3564 expressed in terms of allowable pollutant discharge per unit of production (or other measure of
3565 operation), this report must include the user's actual production during the appropriate sampling
3566 period.

3567
3568 BOARD NOTE: Derived from 40 CFR 403.12(d) (2003).

3569
3570 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3571

3572 **Section 310.605 Periodic Reports on Compliance**

3573

3574 a) After the compliance date of a pretreatment standard, or, in the case of a new
3575 source, after commencement of the discharge into the POTW, any industrial user
3576 subject to a categorical pretreatment standard (except a non-significant categorical
3577 user, as defined in 35 Ill. Adm. Code 310.110) must submit to the Control
3578 Authority a report indicating the nature and concentration of pollutants in the
3579 effluent that are limited by the categorical pretreatment standards. The industrial
3580 user must submit the report during the months of June and December, unless the
3581 Control Authority or the pretreatment standard requires more frequent reporting.
3582 In addition, this report must include a record of measured or estimated average
3583 and maximum daily flows for the reporting period for the discharge reported in 35
3584 Ill. Adm. Code 310.602(d), except that the Control Authority may require more
3585 detailed reporting of flows. If the pretreatment standard requires compliance with
3586 a best management practice (or pollution prevention alternative), the industrial
3587 user must submit documentation required by the Control Authority or the
3588 pretreatment standard necessary to determine the compliance status of the
3589 industrial user. In consideration of those factors as local high or low flow rates,
3590 holidays, budget cycles, etc., the Control Authority may alter the months during
3591 which the reports required by this subsection (a) are to be submitted. For an
3592 industrial user for which USEPA or the Agency is the Control Authority, as of
3593 December 21, 2025 or a USEPA-approved alternative date (see 40 CFR 127.24(e)
3594 or (f)), all reports submitted in compliance with this Subpart F must be submitted
3595 electronically by the industrial user to the Control Authority or initial recipient, as
3596 defined in 35 Ill. Adm. Code 310.106(b)(2), in compliance with this Subpart F
3597 and 35 Ill. Adm. Code 310.106.

3598

3599 b) The Control Authority must authorize the industrial user subject to a categorical
3600 pretreatment standard to forego sampling of a pollutant regulated by a categorical
3601 pretreatment standard if it determines that the industrial user has demonstrated

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3602 through sampling and other technical factors that the pollutant is neither present
3603 nor expected to be present in the discharge or that the pollutant is present only at
3604 background levels from intake water and without any increase in the pollutant due
3605 to activities of the industrial user. This authorization is subject to the following
3606 conditions:

- 3607
- 3608 1) The Control Authority may authorize a waiver only if it determines that a
3609 pollutant is present solely due to sanitary wastewater discharged from the
3610 facility, provided that the sanitary wastewater is not regulated by an
3611 applicable categorical standard, and the sanitary wastewater otherwise
3612 includes no process wastewater;
 - 3613
 - 3614 2) The monitoring waiver is valid only for the duration of the effective period
3615 of the permit or other equivalent individual control mechanism, but in no
3616 case longer than five years. The industrial user must submit a new request
3617 for the waiver before the waiver can be granted for each subsequent
3618 control mechanism;
 - 3619
 - 3620 3) In making a demonstration that a pollutant is not present, the industrial
3621 user must provide data from at least one sampling of the facility's process
3622 wastewater prior to any treatment present at the facility that is
3623 representative of all wastewater from all processes. The request for a
3624 monitoring waiver must be signed in accordance with 35 Ill. Adm. Code
3625 310.631 and include the certification statement in 35 Ill. Adm. Code
3626 310.221(b)(2). Non-detectable sample results may only be used as a
3627 demonstration that a pollutant is not present only if the USEPA-approved
3628 method from 40 CFR 136, incorporated by reference in 35 Ill. Adm. Code
3629 310.107, with the lowest minimum detection level for that pollutant was
3630 used in the analysis;
 - 3631
 - 3632 4) Any grant of a monitoring waiver by the Control Authority must be
3633 included as a condition in the industrial user's control mechanism. The
3634 reasons supporting the waiver and any information submitted by the
3635 industrial user in its request for the waiver must be maintained by the
3636 Control Authority for three years after expiration of the waiver;
 - 3637
 - 3638 5) Upon approval of the monitoring waiver and revision of the industrial
3639 user's control mechanism by the Control Authority, the industrial user
3640 must certify on each report with the statement below, that there has been
3641 no increase in the pollutant in its wastestream due to activities of the
3642 industrial user:

3643
3644 Based on my inquiry of the person or persons directly responsible
3645 for managing compliance with the pretreatment standard for

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3646 Subpart [Subpart number of the applicable national pretreatment
3647 standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my
3648 knowledge and belief, there has been no increase in the level of
3649 [list pollutants] in the wastewaters due to the activities at the
3650 facility since filing of the last periodic report under 35 Ill. Adm.
3651 Code 310.605(a);

3652
3653 6) In the event that a waived pollutant is found to be present or is expected to
3654 be present based on changes that occur in the industrial user's operations,
3655 the industrial user must immediately comply with the monitoring
3656 requirements of subsection (a) or other more frequent monitoring
3657 requirements imposed by the Control Authority, and the industrial user
3658 must notify the Control Authority; and

3659
3660 7) This subsection (b) does not supersede certification processes and
3661 requirements established in categorical pretreatment standards, except as
3662 otherwise specified in the categorical pretreatment standard.

3663
3664 c) If the Control Authority has imposed mass limitations on industrial users as
3665 provided by 35 Ill. Adm. Code 310.232, the report required by subsection (a)
3666 must indicate the mass of pollutants regulated by pretreatment standards in the
3667 discharge from the industrial user.

3668
3669 d) For industrial users subject to equivalent mass or concentration limits established
3670 by the Control Authority in accordance with the procedures in 35 Ill. Adm. Code
3671 310.230, the report required by subsection (a) must contain a reasonable measure
3672 of the user's long-term production rate. For all other industrial users subject to
3673 categorical pretreatment standards expressed only in terms of allowable pollutant
3674 discharge per unit of production (or other measure of operation), the report
3675 required by subsection (a) must include the user's actual average production rate
3676 for the reporting period.

3677
3678 BOARD NOTE: Derived from 40 CFR 403.12(e).

3679
3680 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3681 3682 **Section 310.606 Notice of Potential Problems**

3683
3684 All categorical and non-categorical industrial users must notify the POTW immediately of all
3685 discharges that could cause problems to the POTW, including any slug loadings, as defined by
3686 35 Ill. Adm. Code 310.202 and 307.1101, by the industrial user.

3687
3688 BOARD NOTE: Derived from 40 CFR 403.12(f) (2003).

3689

3690 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3691

3692 **Section 310.610 Monitoring and Analysis**
3693

- 3694 a) Except in the case of a non-significant categorical user, the reports required in 35
3695 Ill. Adm. Code 310.602(e), 310.604, 310.605, and 310.611 must contain the
3696 results of sampling and analysis of the discharge, including the flow and the
3697 nature and concentration or production and mass where requested by the Control
3698 Authority of pollutants contained in the discharge that are limited by the
3699 applicable pretreatment standards. This sampling and analysis may be performed
3700 by the Control Authority instead of the industrial user. Where the POTW
3701 performs the required sampling and analysis instead of the industrial user, the user
3702 is not required to submit the compliance certification required under 35 Ill. Adm.
3703 Code 310.602(f) and 310.604. In addition, where the POTW itself collects all the
3704 information required for the report, including flow data, the industrial user is not
3705 required to submit the report.
3706
- 3707 b) If sampling performed by an industrial user indicates a violation, the user must
3708 notify the Control Authority with 24 hours after becoming aware of the violation.
3709 The user must also repeat the sampling and analysis and submit the results of the
3710 repeat analysis to the Control Authority within 30 days after becoming aware of
3711 the violation. Where the Control Authority has performed the sampling and
3712 analysis in lieu of the industrial user, the Control Authority must perform the
3713 repeat sampling and analysis, unless it notifies the industrial user of the violation
3714 and requires the industrial user to perform the repeat analysis. Resampling is not
3715 required if the following conditions are fulfilled:
3716
- 3717 1) The Control Authority performs sampling at the industrial user at a
3718 frequency of at least once per month; or
3719
 - 3720 2) The Control Authority performs sampling at the user between the time
3721 when the initial sampling was conducted and the time when the industrial
3722 user or the Control Authority receives the results of this sampling.
3723
- 3724 c) The reports required in 35 Ill. Adm. Code 310.602, 310.604, 310.605, and
3725 310.611 must be based upon data obtained through appropriate sampling and
3726 analysis performed during the period covered by the report, which data are
3727 representative of conditions occurring during the reporting period. The Control
3728 Authority must require that frequency of monitoring necessary to assess and
3729 assure compliance by industrial users with applicable pretreatment standards and
3730 requirements. Grab samples must be used for pH, cyanide, total phenols, oil and
3731 grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour
3732 composite samples must be obtained through flow-proportional composite
3733 sampling techniques, unless time-proportional composite sampling or grab

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3734 sampling is authorized by the Control Authority. Where time-proportional
3735 composite sampling or grab sampling is authorized by the Control Authority, the
3736 samples must be representative of the discharge and the decision to allow the
3737 alternative sampling must be documented in the industrial user file for that facility
3738 or facilities. Using protocols (including appropriate preservation) specified in 40
3739 CFR 136, incorporated by reference in 35 Ill. Adm. Code 310.107(b), and
3740 appropriate USEPA guidance, multiple grab samples collected during a 24-hour
3741 period may be composited prior to the analysis as follows: for cyanide, total
3742 phenols, and sulfides, the samples may be composited in the laboratory or in the
3743 field; for volatile organics and oil and grease, the samples may be composited in
3744 the laboratory. Composite samples for other parameters unaffected by the
3745 compositing procedures as documented in USEPA-approved methodologies may
3746 be authorized by the Control Authority, as appropriate.

3747
3748 d) For sampling required in support of baseline monitoring and 90-day compliance
3749 reports required in 35 Ill. Adm. Code 310.602 and 310.604, a minimum of four
3750 grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide,
3751 and volatile organic compounds for facilities for which historical sampling data
3752 do not exist; for facilities for which historical sampling data are available, the
3753 Control Authority may authorize a lower minimum. For the reports required by
3754 35 Ill. Adm. Code 310.605 and 310.611, the Control Authority must require the
3755 number of grab samples necessary to assess and assure compliance by industrial
3756 users with applicable pretreatment standards and requirements.

3757
3758 e) All analyses must be performed in accordance with procedures referenced in 35
3759 Ill. Adm. Code 307.1003, or with any other test procedure approved by the
3760 Agency. Sampling must be performed in accordance with the techniques
3761 approved by the Agency. Where 35 Ill. Adm. Code 307.1003 does not reference
3762 sampling or analytical techniques for the pollutants in question, or where USEPA
3763 has determined as provided in 35 Ill. Adm. Code 310.602 that sampling and
3764 analytical techniques are inappropriate, sampling and analyses must be performed
3765 using validated analytical methods or any other sampling and analytical
3766 procedures including procedures approved by the POTW or other persons.

3767
3768 f) If an industrial user subject to the reporting requirement in 35 Ill. Adm. Code
3769 310.605 monitors any regulated pollutant at the appropriate sampling location
3770 more frequently than required by the Control Authority, using the procedures
3771 prescribed in subsection (e), the results of this monitoring must be included in the
3772 report.

3773
3774 BOARD NOTE: Derived from 40 CFR 403.12(g) (2005), as amended at 70 Fed. Reg.
3775 60134 (Oct. 14, 2005).

3776
3777 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 310.611 Requirements for Non-Categorical Users

The Control Authority must require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards. Significant non-categorical industrial users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. If a local limit requires compliance with a best management practice or pollution prevention alternative, the industrial user must submit documentation required by the Control Authority to determine the compliance status of the industrial user. These reports must be based on sampling and analysis performed in the period covered by the report and in accordance with the techniques described in 40 CFR 136, incorporated by reference at 35 Ill. Adm. Code 310.107. For the purposes of this Section, "significant non-categorical industrial user" means a significant industrial user that is not subject to categorical pretreatment standards. For an industrial user for which USEPA or the Agency is the Control Authority, as of December 21, 2025 or a USEPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this Subpart F must be submitted electronically by the industrial user to the Control Authority or initial recipient, as defined in 35 Ill. Adm. Code 310.106(b)(2), in compliance with this Subpart F and 35 Ill. Adm. Code 310.106.

BOARD NOTE: Derived from 40 CFR 403.12(h).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.612 Annual POTW Reports

POTWs with approved pretreatment programs must provide the Approval Authority with a report that briefly describes the POTW's program activities, including activities of all participating agencies, if more than one jurisdiction is involved in the local program. The report required by this Section must be submitted no later than one year after approval of the POTW's pretreatment program and at least annually thereafter. The report must include, at a minimum, the applicable required data in appendix A to 40 CFR 127, incorporated by reference in 35 Ill. Adm. Code 310.107. The report required by this Subpart F must also include a summary of changes to the POTW's pretreatment program that have not been previously reported to the Approval Authority and any other relevant information requested by the Approval Authority. As of December 21, 2025 or a USEPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all annual reports submitted in compliance with this Subpart F must be submitted electronically by the POTW pretreatment program to the Approval Authority or initial recipient, as defined in 35 Ill. Adm. Code 310.106(b)(2), in compliance with this Subpart F and 35 Ill. Adm. Code 310.106.

BOARD NOTE: Derived from 40 CFR 403.12(i).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

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3822 Section 310.613 Notification of Changed Discharge

3823

3824 An industrial user must promptly notify the Control Authority (and the POTW if the POTW is
3825 not the Control Authority) in advance of any substantial change in the volume or character of
3826 pollutants in its discharge, including the listed or characteristic hazardous wastes for which the
3827 industrial user has submitted initial notification under 35 Ill. Adm. Code 310.635.

3828

3829 BOARD NOTE: Derived from 40 CFR 403.12(j) (2005), as amended at 70 Fed. Reg. 60134
3830 (Oct. 14, 2005).

3831

3832 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3833

3834 Section 310.621 Compliance Schedule for POTWs

3835

3836 The following conditions and reporting requirements must apply to the compliance schedule for
3837 development of an approvable POTW pretreatment program required by 35 Ill. Adm. Code
3838 310.501 through 310.510.

3839

- 3840 a) The schedule must contain increments of progress in the form of dates for the
3841 commencement and completion of major events leading to the development and
3842 implementation of a POTW pretreatment program (e.g., acquiring required
3843 authorities, developing funding mechanisms, acquiring equipment);
- 3844
- 3845 b) No increment referred to in 35 Ill. Adm. Code 310.621(a) must exceed nine
3846 months;
- 3847
- 3848 c) Not later than 14 days following each date in the schedule and the final date for
3849 compliance, the POTW must submit a progress report to the Agency including as
3850 a minimum, whether or not it complied with the increment of progress to be met
3851 on such date and, if not, the date on which it expects to comply with this
3852 increment of progress, the reason for delay, and the steps taken by the POTW to
3853 return to the schedule established. In no event must more than nine months elapse
3854 between such progress reports to the Agency.

3855

3856 BOARD NOTE: Derived from 40 CFR 403.12(k) (2005), as amended at 70 Fed. Reg. 60134
3857 (Oct. 14, 2005).

3858

3859 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3860

3861 Section 310.631 Signatory Requirements for Industrial User Reports

3862

3863 The reports required by 35 Ill. Adm. Code 310.602, 310.604, and 310.605 must include the
3864 certification statement as set forth in 35 Ill. Adm. Code 310.221(b)(2) and must be signed as
3865 follows:

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- a) By a responsible corporate officer, if the industrial user submitting the reports required in 35 Ill. Adm. Code 310.602, 310.604, and 310.605 is a corporation. For the purposes of this Section, a responsible corporate officer means one of the following:
 - 1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function or any other person who performs similar policy or decision-making functions for the corporation; or
 - 2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b) A general partner or proprietor, if the industrial user submitting the report required by 35 Ill. Adm. Code 310.602, 310.604, and 310.605 is a partnership or sole proprietorship, respectively.
 - c) A duly authorized representative of the individual designated in subsection (a) or (b), if:
 - 1) The authorization is made in writing by the individual described in subsection (a) or (b);
 - 2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well, well field superintendent, or a position of equivalent responsibility or having overall responsibility for environmental matters for the company; and
 - 3) The written authorization is submitted to the Control Authority.
 - d) If an authorization under subsection (c) 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

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3910 authorization satisfying the requirements of subsection (c) must be submitted to
3911 the Control Authority prior to or together with any reports to be signed by an
3912 authorized representative.
3913

3914 BOARD NOTE: Derived from 40 CFR 403.12(l) (2005), as amended at 70 Fed. Reg. 60134
3915 (Oct. 14, 2005).
3916

3917 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3918

3919 **Section 310.632 Signatory Requirements for POTW Reports**

3920
3921 Reports submitted to the Agency by the POTW in accordance with 35 Ill. Adm. Code 310.612
3922 must be signed by a principal executive officer, ranking elected official, or other duly authorized
3923 employee. The duly authorized employee must be an individual or position having responsibility
3924 for the overall operation of the facility or the pretreatment program. This authorization must be
3925 made in writing by the principal executive officer or ranking elected official and submitted to the
3926 Approval Authority prior to or together with the report being submitted.
3927

3928 BOARD NOTE: Derived from 40 CFR 403.12(m) (2005), as amended at 70 Fed. Reg. 60134
3929 (Oct. 14, 2005).
3930

3931 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3932

3933 **Section 310.633 Fraud and False Statements**

3934
3935 The reports required by this Subpart are subject to the provisions of Section 1001 of Crimes and
3936 Criminal Procedure (18 U.S.C. 1001), incorporated by reference in 35 Ill. Adm. Code 310.107,
3937 relating to fraud and false statements; the provisions of section 309(c)(4) of the CWA (33 U.S.C.
3938 1319(c)(4)), incorporated by reference in 35 Ill. Adm. Code 310.107(c), governing false
3939 statements, representations, or certifications in reports required under the CWA; the provisions
3940 of section 309(c)(6) of the CWA (33 U.S.C. 1319(c)(6)), incorporated by reference in 35 Ill.
3941 Adm. Code 310.107(c), regarding responsible corporate officers; and to the provisions of Title
3942 XII of the Act.
3943

3944 BOARD NOTE: Derived from 40 CFR 403.12(n) (2005).
3945

3946 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3947

3948 **Section 310.634 Recordkeeping Requirements**

3949
3950 a) Any industrial user and POTW subject to the reporting requirements established
3951 in this Subpart must maintain records of all information resulting from any
3952 monitoring activities required by this Subpart F, including documentation
3953 associated with best management practices. Such records must include the

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3954 following information for all samples:

- 3955
- 3956 1) The date, exact place, method, and time of sampling, and the names of the
- 3957 person or persons taking the samples;
- 3958
- 3959 2) The dates analyses were performed;
- 3960
- 3961 3) Who performed the analyses;
- 3962
- 3963 4) The analytical techniques/methods use; and
- 3964
- 3965 5) The results of such analyses.
- 3966

3967 b) Any industrial user or POTW subject to the reporting requirements established in

3968 this Subpart F (including documentation associated with best management

3969 practices) must be required to retain for a minimum of three years any records of

3970 monitoring activities and results (whether or not such monitoring activities are

3971 required by this Section) and must make such records available for inspection and

3972 copying by the Agency (and POTW in the case of an industrial user). This period

3973 of retention is extended during the course of any unresolved litigation regarding

3974 the industrial user or POTW or when requested by the Agency.

3975

3976 c) Any POTW to which reports are submitted by an industrial user pursuant to 35 Ill.

3977 Adm. Code 310.602, 310.604, 310.605, and 310.611 must retain such reports for a

3978 minimum of three years and must make such reports available for inspection and

3979 copying by the Agency. This period of retention must be extended during the

3980 course of any unresolved litigation regarding the discharge of pollutants by the

3981 industrial user or the operation of the POTW pretreatment program or when

3982 requested by the Agency.

3983

3984 BOARD NOTE: Derived from 40 CFR 403.12(o) (2005), as amended at 70 Fed. Reg.

3985 60134 (Oct. 14, 2005).

3986

3987 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3988

3989 **Section 310.635 Notification of Discharge of Hazardous Waste**

3990

3991 a) Requirement for notification.

3992

- 3993 1) The industrial user must notify the POTW; the Director, Waste
- 3994 Management Division, USEPA Region 5, 230 South Dearborn Street,
- 3995 Chicago, Illinois 60604; and the Manager, Division of Land Pollution
- 3996 Control, Illinois Environmental Protection Agency, 1021 North Grand
- 3997 Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276, in writing

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3998 of any discharge into the POTW of a substance, which, if otherwise
3999 disposed of, would be a hazardous waste under 35 Ill. Adm. Code 721.
4000 Such notification must include the name of the hazardous waste as set
4001 forth in 35 Ill. Adm. Code 721, the USEPA hazardous waste number, and
4002 the type of discharge (continuous, batch, or other). If the industrial user
4003 discharges more than 100 kilograms of such waste per calendar month to
4004 the POTW, the notification must also contain the following information to
4005 the extent such information is known and readily available to the industrial
4006 user:
4007
4008 A) An identification of the hazardous constituents contained in the
4009 wastes;
4010
4011 B) An estimation of the mass and concentration of such constituents
4012 in the waste stream discharged during that calendar month; and
4013
4014 C) An estimation of the mass of constituents in the waste stream
4015 expected to be discharged during the following 12 months.
4016
4017 2) Time for notification. All notifications required under subsection (a)(1)
4018 must take place within 180 days of the effective date of this rule.
4019 Industrial users who commence discharging after the effective date of this
4020 rule must provide the notification no later than 180 days after the
4021 discharge of the listed or characteristic hazardous waste.
4022
4023 3) Frequency for notification. Any notification required under subsection
4024 (a)(1) need be submitted only once for each hazardous waste discharged.
4025 However, notifications of changed discharges must be submitted under 35
4026 Ill. Adm. Code 310.613.
4027
4028 4) Exception for notification under other provisions. The notification
4029 requirement of subsection (a)(1) does not apply to pollutants already
4030 reported under the self-monitoring requirements of 35 Ill. Adm. Code
4031 310.602, 310.604, and 310.605.
4032
4033 b) Exemption to reporting requirement. Discharges are exempt from the
4034 requirements of subsection (a)(1) during a calendar month in which they
4035 discharge no more than 15 kilograms of hazardous wastes, unless the wastes are
4036 acute hazardous wastes specified in 35 Ill. Adm. Code 721.130(d) and 721.133(e).
4037 Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar
4038 month, or of any quantity of acute hazardous wastes, as specified in 35 Ill. Adm.
4039 Code 721.130(d) and 721.133(e), requires a one-time notification. Subsequent
4040 months during which the industrial user discharges more than such quantities of
4041 any hazardous waste do not require additional notification.

4042
4043 c) Newly-listed hazardous wastes. In the case of any new regulations under section
4044 3001 of the federal RCRA (42 U.S.C. 6921) identifying additional characteristics
4045 of hazardous waste or listing any additional substance as a hazardous waste, the
4046 industrial user must notify the POTW; USEPA Region 5, Waste Management
4047 Division; and the Agency, Division of Land Pollution Control of the discharge of
4048 such substance, pursuant to subsection (a)(1), within 90 days of the effective date
4049 of such regulations.

4050
4051 d) Required certification. In the case of any notification made under this Section,
4052 the industrial user must certify that it has a program in place to reduce the volume
4053 and toxicity of hazardous wastes generated to the degree it has determined to be
4054 economically practical.

4055
4056 BOARD NOTE: Derived from 40 CFR 403.12(p) (2003).

4057
4058 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4059
4060 **Section 310.636 Annual Certification by Non-Significant Categorical Users**

4061
4062 A facility defined as a non-significant categorical industrial user in 35 Ill. Adm. Code 310.110
4063 must annually submit the following certification statement, signed in accordance with the
4064 signatory requirements in 35 Ill. Adm. Code 310.631. The following certification must
4065 accompany any alternative report required by the Control Authority:

4066
4067 Based on my inquiry of the person or persons directly responsible for managing
4068 compliance with the categorical pretreatment standards under Subpart [Subpart number
4069 of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that,
4070 to the best of my knowledge and belief that during the period from [insert beginning
4071 month, day, year], to [insert ending month, day, year]:

- 4072
4073 a) The facility described as [insert facility name] met the definition of a non-
4074 significant categorical industrial user, as such is defined in 35 Ill. Adm. Code
4075 310.110;
- 4076
4077 b) The facility complied with all applicable pretreatment standards and requirements
4078 during this reporting period; and
- 4079
4080 c) The facility never discharged more than 100 gallons of total categorical
4081 wastewater on any given day during this reporting period.

4082
4083 This compliance certification is based upon the following information: [insert the
4084 information]

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4086 BOARD NOTE: Derived from 40 CFR 403.12(q), as added at 70 Fed. Reg. 60134 (Oct. 14,
4087 2005).

4088
4089 (Source: Amended at 46 Ill. Reg. _____, effective _____)
4090

Section 310.637 Receiving Electronic Documents

4091
4092
4093 A Control Authority that chooses to receive electronic documents must satisfy the requirements
4094 of 35 Ill. Adm. Code 310.106.

4095
4096 BOARD NOTE: Derived from 40 CFR 403.12(r), as added at 70 Fed. Reg. 59848 (Oct. 13,
4097 2005).

4098
4099 (Source: Amended at 46 Ill. Reg. _____, effective _____)
4100

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

4102

Section 310.703 Criteria

4103

4104
4105 a) General criteria. A request for an FDF determination may be approved only if the
4106 following are true:

4107

- 4108 1) There is an applicable categorical pretreatment standard that specifically
4109 controls the pollutant for which alternative limits have been requested;
4110 2) Factors relating to the discharge controlled by the categorical pretreatment
4111 standard are fundamentally different from the factors considered by
4112 USEPA in establishing the standards; and

4113

- 4114 3) The request for an FDF determination is made in accordance with the
4115 procedural requirements in 35 Ill. Adm. Code 310.711 and 310.712.

4116

4117 b) Criteria applicable to less stringent limits. An FDF determination request for the
4118 establishment of limits less stringent than required by the standard may be
4119 approved only if the following are true:

4120

- 4121 1) The alternative limit requested is no less stringent than justified by the
4122 fundamental difference;

4123

- 4124 2) The alternative limit will not result in a violation of prohibitive discharge
4125 standards prescribed by or established under 35 Ill. Adm. Code 310.201
4126 through 310.213, or 35 Ill. Adm. Code 307;

4127

- 4128 3) The alternative limit will not result in a non-water quality environmental
4129 impact (including energy requirements) fundamentally more adverse than

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4130 the impact considered during development of the pretreatment standards;
4131 and

4132
4133 4) Compliance with the standards (either by using the technologies upon
4134 which the standards are based or by using other control alternatives)
4135 would result in a non-water quality environmental impact (including
4136 energy requirements) fundamentally more adverse than the impact
4137 considered during development of the standards.
4138

4139 c) Criteria applicable to more stringent limits. An FDF determination request for the
4140 establishment of limits more stringent than required by the standards may be
4141 approved only if the following are true:
4142

4143 1) The alternative limit request is no more stringent than justified by the
4144 fundamental difference; and
4145

4146 2) Compliance with the alternative limit would not result in a non-water
4147 quality environmental impact (including energy requirements)
4148 fundamentally more adverse than the impact considered during
4149 development of the standards.
4150

4151 BOARD NOTE: Derived from 40 CFR 403.13(c) (2003).

4152
4153 (Source: Amended at 46 Ill. Reg. _____, effective _____)
4154

4155 **Section 310.705 Factors that are Not Fundamentally Different**

4156
4157 A FDF request or portion of such a request under this Subpart G must not be granted on any of
4158 the following grounds:
4159

4160 a) The feasibility of installing the required waste treatment equipment within the
4161 time the federal CWA (33 U.S.C. 1251 et seq.), incorporated by reference in 35
4162 Ill. Adm. Code 310.107(c), allows;
4163

4164 b) The assertion that the standards cannot be achieved with the appropriate waste
4165 treatment facilities installed, if such assertion is not based on factors listed in 35
4166 Ill. Adm. Code 310.704;
4167

4168 c) The industrial user's ability to pay for the required waste treatment; or
4169

4170 d) The impact of a discharge on the quality of the POTW's receiving waters.
4171

4172 BOARD NOTE: Derived from 40 CFR 403.13(e) (2005).
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4174 (Source: Amended at 46 Ill. Reg. _____, effective _____)
4175

4176 **Section 310.706 More Stringent State Law** 4177

4178 a) The Agency may not grant FDF determinations with respect to more stringent
4179 pretreatment standards adopted pursuant to independent Board authority (35 Ill.
4180 Adm. Code 307.1102 and 307.1103).
4181

4182 b) Nothing in this Subpart G may be construed to impair the right of any POTW to
4183 impose more stringent limitations pursuant to 35 Ill. Adm. Code 310.210 and
4184 310.211.
4185

4186 BOARD NOTE: Derived from 40 CFR 403.13(f) (2003).
4187

4188 (Source: Amended at 46 Ill. Reg. _____, effective _____)
4189

4190 **Section 310.711 Application Deadline** 4191

4192 a) Request for an FDF determination and supporting information must be submitted
4193 in writing to the Agency.
4194

4195 b) In order to be considered, requests for FDF determinations must be submitted
4196 within the following time limits:
4197

4198 1) Prior to authorization of the Illinois program, FDF requests must be
4199 directed to USEPA pursuant to 40 CFR 403.13.
4200

4201 2) For standards adopted by USEPA after authorization of the Illinois
4202 pretreatment program, the industrial user must request an FDF
4203 determination within 180 days after the Board adopts or incorporates the
4204 standard by reference unless the user has requested a category
4205 determination pursuant to 35 Ill. Adm. Code 310.221.
4206

4207 c) Where the industrial user has requested a category determination pursuant to 35
4208 Ill. Adm. Code 310.221, the user may elect to await the results of the category
4209 determination before submitting a request for an FDF determination. Where the
4210 user so elects, the user must submit the request within 30 days after a final
4211 decision has been made on the categorical determination pursuant to 35 Ill. Adm.
4212 Code 310.221(d).
4213

4214 BOARD NOTE: Derived from 40 CFR 403.13(g) (2005), as amended at 70 Fed. Reg.
4215 60134 (Oct. 14, 2005).
4216

4217 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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Section 310.712 Contents of FDF Request

Written requests for an FDF determination must include:

- a) The name and address of the person making the request;
- b) Identification of the interest of the requester that is affected by the categorical pretreatment standard for which the FDF determination is requested;
- c) Identification of the POTW currently receiving the waste from the industrial user for which alternative discharge limits are requested;
- d) Identification of the categorical pretreatment standards that are applicable to the industrial user;
- e) A list of each pollutant or pollutant parameter for which an alternative discharge limit is sought;
- f) The alternative discharge limits proposed by the requester for each pollutant or pollutant parameter identified in subsection (e);
- g) A description of the industrial user's existing water pollution control facilities;
- h) A schematic flow representation of the industrial user's water system including water supply, process wastewater systems, and points of discharge; and
- i) A statement of facts clearly establishing why the request for an FDF determination should be approved, including detailed support data, documentation, and evidence necessary to fully evaluate the merits of the request, e.g., technical and economic data collected by USEPA and used in developing each pollutant discharge limit in the pretreatment standard.

