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

PART 310
PRETREATMENT PROGRAMS

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AUTHORITY: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3, and 27].

SOURCE: Adopted in R86-44 at 12 Ill. Reg. 2502, effective January 13, 1988; amended in R88-18 at 13 Ill. Reg. 2463, effective January 31, 1989; amended in R89-3 at 13 Ill. Reg. 19243, effective November 27, 1989; amended in R89-12 at 14 Ill. Reg. 7608, effective May 8, 1990; amended in R91-5 at 16 Ill. Reg. 7346, effective April 27, 1992; amended in R95-22 at 20 Ill. Reg. 5533, effective April 1, 1996; amended in R96-12 at 20 Ill. Reg. 10671, effective July 24, 1996; amended in R97-7 at 21 Ill. Reg. 5163, effective April 10, 1997; amended in R98-23 at 22 Ill. Reg. 11465, effective June 22, 1998; amended in R99-17 at 23 Ill. Reg. 8412, effective July 12, 1999; amended in R00-7

at 24 Ill. Reg. 2372, effective January 26, 2000; amended in R00-15 at 24 Ill. Reg. 11633, effective July 24, 2000; amended in R01-5 at 25 Ill. Reg. 1322, effective January 11, 2001; amended in R01-25 at 25 Ill. Reg. 10860, effective August 14, 2001; amended in R02-3 at 26 Ill. Reg. 4008, effective February 28, 2002; amended in R02-9 at 26 Ill. Reg. 4653, effective March 18, 2002; amended in R03-13 at 27 Ill. Reg. 15137, effective September 10, 2003; amended in R04-1 at 28 Ill. Reg. 3390, effective February 6, 2004; amended in R04-18 at 28 Ill. Reg. 10684, effective July 13, 2004; amended in R06-13 at 30 Ill. Reg. 17847, effective October 26, 2006; amended in R08-5/R08-7/R08-13 at 32 Ill. Reg. 19008, effective November 26, 2008; amended in R13-7 at 37 Ill. Reg. 1962, effective February 4, 2013; amended in R15-13 at 39 Ill. Reg. 12357, effective August 24, 2015; amended in R16-9 at 41 Ill. Reg. 1155, effective January 23, 2017; amended in R21-8 at 44 Ill. Reg. 19486, effective December 3, 2020; amended in R21-15 at 45 Ill. Reg. 8061, effective June 21, 2021; amended in R18-23 at 47 Ill. Reg. 5083, effective March 23, 2023; amended in R25-23 at 49 Ill. Reg. 12682, effective September 23, 2025.

SUBPART A: GENERAL PROVISIONS

Section 310.101 Applicability

a) This Section is intended as a general guide to persons using this Part 310 and does not supersede more specific requirements in this Part.

b) This Part includes the following:

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

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

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

A) The POTW under an approved program; or

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.102 Objectives

This Part satisfies the requirement of Section 13.3 of the Environmental Protection Act (Act) (Supp. to Ill. Rev. Stat. 1985 ch. 111 1/2, par. 1013.3) that the Board adopt rules

which are identical in substance with United States Environmental Protection Agency (USEPA) regulations implementing the pretreatment requirements of the Clean Water Act. This Part is intended:

a) To prevent the introduction into POTWs of pollutants which will interfere with the operation of the POTW, or which will interfere with the use or disposal of its sludge;

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

c) To improve the opportunities to recycle and reclaim municipal and industrial wastewaters and sludges.

(Board Note: Derived from 40 CFR 403.2 (1986))

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 through 471.

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 through 471. 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 are 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 Subpart E.

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 Section 310.105.

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

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 47 Ill. Reg. 5083, effective March 23, 2023)

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) For the Board and Agency, confidentiality is 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 Section 310.107.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.106 Electronic Reporting

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

a) General Federal Requirements for Electronic Reporting

1) Scope and Applicability

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

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

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

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

i) For submissions of documents to USEPA, submissions may occur only after USEPA has

published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or

ii) For submissions of documents to the State or the Control Authority, submissions may occur only into an electronic document receiving system that USEPA has approved under 40 CFR 3.1000, if the system complies with 40 CFR 3.2000, incorporated by reference in Section 310.107, and USEPA has not withdrawn its approval of the system in writing.

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

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) When USEPA grants 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. If USEPA in writing revokes its approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly publish a Notice of Public Information in the Illinois Register.

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

2) Definitions. For this subsection (a), terms have the meaning attributed to them in 40 CFR 3.3, incorporated by reference in Section 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, if the following conditions are met:

   A) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 310.107; and

   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.