BOARD NOTE: Derived from 40 CFR 403.13(h) (2003).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

Section 310.801 Net/Gross Calculation

The Control Authority may adjust categorical pretreatment standards to reflect the presence of pollutants in the industrial user's intake water as provided in 40 CFR 403.15, incorporated by reference in 35 Ill. Adm. Code 310.107(b).

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4262
4263 BOARD NOTE: Derived from 40 CFR 403.15 (2005), as amended at 70 Fed. Reg. 60134 (Oct.
4264 14, 2005).

4265
4266 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4267
4268 SUBPART I: UPSETS

4269
4270 **Section 310.902 Effect of an Upset**

4271
4272 An upset may constitute an affirmative defense to an action brought for noncompliance with
4273 categorical pretreatment standards if the requirements of 35 Ill. Adm. Code 310.903 are met.

4274
4275 BOARD NOTE: Derived from 40 CFR 403.16(b) (2003).

4276
4277 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4278
4279 SUBPART J: BYPASS

4280
4281 **Section 310.911 Bypass Not Violating Applicable Pretreatment Standards or**
4282 **Requirements**

4283
4284 An industrial user may allow any bypass to occur that does not cause pretreatment standards or
4285 requirements to be violated, but only if it also is for essential maintenance to assure efficient
4286 operation. These bypasses are not subject to the provisions of 35 Ill. Adm. Code 310.912 and
4287 310.913.

4288
4289 BOARD NOTE: Derived from 40 FCR 403.17(b) (2003).

4290
4291 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4292
4293 **Section 310.913 Prohibition of Bypass**

- 4294
4295 a) Bypass is prohibited unless the following are true:
- 4296
4297 1) Bypass was unavoidable to prevent loss of life, personal injury, or severe
4298 property damage;
 - 4299
4300 2) There were no feasible alternatives to the bypass, such as the use of
4301 auxiliary treatment facilities, retention of untreated wastes, or maintenance
4302 during normal periods of equipment downtime. This condition is not
4303 satisfied if adequate back-up equipment should have been installed in the
4304 exercise of reasonable engineering judgment to prevent a bypass that
4305 occurred during normal periods of equipment downtime or preventative

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4306 maintenance; and

4307
4308 3) The industrial user submitted notices as required under 35 Ill. Adm. Code
4309 310.912.

4310
4311 b) The Control Authority may approve an anticipated bypass, after considering its
4312 adverse affects, if the Control Authority determines that the bypass will meet the
4313 requirements of subsection (a).

4314
4315 BOARD NOTE: Derived from 40 CFR 403.17(d) (2003).

4316
4317 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4318
4319 SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

4320 4321 **Section 310.920 General**

4322
4323 Either the Agency or a POTW with an approved POTW pretreatment program may initiate
4324 program modification at any time to reflect changing conditions at the POTW. Program
4325 modification is necessary whenever there is a significant change in the operation of a POTW
4326 pretreatment program that differs from the information in the POTW's submission, as approved
4327 under 35 Ill. Adm. Code 310.541 through 310.546.

4328
4329 BOARD NOTE: Derived from 40 CFR 403.18(a), as added at 53 Fed. Reg. 40615, October 17,
4330 1988.

4331
4332 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4333 4334 **Section 310.921 Substantial Modifications Defined**

4335
4336 Substantial modifications include the following types of modifications:

4337
4338 a) Modifications that relax POTW legal authorities (as described in 35 Ill. Adm.
4339 Code 310.510(a)), except for modifications that directly reflect a revision to this
4340 Part or to 35 Ill. Adm. Code: Subtitle C, and are reported pursuant to 35 Ill. Adm.
4341 Code 310.923;

4342
4343 b) Modifications that relax local limits, except for the modifications to local limits
4344 for pH and reallocations of the maximum allowable industrial loading of a
4345 pollutant that do not increase the total industrial loadings for the pollutant, which
4346 are reported pursuant to 35 Ill. Adm. Code 310.923. For the purposes of this
4347 Section, "maximum allowable industrial loading" means the total mass of a
4348 pollutant that all industrial users of a POTW (or a subgroup of industrial users
4349 identified by the POTW) may discharge pursuant to limits developed under 35 Ill.

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- 4350 Adm. Code 310.210;
- 4351
- 4352 c) Changes to the POTW's control mechanism, as the control mechanism is
- 4353 described in 35 Ill. Adm. Code 310.510(a)(3);
- 4354
- 4355 d) A decrease in the frequency of self-monitoring or reporting required of industrial
- 4356 users;
- 4357
- 4358 e) A decrease in the frequency of industrial user inspections or sampling by the
- 4359 POTW;
- 4360
- 4361 f) Changes to the POTW's confidentiality procedures; and
- 4362
- 4363 g) Other modifications designated as substantial modifications by the Agency on any
- 4364 of the following bases:
- 4365
- 4366 1) The modification could have a significant impact on the operation of the
- 4367 POTW's pretreatment program;
- 4368
- 4369 2) The modification could result in an increase in pollutant loadings at the
- 4370 POTW; or
- 4371
- 4372 3) The modification could result in less stringent requirements being imposed
- 4373 on industrial users of the POTW.
- 4374

4375 BOARD NOTE: Derived from 40 CFR 403.18(b) (1997), as amended at 62 Fed.

4376 Reg. 38414 (July 17, 1997).

4377

4378 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4379

Section 310.922 Approval Procedures for Substantial Modifications

- 4380
- 4381
- 4382 a) The POTW must submit to the Agency a statement of the basis for the desired
- 4383 program modification, a modified program description (see 35 Ill. Adm. Code
- 4384 310.522), or such other documents the Agency determines to be necessary under
- 4385 the circumstances.
- 4386
- 4387 b) The Agency must approve or disapprove the modification based on the
- 4388 requirements of 35 Ill. Adm. Code 310.510 and using the procedures in 35 Ill.
- 4389 Adm. Code 310.542 through 310.546, except as provided in subsections (c) and
- 4390 (d). The modification must become effective upon approval by the Agency.
- 4391
- 4392 c) The Agency need not publish a notice of decision under 35 Ill. Adm. Code
- 4393 310.545 provided each of the following conditions is fulfilled:

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- 1) The notice of request for approval under 35 Ill. Adm. Code 310.542(a) states that the request will be approved if no comments are received by a date specified in the notice;
 - 2) No substantive comments are received; and
 - 3) The request is approved without change.
- d) Notices required by 35 Ill. Adm. Code 310.542 through 310.546 may be performed by the POTW, provided that the Agency finds that the POTW notice otherwise satisfies the requirements of 35 Ill. Adm. Code 310.542 through 310.546.

4408 BOARD NOTE: Derived from 40 CFR 403.18(c) (2003).

4409 (Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.923 Approval Procedures for Non-Substantial Modifications

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- a) The POTW must notify the Agency of any non-substantial modification at least 45 days prior to its implementation by the POTW, in a statement similar to that provided for in 35 Ill. Adm. Code 310.922(a).
 - b) Within 45 days after the submission of the POTW's statement, the Agency must notify the POTW of its decision to approve or disapprove the non-substantial modification.
 - c) If the Agency does not notify the POTW within 45 days of its decision to approve or deny the modification, or to treat the modification as substantial under 35 Ill. Adm. Code 310.921(g), the POTW may implement the modification.

4426 BOARD NOTE: Derived from 40 CFR 403.18(d) (2003).

4427 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4428



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0 TITLE 35: ENVIRONMENTAL PROTECTION
1 SUBTITLE C: WATER POLLUTION
2 CHAPTER I: POLLUTION CONTROL BOARD

3
4 PART 310
5 PRETREATMENT PROGRAMS

6
7 SUBPART A: GENERAL PROVISIONS

8
9Section
10310.101 Applicability
11310.102 Objectives
12310.103 Federal Law
13310.104 State Law
14310.105 Confidentiality
15310.106 Electronic Reporting
16310.107 Incorporations by Reference
17310.110 Definitions
18310.111 New Source
19310.112 Significant Industrial User

20
21 SUBPART B: PRETREATMENT STANDARDS

22
23Section
24310.201 General Prohibitions
25310.202 Specific Prohibitions
26310.210 Local Limits Developed by POTW
27310.211 Status of Local Limits
28310.220 Categorical Standards
29310.221 Source Category Determination Request
30310.222 Deadline for Compliance with Categorical Standards
31310.230 Concentration and Mass Limits
32310.232 Dilution Prohibited as a Substitute for Treatment
33310.233 Combined Waste Stream Formula

34
35 SUBPART C: REMOVAL CREDITS

36
37Section

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38310.301	Special Definitions
39310.302	Authority
40310.303	Conditions for Authorization to Grant Removal Credits
41310.310	Calculation of Revised Discharge Limits
42310.311	Demonstration of Consistent Removal
43310.312	Provisional Credits
44310.320	Compensation for Overflow
45310.330	Exception to POTW Pretreatment Program
46310.340	Application for Removal Credits Authorization
47310.341	Agency Review
48310.343	Assistance of POTW
49310.350	Continuation of Authorization
50310.351	Modification or Withdrawal of Removal Credits

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52

SUBPART D: PRETREATMENT PERMITS

53

54Section

55310.400	Preamble
56310.401	Pretreatment Permits
57310.402	Time to Apply
58310.403	Imminent Endangerment
59310.410	Application
60310.411	Certification of Capacity
61310.412	Signatures
62310.413	Site Visit
63310.414	Completeness
64310.415	Time Limits
65310.420	Standard for Issuance
66310.421	Final Action
67310.430	Conditions
68310.431	Duration of Permits
69310.432	Schedules of Compliance
70310.441	Effect of a Permit
71310.442	Modification
72310.443	Revocation
73310.444	Appeal

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75

SUBPART E: POTW PRETREATMENT PROGRAMS

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77Section

- 78310.501 Pretreatment Programs Required
- 79310.502 Deadline for Program Approval
- 80310.503 Incorporation of Approved Programs in Permits
- 81310.504 Incorporation of Compliance Schedules in Permits
- 82310.505 Reissuance or Modification of Permits
- 83310.510 Pretreatment Program Requirements
- 84310.511 Receiving Electronic Documents
- 85310.521 Program Approval
- 86310.522 Contents of Program Submission
- 87310.524 Content of Removal Allowance Submission
- 88310.531 Agency Action
- 89310.532 Defective Submission
- 90310.533 Water Quality Management
- 91310.541 Deadline for Review
- 92310.542 Public Notice and Hearing
- 93310.543 Agency Decision
- 94310.544 USEPA Objection
- 95310.545 Notice of Decision
- 96310.546 Public Access to Submission
- 97310.547 Appeal

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99

SUBPART F: REPORTING REQUIREMENTS

100Section

- 101310.601 Definition of Control Authority (Repealed)
- 102310.602 Baseline Report
- 103310.603 Compliance Schedule
- 104310.604 Report on Compliance with Deadline
- 105310.605 Periodic Reports on Compliance
- 106310.606 Notice of Potential Problems
- 107310.610 Monitoring and Analysis
- 108310.611 Requirements for Non-Categorical Standard Users
- 109310.612 Annual POTW Reports
- 110310.613 Notification of Changed Discharge
- 111310.621 Compliance Schedule for POTWs
- 112310.631 Signatory Requirements for Industrial User Reports
- 113310.632 Signatory Requirements for POTW Reports

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114310.633	Fraud and False Statements
115310.634	Recordkeeping Requirements
116310.635	Notification of Discharge of Hazardous Waste
117310.636	Annual Certification by Non-Significant Categorical Users
118310.637	Receiving Electronic Documents
119	
120	SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS
121	
122	Section
123310.701	Definition of Requester
124310.702	Purpose and Scope
125310.703	Criteria
126310.704	Fundamentally Different Factors
127310.705	Factors that are Not Fundamentally Different
128310.706	More Stringent State Law
129310.711	Application Deadline
130310.712	Contents of FDF Request
131310.713	Deficient Requests
132310.714	Public Notice
133310.721	Agency Review of FDF Requests
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135	
136	SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE
137	
138	Section
139310.801	Net/Gross Calculation
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141	SUBPART I: UPSETS
142	
143	Section
144310.901	Definition
145310.902	Effect of an Upset
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147310.904	Burden of Proof
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149310.906	User Responsibility in Case of Upset
150	
151	SUBPART J: BYPASS

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153Section

154310.910 Definitions

155310.911 Bypass Not Violating Applicable Pretreatment Standards or Requirements

156310.912 Notice

157310.913 Prohibition of Bypass

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159 SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

160

161Section

162310.920 General

163310.921 Substantial Modifications Defined

164310.922 Approval Procedures for Substantial Modifications

165310.923 Approval Procedures for Non-Substantial Modifications

166310.924 Incorporation of Modifications into the Permit

167

168 SUBPART L: FEDERAL PROJECT XL AGREEMENTS

169

170Section

171310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under

172 Project XL (Repealed)

173

174AUTHORITY: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the

175Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

176

177SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in
178R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243,
179effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990;
180amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill.
181Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24,
1821996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22
183Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July
18412, 1999; amended in R00-7 at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15
185at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective
186January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended
187in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg.
1884653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September
18910, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18

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190 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective
191 October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 19008, effective November
192 226, 2008; amended in R13-7 at 37 Ill. Reg. 1962, effective February 4, 2013; amended in R15-13
193 at 39 Ill. Reg. 12357, effective August 24, 2015; amended in R16-9 at 41 Ill. Reg. 1155, effective
194 January 23, 2017; amended in R21-8 at 44 Ill. Reg. 19486, effective December 3, 2020; amended
195 at in R21-15 at 45 Ill. Reg. 8061, effective June 21, 2021; amended in R18-23 at 46 Ill. Reg.
196 _____, effective _____.

197

198

SUBPART A: GENERAL PROVISIONS

199

200 **Section 310.101 Applicability**

201

202 a) This Section is intended as a general guide to persons using these rules and does
203 not supersede more specific requirements in the rules.

204

205 b) This Part includes the following :

206

207 1) Requirements for submission to the Agency of pretreatment programs by
208 publicly owned treatment works (POTWs). (Subpart E)

209

210 2) Requirements with which persons discharging to sewers must comply.
211 (Subpart B)

212

213 3) Requirements for prior approval by the Control Authority of certain
214 discharges to a sewer. The Control Authority may be either of the
215 following:

216

217 A) The POTW under an approved program; or

218

219 B) The Agency in the absence of an approved program. (Subpart D)

220

221 (Source: Amended at 46 Ill. Reg. _____, effective _____)

222

223 **Section 310.103 Federal Law**

224

225 a) The Board intends that this Part be identical in substance with the pretreatment
226 requirements of the federal Clean Water Act (33 USC U.S.C. 1251 et seq.) and
227 United States Environmental Protection Agency (USEPA) regulations at 40 CFR

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401 et seq.

- b) This Part will allow the Agency to issue pretreatment permits, review POTW pretreatment plans and authorize POTWs to issue authorizations to discharge to industrial users when and to the extent USEPA authorizes the Illinois pretreatment program under the federal Clean Water Act (33 ~~USEPA~~ U.S.C. 1251 et seq.). After authorization the requirements of the Clean Water Act and 40 CFR 401 et seq. will continue to apply in Illinois. In particular, USEPA has stated that it will do the following:
 - 1) Retain the right to request information under 40 CFR 403.8(f); and
 - 2) Retain the right to inspect and take samples under 40 CFR 403.12(l).
- c) This Part must not be construed as exempting any person from compliance, prior to authorization of the Illinois pretreatment program, with the pretreatment requirements of the Clean Water Act, USEPA regulations, and NPDES permit conditions.
- d) POTW pretreatment programs that have been approved by USEPA under 40 CFR 403 will be deemed approved under this Part, unless the Agency determines that it is necessary to modify the POTW pretreatment program to be consistent with State law.
 - 1) The Agency must notify the POTW of any such determination within 60 days after approval of the program by USEPA, or within 60 days after USEPA authorizes the Illinois pretreatment program, whichever is later.
 - 2) If the Agency so notifies the POTW, the POTW will apply for program approval under ~~to~~ 35 Ill. Adm. Code 310.501 et seq.
- e) USEPA's access to Agency records and information in possession of the Agency will be governed by the memorandum of agreement between USEPA and the Agency, subject to confidentiality requirements in 35 Ill. Adm. Code 310.105.

(Source: Amended at 46 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

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267

- a) 35 Ill. Adm. Code 307 includes three types of prohibitions and pretreatment standards:

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270

- 1) Prohibitions, including prohibitions adopted by USEPA at 40 CFR 403.5 and more stringent prohibitions adopted by the Board (e.g., 35 Ill. Adm. Code 307.1101);

271

272

273

274

- 2) National pretreatment standards adopted by USEPA at 40 CFR 405 et seq., and incorporated by reference by the Board (e.g., Subparts F through CT of 35 Ill. Adm. Code 307); and

275

276

277

278

- 3) More stringent concentration-based standards adopted by the Board (e.g., 35 Ill. Adm. Code 307.1102 and 307.1103).

279

280

281

- b) For subcategories for which there are both categorical pretreatment standards and concentration-based standards adopted by the Board for a pollutant, the Control Authority must apply the standard that is more stringent as applied to the particular discharge.

282

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286BOARD NOTE: Derived from 40 CFR 403.4 (2003).

287

(Source: Amended at 46 Ill. Reg. _____, effective _____)

288

289

290Section 310.105 Confidentiality

291

- a) Information and data provided to the Control Authority under this Part that is

effluent data must be available to the public without restriction.

292

293

294

- b) With respect to the Board and Agency, confidentiality must be governed by 35 Ill.

Adm. Code 130 and 161.

295

296

297

- c) The Agency and POTWs must make information available to the public at least to

the extent provided by 40 CFR 2.302 (2003), incorporated by reference in 35 Ill.

298

299

Adm. Code 310.107.

300

301

302BOARD NOTE: Derived from 40 CFR 403.14 (2003).

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304 (Source: Amended at 46 Ill. Reg. _____, effective _____)

305

306 **Section 310.106 Electronic Reporting**

307

308 The submission of any document under any provision of this Part is subject to this Section.

309

310 a) General Federal Requirements for Electronic Reporting-

311

312 1) Scope and Applicability

313

314 A) USEPA has established standards for the submission of electronic
315 documents under federally authorized programs. USEPA requires
316 adherence to these standards for all electronic submissions to
317 USEPA and the authorized State, if electronic submissions are
318 authorized by USEPA. USEPA, the Board, the Agency, or the
319 Control Authority may allow for the submission of electronic
320 documents in lieu of paper documents. This subsection (a) does
321 not require submission of electronic documents in lieu of paper
322 documents. This subsection (a) sets forth the requirements for the
323 optional electronic submission of any document that must be
324 submitted to the appropriate of the following:

325

326 i) To USEPA directly, under 40 CFR 127; or

327

328 ii) To the Board, the Agency, or the Control Authority, under
329 any provision of this Part or 35 Ill. Adm. Code 307.

330

331 B) Electronic document submission under this subsection (a) can
332 occur only as follows:

333

334 i) For submissions of documents to USEPA, submissions
335 may occur only after USEPA has published a notice in the
336 Federal Register announcing that USEPA is prepared to
337 receive, in an electronic format, documents required or
338 permitted by the identified part or subpart of Title 40 of the
339 Code of Federal Regulations; or

340

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- 341 ii) For submissions of documents to the State or the Control
342 Authority, submissions may occur only into an electronic
343 document receiving system for which USEPA has granted
344 approval under 40 CFR 3.1000, so long as the system
345 complies with 40 CFR 3.2000, incorporated by reference in
346 Section 310.107, and USEPA has not withdrawn its
347 approval of the system in writing.
348
- 349 C) This subsection (a) does not apply to any of the following
350 documents, whether or not the document is a document submitted
351 to satisfy the requirements cited in subsection (a)(1)(A):
352
 - 353 i) Any document submitted via facsimile;
 - 354
 - 355 ii) Any document submitted via magnetic or optical media,
356 like diskette, compact disc, digital video disc, or tape; or
357
 - 358 iii) Any data transfer between USEPA, any state, or any local
359 government and any of the Board, the Agency, or the
360 Control Authority as part of administrative arrangements
361 between the parties to the transfer to share data.
362
- 363 D) Upon USEPA conferring written approval for the submission of
364 any types of documents as electronic documents in lieu of paper
365 documents, as described in subsection (a)(1)(B)(ii), the Agency or
366 the Board, as appropriate, must publish a Notice of Public
367 Information in the Illinois Register that describes the documents
368 approved for submission as electronic documents, the electronic
369 document receiving system approved to receive them, the
370 acceptable formats and procedures for their submission, and, as
371 applicable, the date on which the Board or the Agency will begin
372 to receive those submissions. In the event of written cessation of
373 USEPA approval for receiving any type of document as an
374 electronic document in lieu of a paper document, the Board or the
375 Agency must similarly cause publication of a Notice of Public
376 Information in the Illinois Register.
377

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378 BOARD NOTE: Subsection (a)(1) is derived from 40 CFR 3.1, 3.2, 3.10,
379 3.20, and 3.1000.

380

381 2) Definitions. For the purposes of this subsection (a), terms will have the
382 meaning attributed them in 40 CFR 3.3, incorporated by reference in 35
383 Ill. Adm. Code 310.107.

384

385 3) Procedures for Submission of Electronic Documents in Lieu of Paper
386 Documents to USEPA. Except as provided in subsection (a)(1)(C), any
387 person who is required under Title 40 of the Code of Federal Regulations
388 to create and submit or otherwise provide a document to USEPA may
389 satisfy this requirement with an electronic document, in lieu of a paper
390 document, provided the following conditions are met:

391

392 A) The person satisfies the requirements of 40 CFR 3.10, incorporated
393 by reference in 35 Ill. Adm. Code 310.107; and

394

395 B) USEPA has first published a notice in the Federal Register as
396 described in subsection (a)(1)(B)(i).

397

398 BOARD NOTE: Subsection (a)(3) is derived from 40 CFR 3.2(a) and
399 subpart B of 40 CFR 3.

400

401 4) Procedures for Submission of Electronic Documents in Lieu of Paper
402 Documents to the Board, the Agency, or the Control Authority

403

404 A) The Board, the Agency, or the Control Authority may, but is not
405 required to, establish procedural rules for the electronic submission
406 of documents. The Board or the Agency must establish any such
407 procedural rules under the Administrative Procedure Act [5 ILCS
408 100/5]. The Control Authority must establish such procedures
409 under applicable State and local laws.

410

411 B) The Board, the Agency, or the Control Authority may accept
412 electronic documents under this subsection (a) only as provided in
413 subsection (a)(1)(B)(ii).

414

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415 BOARD NOTE: Subsection (a)(4) is derived from 40 CFR 3.2(b) and
416 subpart D of 40 CFR 3.

417
418 5) Effects of Submission of an Electronic Document in Lieu of a Paper
419 Document

420
421 A) If a person who submits a document as an electronic document
422 fails to comply with the requirements of this subsection (a), that
423 person is subject to the penalties prescribed for failure to comply
424 with the requirement that the electronic document was intended to
425 satisfy.

426
427 B) If a document submitted as an electronic document to satisfy a
428 reporting requirement bears an electronic signature, the electronic
429 signature legally binds, obligates, and makes the signer responsible
430 to the same extent as the signer's handwritten signature would on
431 a paper document submitted to satisfy the same reporting
432 requirement.

433
434 C) Proof that a particular signature device was used to create an
435 electronic signature will suffice to establish that the individual
436 uniquely entitled to use the device did so with the intent to sign the
437 electronic document and give it effect.

438
439 D) Nothing in this subsection (a) limits the use of electronic
440 documents or information derived from electronic documents as
441 evidence in enforcement or other proceedings.

442
443 BOARD NOTE: Subsection (a)(5) is derived from 40 CFR 3.4 and
444 3.2000(c).

445
446 6) Public Document Subject to State Laws. Any electronic document filed
447 with the Board is a public document. The document, its submission, its
448 retention by the Board, and its availability for public inspection and
449 copying are subject to various State laws, including the following:

450
451 A) The Illinois Administrative Procedure Act [5 ILCS 100];
452

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- 453 B) The Freedom of Information Act (FOIA) [5 ILCS 140];
- 454
- 455 C) The State Records Act [5 ILCS 160];
- 456
- 457 D) The Electronic Commerce Security Act [5 ILCS 175];
- 458
- 459 E) The Environmental Protection Act [415 ILCS 5];
- 460
- 461 F) Regulations relating to public access to Board records (2 Ill. Adm.
- 462 Code 2175); and
- 463
- 464 G) Board procedural rules relating to protection of trade secrets and
- 465 confidential information (35 Ill. Adm. Code 130).
- 466

- 467 7) Nothing in this subsection (a) or in any provisions adopted under
- 468 subsection (a)(4)(A) will create any right or privilege to submit any
- 469 document as an electronic document.
- 470

471 BOARD NOTE: Subsection (a)(7) is derived from 40 CFR 3.2(c).

472 BOARD NOTE: Subsection (a) is derived from 40 CFR 3 and 403.8(g).

473 b) NPDES Electronic Reporting

474 1) Purpose and Scope

475 A) This subsection (b), in conjunction with the NPDES reporting

476 requirements specified elsewhere in this Part, specifies the

477 requirements for:

- 478 i) Electronic reporting of information by NPDES permittees;
- 479
- 480 ii) Facilities or entities seeking coverage under NPDES
- 481 general permits;
- 482
- 483 iii) Facilities or entities submitting waivers from NPDES
- 484 permit requirements;
- 485
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- iv) Industrial users located in municipalities without approved local pretreatment programs;
 - v) Approved pretreatment programs; and
 - vi) (The Board omitted a provision derived from 40 CFR 127.1(a)(6), as subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the corresponding federal provisions.)
 - vii) USEPA and the Agency, to the extent the Agency has received authorization from USEPA to implement the NPDES program. This subsection (b), in conjunction with other segments of this Part, also specifies the requirements for electronic reporting of NPDES information to USEPA by the states, tribes, or territories that have received authorization from USEPA to implement the NPDES program.
- B) To the extent the Agency is authorized to implement a segment of the NPDES program, the Agency must ensure that the required minimum set of NPDES data (appendix A to 40 CFR 127, incorporated by reference in 35 Ill. Adm. Code 310.107) is electronically transferred to USEPA in a timely, accurate, complete, and nationally-consistent manner fully compatible with USEPA's national NPDES data system.
- C) To the extent that the Secretary of Defense has exempted Department of Defense "critical infrastructure security information" from disclosure under the federal Freedom of Information Act under 10 USC 130e, the exempted NPDES program data will be withheld from the public (see also section 7(1)(k) of the FOIA). If an NPDES program data element for a particular facility is designated as critical infrastructure security information in response to a FOIA request, a separate filtered set of data without the redacted information will be shared with the public; however, all NPDES program data will continue to be

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529 provided to USEPA and the Agency under the authorized State
530 NPDES program.

531
532 D) Proper collection, management, and sharing of the data and
533 information listed in appendix A to 40 CFR 127, incorporated by
534 reference in 35 Ill. Adm. Code 310.107, ensures that there is a
535 timely, complete, accurate, and nationally consistent set of data
536 about the NPDES program.

537
538 BOARD NOTE: Subsection (b)(1) is derived from 40 CFR 127.1.

539
540 2) Definitions. For the purposes of this subsection (b), the following terms
541 have the following meanings.

542
543 “Initial recipient of electronic NPDES information from
544 NPDES-regulated facilities²²” or “initial recipient²²” means the
545 entity (USEPA or, after Illinois is authorized by USEPA to
546 implement the NPDES program, the Agency) that is the designated
547 entity for receiving electronic NPDES data.

548 BOARD NOTE: Derived from 40 CFR 127.2(b). USEPA is the
549 initial recipient for a specific NPDES data group and NPDES
550 program area until USEPA authorizes the State to act as initial
551 recipient for that NPDES data group and NPDES program area.

552
553 “Minimum set of NPDES data²²” means the data and information
554 listed in table 1 in appendix A to 40 CFR 127, incorporated by
555 reference in 35 Ill. Adm. Code 310.107.

556
557 BOARD NOTE: Derived from 40 CFR 127.2(e). For the
558 purposes of this Part, the only data and information intended are
559 those associated with NPDES data groups 1 (core NPDES data), 2
560 (general permit reports), 7 (pretreatment program reports), and 8
561 (significant industrial user reports).

562
563 “NPDES data group²²” means the group of related data elements
564 identified in table 1 in appendix A to 40 CFR 127, incorporated by
565 reference in 35 Ill. Adm. Code 310.107. These NPDES data

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566 groups have similar regulatory reporting requirements and have
567 similar data sources.

568
569 BOARD NOTE: Derived from 40 CFR 127.2(c).
570

571 “NPDES program”, for the purposes of this subsection (b),
572 means the federal pretreatment program adopted by the Board
573 under Section 13.3 of the Act to implement section 307(b) of the
574 Clean Water Act (33 USC 1317(b)). USEPA can implement the
575 NPDES program or authorize the State to implement the NPDES
576 program (“authorized NPDES program”). Identifying the
577 relevant authority must be done for each NPDES subprogram (e.g.,
578 NPDES core program, federal facilities, general permits, and
579 pretreatment).

580
581 BOARD NOTE: Derived from 40 CFR 127.2(d). This definition
582 is limited to wastewater pretreatment. The corresponding federal
583 definition includes all other aspects of the NPDES program.

584
585 “NPDES-regulated entity” means any entity regulated by the
586 NPDES program that has a role in the NPDES program, as defined
587 in this subsection (b)(2).

588
589 BOARD NOTE: Derived from 40 CFR 127.2(h). This definition
590 is limited to wastewater pretreatment. The corresponding federal
591 definition includes all other aspects of the NPDES program.

592
593 “Program reports” means the information reported by
594 NPDES-regulated entities and listed in table 1 in appendix A to 40
595 CFR 127, incorporated by reference in 35 Ill. Adm. Code 310.107
596 (except NPDES data groups 1 and 2).

597
598 BOARD NOTE: Derived from 40 CFR 127.2(f). For the purposes
599 of this subsection (b), the only information intended is that
600 associated with NPDES data groups 7 (pretreatment program
601 reports) and 8 (significant industrial user reports).

602
603 BOARD NOTE: Subsection (b)(2) is derived from 40 CFR 127.2.

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- 3) Data to Be Reported Electronically
 - A) An NPDES-regulated entity must electronically submit the minimum set of NPDES data for these NPDES reports, as applicable. The following NPDES reports are the source of the minimum set of NPDES data from NPDES-regulated entities:
 - i) Discharge monitoring reports (as required by USEPA under 40 CFR 122.41(l)(4)).
 - ii) This subsection (b)(3)(A)(ii) corresponds with 40 CFR 127.11(a)(2), which pertains to sewage sludge/biosolids annual reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
 - iii) Concentrated animal feeding operation annual program reports (as required by USEPA under 40 CFR 122.42(e)(4)).
 - iv) This subsection (b)(3)(A)(iv) corresponds with 40 CFR 127.11(a)(4), which pertains to municipal separate storm sewer system program reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.
 - v) Pretreatment program annual reports (see 35 Ill. Adm. Code 310.612).
 - vi) Sewer overflow and bypass incident event reports (as required by USEPA under 40 CFR 122.41(l)(6) and (l)(7)).
 - vii) This subsection (b)(3)(A)(vii) corresponds with 40 CFR 127.11(a)(7), which pertains to cooling water intake structure reports, a subject matter outside the scope of wastewater pretreatment. This statement maintains structural consistency with the federal rules.

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- B) A facility or entity seeking coverage under or termination from an NPDES general permit must electronically submit the minimum set of NPDES data for the following notices, certifications, and waivers (if those reporting requirements are applicable):
 - i) Notice of intent (NOI) to discharge by facilities seeking coverage under a general NPDES permit (rather than an individual NPDES permit), as described in 40 CFR 122.28(b)(2); and
 - ii) Notice of termination (NOT), as described in 40 CFR 122.64.

- C) An industrial user located in a municipality without an approved local pretreatment program must electronically submit the minimum set of NPDES data for the following self-monitoring reports (if those reporting requirements are applicable):
 - i) Periodic reports on continued compliance, as described in Section 310.605; and
 - ii) Reporting requirements for industrial users not subject to categorical pretreatment standards, as described in Section 310.611.

- D) The minimum set of NPDES data for NPDES-regulated facilities is identified in appendix A to 40 CFR 127, incorporated by reference in 35 Ill. Adm. Code 310.107.

BOARD NOTE: Subsection (b)(3) is derived from 40 CFR 127.11.

- 4) Signature and Certification Standards for Electronic Reporting. The signatory and certification requirements identified in subsection (a) and 35 Ill. Adm. Code 310.631 also apply to electronic submissions of NPDES information (see subsection (b)(2)) by NPDES permittees, facilities, and entities subject to this subsection (b).

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680 BOARD NOTE: Subsection (b)(4) is derived from 40 CFR 127.12.

681

682

5) Requirements Regarding Quality Assurance and Quality Control

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684

- A) Responsibility for the quality of the information provided electronically in compliance with this subsection (b) by the NPDES permittees, facilities, and entities subject to this subsection (b) rests with the owners and operators of those facilities or entities. NPDES permittees, facilities, and entities subject to this subsection (b) must use quality assurance and quality control procedures to ensure the quality of the NPDES information submitted in compliance with this subsection (b).

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- B) NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit their NPDES information in compliance with the data quality requirements specified in subsection (b)(6). NPDES permittees, facilities, and entities subject to this subsection (b) must electronically submit their NPDES information unless a waiver is granted in compliance with this subsection (b) (see subsections (b)(7) and (b)(7)(G)).

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BOARD NOTE: Subsection (b)(5) is derived from 40 CFR 127.13.

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6) Requirements Regarding Timeliness, Accuracy, Completeness, and National Consistency. NPDES permittees, facilities, and entities subject to this subsection (b) must comply with all requirements in this subsection (b) and electronically submit the minimum set of NPDES data in the following nationally-consistent manner:

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- A) Timely. Electronic submissions of the minimum set of NPDES data to the appropriate initial recipient, as defined in subsection (b)(2), must be timely.

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- i) Measurement Data (including information from discharge monitoring reports, self-monitoring data from industrial users located outside of approved local pretreatment programs, and similar self-monitoring data). The electronic

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718 submission of these data is due when that monitoring
719 information is required to be reported in compliance with
720 statutes, regulations, the NPDES permit, another control
721 mechanism, or an enforcement order.
722

723 ii) Program Report Data. The electronic submission of this
724 data is due when that program report data is required to be
725 reported in compliance with statutes, regulations, the
726 NPDES permit, another control mechanism, or an
727 enforcement order.
728

729 B) Accurate. Electronic submissions of the minimum set of NPDES
730 data must be identical to the actual measurements taken by the
731 owner or operator, or their duly authorized representative;
732

733 C) Complete. Electronic submission of the minimum set of NPDES
734 data must include all required data (see appendix A to 40 CFR
735 127, incorporated by reference in 35 Ill. Adm. Code 310.107) and
736 these electronic submissions must be sent to the NPDES data
737 system of the initial recipient, as defined in subsection (b)(2); and
738

739 D) Consistent. Electronic submissions of the minimum set of NPDES
740 data must be compliant with USEPA data standards as set forth in
741 this subsection (b) and in a form (including measurement units)
742 fully compatible with USEPA's national NPDES data system.
743

744 BOARD NOTE: Subsection (b)(6) is derived from 40 CFR 127.14.
745

746 7) Waivers from Electronic Reporting
747

748 A) NPDES permittees, facilities, and entities subject to this subsection
749 (b) must electronically submit the minimum set of NPDES data in
750 compliance with this Section and 35 Ill. Adm. Code 310.631
751 unless a waiver is granted in compliance with this subsection
752 (b)(7) and the procedures of subsection (b)(7)(G).
753

754 B) USEPA or the Board, by an adjusted standard or variance issued
755 under Section 28.1 or Sections 35 through 37 of the Act and

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756 Subpart D or B of 35 Ill. Adm. Code 104, to the extent that the
757 State is authorized to administer a segment of the NPDES
758 program, may grant to an NPDES permittee, facility, or entity
759 subject to this subsection (b) a temporary waiver from electronic
760 reporting in compliance with this subsection (b)(7) and the
761 procedures of subsection (b)(7)(G).
762

- 763 i) Each temporary waiver must not extend beyond five years.
764 However, NPDES-regulated entities may re-apply for a
765 temporary waiver. It is the duty of the owner, operator, or
766 duly authorized representative of the NPDES permittee,
767 facility, and entity subject to this subsection (b) to re-apply
768 for a new temporary waiver. The Board cannot grant a
769 temporary waiver to an NPDES-regulated entity without
770 first receiving a temporary waiver request from the
771 NPDES-regulated entity.
772
- 773 ii) To apply for a temporary waiver, the owner, operator, or
774 duly authorized representative of the NPDES permittee,
775 facility, and entity subject to this subsection (b) must
776 submit the information listed in subsection (b)(7)(E) in the
777 petition for temporary waiver.
778

779 BOARD NOTE: The Board moved the text of 40 CFR
780 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm.
781 Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport
782 with codification requirements.
783

- 784 iii) The Board will determine whether to grant a temporary
785 waiver to the extent Illinois is authorized to administer the
786 pertinent NPDES program area. The Board will provide
787 notice to the owner, operator, or duly authorized facility
788 representative submitting a temporary waiver request, in
789 compliance with the requirements of subsection (b)(7)(G).
790

- 791 iv) An NPDES permittee, facility, or entity subject to this
792 subsection (b) that has received a temporary waiver must
793 continue to provide the minimum set of NPDES data (as

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794 well as other required information in compliance with
795 statutes, regulations, the NPDES permit, another control
796 mechanism, or an enforcement order) in hard-copy format
797 to the authorized NPDES program. The Agency must
798 electronically transfer these data to USEPA in accordance
799 with subsection (b)(7)(G).
800
801 v) An approved temporary waiver is not transferrable.
802
803 C) USEPA or the Board, by an adjusted standard under Section 28.1
804 of the Act [415 ILCS 5/28.1] and Subpart D of 35 Ill. Adm. Code
805 104, to the extent that the State is authorized to administer a
806 segment of the NPDES program, may grant to an NPDES
807 permittee, facility, or entity subject to this subsection (b) a
808 permanent waiver from electronic reporting in compliance with
809 this subsection (b)(7) and the procedures of subsection (b)(7)(G).
810
811 i) A permanent waiver is only available to a facility or entity
812 that is owned or operated by members of a religious
813 community that chooses not to use certain modern
814 technologies (e.g., computers, electricity). The Board
815 cannot grant a permanent waiver to an NPDES-regulated
816 entity without first receiving a permanent waiver request
817 from the NPDES-regulated entity.
818
819 ii) To apply for a permanent waiver, the owner, operator, or
820 duly authorized representative of the NPDES permittee,
821 facility, and entity subject to this subsection (b) must
822 submit the information listed in subsection (b)(7)(E) in the
823 petition for permanent waiver.
824
825 iii) An approved permanent waiver is not transferrable.
826
827 iv) An NPDES permittee, facility, or entity subject to this
828 subsection (b) that has received a permanent waiver must
829 continue to provide the minimum set of NPDES data (as
830 well as other required information in compliance with
831 statutes, regulations, the NPDES permit, another control

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832 mechanism, or an enforcement order) in hard-copy format
833 to the authorized NPDES program. The Agency must
834 electronically transfer these data to USEPA in accordance
835 with subsection (b)(7)(G).
836

837 D) The Agency, by a provisional variance under Sections 35 through
838 37 of the Act and Subpart C of 35 Ill. Adm. Code 104, to the
839 extent that the State is authorized to administer a segment of the
840 NPDES program, may grant to an NPDES permittee, facility, or
841 entity subject to this subsection (b) an episodic waiver from
842 electronic reporting in compliance with subsections (b)(7)(G) and
843 (b)(9). The following conditions apply to an episodic waiver:
844

845 i) No waiver request from the NPDES permittee, facility or
846 entity is required to obtain an episodic waiver from
847 electronic reporting.
848

849 ii) An episodic waiver is not transferrable.
850

851 iii) An episodic waiver cannot last more than 60 days.
852

853 BOARD NOTE: Section 36(c) of the Act provides a
854 maximum duration of 45 days for a provisional variance,
855 allowing a single extension of up to 45 days. No
856 combination of a provisional variance and an extension can
857 exceed 60 days in total duration under this subsection
858 (b)(7)(D)(iii).
859

860 iv) The Agency will decide if the episodic waiver provision
861 allows facilities and entities to delay their electronic
862 submissions or to send hardcopy (paper) submissions. An
863 episodic waiver is only available to a facility or entity in the
864 circumstances listed in subsection (b)(7)(F).
865

866 BOARD NOTE: The Board moved the text of 40 CFR
867 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm.
868 Code 310.106(b)(7)(F)(i) and (b)(7)(E)(ii) to comport with
869 codification requirements.

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- E) The following information items must be included in any petition for a temporary or permanent waiver issued under subsection (b)(7)(B) or (b)(7)(C):
 - i) The facility name;
 - ii) The NPDES permit number (if applicable);
 - iii) The facility address;
 - iv) The name, address and contact information for the owner, operator, or duly authorized facility representative;
 - v) A brief written statement regarding the basis for claiming such a temporary waiver; and
 - vi) Any other information required by the Act or Board regulations (35 Ill. Adm. Code: Subtitle C, Chapter I).

BOARD NOTE: The Board moved the text of 40 CFR 127.15(b)(2)(i) through (b)(2)(vi) to appear as 35 Ill. Adm. Code 310.106(b)(7)(E)(i) through (b)(7)(E)(vi) to comport with codification requirements.

- F) A temporary waiver is limited to the following circumstances:
 - i) A large-scale emergency involving catastrophic circumstances beyond the control of the facility, like a force of nature (e.g., a hurricane, flood, fire, or earthquake) or other national disaster. The Agency must make the determination of whether an episodic waiver is warranted in this case and must receive the hardcopy (paper) submissions.
 - ii) A prolonged electronic reporting system outage (i.e., an outage longer than 96 hours). The Agency must make the

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907 determination if an episodic waiver is warranted in this
908 case and must receive the hardcopy (paper) submissions.
909

910 BOARD NOTE: The Board moved the text of 40 CFR
911 127.15(d)(4)(i) and (d)(4)(ii) to appear as 35 Ill. Adm.
912 Code 310.106(b)(7)(F)(i) and (b)(7)(F)(ii) to comport with
913 codification requirements.
914

915 G) Procedural Requirements for Waivers
916

- 917 i) USEPA requires that the Board grant or deny a request for
918 temporary or permanent waiver from electronic reporting in
919 writing within 120 days after receiving the request.
920

921 BOARD NOTE: Subsection (b)(7)(G)(i) is derived from
922 40 CFR 127.24(a) and (b).
923

- 924 ii) The Agency must provide notice of an episodic waiver
925 individually or through means of mass communication if an
926 episodic waiver is available. The notice must state the
927 facilities and entities that may use the episodic waiver, the
928 likely duration of the episodic waiver, and any other
929 directions regarding how facilities and entities should
930 provide the minimum set of NPDES data (as well as other
931 required information in compliance with statutes,
932 regulations, the NPDES permit, another control
933 mechanism, or an enforcement order) to the initial
934 recipient, as defined in subsection (b)(2). No waiver
935 request from the NPDES permittee, facility or entity is
936 required to obtain an episodic waiver from electronic
937 reporting. The Agency, when granting the episodic waiver,
938 must determine whether to allow facilities and entities to
939 delay their electronic submissions for a short time (i.e., no
940 more than 40 days) or to have the facilities and entities
941 send hardcopy (paper) submissions.
942

943 BOARD NOTE: Subsection (b)(7)(G)(ii) is derived from
944 40 CFR 127.24(d).

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- iii) The Agency must electronically transfer to USEPA the minimum set of NPDES data (as defined in 35 Ill. Adm. Code 310.106(b)(2)) that it receives from a permittee, facility, or entity that has received a waiver under this subsection (b)(7).

BOARD NOTE: Subsection (b)(7)(G)(iii) is derived from 40 CFR 127.24(c).

BOARD NOTE: Subsections (b)(7)(A) through (b)(7)(F) are derived from 40 CFR 127.15.

- 8) Implementation of Electronic Reporting Requirements for NPDES Permittees, Facilities, and Entities Subject to This Subsection (b)

- A) Scope and Schedule. An NPDES permittee, facility, or entity subject to this subsection (b), with the exception of those covered by waivers under subsection (b)(7), must electronically submit the following NPDES information (reports, notices, waivers, and certifications) after the compliance deadlines listed in the following table.

NPDES Information	Compliance Deadlines for Electronic Submissions
General Permit Reports	December 21, 2025
Notices of Intent to Discharge, Notices of Termination, and Other Waivers	
Discharge Monitoring Reports	December 21, 2016
POTW Pretreatment Program Annual Reports (see 35 Ill. Adm. Code 310.612)	December 21, 2025
Significant Industrial User Compliance Reports in	December 21, 2025

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Municipalities Without
Approved Pretreatment
Programs
(see 35 Ill. Adm. Code
310.605 and 310.611)

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BOARD NOTE: EPA may approve an alternative compliance deadline for general permit reports and program reports in accordance with 40 CFR 127.24(e) and (f).

B) Electronic Reporting Standards. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) in compliance with this Section and 35 Ill. Adm. Code 310.631.

C) Initial Recipient. An NPDES permittee, facility, or entity subject to this subsection (b) must electronically submit the information listed in the table in subsection (b)(8)(A) to USEPA Region 5, the Control Authority, the Approval Authority, or the initial recipient (as identified under 40 CFR 127.27 and defined in subsection (b)(2)). USEPA was to identify and publish the initial recipient on a USEPA website and in the Federal Register, by state and by NPDES data group (see subsection (b)(7)).

BOARD NOTE: The procedure by which USEPA determines the initial recipient is 40 CFR 127.27. That procedure provides that USEPA is the initial recipient if the State is not approved by USEPA to act as initial recipient.

D) Standards for NPDES-Regulated Entities with Electronic Reporting Waivers. An NPDES permittee, facility, or entity subject to this subsection (b) that has received a waiver from electronic reporting must continue to provide the minimum set of NPDES data (as well as other required information in compliance with statutes, regulations, the NPDES permit, another control mechanism, or an enforcement order) to the Agency or initial recipient (see subsection (b)(7)).

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1001 BOARD NOTE: Subsection (b)(8) is derived from 40 CFR 127.16.

1002

1003 9) Inclusion of Electronic Reporting Requirements in NPDES Permits. All
1004 permits issued by the Agency must contain permit conditions requiring
1005 compliance with the electronic reporting requirements in this Section. An
1006 NPDES-regulated facility already having an electronic reporting
1007 requirement in its permit that meets the requirements in this Section must
1008 continue its electronic reporting to the initial recipient.

1009

1010 BOARD NOTE: Subsection (b)(9) is derived from 40 CFR 127.26(f).

1011

1012 (Source: Amended at 46 Ill. Reg. —, effective —)

1013

1014 **Section 310.107 Incorporations by Reference**

1015

1016 a) The following publications are incorporated by reference for the purposes of this
1017 Part and 35 Ill. Adm. Code 307:

1018

1019 Combined Sewer Overflow (CSO) Control Policy (April 1994) (USEPA
1020 document number EPA-830-B-94-001), available from National Service
1021 Center for Environmental Publications (NSCEP), P.O. Box 42419,
1022 Cincinnati, OH 45242-0419, 800-490-9198 or online for download in an
1023 electronic format at <http://nepis.epa.gov/EPA/html/pubindex.html>,
1024 referenced in 35 Ill. Adm. Code 310.320.

1025

1026 BOARD NOTE: USEPA published the Combined Sewer Overflow
1027 (CSO) Control Policy in the Federal Register at 59 Fed. Reg. 18688 (Apr.
1028 19, 1994).

1029

1030 Standard Industrial Classification Manual (1987) (document no.
1031 PB87-100012) (referred to as "1987 SIC Manual"), available from the
1032 National Technical Information Service, 5285 Port Royal Road,
1033 Springfield, Virginia 22161, referenced in 35 Ill. Adm. Code 307.2201,
1034 307.2400, 307.2402 through 307.2407, and 307.3901 and 35 Ill. Adm.
1035 Code 310.602.

1036

1037 BOARD NOTE: The 1987 SIC Manual is available for online search
1038 through the U.S. Department of Labor, at <http://www.osha.gov/pls/imis/>

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1039 sic_manual.html. In 1997, the federal Office of Management and Budget
1040 (OMB) announced that the North American Industry Classification
1041 System (NAICS) was replacing the SIC (62 Fed. Reg. 17288 (Apr. 9,
1042 1997)) for statistical purposes. OMB announced adoption of a 2012
1043 edition of NAICS (76 Fed. Reg. 51240 (Aug. 17, 2011)). The 1997
1044 NAICS Manual is available for online search or purchase (as electronic or
1045 hard copy) at <http://www.naics.com>. Until USEPA amends its regulations
1046 to change references to SIC codes to references to NAICS codes, the
1047 Board will continue to use the 1987 SIC codes.

- 1048
1049 b) The following provisions of the Code of Federal Regulations are incorporated by
1050 reference for the purposes of this Part and 35 Ill. Adm. Code 307:

1051
1052 40 CFR 2.302 (2020) (Special Rules Governing Certain Information
1053 Obtained Under the Clean Water Act), referenced in 35 Ill. Adm. Code
1054 310.105.

1055
1056 40 CFR 3.2 (2020) (How Does This Part Provide for Electronic
1057 Reporting?), referenced in 35 Ill. Adm. Code 310.106.

1058
1059 40 CFR 3.3 (2020) (What Definitions Are Applicable to This Part?),
1060 referenced in 35 Ill. Adm. Code 310.106.

1061
1062 40 CFR 3.10 (2020) (What Are the Requirements for Electronic Reporting
1063 to EPA?), referenced in 35 Ill. Adm. Code 310.106.

1064
1065 40 CFR 3.2000 (2020) (What Are the Requirements Authorized State,
1066 Tribe, and Local Programs² Reporting Systems Must Meet?), referenced
1067 in 35 Ill. Adm. Code 310.106.

1068
1069 40 CFR 25 (2020) (Public Participation in Programs Under the Resource
1070 Conservation and Recovery Act, the Safe Drinking Water Act, and the
1071 Clean Water Act), referenced in 35 Ill. Adm. Code 310.510.

1072
1073 Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis
1074 by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other
1075 Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D
1076 to 40 CFR 122 (2020) (NPDES Permit Application Testing

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- 1077 Requirements), referenced in 35 Ill. Adm. Code 307.1005.
1078
1079 40 CFR 122.23(b) and (c) (2020) (Concentrated Animal Feeding
1080 Operations), referenced in 35 Ill. Adm. Code 307.2201.
1081
1082 Appendix A to 40 CFR 127 (2020), as amended at 85 Fed. Reg. 69189
1083 (Nov. 2, 2020) (Minimum Set of NPDES Data), referenced in 35 Ill. Adm.
1084 Code 310.106 and 310.612.
1085
1086 BOARD NOTE: Only those segments relevant to electronic reporting
1087 under the wastewater pretreatment program (NPDES data groups 1, 2, 3,
1088 7, and 8) are intended.
1089
1090 40 CFR 136 (2020) (Guidelines Establishing Test Procedures for the
1091 Analysis of Pollutants), referenced in 35 Ill. Adm. Code 307.1003 and
1092 307.6500 and 35 Ill. Adm. Code 310.605, 310.610, and 310.611.
1093
1094 40 CFR 401.15 (2020) (Toxic Pollutants), referenced in 35 Ill. Adm. Code
1095 307.1005.
1096
1097 40 CFR 403 (2020) (General Pretreatment Regulations for Existing and
1098 New Sources of Pollution), referenced in 35 Ill. Adm. Code 310.432.
1099
1100 40 CFR 403.12(b) (2020) (Reporting Requirements for POTWs and
1101 Industrial Users), referenced in 35 Ill. Adm. Code 310.602.
1102
1103 40 CFR 403.15 (2020) (Net/Gross Calculation), referenced in 35 Ill. Adm.
1104 Code 310.801.
1105
1106 Appendix D to 40 CFR 403 (2020) (Selected Industrial Subcategories
1107 Considered Dilute for Purposes of the Combined Wastestream Formula),
1108 referenced in 35 Ill. Adm. Code 310.233.
1109
1110 Appendix G to 40 CFR 403 (2020) (Pollutants Eligible for a Removal
1111 Credit), referenced in 35 Ill. Adm. Code 310.303.
1112
1113 40 CFR 503 (2020) (Standards for the Use or Disposal of Sewage Sludge),
1114 referenced in 35 Ill. Adm. Code 310.303.

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c) The following federal statutes are incorporated by reference:

Section 1001 of federal Crimes and Criminal Procedure (18 [USC U.S.C.](#) 1001 (2019)), referenced in 35 Ill. Adm. Code 310.633.

The federal Clean Water Act (CWA) (33 [USC U.S.C.](#) 1251 et seq. (2019)), referenced in 35 Ill. Adm. Code 310.110 and 310.705.

Section 204(b) of the federal Clean Water Act (33 [USC U.S.C.](#) 1284(b) (2019)), referenced in 35 Ill. Adm. Code 310.510.

Section 212(2) of the federal Clean Water Act (33 [USC U.S.C.](#) 1292(2) (2019)), referenced in 35 Ill. Adm. Code 310.110.

Section 307(b), (c), and (d) of the federal Clean Water Act (33 [USC U.S.C.](#) 1317(b), (c), and (d) (2019)), referenced in 35 Ill. Adm. Code 310.110.

Section 308 of the federal Clean Water Act (33 [USC U.S.C.](#) 1318 (2019)), referenced in 35 Ill. Adm. Code 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 [USC U.S.C.](#) 1319(c)(4) (2019)), referenced in 35 Ill. Adm. Code 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 [USC U.S.C.](#) 1319(c)(6) (2019)), referenced in 35 Ill. Adm. Code 310.633.

Section 405 of the federal Clean Water Act (33 [USC U.S.C.](#) 1345 (2019)), referenced in 35 Ill. Adm. Code 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 USC 6921-6939g and 6941-6949a) (2019)), referenced in 35 Ill. Adm. Code 310.510.

d) This Part incorporates no future editions or amendments.

1151BOARD NOTE: The Board has located the incorporations by reference for the purposes of this
1152Part and the more general incorporations by reference for the purposes of 35 Ill. Adm. Code 307

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1153in this Section to aid future review and updates. The Board has located the incorporations by
1154reference of the federal categorical standards scattered throughout 35 Ill. Adm. Code 307 at the
1155segments appropriate to each individual categorical standard. This aids future review and
1156updates of the categorical standards.

1157

1158 (Source: Amended at 46 Ill. Reg. , effective)

1159

1160Section 310.110 Definitions

1161

1162The following definitions, derived from the general definitions of 40 CFR 401.11 and the
1163pretreatment-specific definitions of 40 CFR 403.3, apply for the purposes of this Part and 35 Ill.
1164Adm. Code 307:

1165

1166 “Act” means the Environmental Protection Act [415 ILCS 5].

1167

1168 “Agency” means the Illinois Environmental Protection Agency.

1169 BOARD NOTE: The Board has consistently rendered “Director”, as defined in
1170 corresponding 40 CFR 403.3(g), as “Agency” for all functions within the
1171 Agency’s statutory authority and that USEPA has not clearly reserved the
1172 function to itself.

1173

1174 “Approval Authority” means the Agency after USEPA has approved the Illinois
1175 wastewater pretreatment program. “Approval Authority” means USEPA prior
1176 to USEPA approval of the Illinois wastewater pretreatment program.

1177

1178 BOARD NOTE: Derived from 40 CFR 403.3(c) (2016).

1179

1180 “Approved POTW pretreatment program” or “program” or “POTW
1181 pretreatment program” means a program administered by a POTW that has been
1182 approved by USEPA, under 40 CFR 403.11, or the Agency, in accordance with 35
1183 Ill. Adm. Code 310.541 through 310.546.

1184

1185 BOARD NOTE: Derived from 40 CFR 403.3(d) (2016).

1186

1187 “Authorization to discharge” means an authorization issued to an industrial user
1188 by a POTW that has an approved pretreatment program. The authorization may
1189 consist of a permit, license, ordinance, or other mechanism as specified in the
1190 approved pretreatment program.

1189

1190 BOARD NOTE: The Board added this term to distinguish a “pretreatment
permit” which is a control mechanism issued by the Agency.

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“Best management practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 35 Ill. Adm. Code 310.201(a) and (c) and 310.202. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOARD NOTE: Derived from 40 CFR 403.3(e) (2016).

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

BOARD NOTE: Derived from 40 CFR 401.11(p) (2016).

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“Board” means the Illinois Pollution Control Board.

BOARD NOTE: The Board has consistently rendered “Director,” as defined in corresponding 40 CFR 403.3(g), as “Board” for all functions within the Board’s statutory authority and that USEPA has not clearly reserved the function to itself.

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“CWA” means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 USC U.S.C. 1251 et seq.).

BOARD NOTE: Derived from 40 CFR 403.3(b) (2016).

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“Control Authority” refers to the appropriate of the following:

The POTW, if the POTW’s pretreatment program submission has been approved by the Agency, in accordance with the requirements of 35 Ill. Adm. Code 310.541 through 310.546 or by USEPA in accordance with 40 CFR 403.11; or

The Approval Authority, if no pretreatment program submission has yet been approved.

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BOARD NOTE: Derived from 40 CFR 403.3(f) (2016).

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“Existing source” means any building, structure, facility, or installation from which there is or may be a discharge of pollutants the construction of which

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1229 occurred prior to the date that would qualify the building, structure, facility, or
1230 installation for definition as a "new source", as defined in 35 Ill. Adm. Code
1231 310.111.

1232 BOARD NOTE: The Board added this definition of a fundamental term that is
1233 used throughout the categorical standards to determine the applicability of those
1234 standards.

1236 "Indirect discharge" or "discharge" means the introduction of pollutants into a
1237 POTW from any non-domestic source regulated under Section 35 Ill. Adm. Code
1238 307(b), (c), or (d) of the CWA (33 USC U.S.C. 1317 (b), (c), or (d)), incorporated
1239 by reference in 35 Ill. Adm. Code 310.107.

1240 BOARD NOTE: Derived from 40 CFR 403.3(i) (2016).

1241

1242 "Industrial user" or "user" means a source of indirect discharge.

1243 BOARD NOTE: Derived from 40 CFR 403.3(j) (2016).

1244

1245 "Industrial wastewater" means the spent or used water containing dissolved or
1246 suspended matter discharged by an industrial user to a sewer tributary to a POTW

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1248

1249 "Interference" means a discharge, alone or in conjunction with a discharge or
1250 discharges from other sources, for which both of the following is true:

1251

1252 The discharge inhibits or disrupts the POTW, its treatment processes or
1253 operations, or its sludge processes, use, or disposal; and

1254

1255 As a result of the inhibition or disruption, the discharge is a cause of a
1256 violation of any requirement of the POTW's NPDES permit (including an
1257 increase in the magnitude or duration of a violation) or the prevention of
1258 sewage sludge use or disposal in compliance with applicable laws and
1259 permits issued under those laws, including 33 USC U.S.C. 405 and 40
1260 CFR 503 (federal standards for sewage sludge use and disposal) and State
1261 standards relating to sludge use and disposal (such as 415 ILCS 5/21 and
1262 22.56a and 35 Ill. Adm. Code 309.155, 309.208, and 391), 42 USC U.S.C.
1263 6901 et seq. (the federal Resource Conservation and Recovery Act
1264 (hazardous waste and municipal solid waste disposal requirements)) and
1265 35 Ill. Adm. Code: Subtitle G derived from the federal solid waste and
1266 hazardous waste management standards, 42 USC U.S.C. 7401 et seq. (the

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1267 federal Clean Air Act) and 35 Ill. Adm. Code: Subtitle B derived from the
1268 federal Clean Air Act standards, 53 USCU.S.C. 2601 et seq. (the federal
1269 Toxic Substances Control Act) or any Illinois requirements relating to
1270 toxic substances (such as 415 ILCS 5/21 and 35 Ill. Adm. Code 742, 807,
1271 and 810), and 33 USCU.S.C. 1401 et seq. (the federal Marine Protection,
1272 Research, and Sanctuaries Act).

1273 BOARD NOTE: Derived from 40 CFR 403.3(k) (2016).

1274

1275 “Municipality”. See “unit of local government”.

1276

1277 “New source” means a new source as defined in 35 Ill. Adm. Code 310.111.

1278

BOARD NOTE: Derived from 40 CFR 401.11(e) and 403.3(m) (2016).

1279

1280 “Noncontact cooling water” means water used for cooling that does not come
1281 into direct contact with any raw material, intermediate product, waste product, or
1282 finished product.

1283

BOARD NOTE: Derived from 40 CFR 401.11(n) (2016).

1284

1285 “Noncontact cooling water pollutants” means pollutants present in noncontact
1286 cooling waters.

1287

BOARD NOTE: Derived from 40 CFR 401.11(o) (2016).

1288

1289 “NPDES permit” means a permit issued to a POTW under Section 402 of the
1290 CWA, or Section 12(f) of the Act and Subpart A of 35 Ill. Adm. Code 309.

1291

BOARD NOTE: Derived from 40 CFR 403.3(n) (2016).

1292

1293 “Pass through” means a discharge of pollutants that exits the POTW into waters
1294 of the State in quantities or concentrations which, alone or in conjunction with a
1295 discharge or discharges from other sources, is a cause of a violation of any
1296 requirement of the POTW's NPDES permit (including an increase in the
1297 magnitude or duration of a violation).

1298

BOARD NOTE: Derived from 40 CFR 403.3(p) (2016).

1299

1300 “Person” means an individual, corporation, partnership, association, State, unit
1301 of local government, commission, or any interstate body. This term includes the
1302 United States government, the State of Illinois, and their political subdivisions.

1303

BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 USCU.S.C.

1304

1362(5) (2014).

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

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BOARD NOTE: Derived from 40 CFR 401.11(d) (2016).

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

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BOARD NOTE: Derived from 40 CFR 401.11(f) (2016).

1317

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

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BOARD NOTE: Derived from 40 CFR 401.11(g) (2015).

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1322

“POTW treatment plant” means that portion of the POTW that is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial wastewater.

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BOARD NOTE: Derived from 40 CFR 403.3(r) (2016).

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“Pretreatment” means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or by other means, except as prohibited by 35 Ill. Adm. Code 310.232. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 35 Ill. Adm. Code 310.233.

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BOARD NOTE: Derived from 40 CFR 403.3(s) (2016).

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“Pretreatment permit” means a permit to discharge to a sewer that is issued by

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1343 the Agency as the Control Authority.
1344 BOARD NOTE: The Board added this term to distinguish an ~~“~~authorization to
1345 discharge~~”~~, which is a control mechanism issued by a POTW.
1346
1347 ~~“~~“Pretreatment requirement~~”~~ means any substantive or procedural requirement
1348 related to pretreatment imposed on an industrial user by a pretreatment permit or
1349 lawful order, other than a pretreatment standard.
1350 BOARD NOTE: Derived from 40 CFR 403.3(t) (2016).
1351
1352 ~~“~~“Pretreatment standard~~”~~ or ~~“~~“standard~~”~~ means any regulation containing
1353 pollutant discharge limits promulgated by USEPA, and incorporated by reference
1354 in 35 Ill. Adm. Code 307. This term includes prohibitive discharge limits
1355 established under 35 Ill. Adm. Code 310.201 through 310.213 or 35 Ill. Adm.
1356 Code 307.1101. This term also includes more stringent prohibitions and
1357 standards adopted by the Board in this Part or 35 Ill. Adm. Code 307, including
1358 35 Ill. Adm. Code 307.1101, 307.1102, and 307.1103. The term also includes
1359 local limits that are a part of an approved pretreatment program, as provided in 35
1360 Ill. Adm. Code 310.211.
1361 BOARD NOTE: Derived from 40 CFR 403.3(l) (2016).
1362
1363 ~~“~~“Process wastewater~~”~~ means any water that, during manufacturing or
1364 processing, comes into direct contact with or results from the production or use of
1365 any raw material, intermediate product, finished product, by-product, or waste
1366 product.
1367 BOARD NOTE: Derived from 40 CFR 401.11(q) (2016).
1368
1369 ~~“~~“Process wastewater pollutants~~”~~ means pollutants present in process
1370 wastewater.
1371 BOARD NOTE: Derived from 40 CFR 401.11(r) (2016).
1372
1373 ~~“~~“Publicly owned treatment works~~”~~ or ~~“~~“POTW~~”~~ means a ~~“~~“treatment works~~”~~
1374 that is owned by the State of Illinois or a ~~“~~“unit of local government~~”~~. This
1375 definition includes any devices and systems used in the storage, treatment,
1376 recycling, and reclamation of municipal sewage or industrial wastewater. It also
1377 includes sewers, pipes, and other conveyances only if they convey wastewater to a
1378 POTW treatment plant. The term also means the ~~“~~“unit of local government~~”~~
1379 that has jurisdiction over the indirect discharges to and the discharges from such a
1380 treatment works.

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1381 BOARD NOTE: Derived from 40 CFR 403.3(q) (2016).

1382

1383 “Schedule of compliance” means a schedule of remedial measures included in
1384 an authorization to discharge or a pretreatment permit, or an NPDES permit,
1385 including an enforceable sequence of interim requirements (for example, actions,
1386 operations, or milestone events) leading to compliance with this Part and 35 Ill.
1387 Adm. Code 307. A schedule of compliance does not protect an industrial user or
1388 POTW from enforcement.

1389 BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 USC U.S.C.
1390 1362(17).

1391

1392 “Significant industrial user” means significant industrial user as defined in 35
1393 Ill. Adm. Code 310.112.

1394 BOARD NOTE: Derived from 40 CFR 403.3(v) (2016).

1395

1396 “Sludge requirements” means any of the following permits or regulations: 35
1397 Ill. Adm. Code 309.155 (NPDES Permits), 309.208 (Permits for Sites Receiving
1398 Sludge for Land Application), 703.121 (RCRA Permits), 807.202 (Solid Waste
1399 Permits); Section 39(b) of the Act (NPDES Permits); Section 405(b) of the
1400 federal Clean Water Act (federally-imposed sludge use and management
1401 requirements); and 40 CFR 501 and 503.

1402 BOARD NOTE: Derived from 40 CFR 403.3(k)(2) and 403.7(a) (2016).

1403

1404 “Submission” means a request to the Agency by a POTW for approval of a
1405 pretreatment program, or for authorization to grant removal credits.

1406 BOARD NOTE: Derived from 40 CFR 403.3(w) (2016).

1407

1408 “Treatment works” is as defined in 33 USC U.S.C. 1292(2), incorporated by
1409 reference in 35 Ill. Adm. Code 310.107. It includes any devices and systems used
1410 in the storage, treatment, recycling, and reclamation of municipal or industrial
1411 wastewater to implement 33 USC U.S.C. 1281, or necessary to recycle or reuse
1412 water at the most economical cost over the estimated life of the works, including
1413 intercepting sewers, outfall sewers, sewage collection systems, pumping, power,
1414 and other equipment.

1415 BOARD NOTE: Derived from 40 CFR 403.3(q) (2016) and 33 USC U.S.C.
1416 1292(2).

1417

1418 “Unit of local government” means a unit of local government, as defined by Art.

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1419 7, Sec. 1 of the Illinois Constitution. Unit of local government includes
1420 municipalities and sanitary districts.
1421 BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 ~~USC~~U.S.C.
1422 1362(4).
1423

1424 ~~“USEPA”~~ means the United States Environmental Protection Agency.
1425

1426 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1427

1428 **Section 310.111 New Source**

1429
1430 a) ~~“New source”~~ means any building, structure, facility, or installation from which
1431 there is or may be a discharge of pollutants, the construction of which commenced
1432 after the date specified in 35 Ill. Adm. Code 307 for the particular source category
1433 or subcategory applicable to the source, provided that one of the following is true:
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- 1435 1) The building, structure, facility, or installation is constructed at a site at
1436 which no other source is located;
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1438 2) The building, structure, facility, or installation totally replaces the process
1439 or production equipment that causes the discharge of pollutants at an
1440 existing source; or
1441
1442 3) The production or wastewater generating processes of the building,
1443 structure, facility, or installation are substantially independent of an
1444 existing source at the same site. In determining whether these are
1445 substantially independent, factors such as the extent to which the new
1446 facility is integrated with the existing plant and the extent to which the
1447 new facility is engaged in the same general type of activity as the existing
1448 source should be considered.
1449

1450 b) Construction on a site at which an existing source is located results in a
1451 modification, rather than a new source, if the construction does not create a new
1452 building, structure, facility, or installation that meets the criteria of subsection
1453 (a)(2) or (a)(3) , but which otherwise alters, replaces, or adds to existing process
1454 or production equipment.
1455

1456 c) Construction of a new source, as defined in this Section, has commenced if the

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1457 owner or operator has done either of the following:

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- 1) It has begun or caused either of the following to begin as part of a continuous onsite construction program:

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- A) Any placement assembly or installation of facilities or equipment;
or

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- B) 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

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- 2) It has entered into a binding contractual obligation for the purchases of facilities or equipment that are intended to be used in its operation within a reasonable time. An option to purchase or a contract that can be terminated or modified without substantial loss and contracts for feasibility, engineering, and design studies does not constitute a contractual obligation under this subsection (c)(2).

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- d) A new source must install and have in operating condition and must "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), a new source must meet all applicable pretreatment standards.

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BOARD NOTE: Derived from 40 CFR 403.3(m) (2005), as renumbered and amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

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(Source: Amended at 46 Ill. Reg. _____, effective _____)

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- a) Except as provided in subsections (b) and (c) , the term "significant industrial user" means the following:

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- 1) An industrial user subject to any of the categorical pretreatment standards under 35 Ill. Adm. Code 310.220 through 310.222, 310.230, 310.232, and 310.233 and 35 Ill. Adm. Code 307; and

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2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 35 Ill. Adm. Code 310.510(f)).

b) The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 35 Ill. Adm. Code 310.220 through 310.222, 310.230, 310.232, and 310.233 and 35 Ill. Adm. Code 307 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, noncontact cooling, and boiler blowdown wastewater, unless specifically included in the pretreatment standard), and the industrial user meets the following conditions:

- 1) That, prior to the Control Authority's finding, the industrial user has consistently complied with all applicable categorical pretreatment standards and requirements;
- 2) That the industrial user annually submits the certification statement required in 35 Ill. Adm. Code 310.636 together with any additional information necessary to support the certification statement; and
- 3) The industrial user never discharges any untreated concentrated wastewater.

c) Upon a finding that an industrial user meeting the criteria in subsection (a)(2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 35 Ill. Adm. Code 310.510(f), determine that such industrial user is not a significant industrial user.

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1533 BOARD NOTE: Derived from 40 CFR 403.3(v) (2005), as renumbered and amended at
1534 70 Fed. Reg. 60134 (Oct. 14, 2005).

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1536 (Source: Amended at 46 Ill. Reg. _____, effective _____)

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SUBPART B: PRETREATMENT STANDARDS

1539

1540 Section 310.201 General Prohibitions

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1542

a) No industrial user may introduce into a POTW any pollutant that causes pass through or interference.

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b) Affirmative defenses. An industrial user has an affirmative defense in any action brought against it alleging a violation of subsection (a) or 35 Ill. Adm. Code 307.1101(b)(6) through (b)(9) or (b)(11) through (b)(12) if the industrial user demonstrates the following:

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1) That the industrial user did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

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2) Either of the following:

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A) That the POTW developed in accordance with 35 Ill. Adm. Code 310.210 a local limit that was designed to prevent pass through or interference for each pollutant in the industrial user's discharge that caused pass through or interference, and the industrial user was in compliance with each such local limit immediately prior to and during the pass through or interference; or

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B) If the POTW has not developed local limits in accordance with 35 Ill. Adm. Code 310.210 that are designed to prevent pass through or interference for the pollutants that caused the pass through or interference, that the industrial user's discharge immediately prior and during the pass through or interference did not change substantially in nature or constituents from the industrial user's prior discharge activity during which the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in

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1571 the case of interference, sludge requirements.

1572

1573 c) These general prohibitions and the specific prohibitions in 35 Ill. Adm. Code
1574 310.202 apply to each industrial user introducing pollutants into a POTW whether
1575 or not the industrial user is subject to other pretreatment standards or any national,
1576 State, or local pretreatment requirements.

1577

1578 BOARD NOTE: Derived from 40 CFR 403.5(a) (2003).

1579

1580 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1581

1582 **Section 310.210 Local Limits Developed by POTW**

1583

1584 a) Each POTW that is required to develop a pretreatment program must develop and
1585 enforce, as part of the program, local limits to implement the prohibitions listed in
1586 35 Ill. Adm. Code 310.201(a) and 310.202. Each POTW with an approved
1587 pretreatment program must continue to develop these local limits as necessary and
1588 to effectively enforce such limits.

1589

1590 b) A POTW that is not required to develop a pretreatment program must, in cases
1591 where pollutants contributed by one or more industrial users result in interference
1592 or pass through, and such violation is likely to recur, develop and enforce local
1593 limits for industrial users, which, together with appropriate changes in the POTW
1594 treatment plant's facilities or operation, are necessary to ensure renewed and
1595 continued compliance with the POTW's NPDES permit, and sludge
1596 requirements.

1597

1598 c) Before developing local limits, a POTW must give individual notice and an
1599 opportunity to respond to persons or groups that have requested notice.

1600

1601 d) A POTW may develop best management practices (BMPs) to implement
1602 subsections (a) and (b) . Such BMPs are to be considered local limits and
1603 pretreatment standards for the purposes of this Part.

1604

1605 e) The POTW must base limitations developed pursuant to this Section on the
1606 characteristics and treatability of the wastewater by the POTW, effluent
1607 limitations that the POTW must meet, sludge requirements, water quality
1608 standards in the receiving stream, and the pretreatment standards and

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1609 requirements of this Part and 35 Ill. Adm. Code 307.

1610

1611 BOARD NOTE: Subsections (a) through (d) are derived from 40 CFR 403.5(c)
1612 (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005). The Board added
1613 subsection (e) to provide standards for development of local limits.

1614

1615 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1616

1617 **Section 310.221 Source Category Determination Request**

1618

1619 a) Application deadline.

1620

1621 1) The industrial user or POTW may request that the Agency provide written
1622 certification as to whether the industrial user falls within that particular
1623 source category or subcategory. If an existing industrial user adds or
1624 changes a process or operation that may be included in a source category
1625 or subcategory, the existing industrial user must request this certification
1626 prior to commencing discharge from the added or changed processes or
1627 operation. With respect to new standards, the following apply:

1628

1629 A) The POTW or industrial user must direct to USEPA any source
1630 category determination requests for pretreatment standards adopted
1631 by USEPA prior to authorization of the Illinois program.

1632

1633 B) After authorization of the Illinois program, the POTW or industrial
1634 user must direct to the Agency any source category determination
1635 requests within 60 days after the Board adopts or incorporates by
1636 reference a pretreatment standard for a source category or
1637 subcategory under which an industrial user may be included.

1638

1639 2) A new source must request this certification prior to commencing
1640 discharge.

1641

1642 3) If a request for certification is submitted by a POTW, the POTW must
1643 notify any affected industrial user of such applications. The industrial user
1644 may provide written comments on the POTW submissions to the Agency
1645 within 30 days of notification.

1646

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1647 b) Contents of application. Each request must contain a statement that includes the
1648 following information:

- 1649
- 1650 1) Describing which source category or subcategories might be applicable;
 - 1651 and
 - 1652
 - 1653 2) Citing evidence and reasons why a particular source category or
 - 1654 subcategory is applicable and why others are not applicable. Any person
 - 1655 signing the application statement submitted pursuant to this Section must
 - 1656 make the following certification:
 - 1657

1658 I certify under penalty of law that this document and all
1659 attachments were prepared under my direction or supervision in
1660 accordance with a system designed to assure that qualified
1661 personnel properly gather and evaluate the information submitted.
1662 Based on my inquiry of the person or persons who manage the
1663 system or those persons directly responsible for gathering the
1664 information, the information submitted is, to the best of my
1665 knowledge and belief, true, accurate, and complete. I am aware
1666 that there are significant penalties for submitting false information,
1667 including the possibility of fine and imprisonment for knowing
1668 violations.

1669

1670 c) Deficient requests. The Agency must act only on written requests for
1671 determinations that contain all of the information required. The Agency must
1672 notify persons who have made incomplete submissions that their requests are
1673 deficient and that, unless the time period is extended, they have 30 days to correct
1674 the deficiency. If the deficiency is not corrected within 30 days, or within an
1675 extended period allowed by the Agency, the Agency must deny the request for a
1676 determination.

1677

1678 d) Final determination.

- 1679
- 1680 1) When the Agency receives a submission, the Agency shall, if it determines
 - 1681 that the submission contains all of the information required by subsection
 - 1682 (b) , consider the submission, any additional evidence that may have been
 - 1683 requested and any other available information relevant to the request. The
 - 1684 Agency must then make a written determination of the applicable source

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- 1685 category or subcategory and state the reasons for the determination.
1686
1687 2) The Agency must forward the determination described in subsection (d)(1)
1688 to USEPA. If USEPA does not modify the Agency's decision within 60
1689 days after its receipt, the Agency's decision is final.
1690
1691 3) If USEPA modifies the Agency's decision, USEPA's decision will be
1692 final.
1693
1694 4) The Agency must send a copy of the determination to the affected
1695 industrial user and the POTW. If the final determination is made by
1696 USEPA, the Agency must send a copy of the determination to the user.
1697
1698 e) Requests for hearing or legal decision.
1699
1700 1) Within 30 days following the date of receipt of notice of the final
1701 determination as provided for by subsection (d)(4) , the requester may
1702 submit a petition to reconsider or contest the decision to USEPA, which
1703 will act pursuant to 40 CFR 403.6(a)(5).
1704
1705 2) Within 35 days following the date of receipt of notice of the final
1706 determination as provided for by subsection (c), (d)(2), or (d)(4) , the
1707 requester may appeal a final decision made by the Agency to the Board.
1708

1709 BOARD NOTE: Derived from 40 CFR 403.6(a) (2005).

1710
1711 (Source: Amended at 46 Ill. Reg. _____, effective _____)
1712

1713 **Section 310.230 Concentration and Mass Limits**

- 1714
1715 a) Pollutant discharge limits in categorical pretreatment standards will be expressed
1716 either as concentration or mass limits. Limits in categorical pretreatment
1717 standards must apply to the discharge from the process regulated by the standard
1718 or as otherwise specified by the standard.
1719
1720 b) When the limits in a categorical pretreatment standard are expressed only in terms
1721 of mass of pollutant per unit of production, the Control Authority may convert the
1722 limits to equivalent limitations expressed either as mass of pollutant discharged

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- 1723 per day or effluent concentration for purposes of calculating effluent limitations
1724 applicable to individual industrial users.
1725
- 1726 c) A Control Authority calculating equivalent mass-per-day limitations under
1727 subsection (b) must calculate such limitations by multiplying the limits in the
1728 standard by the industrial user's average rate of production. This average rate of
1729 production must be based not upon the designed production capacity, but rather
1730 upon a reasonable measure of the industrial user's actual long-term daily
1731 production during a representative year. For new sources, actual production must
1732 be estimated using projected production.
1733
- 1734 d) A Control Authority calculating equivalent concentration limitations under
1735 subsection (b) must calculate such limitations by dividing the mass limitations
1736 derived under subsection (c) by the average daily flow rate of the industrial
1737 user's regulated process wastewater. This average daily flow rate must be based
1738 upon a reasonable measure of the industrial user's actual long-term average flow
1739 rate, such as the average daily flow rate during the representative year.
1740
- 1741 e) When the limits in a categorical pretreatment standard are expressed only in terms
1742 of pollutant concentrations, an industrial user may request that the Control
1743 Authority convert the limits to equivalent mass limits. The determination to
1744 convert concentration limits to mass limits is within the discretion of the Control
1745 Authority. The Control Authority may establish equivalent mass limits only if the
1746 industrial user meets all the following conditions in subsections (e)(1)(A) through
1747 (e)(1)(E) .
1748
- 1749 1) To be eligible for equivalent mass limits, the industrial user must
1750 undertake the following actions:
1751
- 1752 A) It must employ or demonstrate that it will employ water
1753 conservation methods and technologies that substantially reduce
1754 water use during the term of its control mechanism;
1755
- 1756 B) It must currently use control and treatment technologies adequate
1757 to achieve compliance with the applicable categorical pretreatment
1758 standard, and it must not have used dilution as a substitute for
1759 treatment;
1760

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- 1761 C) It must provide sufficient information to establish the facility's
1762 actual average daily flow rate for all wastestreams, based on data
1763 from a continuous effluent flow monitoring device, as well as the
1764 facility's long-term average production rate. Both the actual
1765 average daily flow rate and long-term average production rate must
1766 be representative of current operating conditions;
- 1767
- 1768 D) It must not have daily flow rates, production levels, or pollutant
1769 levels that vary so significantly that equivalent mass limits are not
1770 appropriate to control the discharge; and
- 1771
- 1772 E) It must have consistently complied with all applicable categorical
1773 pretreatment standards during the period prior to the industrial
1774 user's request for equivalent mass limits.
- 1775
- 1776 2) An industrial user subject to equivalent mass limits must undertake the
1777 following actions:
- 1778
- 1779 A) It must maintain and effectively operate control and treatment
1780 technologies adequate to achieve compliance with the equivalent
1781 mass limits;
- 1782
- 1783 B) It must continue to record the facility's flow rates through the use
1784 of a continuous effluent flow monitoring device;
- 1785
- 1786 C) It must continue to record the facility's production rates and notify
1787 the Control Authority whenever production rates are expected to
1788 vary by more than 20 percent from its baseline production rates
1789 determined in subsection (e)(1)(C). Upon notification of a revised
1790 production rate, the Control Authority must reassess the equivalent
1791 mass limit and revise the limit as necessary to reflect changed
1792 conditions at the facility; and
- 1793
- 1794 D) It must continue to employ the same or comparable water
1795 conservation methods and technologies as those implemented
1796 pursuant to subsection (e)(1)(A) so long as it discharges under an
1797 equivalent mass limit.
- 1798

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- 1799 3) A Control Authority that chooses to establish equivalent mass limits must
1800 undertake the following actions:
- 1801
- 1802 A) It must calculate the equivalent mass limit by multiplying the
1803 actual average daily flow rate of the regulated processes of the
1804 industrial user by the concentration-based daily maximum and
1805 monthly average standard for the applicable categorical
1806 pretreatment standard and the appropriate unit conversion factor;
1807
- 1808 B) Upon notification of a revised production rate, it must reassess the
1809 equivalent mass limit and recalculate the limit as necessary to
1810 reflect changed conditions at the facility; and
1811
- 1812 C) It may retain the same equivalent mass limit in subsequent control
1813 mechanism terms if the industrial user's actual average daily flow
1814 rate was reduced solely as a result of the implementation of water
1815 conservation methods and technologies, and the actual average
1816 daily flow rates used in the original calculation of the equivalent
1817 mass limit were not based on the use of dilution as a substitute for
1818 treatment pursuant to Section 310.232. The industrial user must
1819 also be in compliance with Subpart J of this Part (regarding the
1820 prohibition of bypass).
1821
- 1822 4) The Control Authority may not express limits in terms of mass for
1823 pollutants such as pH, temperature, radiation, or other pollutants that
1824 cannot appropriately be expressed as mass.
1825
- 1826 f) The Control Authority may convert the mass limits of the categorical pretreatment
1827 standards of Subparts O, T, and CD of 35 Ill. Adm. Code 307 to concentration
1828 limits for purposes of calculating limitations applicable to individual industrial
1829 users under the following conditions. When converting such limits to
1830 concentration limits, the Control Authority must use the concentrations listed in
1831 the applicable provisions of Subparts O, T, and CD of 35 Ill. Adm. Code 307 and
1832 document that dilution is not being substituted for treatment as prohibited by 35
1833 Ill. Adm. Code 310.232.
1834
- 1835 g) Equivalent limitations calculated in accordance with subsections (c) through (f)
1836 are deemed pretreatment standards. The Control Authority must document how

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1837 the equivalent limits were derived and make this information publicly available.
1838 Once incorporated into its control mechanism, the industrial users must comply
1839 with the equivalent limitations instead of the promulgated categorical standards
1840 from which the equivalent limitations were derived.

1841
1842 h) Many categorical pretreatment standards specify one limit for calculating
1843 maximum daily discharge limitations and a second limit for calculating maximum
1844 monthly average or four-day average limitations. Where such standards are being
1845 applied, the same production or flow figure must be used in calculating both the
1846 average and the maximum equivalent ~~equivalent~~ limitation.

1847
1848 i) Any industrial user operating under a control mechanism incorporating equivalent
1849 mass or concentration limits calculated from a production based standard must
1850 notify the Control Authority within two business days after the user has a
1851 reasonable basis to know that the production level will significantly change within
1852 the next calendar month. Any user not notifying the Control Authority of such
1853 anticipated change will be required to meet the mass or concentration limits in its
1854 control mechanism that were based on the original estimate of the long term
1855 average production rate.

1856
1857 BOARD NOTE: Derived from 40 CFR 403.6(c) (2005), as amended at 70 Fed. Reg.
1858 60134 (Oct. 14, 2005).

1859
1860 (Source: Amended at 46 Ill. Reg. _____, effective _____)

1861
1862 **Section 310.233 Combined Waste Stream Formula**

1863
1864 Where process wastewater is mixed prior to treatment with wastewaters other than those
1865 generated by the regulated process, the Control Authority (or the industrial user with the written
1866 concurrence of the Control Authority) must derive fixed alternative discharge limits. When it is
1867 deriving alternative categorical limits, the Control Authority must calculate both an alternative
1868 daily maximum value using the daily maximum values specified in the appropriate categorical
1869 pretreatment standards and an alternative consecutive sampling day average value using the
1870 average monthly values specified in the appropriate categorical pretreatment standards. The
1871 industrial user must comply with the alternative daily maximum and average monthly limits
1872 fixed by the Control Authority until the Control Authority modifies the limits or approves an
1873 industrial user modification request. Modification is authorized whenever there is a material or
1874 significant change in the values used in the calculation to fix alternative limits for the regulated

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1875pollutant. An industrial user must immediately report any such material or significant change to
1876the Control Authority. Where appropriate, the Control Authority must calculate new alternative
1877categorical limits within 30 days.

1878

1879 a) Alternative limit calculation. For purposes of these formulas, the "average daily
1880 flow" means a reasonable measure of the average daily flow for a 30-day period.
1881 For new sources, flows must be estimated using projected values. The Control
1882 Authority must derive the alternative limit for a specified pollutant by the use of
1883 either of the following formulas:

1884

1885 1) Alternative concentration limit.

1886

1887

$$C = \frac{(T - D) \sum C_i F_i}{(T) \sum F_i}$$

1888

$$C = \frac{(T - D) \sum C_i F_i}{(T) \sum F_i}$$

1889

1890

where

1891

1892

~~C = The alternative concentration limit for the combined waste stream.~~

1893

1894

1895

~~C_i = The categorical pretreatment standard concentration limit for a pollutant in the regulated stream i.~~

1896

1897

1898

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

1899

1900

1901

~~"Σ G_i" = The sum of the results of calculation G for streams i = 1 to i = N.~~

1902

1903

1904

~~N = The total number of regulated streams.~~

1905

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1906
1907
1908
1909
1910
1911

~~T = The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes F_i, D and unregulated streams.~~

~~D = The average daily flow (at least a 30-day average) from:~~

<u>C</u>	=	<u>The alternative concentration limit for the combined waste stream.</u>
<u>C_i</u>	=	<u>The categorical pretreatment standard concentration limit for a pollutant in the regulated stream i.</u>
<u>F_i</u>	=	<u>The average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.</u>
<u>"ΣG_i"</u>		<u>The sum of the results of calculation G for streams i = 1 to i = N.</u>
<u>N</u>	=	<u>The total number of regulated streams.</u>
<u>T</u>	=	<u>The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes F_i, D and unregulated streams.</u>
<u>D</u>	=	<u>The average daily flow (at least a 30-day average) from:</u>

1912
1913
1914
1915
1916
1917
1918
1919
1920
1921
1922
1923
1924

- A) Boiler blowdown streams, non-contact cooling streams, stormwater streams and demineralizer backwash streams, subject to the proviso of subsection (d) ;
 - B) Sanitary waste streams where such waste streams are not regulated by a categorical pretreatment standard; and
 - C) From any process waste streams that were or could have been entirely exempted from categorical pretreatment standards as specified in subsection (e) .
- 2) Alternative mass limit:

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1925

1926

$$M = \frac{(T - D) \sum M_i}{\sum F_i}$$

1927

$$M = \frac{(T - D) \sum M_i}{\sum F_i}$$

1928

1929

where

1930

1931

~~M = The alternative mass limit for a pollutant in the combined waste stream.~~

1932

1933

1934

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

1935

1936

1937

1938

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

1939

1940

1941

~~“ $\sum G_i$ ” means the sum of the results of calculation G for streams i = 1 to i = N.~~

1942

1943

1944

~~N = The total number of regulated streams.~~

1945

1946

~~T = The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes F_i, D and unregulated streams.~~

1947

1948

1949

~~D = The average daily flow (at least a 30-day average) from:~~

1950

1951

M = The alternative mass limit for a pollutant in the combined waste stream.

M_i = The categorical pretreatment standard mass limit for a pollutant in the regulated stream i (the categorical pretreatment mass limit multiplied by the appropriate

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		<u>measure of production).</u>
<u>F_i</u>	=	<u>The average daily flow (at least a 30-day average) of stream i to the extent that it is regulated for such pollutant.</u>
<u>"ΣG_i"</u>		<u>means the sum of the results of calculation G for streams i = 1 to i = N.</u>
<u>N</u>	=	<u>The total number of regulated streams.</u>
<u>T</u>	=	<u>The average daily flow (at least a 30-day average) through the combined pretreatment facility (includes F_i, D and unregulated streams.</u>
<u>D</u>	=	<u>The average daily flow (at least a 30-day average) from:</u>

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1953
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1969
1970
1971
1972

~~A)~~ A) Boiler blowdown streams, non-contact cooling streams, stormwater streams and demineralizer backwash streams subject to the proviso of subsection (d) ;

~~B)~~ B) Sanitary waste streams where such waste streams are not regulated by a categorical pretreatment standard; and

C) From any process waste streams that were or could have been entirely exempted from categorical pretreatment standards, as specified in subsection (e) .

b) Alternative limits below detection. An alternative pretreatment limit must not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.

c) Self-monitoring. Self-monitoring required to insure compliance with the alternative categorical limit must be as follows:

1) The type and frequency of sampling, analysis, and flow measurement must be determined by reference to the self-monitoring requirements of the

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- 1973 appropriate categorical pretreatment standards.
1974
1975 2) Where the self-monitoring schedules for the appropriate standards differ,
1976 monitoring must be done according to the most frequent schedule.
1977
1978 3) Where flow determines the frequency of self-monitoring in a categorical
1979 pretreatment standard, the sum of all regulated flows (F_i) is the flow that
1980 must be used to determine self-monitoring frequency.
1981
1982 d) Proviso to subsections (a)(1) and (a)(2) . Where boiler blowdown, non-contact
1983 cooling streams, stormwater streams, and demineralizer backwash streams
1984 contain a significant amount of a pollutant, and the combination of such streams,
1985 prior to pretreatment, with the industrial user's regulated process waste streams
1986 will result in a substantial reduction of that pollutant, the Control Authority, upon
1987 application of the industrial user, must determine whether such waste streams
1988 should be classified as diluted or unregulated. In its application to the Control
1989 Authority, the industrial user must provide engineering, production, sampling, and
1990 analysis and such other information so the Control Authority can make its
1991 determination.
1992
1993 e) Exemptions from categorical pretreatment standards. Process waste streams were
1994 or could have been entirely exempted from categorical pretreatment standards
1995 pursuant to paragraph 8 of the NRDC v. Costle consent decree, incorporated by
1996 reference in 35 Ill. Adm. Code 310.107, for one or more of the following reasons
1997 (see appendix D to 40 CFR 403, incorporated by reference in 35 Ill. Adm. Code
1998 310.107):
1999
2000 1) The pollutants of concern are not detectable in the discharge from the
2001 industrial user;
2002
2003 2) The pollutants of concern are present only in trace amounts and are neither
2004 causing nor are likely to cause toxic effects;
2005
2006 3) The pollutants of concern are present in amounts too small to be
2007 effectively reduced by technologies known to USEPA;
2008
2009 4) The waste stream contains only pollutants that are compatible with the
2010 POTW.

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2011
2012 f) Where a treated regulated process waste stream is combined prior to treatment
2013 with wastewaters other than those generated by the regulated process, the
2014 industrial user may monitor either the segregated process waste stream or the
2015 combined waste stream for the purpose of determining compliance with
2016 applicable pretreatment standards. If the industrial user chooses to monitor the
2017 segregated process waste stream, it must apply the applicable categorical
2018 pretreatment standard. If the user chooses to monitor the combined waste stream,
2019 it must apply an alternative discharge limit calculated using the combined waste
2020 stream formula as provided in this Section. The industrial user may change
2021 monitoring points only after receiving approval from the Control Authority. The
2022 Control Authority must ensure that any change in an industrial user's monitoring
2023 point or points will not allow the user to substitute dilution for adequate treatment
2024 to achieve compliance with applicable standards.

2025
2026 BOARD NOTE: Derived from 40 CFR 403.6(e) (2005), as amended at 70 Fed. Reg. 60134
2027 (Oct. 14, 2005).

2028
2029 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2030
2031 SUBPART C: REMOVAL CREDITS

2032
2033 **Section 310.301 Special Definitions**

2034
2035 For purposes of Subpart C, the following definitions apply:

2036
2037 “Consistent removal²²” means the average of the lowest 50% of the removals measured
2038 according to 35 Ill. Adm. Code 310.311. All sample data obtained for the
2039 measured pollutant during the time period prescribed in 35 Ill. Adm. Code
2040 310.311 must be reported and used in computing consistent removal. If a
2041 substance is measurable in the influent but not in the effluent, the effluent level
2042 may be assumed to be the limit of measurement, and those data may be used by
2043 the POTW at its discretion and subject to approval by the Agency. If the
2044 substance is not measurable in the influent, the data may not be used. Where the
2045 number of samples with concentrations equal to or above the limit of
2046 measurement is between eight and twelve, the average of the lowest six removals
2047 must be used. If there are less than eight samples with concentrations equal to or
2048 less than the limit of measurement, the Agency may approve alternate means of

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2049 demonstrating consistent removal. “Measurement” refers to the ability of the
2050 analytical method or protocol to quantify as well as identify the presence of the
2051 substance in question.

2052 BOARD NOTE: Derived from 40 CFR 403.7 (2005).

2053

2054 “Industrial user” means industrial user or users, as is appropriate from the
2055 context.

2056

2057 “Overflow” means the intentional or unintentional diversion of flow from the
2058 POTW before the POTW treatment plant.

2059 BOARD NOTE: Derived from 40 CFR 403.7 (2005), as amended at 70 Fed. Reg.
2060 60134 (Oct. 14, 2005).

2061

2062 “Removal” means a reduction in the amount of a pollutant in the POTW's
2063 effluent or alteration of the nature of a pollutant during treatment at the POTW.
2064 The reduction or alteration can be obtained by physical, chemical, or biological
2065 means and may be the result of specifically designed POTW capabilities, or may
2066 be incidental to operation of the treatment system. Removal does not mean
2067 dilution of a pollutant in a POTW.

2068 BOARD NOTE: Derived from 40 CFR 403.7(a) (2005).

2069

2070 “Sludge requirements” is as defined in 35 Ill. Adm. Code 310.110.

2071 BOARD NOTE: Derived from 40 CFR 403.7(a) (2005).

2072

2073 “Standard” means standard or standards as is appropriate from the context.

2074

2075 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2076

2077 **Section 310.302 Authority**

2078

2079 Any POTW receiving wastes from an industrial user to which a categorical pretreatment
2080 standard applies may, at its discretion and subject to the conditions of Subpart C, grant removal
2081 credits to reflect removal by the POTW of pollutants specified in the categorical pretreatment
2082 standard. The POTW may grant a removal credit equal to, or at its discretion, less than its
2083 consistent removal rate. Upon being granted a removal credit, each affected industrial user must
2084 calculate its revised discharge limits in accordance with 35 Ill. Adm. Code 310.310. Removal
2085 credits must be given for indicator or surrogate pollutants regulated in a categorical pretreatment
2086 standard only if the categorical pretreatment standard so specifies.

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2087

2088 BOARD NOTE: Derived from 40 CFR 403.7(a)(2) (2003).

2089

2090 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2091

2092 Section 310.303 Conditions for Authorization to Grant Removal Credits

2093

2094 The Agency must authorize a POTW to grant removal credits only if the following conditions are
2095 met:

2096

2097

- a) The POTW applies for and receives authorization from the Agency to grant a removal credit in accordance with the requirements and procedures specified in 35 Ill. Adm. Code 310.330 and 310.340.

2098

2099

2100

2101

- b) The POTW demonstrates and continues to achieve consistent removal of the pollutant.

2102

2103

2104

- c) The POTW has an approved pretreatment program in accordance with and to the extent required by this Part; provided, however, that a POTW that does not have an approved pretreatment program may, pending approval of such a program, give removal credits conditionally as provided in 35 Ill. Adm. Code 310.330.

2105

2106

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2109

- d) The granting of removal credits will not cause the POTW to violate sludge requirements that apply to the sludge management method chosen by the POTW. ("Sludge requirements" is defined in 35 Ill. Adm. Code 310.110.)

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2118

- 1) For any pollutant listed in appendix G, section I of 40 CFR 403, incorporated by reference in 35 Ill. Adm. Code 310.107, for the use or disposal practice employed by the POTW, when the requirements in 40 CFR 503, incorporated by reference in 35 Ill. Adm. Code 310.107, for that practice are met;

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2125 2) For any pollutant listed in appendix G, section II of 40 CFR 403,
2126 incorporated by reference in 35 Ill. Adm. Code 310.107, for the use or
2127 disposal practice employed by the POTW when the concentration for a
2128 pollutant listed in appendix G, section II of 40 CFR 403 in the sewage
2129 sludge that is used or disposed of does not exceed the concentration for
2130 the pollutant in appendix G, section II of 40 CFR 403; or

2131
2132 3) For any pollutant in sewage sludge when the POTW disposes all of its
2133 sewage sludge in a municipal solid waste landfill unit that meets the
2134 criteria in 35 Ill. Adm. Code 810 through 813 that are derived from 40
2135 CFR 258.

2136
2137 e) The granting of removal credits will not cause a violation of the POTW's NPDES
2138 permit limitations or conditions. Alternatively, the POTW demonstrates to the
2139 Agency that even though it is not presently in compliance with applicable
2140 limitations and conditions in its NPDES permit, it will be in compliance when
2141 each industrial user to whom the removal credit would apply is required to meet
2142 its categorical pretreatment standard, as modified by the removal credit.

2143
2144 BOARD NOTE: Derived from 40 CFR 403.7(a)(3) (2005).

2145
2146 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2147
2148 **Section 310.311 Demonstration of Consistent Removal**

2149
2150 The Agency must authorize a POTW to grant a removal credit that does not exceed the POTW's
2151 consistent removal rate. In order to demonstrate consistent removal, the POTW must, for each
2152 pollutant with respect to which removal credit authorization is sought, collect influent and
2153 effluent data, and calculate consistent removal in accordance with the following requirements.

2154 As a condition of retaining removal credits authorization, the POTW's consistent removal must
2155 continue to be equal or greater than the removal credit.

2156
2157 a) Representative data. Seasonal. The data must be representative of yearly and
2158 seasonal conditions to which the POTW is subjected for each pollutant for which
2159 a discharge limit revision is proposed.

2160
2161 b) Representative data. Quality and quantity. The data must be representative of the
2162 quality and quantity of normal effluent and influent flow if such data can be

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- 2163 obtained. If such data are unobtainable, alternate data or information may be
2164 presented for approval to demonstrate consistent removal.
2165
2166 c) Sampling procedures
2167
2168 1) Composite. The influent and effluent operational data must be obtained
2169 through 24-hour flow-proportional composite samples. Sampling may be
2170 done manually or automatically, and discretely or continuously. For
2171 discrete sampling, at least 12 aliquots must be composited. Discrete
2172 sampling may be flow-proportioned either by varying the time interval
2173 between each aliquot or the volume of each aliquot. All composites must
2174 be flow-proportional to either stream flow at time of collection of influent
2175 aliquot or to the total influent flow since the previous influent aliquot.
2176 Volatile pollutant aliquots must be combined in the laboratory
2177 immediately before analysis.
2178
2179 2) Number of samples
2180
2181 A) Twelve samples must be taken at approximately equal intervals
2182 throughout the full year. Sampling must be evenly distributed over
2183 the days of the week so as to include non-workdays. If the Agency
2184 determines that this schedule will not be most representative of the
2185 actual operation of the POTW treatment plant, the Agency must
2186 approve an alternative sampling schedule.
2187
2188 B) Upon concurrence of the Agency, a POTW may utilize a historical
2189 data base amassed during the three years immediately preceding
2190 the application, provided that such data otherwise meet the
2191 requirements of this Section. In order for the historical data base
2192 to be approved, it must present a statistically valid description of
2193 daily, weekly, and seasonal sewage treatment plant loadings and
2194 performance for at least one year.
2195
2196 3) Effluent sample collection need not be delayed to compensate for
2197 hydraulic detention time unless the POTW elects to include detention time
2198 compensation or unless the Agency requires detention time compensation.
2199 The Agency must require that each effluent sample be taken
2200 approximately one detention time later than the corresponding influent

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2201 sample when failure to do so would result in an unrepresentative portrayal
2202 of actual POTW operation. The detention period must be based on a
2203 24-hour average daily flow value. The average daily flow used must be
2204 based upon the average of the daily flows during the same month of the
2205 previous year.

2206
2207 d) Sampling procedures. Grab. Where composite sampling is not an appropriate
2208 sampling technique, one or more grab samples must be taken to obtain influent
2209 and effluent operational data. Collection of influent grab samples must precede
2210 collection of effluent samples by approximately one detention period. A
2211 detention period is to be based on a 24-hour average daily flow value. The
2212 average daily flow used must be based upon the average of the daily flows during
2213 the same month of the previous year. Grab samples are required, for example,
2214 where the parameters being evaluated are those such as cyanide and phenol,
2215 which may not be held for any extended period because of biological, chemical,
2216 or physical interactions that take place after sample collection and affect the
2217 results. A grab sample is an individual sample collected over a period of time not
2218 exceeding 15 minutes.

2219
2220 e) Analytical methods. The POTW must analyze the samples for pollutants in
2221 accordance with the analytical techniques prescribed in 35 Ill. Adm. Code
2222 307.1003. If 35 Ill. Adm. Code 307.1003 does not reference analytical techniques
2223 for the pollutant in question, or if USEPA determines, as provided in 35 Ill. Adm.
2224 Code 310.602, that the 35 Ill. Adm. Code 307.1003 analytical techniques are
2225 inappropriate, the analysis must be performed using validated analytical methods
2226 or any other applicable analytical procedures approved by USEPA, including
2227 procedures suggested by the POTW.

2228
2229 f) Calculation of removal. All data acquired under provisions of this Subpart must
2230 be submitted to the Agency. Removal for the specific pollutant must be
2231 determined for each sample by measuring the difference between the
2232 concentrations of the pollutant in the influent and effluent of the POTW and
2233 expressing the difference as a percent of the influent concentration. Where such
2234 data cannot be obtained, the POTW may demonstrate removal using other data or
2235 procedures subject to concurrence by the Agency.

2236
2237BOARD NOTE: Derived from 40 CFR 403.7(b) (2003), as modified to reflect NRDC v.
2238USEPA, 790 F.2d 289 (3d Cir. 1986)

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2239

2240 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2241

2242 Section 310.312 Provisional Credits

2243

2244 For pollutants that are not currently being discharged (new or modified facilities, or production
2245 changes) the POTW may apply for provisional authorization to revise the applicable categorical
2246 pretreatment standard prior to initial discharge of the pollutant. Consistent removal may be
2247 based provisionally on data from treatability studies or demonstrative removal at other treatment
2248 facilities where the quality and quantity of influent are similar. In calculating and applying for
2249 provisional removal allowances, the POTW must comply with provisions of this Subpart. The
2250 POTW must demonstrate consistent removal within 18 months after the commencement of
2251 discharge of the pollutants in question. If, within 18 months after the commencement of the
2252 discharge of the pollutant in question, the POTW cannot demonstrate consistent removal
2253 pursuant to 35 Ill. Adm. Code 310.311, the Agency must terminate the authority to grant removal
2254 credits, and all industrial users to whom the revised discharge limits had been applied must
2255 achieve compliance with the applicable categorical pretreatment standards within a reasonable
2256 time, not to exceed the period of time prescribed in the standards, as the Agency must specify.

2257

2258 BOARD NOTE: Derived from 40 CFR 403.7(c) (2003).

2259

2260 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2261

2262 Section 310.320 Compensation for Overflow

2263

2264 A POTW that overflows untreated wastewater to receiving waters one or more times in a year
2265 may claim consistent removal of a pollutant only by complying with subsection (a) or (b) .
2266 However, this Section will not apply where an industrial user demonstrates that overflow does
2267 not occur between the industrial user and the POTW treatment plant.

2268

- 2269 a) The industrial user provides containment or otherwise ceases or reduces
2270 discharges from the regulated processes that contain the pollutant for which an
2271 allowance is requested during all circumstances in which an overflow event can
2272 reasonably be expected to occur at the POTW or at a sewer to which the industrial
2273 user is connected. Discharges must cease or be reduced, or pretreatment must be
2274 increased, to the extent necessary to compensate for the removal not being
2275 provided by the POTW. The Agency must allow allowances under this
2276 subsection only if the POTW demonstrates the following to the Agency:

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- 1) That all industrial users to which the POTW proposes to apply this subsection (a) have demonstrated the ability to contain or otherwise cease or reduce, during circumstances in which an overflow event can reasonably be expected to occur, discharges from the regulated processes that contain pollutants for which an allowance is requested;
 - 2) That the POTW has identified circumstances in which an overflow event can reasonably be expected to occur, and has a notification or other viable plan to insure that industrial users will learn of an impending overflow in sufficient time to contain, cease, or reduce discharging to prevent untreated overflows from occurring. The POTW must also demonstrate that it will monitor and verify the data required in subsection (a)(3) to insure that industrial users are containing, ceasing, or reducing operations during POTW system overflow; and
 - 3) That all industrial users to which the POTW proposes to apply this subsection have demonstrated the ability and commitment to collect and make available upon request by the POTW or the Agency daily flow reports or other data sufficient to demonstrate that all discharges from regulated processes containing the pollutant for which the allowance is requested were contained, reduced, or otherwise stopped as appropriate during all circumstances in which an overflow event was reasonably expected to occur; or
- b) Reduction in removal.
- 1) The consistent removal claimed is reduced pursuant to the following equation:

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

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

where:

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~~r_m = POTW's consistent removal rate for that pollutant as established under this Subpart.~~

~~r_c = Removal corrected by the overflow factor.~~

~~Z = Hours per year that overflow occurred between the industrial user and the POTW treatment plant, the hours either to be shown in the POTW's current NPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular industrial user's discharge overflows between the industrial user and the POTW treatment plan.~~

r_m = POTW's consistent removal rate for that pollutant as established under this Subpart.
 r_c = Removal corrected by the overflow factor.
 Z = Hours per year that overflow occurred between the industrial user and the POTW treatment plant, the hours either to be shown in the POTW's current NPDES permit application or the hours, as demonstrated by verifiable techniques, that a particular industrial user's discharge overflows between the industrial user and the POTW treatment plan.

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- 2) The industrial user can claim consistent removal only where the POTW is complying with all NPDES permit requirements and any additional requirements in any order or decree that affects combined sewer overflows. These requirements include any combined sewer overflow requirements that conform to the "Combined Sewer Overflow (CSO) Control Policy," USEPA document number EPA-830/Z-94-001, incorporated by reference in 35 Ill. Adm. Code 310.107.

2334BOARD NOTE: Derived from 40 CFR 403.7(h) (2005), as amended at 70 Fed. Reg. 60134
2335(Oct. 14, 2005).

2336

2337 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2338

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~~SUBPART C: REMOVAL CREDITS~~

2339
2340

2341 **Section 310.330 Exception to POTW Pretreatment Requirement**

2342

2343 A POTW required to develop a local pretreatment program under Subpart E may grant removal
2344 credits conditionally pending approval of such a program in accordance with the following terms
2345 and conditions:

2346

2347 a) All industrial users who are currently subject to a categorical pretreatment
2348 standard and who wish to receive conditionally a removal credit must submit to
2349 the POTW the information required by 35 Ill. Adm. Code 310.602(a) through (g)
2350 (except new or modified industrial users must only submit the information
2351 required by 35 Ill. Adm. Code 310.602(a) through (f)), pertaining to the
2352 categorical pretreatment standard as modified by the removal credit. The
2353 industrial users must indicate what additional technology, if any, will be needed to
2354 comply with the categorical pretreatment standard as modified by the removal
2355 credit;

2356

2357 b) The POTW must have submitted to the Agency an application for pretreatment
2358 program approval meeting the requirements of Subpart E in a timely manner, not
2359 to exceed the time limitations set forth in a compliance schedule for development
2360 of a pretreatment program included in the POTW's NPDES permit.

2361

2362 c) The POTW must do the following:

2363

2364 1) Compile and submit data demonstrating its consistent removal;

2365

2366 2) Comply with the conditions specified in 35 Ill. Adm. Code 310.303; and

2367

2368 3) Submit a complete application for removal credit authority in accordance
2369 with 35 Ill. Adm. Code 310.340.

2370

2371 d) If a POTW receives authority to grant conditional removal credits and the Agency
2372 subsequently makes a final determination, after appropriate notice, that the
2373 POTW failed to comply with the conditions in subsections (b) and (c), the
2374 Agency must terminate the authority to grant conditional removal credits and all
2375 industrial users to whom the revised discharge limits had been applied must
2376 achieve compliance with the applicable categorical pretreatment standards within

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2377 a reasonable time, not to exceed the period of time prescribed in the applicable
2378 categorical pretreatment standard.

2379
2380 e) If a POTW grants conditional removal credits and the POTW or the Agency
2381 subsequently makes a final determination, after appropriate notice, that the
2382 industrial user failed to comply with the conditions in subsection (a) , the POTW
2383 or Agency must terminate the conditional credit for the non-complying industrial
2384 user and the industrial user to whom the revised discharge limits had been applied
2385 must achieve compliance with the applicable categorical pretreatment standard
2386 within a reasonable time, not to exceed the period of time prescribed in the
2387 applicable categorical pretreatment standard. The conditional credit must not be
2388 terminated where a violation of the provisions of this Section results from causes
2389 entirely outside of the control of the industrial user or the industrial user has
2390 demonstrated substantial compliance.

2391
2392 f) The Agency may elect not to review an application for conditional removal credit
2393 authority upon receipt of such application, in which case the conditionally revised
2394 discharge limits remain in effect until reviewed by the Agency. This review may
2395 occur at any time in accordance with the procedures of Section 310.541 through
2396 Section 310.547, but in any event no later than the time of any pretreatment
2397 program approval or any NPDES permit reissuance.

2398
2399 BOARD NOTE: Derived from 40 CFR 403.7(d) (2003).

2400

2401 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2402

2403 Section 310.340 Application for Removal Credits Authorization

2404

2405 a) Any POTW that wants to grant a removal credit may apply for authorization from
2406 the Agency.

2407

2408 b) The POTW must submit to the Agency an application for authorization to grant
2409 removal credits (or modify existing ones).

2410

2411 c) A POTW may apply for authorization to grant or modify removal credits at any
2412 time.

2413

2414 d) An application for authorization to grant removal credits must be supported by the

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2415 following information:

2416

2417

- 1) A list of pollutants for which removal credits are proposed.

2418

2419

- 2) The data required pursuant to 35 Ill. Adm. Code 310.311.

2420

2421

- 3) Proposed revised discharge limits for each affected subcategory of industrial users calculated in accordance with 35 Ill. Adm. Code 310.310.

2422

2423

2424

- 4) A certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement under 35 Ill. Adm. Code 310.330.

2425

2426

2427

2428

- 5) A specific description of the POTW's current method of using or disposing of its sludge and a certification that the granting of removal credits will not cause a violation of the sludge requirements identified in 35 Ill. Adm. Code 310.303(d).

2429

2430

2431

2432

2433

- 6) A certification that the granting of removal credits will not cause a violation of the POTW's NPDES permit limits and conditions as required in 35 Ill. Adm. Code 310.303(e).

2434

2435

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2437

BOARD NOTE: Derived from 40 CFR 403.7(e)(1) through (e)(4) (2003).

2438

2439

(Source: Amended at 46 Ill. Reg. _____, effective _____)

2440

2441

Section 310.341 Agency Review

2442

2443

The Agency must review the POTW's application for authorization to grant or modify removal

2444

credits in accordance with the procedures of 35 Ill. Adm. Code 310.541 through 310.547.

2445

2446

BOARD NOTE: Derived from 40 CFR 403.7(e)(5) (2003).

2447

2448

(Source: Amended at 46 Ill. Reg. _____, effective _____)

2449

2450

Section 310.350 Continuation of Authorization

2451

2452

- a) Inclusion in POTW permit. Once a POTW has received authorization to grant

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2453 removal credits for a particular pollutant regulated in a categorical pretreatment
2454 standard it may automatically extend that removal credit to the same pollutant
2455 when it is regulated in other categorical standards, unless granting the removal
2456 credit will cause the POTW to violate the sludge requirements identified in 35 Ill.
2457 Adm. Code 310.303(d) or its NPDES permit limitations and conditions as
2458 required by 35 Ill. Adm. Code 310.303(e). If a POTW elects at a later time to
2459 extend removal credits to a certain categorical pretreatment standard, industrial
2460 subcategory, or one or more industrial users that initially were not granted
2461 removal credits, it must notify the Agency.

2462
2463 b) Compliance Monitoring. Once authority is granted, the removal credits must be
2464 included in the POTW's NPDES permit as soon as possible and must become an
2465 enforceable requirement of the POTW's NPDES permit. The removal credits
2466 will remain in effect for the term of the POTW's NPDES permit, provided the
2467 POTW maintains compliance with the conditions specified in 35 Ill. Adm. Code
2468 310.351.

2469
2470 c) Modification or withdrawal of removal credits. Following authorization to grant
2471 removal credits, a POTW must continue to monitor and report the POTW's
2472 removal capabilities at such intervals as are specified by the Agency in the
2473 pretreatment program and NPDES permit, but in no case less than once per year.
2474 The Agency must require a minimum of one representative sample per month
2475 during the reporting period. The POTW must include all sampling data in the
2476 POTW's compliance report.

2477
2478 BOARD NOTE: Derived from 40 CFR 403.7(f)(1) through (f)(3) (2003).

2479
2480 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2481
2482 **Section 310.351 Modification or Withdrawal of Removal Credits**

2483
2484 a) Notice to POTW. The Agency must notify the POTW if, on the basis of pollutant
2485 removal capability reports received pursuant to Section 310.350(c) or other
2486 information available to it, the Agency determines:

2487
2488 1) That one or more of the discharge limits revisions made by the POTW, or
2489 the POTW itself, no longer meets the requirements of this Subpart; or

2490

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2491 2) That such discharge limit revisions are causing or significantly
2492 contributing to a violation of any conditions or limits contained in the
2493 POTW's NPDES permit. A revised discharge limit is significantly
2494 contributing to a violation of the POTW's permit if it satisfies the
2495 definition of pass through or interference as defined in 35 Ill. Adm. Code
2496 310.110.
2497

2498 b) Corrective action. If appropriate corrective action is not taken within a reasonable
2499 time, not to exceed 60 days unless the POTW or an affected industrial user
2500 demonstrates that a longer time period is reasonably necessary to undertake the
2501 appropriate corrective action, the Agency must either withdraw such discharge
2502 limits or require modifications in the revised discharge limits.
2503

2504 c) Public notice of withdrawal or modification. The Agency must not withdraw,
2505 modify, or revise discharge limits unless it first notifies the POTW and all
2506 industrial users to whom revised discharge limits have been applied, and made
2507 public in writing the reasons for such withdrawal or modification and provided an
2508 opportunity for public hearing. Following such notice and withdrawal or
2509 modification, all industrial users to whom revised discharge limits had been
2510 applied must be subject to the modified discharge limits or the discharge limits
2511 prescribed in the applicable categorical pretreatment standards as appropriate and
2512 must achieve compliance with such limits within a reasonable time, not to exceed
2513 the period of time prescribed in the applicable categorical pretreatment standard.
2514

2515 BOARD NOTE: Derived from 40 CFR 403.7(f)(4) (2003), as modified to reflect NRDC
2516 v. USEPA, 790 F.2d 289 (3d Cir. 1986).

2517
2518 (Source: Amended at 46 Ill. Reg. _____, effective _____)
2519

SUBPART D: PRETREATMENT PERMITS

2521

Section 310.400 Preamble

2523

2524 a) Subpart D contains rules for the issuance of pretreatment permits by the Agency
2525 when the Agency is acting as the Control Authority. Subpart D does not apply if
2526 the POTW is the Control Authority.
2527

2527

2528 b) Industrial users with pretreatment permits are not required to have operating

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2529 permits under Subpart B of 35 Ill. Adm. Code 309. However, sources may be
2530 required to have construction permits under Subpart B of 35 Ill. Adm. Code 309.

2531

2532 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2533

2534 **Section 310.401 Pretreatment Permits**

2535

2536 a) No industrial user shall, without a pretreatment permit, discharge to a POTW,
2537 unless the discharge is to a POTW with a pretreatment program approved under
2538 Subpart E .

2539

2540 b) An industrial user that does not have a pretreatment permit must apply for a
2541 pretreatment permit within 30 days after the Agency notifies the user that the user
2542 meets any of the following criteria:

2543

2544 1) The user has caused pass through or interference.

2545

2546 2) The user's discharge presents an imminent endangerment to the health or
2547 welfare of persons.

2548

2549 c) No person may cause or allow any discharge for which a pretreatment permit has
2550 been issued unless the discharge is in compliance with the conditions of the
2551 pretreatment permit.

2552

2553 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2554

2555 **Section 310.402 Time to Apply**

2556

2557 a) Any person required to have a pretreatment permit must file an application with
2558 the Agency at least 90 days before the date on which the permit is required.

2559

2560 b) Any permittee who wishes to continue to discharge after the expiration date of a
2561 pretreatment permit must apply for reissuance of the permit at least 90 days before
2562 the expiration date of the permit.

2563

2564 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2565

2566 **Section 310.403 Imminent Endangerment**

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2567

2568 Under Section 34 of the Act [415 ILCS 5/34] the Agency must declare an emergency and seal
2569 any wastewater source or discharge if it determines that the discharge presents an imminent
2570 endangerment to the health or welfare of persons.

2571

2572 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2573

2574 Section 310.410 Application

2575

2576 a) Applications for pretreatment permits must include the following information:

2577

2578 1) The location of the wastewater source and discharge;

2579

2580 2) The location of the sewer to which the industrial user will discharge;

2581

2582 3) The POTW and treatment works that will receive the discharge;

2583

2584 4) The volume discharged;

2585

2586 5) A description of the wastewater before any pretreatment and before
2587 discharge, including a statement as to the presence or absence of all
2588 contaminants for which pretreatment requirements have been established
2589 in 35 Ill. Adm. Code 307;

2590

2591 6) Any projected changes in the volume or description of the wastewater that
2592 the industrial user desires to have included in the terms of the permit;

2593

2594 7) A certification of capacity to transport and treat the wastewater as
2595 specified in 35 Ill. Adm. Code 310.411; and

2596

2597 8) Such additional information as the Agency determines is necessary to
2598 determine whether the industrial user will meet the requirements of this
2599 Part and 35 Ill. Adm. Code 307.

2600

2601 b) The Agency must promulgate application forms for pretreatment permits.

2602

2603 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2604

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2605 **Section 310.413 Site Visit**

2606

2607 If the Agency determines that a site visit is necessary for the Agency to evaluate the application,
2608 it must notify the applicant within 30 days after receiving the application and arrange to visit the
2609 site. Failure to allow a site visit renders the application incomplete.

2610

2611 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2612

2613 **Section 310.415 Time Limits**

2614

2615 a) If a permittee files a timely application for renewal of an existing pretreatment
2616 permit, the existing permit must continue until the Agency takes final action on
2617 the new application.

2618

2619 b) If the Agency fails to take action on an application for a new permit within 90
2620 days after it receives the application, the applicant may deem the permit issued for
2621 a period of one year from the end of the 90 day period. This excuses the applicant
2622 only from the requirement to obtain a permit.

2623

2624 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2625

2626 **Section 310.420 Standard for Issuance**

2627

2628 The Agency must issue a pretreatment permit to the industrial user in either of the following
2629 circumstances:

2630

2631 a) If the industrial user demonstrates that the discharge will meet the requirements
2632 and standards of this Part and 35 Ill. Adm. Code 307; or

2633

2634 b) If the Agency imposes in the pretreatment permit conditions sufficient to assure
2635 future compliance with the requirements and standards of this Part and 35 Ill.
2636 Adm. Code 307, including a schedule of compliance under 35 Ill. Adm. Code
2637 310.432.

2638

2639 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2640

2641 **Section 310.430 Conditions**

2642

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2643 The Agency must impose the following conditions in each permit:

2644

2645 a) Discharge limitations based on 35 Ill. Adm. Code 307.

2646

2647 b) More stringent discharge limitations based the ability of the POTW to treat the
2648 discharge without interference or pass through.

2649

2650 c) Requirements that the industrial user collect and analyze samples of the
2651 discharge.

2652

2653 d) Requirements that the industrial user report the results of sample analysis to the
2654 Agency.

2655

2656 e) Requirements that the industrial user allow authorized representatives of the
2657 Agency, at reasonable times, upon presentation of credentials, to inspect its
2658 premises and collect samples of the discharge.

2659

2660 f) An expiration date, as specified in 35 Ill. Adm. Code 310.431.

2661

2662 g) If the applicant does not demonstrate compliance with this Part and 35 Ill. Adm.
2663 Code 307, a schedule of compliance as specified in 35 Ill. Adm. Code 310.432.

2664

2665 h) A requirement that the applicant file an application to modify the permit when
2666 notified under 35 Ill. Adm. Code 310.442.

2667

2668 i) Such additional conditions as the Agency determines are necessary to assure that
2669 the discharge complies with the requirements of this Part and 35 Ill. Adm. Code
2670 307.

2671

2672 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2673

2674 **Section 310.431 Duration of Permits**

2675

2676 No pretreatment permit may have a duration longer than five years. In establishing earlier
2677 expiration dates, the Agency must consider the following:

2678

2679 a) Coordination with future compliance deadlines;

2680

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- 2681 b) Maintenance of intensive control over new or experimental processes; and
- 2682
- 2683 c) Whether the permit addresses an emergency situation.
- 2684

2685 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2686

2687 Section 310.432 Schedules of Compliance

2688

- 2689 a) The Agency must establish a schedule of compliance in any pretreatment permit
- 2690 unless the industrial user demonstrates compliance with this Part and 35 Ill. Adm.
- 2691 Code 307.
- 2692

2693

- 2694 b) Schedules of compliance must require the permittee to take specific steps to
- 2695 achieve compliance within the shortest practicable period of time, and must be
- 2696 consistent with requirements in the Clean Water Act and 40 CFR 403,
- 2697 incorporated by reference in 35 Ill. Adm. Code 310.107.

2698

- 2699 c) The schedule of compliance must contain the following:

2700

- 2701 1) Increments of progress in the form of dates to commence and complete
- 2702 major events leading to the construction and operation of additional
- 2703 pretreatment required to meet the standards of 35 Ill. Adm. Code 307. No
- 2704 increment of progress may exceed nine months.

2705

- 2706 2) A requirement that the industrial user submit progress reports no later than
- 2707 14 days following each date in the schedule, including the final date for
- 2708 compliance. The progress report must include, at a minimum, the
- 2709 following:

2710

- 2711 A) Whether or not the industrial user met the date specified in the
- 2712 schedule of compliance; and

2713

- 2714 B) If the industrial user did not meet the dates, the date on which the
- 2715 user expects to accomplish this increment of progress, the reason
- 2716 for the delay and steps being taken to return construction to the
- 2717 schedule of compliance.

2718

- 2719 3) A requirement that in no event do more than nine months elapse between

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2719 progress reports.

2720

2721 4) A statement that the schedule of compliance does not protect the industrial
2722 user from enforcement.

2723

2724 d) The schedule of compliance does not protect the industrial user from
2725 enforcement. It is not necessary to show a violation of a pretreatment standard or
2726 requirement to enforce interim and final compliance dates.

2727

2728 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2729

2730 Section 310.443 Revocation

2731

2732 The Board may revoke a pretreatment permit under Section 33 of the Act [415 ILCS 5/33] and
2733 35 Ill. Adm. Code 103. Causes for revocation of a permit include:

2734

2735 a) Violating permit conditions, including schedules of compliance, monitoring, and
2736 inspection;

2737

2738 b) Obtaining a permit by misrepresentation or failure to disclose fully all relevant
2739 facts; or

2740

2741 c) A change in circumstances that mandates either a temporary or permanent
2742 reduction or elimination of the discharge.

2743

2744 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2745

2746 SUBPART E: POTW PRETREATMENT PROGRAMS

2747

2748 Section 310.501 Pretreatment Programs Required

2749

2750 a) The Agency must require any POTW (or combination of POTWs operated by the
2751 same authority) with a total design flow greater than five million gallons per day
2752 (mgd) that receives discharges that fulfill either of the following conditions to
2753 establish a pretreatment program:

2754

2755 1) The POTW receives discharges from industrial users that pass through or
2756 interfere with the operation of the POTW; or

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2757

2758

- 2) The POTW receives discharges from industrial users that are otherwise subject to categorical standards in 35 Ill. Adm. Code 307.

2759

2760

2761

- b) The Agency must require that a POTW with a design flow of five mgd or less develop a POTW pretreatment program if the Agency finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances require a pretreatment program in order to prevent interference or pass through.

2762

2763

2764

2765

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2767

- c) Subsections (a) and (b) notwithstanding, the Agency may, in its discretion, waive the requirement that any POTW develop a pretreatment program.

2768

2769

2770

- 1) Waivers must be in writing.

2771

2772

- 2) The Agency may, in its discretion, rescind any waiver by giving written notice to the POTW, giving sufficient time for the POTW to develop the program.

2773

2774

2775

BOARD NOTE: Derived from 40 CFR 403.8(a) (2003).

2776

2777

(Source: Amended at 46 Ill. Reg. _____, effective _____)

2778

2779

Section 310.502 Deadline for Program Approval

2781

A POTW that meets the criteria of 35 Ill. Adm. Code 310.501 must receive approval of a POTW pretreatment program no later than one year after the issuance, reissuance, or renewal of the POTW's NPDES permit to require development of a pretreatment program. The POTW pretreatment program must meet the criteria set forth in 35 Ill. Adm. Code 310.510 and must be administered by the POTW to ensure compliance by industrial users with applicable pretreatment standards and requirements.

2788

BOARD NOTE: Derived from 40 CFR 403.8(b) (2003).

2789

(Source: Amended at 46 Ill. Reg. _____, effective _____)

2791

2792

Section 310.503 Incorporation of Approved Programs in Permits

2794

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2795A POTW may develop an appropriate POTW pretreatment program any time before the time
2796limit set forth in 35 Ill. Adm. Code 310.502. The approved POTW pretreatment program must
2797be incorporated into the POTW's NPDES permit. The modification of a POTW's NPDES
2798permit for the purposes of incorporating a POTW pretreatment program approved in accordance
2799with the procedure in 35 Ill. Adm. Code 310.541 through 310.547 must be deemed a minor
2800permit modification subject to 35 Ill. Adm. Code 310.442.

2801

2802BOARD NOTE: Derived from 40 CFR 403.8(c) (2003).

2803

2804 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2805

2806**Section 310.504 Incorporation of Compliance Schedules in Permits**

2807

2808If the POTW does not have an approved pretreatment program at the time the POTW's existing
2809NPDES permit is reissued or modified, the reissued or modified permit must contain the shortest
2810reasonable compliance schedule, not to exceed one year, for the approval of the legal authority,
2811procedures, and funding required by 35 Ill. Adm. Code 310.510. The schedule of compliance
2812does not protect the POTW from enforcement.

2813

2814BOARD NOTE: Derived from 40 CFR 403.8(d) (2003).

2815

2816 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2817

2818**Section 310.505 Reissuance or Modification of Permits**

2819

2820The Agency must modify or, alternatively, reissue a POTW's NPDES permit in order to
2821accomplish any of the following:

2822

- 2823 a) Put the POTW on a compliance schedule for the development of a POTW
2824 pretreatment program where the addition of pollutants into a POTW by an
2825 industrial user or combination of industrial users presents a substantial hazard to
2826 the functioning of the treatment works, quality of the receiving waters, human
2827 health, or the environment;
- 2828
- 2829 b) Incorporate an approve POTW pretreatment program in the POTW permit;
- 2830
- 2831 c) Incorporate a compliance schedule for the development of a POTW pretreatment
2832 program in the POTW permit; or

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2833

2834 d) Incorporate the removal credits established under Subpart C in the POTW permit.

2835

2836 BOARD NOTE: Derived from 40 CFR 403.8(e) (2003).

2837

2838 (Source: Amended at 46 Ill. Reg. _____, effective _____)

2839

2840 **Section 310.510 Pretreatment Program Requirements**

2841

2842 A POTW pretreatment program must be based on the following legal authority and include the
2843 following procedures, and these authorities and procedures must at all times be fully and
2844 effectively exercised and implemented:

2845

2846 a) Legal authority. The POTW must operate pursuant to legal authority enforceable
2847 in federal, State, or local courts, which authorizes or enables the POTW to apply
2848 and to enforce the requirements of this Part and 35 Ill. Adm. Code 307. Such
2849 authority may be contained in a statute, ordinance, or series of joint powers
2850 agreements that the POTW is authorized to enact, enter into or implement, and
2851 which are authorized by State law. At a minimum, this legal authority must
2852 enable the POTW to:

2853

2854 1) Deny or condition new or increased contributions of pollutants, or changes
2855 in the nature of pollutants, to the POTW by industrial users where such
2856 contributions do not meet applicable pretreatment standards and
2857 requirements or where such contributions would cause the POTW to
2858 violate its NPDES permit;

2859

2860 2) Require compliance with applicable pretreatment standards and
2861 requirements by industrial users;

2862

2863 3) Control, through ordinance, permit, order, or similar means, the
2864 contribution to the POTW by each industrial user to ensure compliance
2865 with applicable pretreatment standards and requirements, and in the case
2866 of each significant industrial users, as defined at 35 Ill. Adm. Code
2867 310.110, this control must be achieved through individual permits or
2868 equivalent individual control mechanisms issued to each such user except
2869 as follows:

2870

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- 2871 A) At the discretion of the POTW, this control may include use of
- 2872 general control mechanisms if the conditions of subsection (g) are
- 2873 met.
- 2874
- 2875 BOARD NOTE: Subsection (g) is derived from 40 CFR
- 2876 403.8(f)(1)(iii)(A)(1)(i) through (f)(1)(iii)(A)(2), as added at 70
- 2877 Fed. Reg. 60134 (Oct. 14, 2005), which would normally appear at
- 2878 this subsection (a)(3)(A), but which the Board moved to subsection
- 2879 (g) to comply with Illinois Administrative Code codification
- 2880 requirements.
- 2881
- 2882 B) All individual control mechanisms and general control
- 2883 mechanisms must be enforceable and contain, at a minimum, the
- 2884 following conditions:
- 2885
- 2886 i) A statement of duration (in no case more than five years);
- 2887
- 2888 ii) A statement of non-transferability without, at a minimum,
- 2889 prior notification to the POTW and provision of a copy of
- 2890 the existing control mechanism to the new owner or
- 2891 operator;
- 2892
- 2893 iii) Effluent limits, including best management practices, based
- 2894 on applicable general pretreatment standards in this Part
- 2895 and 35 Ill. Adm. Code 307, categorical pretreatment
- 2896 standards, local limits, and local law;
- 2897
- 2898 iv) Self-monitoring, sampling, reporting, notification, and
- 2899 recordkeeping requirements, including an identification of
- 2900 the pollutants to be monitored, including the process for
- 2901 seeking a waiver for a pollutant neither present nor
- 2902 expected to be present in the discharge in accordance with
- 2903 35 Ill. Adm. Code 310.605(b), or a specific waived
- 2904 pollutant in the case of an individual control mechanism),
- 2905 sampling location, sampling frequency, and sample type,
- 2906 based on the applicable general pretreatment standards of
- 2907 this Part and 35 Ill. Adm. Code 307, categorical
- 2908 pretreatment standards, local limits, and local law;

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- v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule; however, such schedules may not extend the compliance date beyond applicable federal deadlines; and
- vi) Requirements to control slug discharges, if such are determined by the POTW to be necessary;
- 4) Require the following:
 - A) The development of a compliance schedule by each industrial user for the installation of technology required to meet applicable pretreatment standards and requirements; and
 - B) The submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including, but not limited, to the reports required in Subpart F;
- 5) Carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with applicable pretreatment standards and requirements by industrial users. Representatives of the POTW must be authorized to enter any premises of any industrial user in which a discharge source or treatment system is located or in which records are required to be kept under 35 Ill. Adm. Code 310.634 to assure compliance with pretreatment standards. Such authority must be at least as extensive as the authority provided under section 308 of the federal CWA (33 USC 1318), incorporated by reference in 35 Ill. Adm. Code 310.107(c);
- 6) Obtain remedies for noncompliance by any industrial user with any pretreatment standard or requirement.
 - A) All POTWs must be able to seek injunctive relief for noncompliance by industrial users with pretreatment standards or

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- 2947 requirements. All POTWs must also have authority to seek or
2948 assess civil or criminal penalties in at least the amount of \$1,000 a
2949 day for each violation by industrial users of pretreatment standards
2950 and requirements.
2951
- 2952 B) Pretreatment requirements that will be enforced through the
2953 remedies set forth in subsection (a)(6)(A) will include but not be
2954 limited to: the duty to allow or carry out inspections, entry, or
2955 monitoring activities; any rules, regulations, or orders issued by the
2956 POTW; any requirements set forth in control mechanisms issued
2957 by the POTW; or any reporting requirements imposed by the
2958 POTW, this Part or 35 Ill. Adm. Code 307. The POTW must have
2959 authority and procedures (after notice to the industrial user)
2960 immediately and effectively to halt or prevent any discharge of
2961 pollutants to the POTW that reasonably appears to present an
2962 imminent endangerment to the health or welfare of persons. The
2963 POTW must also have authority and procedures (which must
2964 include notice to the affected industrial users and an opportunity to
2965 respond) to halt or prevent any discharge to the POTW that
2966 presents or may present an endangerment to the environment or
2967 which threatens to interfere with the operation of the POTW. The
2968 Agency must have authority to seek judicial relief when the POTW
2969 has sought a monetary penalty that the Agency finds to be
2970 insufficient; and
2971
- 2972 7) Comply with the confidentiality requirements set forth in 35 Ill. Adm.
2973 Code 310.105.
2974
- 2975 b) Procedures. The POTW must develop and implement procedures to ensure
2976 compliance with the requirements of a pretreatment program. At a minimum,
2977 these procedures must enable the POTW to do the following:
2978
- 2979 1) Identify and locate all possible industrial users that might be subject to the
2980 POTW pretreatment program. Any compilation, index, or inventory of
2981 industrial users made under this subsection (b)(1) must be made available
2982 to the Agency upon request;
2983
- 2984 2) Identify the character and volume of pollutants contributed to the POTW

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- 2985 by the industrial users identified under subsection (b)(1) . This
2986 information must be made available to the Agency upon request;
2987
- 2988 3) Notify industrial users identified under subsection (b)(1) of applicable
2989 pretreatment standards and any applicable requirements under sections
2990 204(b) and 405 of the federal CWA (33 USC 1284(b) and 1345) and
2991 Subtitles C and D of the federal Resource Conservation and Recovery Act
2992 (42 USC 6921-6939e and 6941-6949a), each incorporated by reference in
2993 35 Ill. Adm. Code 310.107. Within 30 days after approval, pursuant to
2994 subsection (f) , of a list of significant industrial users, notify each
2995 significant industrial user of its status as such and of all requirements
2996 applicable to it as a result of such status;
2997
- 2998 4) Receive and analyze self-monitoring reports and other notices submitted
2999 by industrial users in accordance with the self-monitoring requirements in
3000 Subpart D ;
3001
- 3002 5) Randomly sample and analyze the effluent from industrial users and
3003 conduct surveillance and inspection activities in order to identify,
3004 independent of information supplies by industrial users, occasional and
3005 continuing noncompliance with pretreatment standards. Inspect and
3006 sample the effluent from each significant industrial user at least once a
3007 year, except as otherwise specified in subsections (b)(5)(A) through
3008 (b)(5)(C) :
3009
- 3010 A) Where the POTW has authorized the industrial user subject to a
3011 categorical pretreatment standard to forego sampling of a pollutant
3012 regulated by a categorical pretreatment standard in accordance
3013 with 35 Ill. Adm. Code 310.605(c), the POTW must sample for the
3014 waived pollutants at least once during the term of the categorical
3015 industrial user's control mechanism. In the event that the POTW
3016 subsequently determines that a waived pollutant is present or is
3017 expected to be present in the industrial user's wastewater based on
3018 changes that occur in the industrial user's operations, the POTW
3019 must immediately begin at least annual effluent monitoring of the
3020 industrial user's discharge and inspection.
3021

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- B) Where the POTW has determined that an industrial user meets the criteria for classification as a non-significant categorical industrial user, the POTW must evaluate at least once per year whether an industrial user continues to meet the definition of significant industrial user in 35 Ill. Adm. Code 310.110.

- C) In the case of industrial users subject to reduced reporting requirements under 35 Ill. Adm. Code 310.605(c), the POTW must randomly sample and analyze the effluent from the industrial user and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in 35 Ill. Adm. Code 310.605(c), the POTW must immediately begin sampling and inspecting the industrial user at least once a year.

- 6) Evaluate whether each such significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006; an additional significant industrial user must be evaluated within one year after being designated a significant industrial user. For purposes of this subsection (b)(6), a slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant industrial users are required to notify the POTW immediately of any changes at its facility affecting potential for a slug discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
 - A) Description of discharge practices, including non-routine batch discharges;

 - B) Description of stored chemicals;

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- 3059 C) Procedures for immediately notifying the POTW of slug
3060 discharges, including any discharge that would violate a
3061 prohibition under 35 Ill. Adm. Code 310.202 with procedures for
3062 follow-up written notification within five days;
3063
3064 D) If necessary, procedures to prevent adverse impact from accidental
3065 spills, including inspection and maintenance of storage areas,
3066 handling and transfer of materials, loading and unloading
3067 operations, control of plant site run-off, worker training, building
3068 of containment structures or equipment, measures for containing
3069 toxic organic pollutants (including solvents), or measures and
3070 equipment for emergency response;
3071
3072 7) Investigate instances of noncompliance with pretreatment standards and
3073 requirements, as indicated in the reports and notices required under
3074 Subpart D or as indicated by analysis, inspection, and surveillance
3075 activities described in subsection (b)(5) . Sample taking and analysis, and
3076 the collection of other information, must be performed with sufficient care
3077 to produce evidence admissible in enforcement proceedings or in judicial
3078 actions; and
3079
3080 8) Comply with the public participation requirements of 40 CFR 25,
3081 incorporated by reference in 35 Ill. Adm. Code 310.107, in the
3082 enforcement of pretreatment standards. These procedures must include
3083 provision for providing, at least annually, public notification, in a
3084 newspaper of general circulation in the jurisdictions served by the POTW
3085 of industrial users that, at any time during the previous 12 months, were in
3086 significant noncompliance with applicable pretreatment requirements. For
3087 the purposes of this provision, a significant industrial user (or any
3088 industrial user that violates subsection (b)(8)(C), (b)(8)(D), or (b)(8)(H) is
3089 in significant noncompliance if its violation meets one or more of the
3090 following criteria:
3091
3092 A) Chronic violations of wastewater discharge limits, defined here as
3093 those in which 66 percent or more of all of the measurements taken
3094 for the same pollutant parameter during a six-month period exceed
3095 (by any magnitude) a numeric pretreatment standard or
3096 requirement, including instantaneous limits, as such are defined in

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- 3097 35 Ill. Adm. Code 310.110;
3098
3099 B) ~~“~~“Technical review criteria” (TRC) violations, which mean those
3100 violations in which 33 percent or more of all of the measurements
3101 taken for the same pollutant parameter during a six-month period
3102 equal or exceed the product of the numeric pretreatment standard
3103 or requirement, including instantaneous limits, as such are defined
3104 in 35 Ill. Adm. Code 310.110, multiplied by the applicable TRC
3105 (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all
3106 other pollutants, except pH);
3107
3108 C) Any other violation of a pretreatment standard or requirement, as
3109 such are defined in 35 Ill. Adm. Code 310.110, (daily maximum,
3110 long-term average, instantaneous limit, or narrative standard) that
3111 the POTW determines has caused, alone or in combination with
3112 other discharges, interference, or pass through (including
3113 endangering the health of POTW personnel or the general public);
3114
3115 D) Any discharge of a pollutant that has caused imminent
3116 endangerment to human health, welfare, or the environment or has
3117 resulted in the POTW’s exercise of its emergency authority under
3118 subsection (a)(6)(B) to halt or prevent such a discharge;
3119
3120 E) Failure to meet, within 90 days after the schedule date, a
3121 compliance schedule milestone contained in a local control
3122 mechanism or enforcement order for starting construction,
3123 completing construction, or attaining final compliance;
3124
3125 F) Failure to provide, within 45 days after the due date, required
3126 reports, such as baseline monitoring reports, 90-day compliance
3127 reports, periodic self-monitoring reports, and reports on
3128 compliance with compliance schedules;
3129
3130 G) Failure to accurately report noncompliance; or
3131
3132 H) Any other violation or group of violations, which may include a
3133 violation of best management practices, that the POTW determines
3134 will adversely affect the operation or implementation of the local

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3135 pretreatment program.

3136

3137 c) The POTW must have sufficient resources and qualified personnel to carry the
3138 authorities and procedures described in subsections (a) and (b) .

3139

3140 d) Local limits. The POTW must develop local limits as required in 35 Ill. Adm.
3141 Code 310.210 or demonstrate that they are not necessary.

3142

3143 e) The POTW must develop and implement an enforcement response plan. This
3144 plan must contain detailed procedures indicating how a POTW will investigate
3145 and respond to instances of industrial user noncompliance. The plan shall, at a
3146 minimum, do the following:

3147

1) Describe how the POTW will investigate instances of noncompliance;

3149

2) Describe the types of escalating enforcement responses the POTW will
3150 take in response to all anticipated types of industrial user violations and
3151 the time periods within which responses will take place;

3152

3) Identify (by title) the officials responsible for each type of response; and

3154

3155

4) Adequately reflect the POTW's primary responsibility to enforce all
3156 applicable pretreatment requirements and standards, as detailed in
3157 subsections (a) and (b) .

3158

3159

3160 f) The POTW must prepare and maintain a list of its industrial users meeting the
3161 criteria in the first paragraph of the definition of "significant industrial user" at
3162 35 Ill. Adm. Code 310.110. The list must identify the criteria in the first
3163 paragraph of the definition of "significant industrial user" at 35 Ill. Adm. Code
3164 310.110 applicable to each industrial user and, where applicable, must also
3165 indicate whether the POTW has made a determination pursuant to the second
3166 paragraph of that definition that such industrial user should not be considered a
3167 significant industrial user. The initial list must be submitted to the Approval
3168 Authority pursuant to 35 Ill. Adm. Code 310.521 through 310.533 as a
3169 non-substantial program modification pursuant to 35 Ill. Adm. Code 310.923.
3170 Any modification to the list must be submitted to the Approval Authority pursuant
3171 to 35 Ill. Adm. Code 310.612(a).

3172

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- 3173 g) Alternative use of general control mechanisms.
- 3174
- 3175 1) A POTW may use a single general control mechanism that applies to
- 3176 several facilities in place of several individual control mechanisms
- 3177 applicable to individual facilities. To use a general control mechanism,
- 3178 the following must be true of all of the facilities to be covered by the
- 3179 general control mechanism:
- 3180
- 3181 A) The covered facilities must all involve the same or substantially
- 3182 similar types of operations;
- 3183
- 3184 B) The covered facilities must all discharge the same types of wastes;
- 3185
- 3186 C) The covered facilities must all require the same effluent
- 3187 limitations;
- 3188
- 3189 D) The covered facilities must all require the same or similar
- 3190 monitoring; and
- 3191
- 3192 E) In the opinion of the POTW, the covered facilities are more
- 3193 appropriately controlled under a general control mechanism than
- 3194 under individual control mechanisms.
- 3195
- 3196 2) To be covered by the general control mechanism, the significant industrial
- 3197 user must file a written request for coverage that identifies its contact
- 3198 information, production processes, the types of wastes generated, the
- 3199 location for monitoring all wastes covered by the general control
- 3200 mechanism, any requests in accordance with 35 Ill. Adm. Code 310.605(b)
- 3201 for a monitoring waiver for a pollutant neither present nor expected to be
- 3202 present in the discharge, and any other information the POTW deems
- 3203 appropriate. A monitoring waiver for a pollutant neither present nor
- 3204 expected to be present in the discharge is not effective in the general
- 3205 control mechanism until after the POTW has provided written notice to
- 3206 the significant industrial user that such a waiver request has been granted
- 3207 in accordance with 35 Ill. Adm. Code 310.605(b). The POTW must retain
- 3208 a copy of the general control mechanism, documentation to support the
- 3209 POTW's determination that a specific significant industrial user meets the
- 3210 criteria in subsections (a)(3)(i)(A) through (a)(3)(i)(E) , and a copy of the

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3211 significant industrial user's written request for coverage for three years
3212 after the expiration of the general control mechanism. A POTW may not
3213 control a significant industrial user through a general control mechanism
3214 where the facility is subject to production-based categorical pretreatment
3215 standards or categorical pretreatment standards expressed as mass of
3216 pollutant discharged per day or for a significant industrial user whose
3217 limits are based on the combined wastestream formula or net/gross
3218 calculations (35 Ill. Adm. Code 310.233 and 310.801).
3219

3220 BOARD NOTE: Subsection (g) is derived from 40 CFR 403.8(f)(1)(iii)(A)(1)(i)
3221 through (f)(1)(iii)(A)(2), as added at 70 Fed. Reg. 60134 (Oct. 14, 2005). The
3222 Board moved the text of these subsections, which would normally appear at
3223 subsection (a)(3)(A), to this subsection (g) to comply with Illinois Administrative
3224 Code codification requirements.
3225

3226 BOARD NOTE: Derived from 40 CFR 403.8(f) (2005), as amended at 70 Fed. Reg. 60134
3227 (Oct. 14, 2005).

3228

3229 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3230

3231 Section 310.511 Receiving Electronic Documents

3232

3233A POTW that chooses to receive electronic documents must satisfy the requirements of 35 Ill.
3234Adm. Code 310.106.

3235

3236 BOARD NOTE: Derived from 40 CFR 403.8(g), as added at 70 Fed. Reg. 59848 (Oct. 13,
32372005).

3238

3239 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3240

3241 Section 310.521 Program Approval

3242

3243A POTW requesting approval of a POTW pretreatment program must develop a program
3244description that includes the information set forth in 35 Ill. Adm. Code 310.522(a) through (d).

3245This description must be submitted to the Agency, which will make a determination on the
3246request for program approval in accordance with the procedures described in 35 Ill. Adm. Code
3247310.540 through 310.546.

3248

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3249 BOARD NOTE: Derived from 40 CFR 403.9(a) (2003).

3250

3251 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3252

3253 **Section 310.522 Contents of Program Submission**

3254

3255 The program description must contain the following information:

3256

3257 a) A statement from the attorney or other official acting in a comparable capacity for
3258 the unit of local government that the POTW has authority adequate to carry out
3259 the programs described in 35 Ill. Adm. Code 310.501 through 310.510. This
3260 statement must do the following:

3261

3262 1) Identify the provision of the legal authority under 35 Ill. Adm. Code
3263 310.510(a) that provides the basis for each procedure under 35 Ill. Adm.
3264 Code 310.510(b);

3265

3266 2) Identify the manner in which the POTW will implement the program
3267 requirements set forth in 35 Ill. Adm. Code 310.501 through 310.510,
3268 including the means by which pretreatment standards will be applied to
3269 individual industrial users (e.g., by order, permit, ordinance, etc.); and

3270

3271 3) Identify how the POTW intends to ensure compliance with pretreatment
3272 standards and requirements, and to enforce them in the event of
3273 noncompliance by industrial users;

3274

3275 b) A copy of any statutes, ordinances, regulations, agreements, or other authorities
3276 relied upon by the POTW for its administration of the program. This submission
3277 must include a statement reflecting the endorsement or approval of the local
3278 boards or bodies responsible for supervising or funding the POTW pretreatment
3279 program if approved;

3280

3281 c) A brief description (including organization charts) of the POTW organization that
3282 will administer the pretreatment program. If more than one agency is responsible
3283 for administration of the program the responsible agencies should be identified,
3284 their respective responsibilities delineated, and their procedures for coordination
3285 set forth; and

3286

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3287 d) A description of the funding levels and full- and part-time manpower available to
3288 implement the program.
3289

3290 BOARD NOTE: Derived from 40 CFR 403.9(b) (2003).

3291

3292 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3293

3294 Section 310.524 Content of Removal Allowance Submission

3295

3296 The request for authority to revise categorical pretreatment standards must contain the
3297 information required in 35 Ill. Adm. Code 310.340.

3298

3299 BOARD NOTE: Derived from 40 CFR 403.9(d) (2003).

3300

3301 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3302

3303 Section 310.531 Agency Action

3304

3305 Any POTW requesting POTW pretreatment program approval must submit to the Agency three
3306 copies of the submission described in 35 Ill. Adm. Code 310.522, and, if appropriate, 35 Ill.
3307 Adm. Code 310.524. Within 60 days after receiving the submission, the Agency must make a
3308 preliminary determination of whether the submission meets the requirements of 35 Ill. Adm.
3309 Code 310.522 and, if appropriate, 35 Ill. Adm. Code 310.524. If the Agency makes the
3310 preliminary determination that the submission meets these requirements, the Agency shall do the
3311 following:

3312

3313 a) Notify the POTW that the submission has been received and is under review; and
3314

3315 b) Commence the public notice and evaluation activities set forth in 35 Ill. Adm.
3316 Code 310.540 through 310.546.

3317

3318 BOARD NOTE: Derived from 40 CFR 403.9(e) (2003).

3319

3320 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3321

3322 Section 310.532 Defective Submission

3323

3324 If, after review of the submission as provided for in 35 Ill. Adm. Code 310.531, the Agency

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3325determines that the submission does not comply with the requirements of 35 Ill. Adm. Code
3326310.522, or, if appropriate, 35 Ill. Adm. Code 310.524, the Agency must provide notice in
3327writing to the applying POTW and each person who has requested individual notice. This
3328notification must identify any defects in the submission and advise the POTW, and each person
3329who has requested individual notice, of the means by which the POTW can comply with the
3330applicable requirements of 35 Ill. Adm. Code 310.522 and, if appropriate, 35 Ill. Adm. Code
3331310.524.

3332

3333BOARD NOTE: Derived from 40 CFR 403.9(f) (2003).

3334

3335 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3336

3337**Section 310.541 Deadline for Review**

3338

3339The Agency has 90 days from the date of public notice of any submission complying with the
3340requirements of 35 Ill. Adm. Code 310.522, and, where removal credit authorization is sought,
3341with 35 Ill. Adm. Code 310.340 and 310.524, to review the submission. The Agency must
3342review the submission to determine compliance with the requirements of 35 Ill. Adm. Code
3343310.502 and 310.510, and, where removal credit authorization is sought, with Subpart C . The
3344Agency may have up to an additional 90 days to complete the evaluation of the submission if the
3345public comment period provided for in 35 Ill. Adm. Code 310.542(a)(2) is extended beyond 30
3346days or if a public hearing is held as provided for in 35 Ill. Adm. Code 310.542(b). In no event,
3347however, must the time for evaluation of the submission exceed a total of 180 days from the date
3348of public notice of a submission meeting the requirements of 35 Ill. Adm. Code 310.522 and, in
3349the case of a removal credit application, 35 Ill. Adm. Code 310.522 and 310.524.

3350

3351BOARD NOTE: Derived from 40 CFR 403.11(a) (2003).

3352

3353 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3354

3355**Section 310.542 Public Notice and Hearing**

3356

3357Upon receipt of a submission the Agency must commence its review. Within 20 work days after
3358making a determination that a submission meets the requirements of 35 Ill. Adm. Code 310.522,
3359and, where removal allowance approval is sought, 35 Ill. Adm. Code 310.340 and 310.524, the
3360Agency must perform the following actions:

3361

3362 a) Issue a public notice of request for approval of the submission.

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- 1) This public notice must be circulated in a manner designed to inform interested and potentially interested persons of the submission. Procedures for the circulation of public notice must include the following actions:
 - A) Mailing notices of the request for approval of the submission to the following entities:
 - i) Federal agencies as designated by USEPA;
 - ii) Regional planning agencies that participate in development of water quality management plans (unless such agencies have specifically requested not to receive such notices); and
 - iii) Any other person or group who has requested individual notice, including those on appropriate mailing lists; and
 - B) Publication of a notice of request for approval of the submission in a newspaper or newspapers of general circulation within the jurisdiction or jurisdictions served by the POTW that would provide meaningful public notice.
 - 2) The public notice must provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the submission.
 - 3) All written comments submitted during the 30-day comment period must be retained by the Agency and considered in the decision on whether or not to approve the submission. The period for comment may be extended at the discretion of the Agency.
- b) Provide an opportunity for the applicant, any affected state, any interested State or federal agency, person, or group of persons to request a public hearing with respect to the submission.
- 1) This request for public hearing must be filed within the 30 day (or extended) comment period described in subsection (a)(2) and must

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3401 indicate the interest of the person filing such request and the reasons why
3402 a hearing is warranted.

3403

3404 2) The Agency must hold a hearing if the POTW so requests. In addition, a
3405 hearing will be held if there is a significant public interest in issues
3406 relating to whether or not the submission should be approved. Instances
3407 of doubt should be resolved in favor of holding the hearing.

3408

3409 3) Public notice of a hearing to consider a submission and sufficient to
3410 inform interested parties of the nature of the hearing and the right to
3411 participate must be published in the same newspaper as the notice of the
3412 original request for approval of the submission under subsection (a)(1)(B)
3413 . In addition, notice of the hearing must be sent to those persons
3414 requesting individual notice.

3415

3416 BOARD NOTE: Derived from 40 CFR 403.11(b) (2003).

3417

3418 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3419

3420 Section 310.543 Agency Decision

3421

3422 At the end of the 30-day (or extended) comment period and within the 90-day (or extended)
3423 period provided for in 35 Ill. Adm. Code 310.541, the Agency must approve or deny the
3424 submission based upon the evaluation in 35 Ill. Adm. Code 310.541 and taking into
3425 consideration comments submitted during the comment period and the record of the public
3426 hearing, if held. Where the Agency makes a determination to deny the request, the Agency must
3427 so notify the POTW and each person who has requested individual notice. This notification
3428 must include suggested modifications and the Agency may allow the requestor additional time to
3429 bring the submission into compliance with applicable requirements.

3430

3431 BOARD NOTE: Derived from 40 CFR 403.11(c) (2003).

3432

3433 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3434

3435 Section 310.545 Notice of Decision

3436

3437 The Agency must notify those persons who submitted comments and participated in the public
3438 hearings, if held, of the approval or disapproval of the submission. In addition, the Agency must

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3439 cause to be published a notice of approval or disapproval in the same newspaper as the original
3440 notice of request for approval of the submission was published. The Agency must identify, in
3441 any notice of POTW pretreatment program approval, any authorization to modify categorical
3442 pretreatment standards that the POTW may make in accordance with Subpart C for removal of
3443 pollutants subject to pretreatment standards.

3444

3445 BOARD NOTE: Derived from 40 CFR 403.11(e) (2003).

3446

3447 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3448

3449

SUBPART F: REPORTING REQUIREMENTS

3450

3451 Section 310.602 Baseline Report

3452

3453 Within the time limits specified in subsection (h) , existing industrial users subject to such
3454 categorical pretreatment standards and currently discharging to or scheduled to discharge to a
3455 POTW must submit to the Control Authority a report that contains the information listed in
3456 subsections (a) through (g) . New sources, and sources that become industrial users subsequent
3457 to the promulgation of an applicable categorical standard, must submit to the Control Authority a
3458 report that contains the information listed in subsections (a) through (e) . Where reports
3459 containing this information already have been submitted to the USEPA in compliance with 40
3460 CFR 128.140(b) (1977), the industrial user must not be required to submit this information again.
3461 New sources must also include in the report information on the method of pretreatment the
3462 source intended to use to meet applicable pretreatment standards. New sources must give
3463 estimates of the information requested in subsections (d) and (e) .

3464

3465 a) Identifying information. The industrial user must submit the name and address of
3466 the facility including the name of the operator and owners.

3467

3468 b) Permits. The industrial user must submit a list of any environmental control
3469 permits held by or for the facility.

3470

3471 c) Description of operations. The industrial user must submit a brief description of
3472 the nature, average rate of production, and standard industrial classification (SIC
3473 Code) of the operations carried out by such industrial user, as determined using
3474 the Standard Industrial Classification Manual, incorporated by reference in 35 Ill.
3475 Adm. Code 310.107(a). This description should include a schematic process
3476 diagram that indicates points of discharge to the POTW from the regulated

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- 3477 processes.
- 3478
- 3479 d) Flow measurement. The industrial user must submit information that shows the
- 3480 measured average daily and maximum daily flow, in gallons per day, to the
- 3481 POTW from each of the following:
- 3482
- 3483 1) Regulated process streams; and
- 3484
- 3485 2) Other streams as necessary to allow use of the combined waste stream
- 3486 formula of 35 Ill. Adm. Code 310.233. (See subsection (e)(4).)
- 3487
- 3488 e) Measurement of pollutants.
- 3489
- 3490 1) The industrial user must identify the pretreatment standards applicable to
- 3491 each regulated process.
- 3492
- 3493 2) In addition, the industrial user must submit the results of sampling and
- 3494 analysis identifying the nature and concentration (or mass, where required
- 3495 by the standard or Control Authority) of regulated pollutants in the
- 3496 discharge from each regulated process. Both daily maximum and average
- 3497 concentration (or mass, where required) must be reported. The sample
- 3498 must be representative of daily operations. In cases where the categorical
- 3499 standard requires compliance with a best management practice or
- 3500 pollution prevention alternative, the industrial user shall submit
- 3501 documentation as required by the Control Authority or the applicable
- 3502 categorical standards to determine compliance with the categorical
- 3503 standard.
- 3504
- 3505 3) The user must take a minimum of one representative sample to compile
- 3506 that data necessary to comply with the requirements of this subsection.
- 3507
- 3508 4) Samples must be taken immediately downstream from pretreatment
- 3509 facilities if such exist or immediately downstream from the regulated
- 3510 process if no pretreatment exists. If other wastewaters are mixed with the
- 3511 regulated wastewater prior to pretreatment the industrial user must
- 3512 measure the flows and concentrations necessary to allow use of the
- 3513 combined waste stream formula of 35 Ill. Adm. Code 310.233 in order to
- 3514 evaluate compliance with the pretreatment standards. Where an alternate

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- 3515 concentration or mass limit has been calculated in accordance with 35 Ill.
3516 Adm. Code 310.233, this adjusted limit along with supporting data must
3517 be submitted to the Control Authority.
3518
3519 5) Analytical methods. Sampling and analysis must be performed in
3520 accordance with the techniques prescribed in 35 Ill. Adm. Code 307.1003.
3521 When 35 Ill. Adm. Code 307.1003 does not reference sampling or
3522 analytical techniques for the pollutant in question or where USEPA has
3523 determined that sampling and analysis techniques are inappropriate
3524 pursuant to 40 CFR 403.12(b), incorporated by reference in 35 Ill. Adm.
3525 Code 310.107(c), sampling and analysis must be performed by using
3526 validated analytical methods or any other applicable sampling and
3527 analytical procedures approved by the Agency, including procedures
3528 suggested by the POTW or other parties.
3529
3530 6) The Control Authority may allow the submission of a baseline report that
3531 utilizes only historical data so long as the data provides information
3532 sufficient to determine the need for industrial pretreatment measures.
3533
3534 7) The baseline report must indicate the time, date, and place of sampling,
3535 and methods of analysis, and must certify that such sampling and analysis
3536 is representative of normal work cycles and expected pollutant discharges
3537 to the POTW.
3538
3539 f) Certification. A statement, reviewed by an authorized representative of the
3540 industrial user (as defined in 35 Ill. Adm. Code 310.633) and certified to by a
3541 qualified professional, indicating whether pretreatment standards are being met on
3542 a consistent basis, and, if not, whether additional operation and maintenance (O
3543 and M) or additional pretreatment is required for the industrial user to meet the
3544 pretreatment standards and requirements.
3545
3546 g) Compliance schedule. If additional pretreatment or O and M will be required to
3547 meet the pretreatment standards; the shortest schedule by which the industrial user
3548 will provide such additional pretreatment or O and M. The completion date in
3549 this schedule must not be later than the compliance date established for the
3550 applicable pretreatment standard.
3551
3552 1) Where the industrial user's categorical pretreatment standard has been

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3553 modified by a removal allowance (Subpart C), by the combined waste
3554 stream formula (35 Ill. Adm. Code 310.233) or a fundamentally different
3555 factors determination (Subpart E) at the time the user submits the report
3556 required by this Section, the information required by subsections (f) and
3557 (g) must pertain to the modified limits.

3558
3559 2) If the categorical pretreatment standard is modified by a removal
3560 allowance (Subpart C), by the combined waste stream formula (35 Ill.
3561 Adm. Code 310.233) or a fundamentally different factors determination
3562 (Subpart E) after the user submits the report required by this Section, any
3563 necessary amendments to the information requested by subsections (f) and
3564 (g) must be submitted by the user to the Control Authority within 60 days
3565 after the modified limit is approved.

3566
3567 h) Deadlines for baseline reports.

3568
3569 1) For standards adopted by USEPA prior to authorization of the Illinois
3570 pretreatment program, baseline reports must be submitted pursuant to 40
3571 CFR 403.12(b).

3572
3573 2) For standards adopted by USEPA after authorization of the Illinois
3574 pretreatment program:

3575
3576 A) Baseline reports for existing sources are due within 180 days after
3577 the Board adopts or incorporates a categorical pretreatment
3578 standard or 180 days after the final administrative decision made
3579 upon a category determination submission under 35 Ill. Adm. Code
3580 310.221(d), whichever is later.

3581
3582 B) New sources and sources that become industrial users subsequent
3583 to the promulgation of an applicable categorical standard must
3584 submit the baseline report within 90 days before beginning
3585 discharge.

3586
3587 C) New sources already in existence and discharging on the date the
3588 Board adopts or incorporates a categorical pretreatment standard or
3589 180 days after the final administrative decision made upon a
3590 category determination submission under 35 Ill. Adm. Code

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3591 310.221(d), as described for existing sources under subsection
3592 (h)(1)(A) , are considered existing sources for the purposes of the
3593 due date provisions of this subsection.
3594

3595 BOARD NOTE: Derived from 40 CFR 403.12(b) (2012).

3596

3597 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3598

3599 Section 310.603 Compliance Schedule

3600

3601 The following conditions apply to the schedule required by 35 Ill. Adm. Code 310.602(g):

3602

3603 a) The schedule must contain increments of progress in the form of dates for the
3604 commencement and completion of major events leading to the construction and
3605 operation of additional pretreatment required for the industrial user to meet the
3606 applicable categorical pretreatment standards (e.g., hiring an engineer, completing
3607 preliminary plans, completing final plans, executing contract for major
3608 components, commencing construction, completing construction, etc.).

3609

3610 b) No increment referred to in subsection (a) must exceed nine months.

3611

3612 c) Not later than 14 days following each date in the schedule and the final date for
3613 compliance, the industrial user must submit a progress report to the Control
3614 Authority including, at a minimum, whether or not it complied with the increment
3615 of progress to be met on such date and, if not, the date on which it expects to
3616 comply with this increment of progress, the reasons for delay and the steps being
3617 taken by the industrial user to return the construction to the schedule established.
3618 In no event may more than nine months elapse between such progress reports to
3619 the Control Authority.

3620

3621 BOARD NOTE: Derived from 40 CFR 403.12(c) (2003).

3622

3623 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3624

3625 Section 310.604 Report on Compliance with Deadline

3626

3627 Within 90 days following the date for final compliance with applicable categorical pretreatment
3628 standards or, in the case of a new source following commencement of the introduction of

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3629wastewater into the POTW, any industrial user subject to pretreatment standards and
3630requirements must submit to the Control Authority a report containing the information described
3631in 35 Ill. Adm. Code 310.602(d) through (f). For industrial users subject to equivalent mass or
3632concentration limits established by the Control Authority in accordance with procedures in 35 Ill.
3633Adm. Code 310.230, this report must contain a reasonable measure of the user's long-term
3634production rate. For all other industrial users subject to categorical pretreatment standards
3635expressed in terms of allowable pollutant discharge per unit of production (or other measure of
3636operation), this report must include the user's actual production during the appropriate sampling
3637period.

3638

3639BOARD NOTE: Derived from 40 CFR 403.12(d) (2003).

3640

3641 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3642

3643Section 310.605 Periodic Reports on Compliance

3644

3645 a) After the compliance date of a pretreatment standard, or, in the case of a new
3646 source, after commencement of the discharge into the POTW, any industrial user
3647 subject to a categorical pretreatment standard (except a non-significant categorical
3648 user, as defined in 35 Ill. Adm. Code 310.110) must submit to the Control
3649 Authority a report indicating the nature and concentration of pollutants in the
3650 effluent that are limited by the categorical pretreatment standards. The industrial
3651 user must submit the report during the months of June and December, unless the
3652 Control Authority or the pretreatment standard requires more frequent reporting.
3653 In addition, this report must include a record of measured or estimated average
3654 and maximum daily flows for the reporting period for the discharge reported in 35
3655 Ill. Adm. Code 310.602(d), except that the Control Authority may require more
3656 detailed reporting of flows. If the pretreatment standard requires compliance with
3657 a best management practice (or pollution prevention alternative), the industrial
3658 user must submit documentation required by the Control Authority or the
3659 pretreatment standard necessary to determine the compliance status of the
3660 industrial user. In consideration of those factors as local high or low flow rates,
3661 holidays, budget cycles, etc., the Control Authority may alter the months during
3662 which the reports required by this subsection (a) are to be submitted. For an
3663 industrial user for which USEPA or the Agency is the Control Authority, as of
3664 December 21, 2025 or a USEPA-approved alternative date (see 40 CFR 127.24(e)
3665 or (f)), all reports submitted in compliance with this Subpart F must be submitted
3666 electronically by the industrial user to the Control Authority or initial recipient, as

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3667 defined in 35 Ill. Adm. Code 310.106(b)(2), in compliance with this Subpart F
3668 and 35 Ill. Adm. Code 310.106.

3669

3670

- b) The Control Authority must authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if it determines that 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 that the pollutant is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

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- 1) The Control Authority may authorize a waiver only if it determines that a pollutant is present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater is not regulated by an applicable categorical standard, and the sanitary wastewater otherwise includes no process wastewater;

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- 2) The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control mechanism, but in no case longer than five years. The industrial user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism;

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- 3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with 35 Ill. Adm. Code 310.631 and include the certification statement in 35 Ill. Adm. Code 310.221(b)(2). Non-detectable sample results may only be used as a demonstration that a pollutant is not present only if the USEPA-approved method from 40 CFR 136, incorporated by reference in 35 Ill. Adm. Code 310.107, with the lowest minimum detection level for that pollutant was used in the analysis;

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- 4) Any grant of a monitoring waiver by the Control Authority must be included as a condition in the industrial user's control mechanism. The

3704

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3705 reasons supporting the waiver and any information submitted by the
3706 industrial user in its request for the waiver must be maintained by the
3707 Control Authority for three years after expiration of the waiver;
3708

- 3709 5) Upon approval of the monitoring waiver and revision of the industrial
3710 user's control mechanism by the Control Authority, the industrial user
3711 must certify on each report with the statement below, that there has been
3712 no increase in the pollutant in its wastestream due to activities of the
3713 industrial user:

3714
3715 Based on my inquiry of the person or persons directly responsible
3716 for managing compliance with the pretreatment standard for
3717 Subpart [Subpart number of the applicable national pretreatment
3718 standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my
3719 knowledge and belief, there has been no increase in the level of
3720 [list pollutants] in the wastewaters due to the activities at the
3721 facility since filing of the last periodic report under 35 Ill. Adm.
3722 Code 310.605(a);
3723

- 3724 6) In the event that a waived pollutant is found to be present or is expected to
3725 be present based on changes that occur in the industrial user's operations,
3726 the industrial user must immediately comply with the monitoring
3727 requirements of subsection (a) or other more frequent monitoring
3728 requirements imposed by the Control Authority, and the industrial user
3729 must notify the Control Authority; and
3730

- 3731 7) This subsection (b) does not supersede certification processes and
3732 requirements established in categorical pretreatment standards, except as
3733 otherwise specified in the categorical pretreatment standard.
3734

- 3735 c) If the Control Authority has imposed mass limitations on industrial users as
3736 provided by 35 Ill. Adm. Code 310.232, the report required by subsection (a)
3737 must indicate the mass of pollutants regulated by pretreatment standards in the
3738 discharge from the industrial user.
3739

- 3740 d) For industrial users subject to equivalent mass or concentration limits established
3741 by the Control Authority in accordance with the procedures in 35 Ill. Adm. Code
3742 310.230, the report required by subsection (a) must contain a reasonable measure

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3743 of the user's long-term production rate. For all other industrial users subject to
3744 categorical pretreatment standards expressed only in terms of allowable pollutant
3745 discharge per unit of production (or other measure of operation), the report
3746 required by subsection (a) must include the user's actual average production rate
3747 for the reporting period.

3748
3749 BOARD NOTE: Derived from 40 CFR 403.12(e).

3750
3751 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3752

3753 Section 310.606 Notice of Potential Problems

3754
3755 All categorical and non-categorical industrial users must notify the POTW immediately of all
3756 discharges that could cause problems to the POTW, including any slug loadings, as defined by
3757 35 Ill. Adm. Code 310.202 and 307.1101, by the industrial user.

3758
3759 BOARD NOTE: Derived from 40 CFR 403.12(f) (2003).

3760
3761 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3762

3763 Section 310.610 Monitoring and Analysis

3764
3765 a) Except in the case of a non-significant categorical user, the reports required in 35
3766 Ill. Adm. Code 310.602(e), 310.604, 310.605, and 310.611 must contain the
3767 results of sampling and analysis of the discharge, including the flow and the
3768 nature and concentration or production and mass where requested by the Control
3769 Authority of pollutants contained in the discharge that are limited by the
3770 applicable pretreatment standards. This sampling and analysis may be performed
3771 by the Control Authority instead of the industrial user. Where the POTW
3772 performs the required sampling and analysis instead of the industrial user, the user
3773 is not required to submit the compliance certification required under 35 Ill. Adm.
3774 Code 310.602(f) and 310.604. In addition, where the POTW itself collects all the
3775 information required for the report, including flow data, the industrial user is not
3776 required to submit the report.

3777
3778 b) If sampling performed by an industrial user indicates a violation, the user must
3779 notify the Control Authority with 24 hours after becoming aware of the violation.
3780 The user must also repeat the sampling and analysis and submit the results of the

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3781 repeat analysis to the Control Authority within 30 days after becoming aware of
3782 the violation. Where the Control Authority has performed the sampling and
3783 analysis in lieu of the industrial user, the Control Authority must perform the
3784 repeat sampling and analysis, unless it notifies the industrial user of the violation
3785 and requires the industrial user to perform the repeat analysis. Resampling is not
3786 required if the following conditions are fulfilled:
3787
3788 1) The Control Authority performs sampling at the industrial user at a
3789 frequency of at least once per month; or
3790
3791 2) The Control Authority performs sampling at the user between the time
3792 when the initial sampling was conducted and the time when the industrial
3793 user or the Control Authority receives the results of this sampling.
3794
3795 c) The reports required in 35 Ill. Adm. Code 310.602, 310.604, 310.605, and
3796 310.611 must be based upon data obtained through appropriate sampling and
3797 analysis performed during the period covered by the report, which data are
3798 representative of conditions occurring during the reporting period. The Control
3799 Authority must require that frequency of monitoring necessary to assess and
3800 assure compliance by industrial users with applicable pretreatment standards and
3801 requirements. Grab samples must be used for pH, cyanide, total phenols, oil and
3802 grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour
3803 composite samples must be obtained through flow-proportional composite
3804 sampling techniques, unless time-proportional composite sampling or grab
3805 sampling is authorized by the Control Authority. Where time-proportional
3806 composite sampling or grab sampling is authorized by the Control Authority, the
3807 samples must be representative of the discharge and the decision to allow the
3808 alternative sampling must be documented in the industrial user file for that facility
3809 or facilities. Using protocols (including appropriate preservation) specified in 40
3810 CFR 136, incorporated by reference in 35 Ill. Adm. Code 310.107(b), and
3811 appropriate USEPA guidance, multiple grab samples collected during a 24-hour
3812 period may be composited prior to the analysis as follows: for cyanide, total
3813 phenols, and sulfides, the samples may be composited in the laboratory or in the
3814 field; for volatile organics and oil and grease, the samples may be composited in
3815 the laboratory. Composite samples for other parameters unaffected by the
3816 compositing procedures as documented in USEPA-approved methodologies may
3817 be authorized by the Control Authority, as appropriate.
3818

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- 3819 d) For sampling required in support of baseline monitoring and 90-day compliance
3820 reports required in 35 Ill. Adm. Code 310.602 and 310.604, a minimum of four
3821 grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide,
3822 and volatile organic compounds for facilities for which historical sampling data
3823 do not exist; for facilities for which historical sampling data are available, the
3824 Control Authority may authorize a lower minimum. For the reports required by
3825 35 Ill. Adm. Code 310.605 and 310.611, the Control Authority must require the
3826 number of grab samples necessary to assess and assure compliance by industrial
3827 users with applicable pretreatment standards and requirements.
3828
- 3829 e) All analyses must be performed in accordance with procedures referenced in 35
3830 Ill. Adm. Code 307.1003, or with any other test procedure approved by the
3831 Agency. Sampling must be performed in accordance with the techniques
3832 approved by the Agency. Where 35 Ill. Adm. Code 307.1003 does not reference
3833 sampling or analytical techniques for the pollutants in question, or where USEPA
3834 has determined as provided in 35 Ill. Adm. Code 310.602 that sampling and
3835 analytical techniques are inappropriate, sampling and analyses must be performed
3836 using validated analytical methods or any other sampling and analytical
3837 procedures including procedures approved by the POTW or other persons.
3838
- 3839 f) If an industrial user subject to the reporting requirement in 35 Ill. Adm. Code
3840 310.605 monitors any regulated pollutant at the appropriate sampling location
3841 more frequently than required by the Control Authority, using the procedures
3842 prescribed in subsection (e) , the results of this monitoring must be included in the
3843 report.
3844

3845 BOARD NOTE: Derived from 40 CFR 403.12(g) (2005), as amended at 70 Fed. Reg.
3846 60134 (Oct. 14, 2005).

3847
3848 (Source: Amended at 46 Ill. Reg. _____, effective _____)
3849

3850 Section 310.611 Requirements for Non-Categorical Users

3851
3852 The Control Authority must require appropriate reporting from those industrial users with
3853 discharges that are not subject to categorical pretreatment standards. Significant non-categorical
3854 industrial users must submit to the Control Authority at least once every six months (on dates
3855 specified by the Control Authority) a description of the nature, concentration, and flow of the
3856 pollutants required to be reported by the Control Authority. If a local limit requires compliance

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3857with a best management practice or pollution prevention alternative, the industrial user must
3858submit documentation required by the Control Authority to determine the compliance status of
3859the industrial user. These reports must be based on sampling and analysis performed in the
3860period covered by the report and in accordance with the techniques described in 40 CFR 136,
3861incorporated by reference at 35 Ill. Adm. Code 310.107. For the purposes of this Section,
3862"significant non-categorical industrial user" means a significant industrial user that is not
3863subject to categorical pretreatment standards. For an industrial user for which USEPA or the
3864Agency is the Control Authority, as of December 21, 2025 or a USEPA-approved alternative
3865date (see 40 CFR 127.24(e) or (f)), all reports submitted in compliance with this Subpart F must
3866be submitted electronically by the industrial user to the Control Authority or initial recipient, as
3867defined in 35 Ill. Adm. Code 310.106(b)(2), in compliance with this Subpart F and 35 Ill. Adm.
3868Code 310.106.

3869

3870BOARD NOTE: Derived from 40 CFR 403.12(h).

3871

3872 (Source: Amended at 46 Ill. Reg. ———, effective ———)

3873

3874Section 310.612 Annual POTW Reports

3875

3876POTWs with approved pretreatment programs must provide the Approval Authority with a
3877report that briefly describes the POTW's program activities, including activities of all
3878participating agencies, if more than one jurisdiction is involved in the local program. The report
3879required by this Section must be submitted no later than one year after approval of the POTW's
3880pretreatment program and at least annually thereafter. The report must include, at a minimum,
3881the applicable required data in appendix A to 40 CFR 127, incorporated by reference in 35 Ill.
3882Adm. Code 310.107. The report required by this Subpart F must also include a summary of
3883changes to the POTW's pretreatment program that have not been previously reported to the
3884Approval Authority and any other relevant information requested by the Approval Authority. As
3885of December 21, 2025 or a USEPA-approved alternative date (see 40 CFR 127.24(e) or (f)), all
3886annual reports submitted in compliance with this Subpart F must be submitted electronically by
3887the POTW pretreatment program to the Approval Authority or initial recipient, as defined in 35
3888Ill. Adm. Code 310.106(b)(2), in compliance with this Subpart F and 35 Ill. Adm. Code 310.106.

3889

3890BOARD NOTE: Derived from 40 CFR 403.12(i).

3891

3892 (Source: Amended at 46 Ill. Reg. ———, effective ———)

3893

3894Section 310.613 Notification of Changed Discharge

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3895

3896 An industrial user must promptly notify the Control Authority (and the POTW if the POTW is
3897 not the Control Authority) in advance of any substantial change in the volume or character of
3898 pollutants in its discharge, including the listed or characteristic hazardous wastes for which the
3899 industrial user has submitted initial notification under 35 Ill. Adm. Code 310.635.

3900

3901 BOARD NOTE: Derived from 40 CFR 403.12(j) (2005), as amended at 70 Fed. Reg. 60134
3902 (Oct. 14, 2005).

3903

3904 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3905

3906 Section 310.621 Compliance Schedule for POTWs

3907

3908 The following conditions and reporting requirements must apply to the compliance schedule for
3909 development of an approvable POTW pretreatment program required by 35 Ill. Adm. Code
3910 310.501 through 310.510.

3911

3912 a) The schedule must contain increments of progress in the form of dates for the
3913 commencement and completion of major events leading to the development and
3914 implementation of a POTW pretreatment program (e.g., acquiring required
3915 authorities, developing funding mechanisms, acquiring equipment);

3916

3917 b) No increment referred to in 35 Ill. Adm. Code 310.621(a) must exceed nine
3918 months;

3919

3920 c) Not later than 14 days following each date in the schedule and the final date for
3921 compliance, the POTW must submit a progress report to the Agency including as
3922 a minimum, whether or not it complied with the increment of progress to be met
3923 on such date and, if not, the date on which it expects to comply with this
3924 increment of progress, the reason for delay, and the steps taken by the POTW to
3925 return to the schedule established. In no event must more than nine months elapse
3926 between such progress reports to the Agency.

3927

3928 BOARD NOTE: Derived from 40 CFR 403.12(k) (2005), as amended at 70 Fed. Reg. 60134
3929 (Oct. 14, 2005).

3930

3931 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3932

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3933 Section 310.631 Signatory Requirements for Industrial User Reports

3934

3935 The reports required by 35 Ill. Adm. Code 310.602, 310.604, and 310.605 must include the
3936 certification statement as set forth in 35 Ill. Adm. Code 310.221(b)(2) and must be signed as
3937 follows:

3938

3939 a) By a responsible corporate officer, if the industrial user submitting the reports
3940 required in 35 Ill. Adm. Code 310.602, 310.604, and 310.605 is a corporation.
3941 For the purposes of this Section, a responsible corporate officer means one of the
3942 following:

3943

3944 1) A president, secretary, treasurer, or vice-president of the corporation in
3945 charge of a principal business function or any other person who performs
3946 similar policy or decision-making functions for the corporation; or

3947

3948 2) The manager of one or more manufacturing, production, or operating
3949 facilities, provided the manager is authorized to make management
3950 decisions that govern the operation of the regulated facility, including
3951 having the explicit or implicit duty of making major capital investment
3952 recommendations, and initiating and directing other comprehensive
3953 measures to assure long-term environmental compliance with
3954 environmental laws and regulations; the manager can ensure that the
3955 necessary systems are established or actions taken to gather complete and
3956 accurate information for control mechanism requirements; and where
3957 authority to sign documents has been assigned or delegated to the manager
3958 in accordance with corporate procedures.

3959

3960 b) A general partner or proprietor, if the industrial user submitting the report
3961 required by 35 Ill. Adm. Code 310.602, 310.604, and 310.605 is a partnership or
3962 sole proprietorship, respectively.

3963

3964 c) A duly authorized representative of the individual designated in subsection (a) or
3965 (b), if:

3966

3967 1) The authorization is made in writing by the individual described in
3968 subsection (a) or (b);

3969

3970 2) The authorization specifies either an individual or a position having

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3971 responsibility for the overall operation of the facility from which the
3972 industrial discharge originates, such as the position of plant manager,
3973 operator of a well, well field superintendent, or a position of equivalent
3974 responsibility or having overall responsibility for environmental matters
3975 for the company; and

3976
3977 3) The written authorization is submitted to the Control Authority.

3978
3979 d) If an authorization under subsection (c) is no longer accurate because a different
3980 individual or position has responsibility for the overall operation of the facility or
3981 overall responsibility for environmental matters for the company, a new
3982 authorization satisfying the requirements of subsection (c) must be submitted to
3983 the Control Authority prior to or together with any reports to be signed by an
3984 authorized representative.

3985
3986 BOARD NOTE: Derived from 40 CFR 403.12(l) (2005), as amended at 70 Fed. Reg. 60134
3987 (Oct. 14, 2005).

3988
3989 (Source: Amended at 46 Ill. Reg. _____, effective _____)

3990
3991 **Section 310.632 Signatory Requirements for POTW Reports**

3992
3993 Reports submitted to the Agency by the POTW in accordance with 35 Ill. Adm. Code 310.612
3994 must be signed by a principal executive officer, ranking elected official, or other duly authorized
3995 employee. The duly authorized employee must be an individual or position having responsibility
3996 for the overall operation of the facility or the pretreatment program. This authorization must be
3997 made in writing by the principal executive officer or ranking elected official and submitted to the
3998 Approval Authority prior to or together with the report being submitted.

3999
4000 BOARD NOTE: Derived from ~~40 CFR~~ 40 CFR 403.12(m) (2005), as amended at 70 Fed. Reg.
4001 60134 (Oct. 14, 2005).

4002
4003 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4004
4005 **Section 310.633 Fraud and False Statements**

4006
4007 The reports required by this Subpart are subject to the provisions of Section 1001 of Crimes and
4008 Criminal Procedure (18 ~~USC~~ U.S.C. 1001), incorporated by reference in 35 Ill. Adm. Code

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4009310.107, relating to fraud and false statements; the provisions of section 309(c)(4) of the CWA
4010(33 ~~USC~~U.S.C. 1319(c)(4)), incorporated by reference in 35 Ill. Adm. Code 310.107(c),
4011governing false statements, representations, or certifications in reports required under the CWA;
4012the provisions of section 309(c)(6) of the CWA (33 ~~USC~~U.S.C. 1319(c)(6)), incorporated by
4013reference in 35 Ill. Adm. Code 310.107(c), regarding responsible corporate officers; and to the
4014provisions of Title XII of the Act.

4015

4016BOARD NOTE: Derived from 40 CFR 403.12(n) (2005).

4017

4018 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4019

4020**Section 310.634 Recordkeeping Requirements**

4021

4022 a) Any industrial user and POTW subject to the reporting requirements established
4023 in this Subpart must maintain records of all information resulting from any
4024 monitoring activities required by this Subpart F, including documentation
4025 associated with best management practices. Such records must include the
4026 following information for all samples:

4027

4028 1) The date, exact place, method, and time of sampling, and the names of the
4029 person or persons taking the samples;

4030

4031 2) The dates analyses were performed;

4032

4033 3) Who performed the analyses;

4034

4035 4) The analytical techniques/methods use; and

4036

4037 5) The results of such analyses.

4038

4039 b) Any industrial user or POTW subject to the reporting requirements established in
4040 this Subpart F (including documentation associated with best management
4041 practices) must be required to retain for a minimum of three years any records of
4042 monitoring activities and results (whether or not such monitoring activities are
4043 required by this Section) and must make such records available for inspection and
4044 copying by the Agency (and POTW in the case of an industrial user). This period
4045 of retention is extended during the course of any unresolved litigation regarding
4046 the industrial user or POTW or when requested by the Agency.

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- c) Any POTW to which reports are submitted by an industrial user pursuant to 35 Ill. Adm. Code 310.602, 310.604, 310.605, and 310.611 must retain such reports for a minimum of three years and must make such reports available for inspection and copying by the Agency. This period of retention must be extended during the course of any unresolved litigation regarding the discharge of pollutants by the industrial user or the operation of the POTW pretreatment program or when requested by the Agency.

BOARD NOTE: Derived from 40 CFR 403.12(o) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.635 Notification of Discharge of Hazardous Waste

- a) Requirement for notification.
 - 1) The industrial user must notify the POTW; the Director, Waste Management Division, USEPA Region 5, 230 South Dearborn Street, Chicago, Illinois 60604; and the Manager, Division of Land Pollution Control, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276, in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 35 Ill. Adm. Code 721. Such notification must include the name of the hazardous waste as set forth in 35 Ill. Adm. Code 721, the USEPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification must also contain the following information to the extent such information is known and readily available to the industrial user:
 - A) An identification of the hazardous constituents contained in the wastes;
 - B) An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and

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- C) An estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.
- 2) Time for notification. All notifications required under subsection (a)(1) must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule must provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste.
- 3) Frequency for notification. Any notification required under subsection (a)(1) need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 35 Ill. Adm. Code 310.613.
- 4) Exception for notification under other provisions. The notification requirement of subsection (a)(1) does not apply to pollutants already reported under the self-monitoring requirements of 35 Ill. Adm. Code 310.602, 310.604, and 310.605.
- b) Exemption to reporting requirement. Discharges are exempt from the requirements of subsection (a)(1) during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes specified in 35 Ill. Adm. Code 721.130(d) and 721.133(e). Discharge of more than 15 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes, as specified in 35 Ill. Adm. Code 721.130(d) and 721.133(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- c) Newly-listed hazardous wastes. In the case of any new regulations under section 3001 of the federal RCRA (42 [USCU.S.C.](#) 6921) identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW; USEPA Region 5, Waste Management Division; and the Agency, Division of Land Pollution Control of the discharge of such substance, pursuant to subsection (a)(1) , within 90 days of the effective date of such regulations.

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4123 d) Required certification. In the case of any notification made under this Section, the
4124 industrial user must certify that it has a program in place to reduce the volume and
4125 toxicity of hazardous wastes generated to the degree it has determined to be
4126 economically practical.

4127
4128 BOARD NOTE: Derived from 40 CFR 403.12(p) (2003).

4129
4130 (Source: Amended at 46 Ill. Reg. , effective)

4131
4132 **Section 310.636 Annual Certification by Non-Significant Categorical Users**

4133
4134 A facility defined as a non-significant categorical industrial user in 35 Ill. Adm. Code 310.110
4135 must annually submit the following certification statement, signed in accordance with the
4136 signatory requirements in 35 Ill. Adm. Code 310.631. The following certification must
4137 accompany any alternative report required by the Control Authority:

4138
4139 Based on my inquiry of the person or persons directly responsible for managing
4140 compliance with the categorical pretreatment standards under Subpart [Subpart number
4141 of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that,
4142 to the best of my knowledge and belief that during the period from [insert beginning
4143 month, day, year], to [insert ending month, day, year]:

4144
4145 a) The facility described as [insert facility name] met the definition of a
4146 non-significant categorical industrial user, as such is defined in 35 Ill. Adm. Code
4147 310.110;

4148
4149 b) The facility complied with all applicable pretreatment standards and requirements
4150 during this reporting period; and

4151
4152 c) The facility never discharged more than 100 gallons of total categorical
4153 wastewater on any given day during this reporting period.

4154
4155 This compliance certification is based upon the following information: [insert the
4156 information]

4157
4158 BOARD NOTE: Derived from 40 CFR 403.12(q), as added at 70 Fed. Reg. 60134 (Oct. 14,
4159 2005).

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4161 (Source: Amended at 46 Ill. Reg. _____, effective _____)
4162

4163 **Section 310.637 Receiving Electronic Documents**
4164

4165A Control Authority that chooses to receive electronic documents must satisfy the requirements
4166of 35 Ill. Adm. Code 310.106.

4167

4168BOARD NOTE: Derived from 40 CFR 403.12(r), as added at 70 Fed. Reg. 59848 (Oct. 13,
41692005).

4170

4171 (Source: Amended at 46 Ill. Reg. _____, effective _____)
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SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

4174

4175 **Section 310.703 Criteria**
4176

4177

- a) General criteria. A request for an FDF determination may be approved only if the
4178 following are true:
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4180

- 1) There is an applicable categorical pretreatment standard that specifically
4181 controls the pollutant for which alternative limits have been requested;
- 4182 2) Factors relating to the discharge controlled by the categorical pretreatment
4183 standard are fundamentally different from the factors considered by
4184 USEPA in establishing the standards; and

4185

- 4186 3) The request for an FDF determination is made in accordance with the
4187 procedural requirements in 35 Ill. Adm. Code 310.711 and 310.712.
4188

4189

- b) Criteria applicable to less stringent limits. An FDF determination request for the
4190 establishment of limits less stringent than required by the standard may be
4191 approved only if the following are true:
4192

4193

- 1) The alternative limit requested is no less stringent than justified by the
4194 fundamental difference;

4195

- 4196 2) The alternative limit will not result in a violation of prohibitive discharge
4197 standards prescribed by or established under 35 Ill. Adm. Code 310.201
4198 through 310.213, or 35 Ill. Adm. Code 307;

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- 3) The alternative limit will not result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the pretreatment standards; and
 - 4) Compliance with the standards (either by using the technologies upon which the standards are based or by using other control alternatives) would result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the standards.
- c) Criteria applicable to more stringent limits. An FDF determination request for the establishment of limits more stringent than required by the standards may be approved only if the following are true:
- 1) The alternative limit request is no more stringent than justified by the fundamental difference; and
 - 2) Compliance with the alternative limit would not result in a non-water quality environmental impact (including energy requirements) fundamentally more adverse than the impact considered during development of the standards.

BOARD NOTE: Derived from 40 CFR 403.13(c) (2003).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.705 Factors that are Not Fundamentally Different

4228

4229A FDF request or portion of such a request under this Subpart G must not be granted on any of
4230the following grounds:

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4234
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4236

- a) The feasibility of installing the required waste treatment equipment within the time the federal CWA (33 [USC](#)[U.S.C.](#) 1251 et seq.), incorporated by reference in 35 Ill. Adm. Code 310.107(c), allows;
- b) The assertion that the standards cannot be achieved with the appropriate waste

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4237 treatment facilities installed, if such assertion is not based on factors listed in 35
4238 Ill. Adm. Code 310.704;

4239

4240 c) The industrial user's ability to pay for the required waste treatment; or

4241

4242 d) The impact of a discharge on the quality of the POTW's receiving waters.

4243

4244 BOARD NOTE: Derived from 40 CFR 403.13(e) (2005).

4245

4246 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4247

4248 **Section 310.706 More Stringent State Law**

4249

4250 a) The Agency may not grant FDF determinations with respect to more stringent
4251 pretreatment standards adopted pursuant to independent Board authority (35 Ill.
4252 Adm. Code 307.1102 and 307.1103).

4253

4254 b) Nothing in this Subpart G may be construed to impair the right of any POTW to
4255 impose more stringent limitations pursuant to 35 Ill. Adm. Code 310.210 and
4256 310.211.

4257

4258 BOARD NOTE: Derived from 40 CFR 403.13(f) (2003).

4259

4260 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4261

4262 **Section 310.711 Application Deadline**

4263

4264 a) Request for an FDF determination and supporting information must be submitted
4265 in writing to the Agency.

4266

4267 b) In order to be considered, requests for FDF determinations must be submitted
4268 within the following time limits:

4269

4270 1) Prior to authorization of the Illinois program, FDF requests must be
4271 directed to USEPA pursuant to 40 CFR 403.13.

4272

4273 2) For standards adopted by USEPA after authorization of the Illinois
4274 pretreatment program, the industrial user must request an FDF

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4275 determination within 180 days after the Board adopts or incorporates the
4276 standard by reference unless the user has requested a category
4277 determination pursuant to 35 Ill. Adm. Code 310.221.
4278

4279 c) Where the industrial user has requested a category determination pursuant to 35
4280 Ill. Adm. Code 310.221, the user may elect to await the results of the category
4281 determination before submitting a request for an FDF determination. Where the
4282 user so elects, the user must submit the request within 30 days after a final
4283 decision has been made on the categorical determination pursuant to 35 Ill. Adm.
4284 Code 310.221(d).
4285

4286 BOARD NOTE: Derived from 40 CFR 403.13(g) (2005), as amended at 70 Fed. Reg.
4287 60134 (Oct. 14, 2005).
4288

4289 (Source: Amended at 46 Ill. Reg. _____, effective _____)
4290

4291 **Section 310.712 Contents of FDF Request**

4292

4293 Written requests for an FDF determination must include:

4294

4295 a) The name and address of the person making the request;

4296

4297 b) Identification of the interest of the requester that is affected by the categorical
4298 pretreatment standard for which the FDF determination is requested;

4299

4300 c) Identification of the POTW currently receiving the waste from the industrial user
4301 for which alternative discharge limits are requested;

4302

4303 d) Identification of the categorical pretreatment standards that are applicable to the
4304 industrial user;

4305

4306 e) A list of each pollutant or pollutant parameter for which an alternative discharge
4307 limit is sought;

4308

4309 f) The alternative discharge limits proposed by the requester for each pollutant or
4310 pollutant parameter identified in subsection (e) ;

4311

4312 g) A description of the industrial user's existing water pollution control facilities;

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4313

4314 h) A schematic flow representation of the industrial user's water system including
4315 water supply, process wastewater systems, and points of discharge; and

4316

4317 i) A statement of facts clearly establishing why the request for an FDF
4318 determination should be approved, including detailed support data,
4319 documentation, and evidence necessary to fully evaluate the merits of the request,
4320 e.g., technical and economic data collected by USEPA and used in developing
4321 each pollutant discharge limit in the pretreatment standard.

4322

4323 BOARD NOTE: Derived from 40 CFR 403.13(h) (2003).

4324

4325 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4326

4327 SUBPART H: ADJUSTMENTS FOR POLLUTANTS IN INTAKE

4328

4329 **Section 310.801 Net/Gross Calculation**

4330

4331 The Control Authority may adjust categorical pretreatment standards to reflect the presence of
4332 pollutants in the industrial user's intake water as provided in 40 CFR 403.15, incorporated by
4333 reference in 35 Ill. Adm. Code 310.107(b).

4334

4335 BOARD NOTE: Derived from 40 CFR 403.15 (2005), as amended at 70 Fed. Reg. 60134 (Oct.
4336 14, 2005).

4337

4338 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4339

4340 SUBPART I: UPSETS

4341

4342 **Section 310.902 Effect of an Upset**

4343

4344 An upset may constitute an affirmative defense to an action brought for noncompliance with
4345 categorical pretreatment standards if the requirements of 35 Ill. Adm. Code 310.903 are met.

4346

4347 BOARD NOTE: Derived from 40 CFR 403.16(b) (2003).

4348

4349 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4350

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4351

SUBPART J: BYPASS

4352

4353 Section 310.911 Bypass Not Violating Applicable Pretreatment Standards or

4354 Requirements

4355

4356 An industrial user may allow any bypass to occur that does not cause pretreatment standards or
4357 requirements to be violated, but only if it also is for essential maintenance to assure efficient
4358 operation. These bypasses are not subject to the provisions of 35 Ill. Adm. Code 310.912 and
4359 310.913.

4360

4361 BOARD NOTE: Derived from 40 FCR 403.17(b) (2003).

4362

4363 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4364

4365 Section 310.913 Prohibition of Bypass

4366

4367 a) Bypass is prohibited unless the following are true:

4368

4369 1) Bypass was unavoidable to prevent loss of life, personal injury, or severe
4370 property damage;

4371

4372 2) There were no feasible alternatives to the bypass, such as the use of
4373 auxiliary treatment facilities, retention of untreated wastes, or maintenance
4374 during normal periods of equipment downtime. This condition is not
4375 satisfied if adequate back-up equipment should have been installed in the
4376 exercise of reasonable engineering judgment to prevent a bypass that
4377 occurred during normal periods of equipment downtime or preventative
4378 maintenance; and

4379

4380 3) The industrial user submitted notices as required under 35 Ill. Adm. Code
4381 310.912.

4382

4383 b) The Control Authority may approve an anticipated bypass, after considering its
4384 adverse affects, if the Control Authority determines that the bypass will meet the
4385 requirements of subsection (a) .

4386

4387 BOARD NOTE: Derived from 40 CFR 403.17(d) (2003).

4388

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4389 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4390

4391 SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

4392

4393 **Section 310.920 General**

4394

4395 Either the Agency or a POTW with an approved POTW pretreatment program may initiate
4396 program modification at any time to reflect changing conditions at the POTW. Program
4397 modification is necessary whenever there is a significant change in the operation of a POTW
4398 pretreatment program that differs from the information in the POTW's submission, as approved
4399 under 35 Ill. Adm. Code 310.541 through ~~Section~~ 310.546.

4400

4401 BOARD NOTE: Derived from 40 CFR 403.18(a), as added at 53 Fed. Reg. 40615, October 17,
4402 1988.

4403

4404 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4405

4406 **Section 310.921 Substantial Modifications Defined**

4407

4408 Substantial modifications include the following types of modifications:

4409

4410 a) Modifications that relax POTW legal authorities (as described in 35 Ill. Adm.
4411 Code 310.510(a)), except for modifications that directly reflect a revision to this
4412 Part or to 35 Ill. Adm. Code: Subtitle C, and are reported pursuant to 35 Ill. Adm.
4413 Code 310.923;

4414

4415 b) Modifications that relax local limits, except for the modifications to local limits
4416 for pH and reallocations of the maximum allowable industrial loading of a
4417 pollutant that do not increase the total industrial loadings for the pollutant, which
4418 are reported pursuant to 35 Ill. Adm. Code 310.923. For the purposes of this
4419 Section, ~~"~~"maximum allowable industrial loading~~"~~" means the total mass of a
4420 pollutant that all industrial users of a POTW (or a subgroup of industrial users
4421 identified by the POTW) may discharge pursuant to limits developed under 35 Ill.
4422 Adm. Code 310.210;

4423

4424 c) Changes to the POTW's control mechanism, as the control mechanism is
4425 described in 35 Ill. Adm. Code 310.510(a)(3);

4426

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- 4427 d) A decrease in the frequency of self-monitoring or reporting required of industrial
- 4428 users;
- 4429
- 4430 e) A decrease in the frequency of industrial user inspections or sampling by the
- 4431 POTW;
- 4432
- 4433 f) Changes to the POTW's confidentiality procedures; and
- 4434
- 4435 g) Other modifications designated as substantial modifications by the Agency on any
- 4436 of the following bases:
- 4437
- 4438 1) The modification could have a significant impact on the operation of the
- 4439 POTW's pretreatment program;
- 4440
- 4441 2) The modification could result in an increase in pollutant loadings at the
- 4442 POTW; or
- 4443
- 4444 3) The modification could result in less stringent requirements being
- 4445 imposed on industrial users of the POTW.
- 4446

4447 BOARD NOTE: Derived from 40 CFR 403.18(b) (1997), as amended at 62 Fed.
4448 Reg. 38414 (July 17, 1997).

4449
4450 (Source: Amended at 46 Ill. Reg. _____, effective _____)

4451
4452 **Section 310.922 Approval Procedures for Substantial Modifications**

- 4453
- 4454 a) The POTW must submit to the Agency a statement of the basis for the desired
- 4455 program modification, a modified program description (see 35 Ill. Adm. Code
- 4456 310.522), or such other documents the Agency determines to be necessary under
- 4457 the circumstances.
- 4458
- 4459 b) The Agency must approve or disapprove the modification based on the
- 4460 requirements of 35 Ill. Adm. Code 310.510 and using the procedures in 35 Ill.
- 4461 Adm. Code 310.542 through 310.546, except as provided in subsections (c) and
- 4462 (d)-S. The modification must become effective upon approval by the Agency.
- 4463
- 4464 c) The Agency need not publish a notice of decision under 35 Ill. Adm. Code

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4465 310.545 provided each of the following conditions is fulfilled:

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- 1) The notice of request for approval under 35 Ill. Adm. Code 310.542(a) states that the request will be approved if no comments are received by a date specified in the notice;
 - 2) No substantive comments are received; and
 - 3) The request is approved without change.
- d) Notices required by 35 Ill. Adm. Code 310.542 through 310.546 may be performed by the POTW, provided that the Agency finds that the POTW notice otherwise satisfies the requirements of 35 Ill. Adm. Code 310.542 through 310.546.

BOARD NOTE: Derived from 40 CFR 403.18(c) (2003).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

Section 310.923 Approval Procedures for Non-Substantial Modifications

- a) The POTW must notify the Agency of any non-substantial modification at least 45 days prior to its implementation by the POTW, in a statement similar to that provided for in 35 Ill. Adm. Code 310.922(a).
- b) Within 45 days after the submission of the POTW's statement, the Agency must notify the POTW of its decision to approve or disapprove the non-substantial modification.
- c) If the Agency does not notify the POTW within 45 days of its decision to approve or deny the modification, or to treat the modification as substantial under 35 Ill. Adm. Code 310.921(g), the POTW may implement the modification.

BOARD NOTE: Derived from 40 CFR 403.18(d) (2003).

(Source: Amended at 46 Ill. Reg. _____, effective _____)

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