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

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

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

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

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

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

D) The Uniform Electronic Transactions Act [815 ILCS 333];

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

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

G) Board procedural rules relating to protecting trade secrets and confidential information (35 Ill. Adm. Code 130).

7) Nothing in this subsection (a) or any provisions adopted under subsection (a)(4)(A) creates any right or privilege to submit any document as an electronic document.

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

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

b) NPDES Electronic Reporting

1) Purpose and Scope

A) This subsection (b), in conjunction with the NPDES reporting requirements specified elsewhere in this Part, specifies the requirements for:

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 Section 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 U.S.C. 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 provided to USEPA and the Agency under the authorized State NPDES program.

D) Proper collection, management, and sharing of the data and information listed in appendix A to 40 CFR 127, incorporated by reference in Section 310.107, ensures that there is a timely, complete, accurate, and nationally consistent set of data about the NPDES program.

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

2) Definitions. For this subsection (b), the following terms have the following meanings.

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

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

act as the initial recipient for that NPDES data group and NPDES program area.

"Minimum set of NPDES data" means the data and information listed in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107.

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

"NPDES data group" means the group of related data elements identified in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107. These NPDES data groups have similar regulatory reporting requirements and have similar data sources.

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

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

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

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

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

"Program reports" means the information reported by NPDES-regulated entities and listed in table 1 in appendix A to 40 CFR 127, incorporated by reference in Section 310.107 (except NPDES data groups 1 and 2).

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

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

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 Section 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 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 Section 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 Section 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).

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

5) Requirements Regarding Quality Assurance and Quality Control

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).

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)).

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

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:

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.

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

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

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

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

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

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

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 Section 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 the 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 representative submitting a temporary waiver request, in compliance with the requirements of subsection (b)(7)(G).

iv) An NPDES permittee, facility, or entity subject to this subsection (b) that has received a temporary waiver 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) in hard-copy format to the authorized NPDES program. The Agency must electronically transfer these data to USEPA in accordance with subsection (b)(7)(G).

v) An approved temporary waiver is not transferrable.

C) USEPA or the Board, by an adjusted standard under Section 28.1 of the Act [415 ILCS 5/28.1] and Subpart D 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 permanent waiver from electronic reporting in compliance with this subsection (b)(7) and the procedures of subsection (b)(7)(G).

i) A permanent waiver is only available to a facility or entity that is owned or operated by members of a religious community that chooses not to use certain modern technologies (e.g., computers, electricity). The Board cannot grant a permanent waiver to an NPDES-regulated entity without first receiving a permanent waiver request from the NPDES-regulated entity.

ii) To apply for a permanent 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 permanent waiver.

iii) An approved permanent waiver is not transferrable.

iv) An NPDES permittee, facility, or entity subject to this subsection (b) that has received a permanent waiver 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) in hard-copy format to the authorized NPDES program. The Agency must electronically transfer these data to USEPA in accordance with subsection (b)(7)(G).

D) The Agency, by a provisional variance under Sections 35 through 37 of the Act and Subpart C 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) an episodic waiver from electronic reporting in compliance with subsections (b)(7)(G) and (b)(9). The following conditions apply to an episodic waiver:

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

ii) An episodic waiver is not transferrable.

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

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

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

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)(E)(ii) to comport with codification requirements.

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 another national disaster. The Agency must determine 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 determine 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 a temporary or permanent waiver from electronic reporting in writing within 120 days after receiving the request.

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

ii) The Agency must provide notice of an episodic waiver individually or through means of mass communication if an episodic waiver is available. The notice must state the facilities and entities that may use the episodic waiver, the likely duration of the episodic waiver, and any other directions regarding how facilities and entities should 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 initial recipient, as defined in subsection (b)(2). No waiver request from the NPDES permittee, facility, or entity is required to obtain an episodic waiver from electronic reporting. The Agency, when granting the episodic waiver, must determine whether to allow facilities and entities to delay their electronic submissions for a short time (i.e., no more than 40 days) or to have the facilities and entities send hardcopy (paper) submissions.

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

iii) The Agency must electronically transfer to USEPA the minimum set of NPDES data (as defined in Section 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), except 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 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 Section 310.612)	December 21, 2025
Significant Industrial User Compliance Reports in Municipalities Without Approved Pretreatment Programs (see Sections 310.605 and 310.611)	December 21, 2025

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 Section 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 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 the 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)).

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

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.107 Incorporations by Reference

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

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

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

Standard Industrial Classification Manual (1987) (document no. PB87-
100012) (referred to as "1987 SIC Manual"), available from the National Technical Information Service, 5301 Shawnee Road, Alexandria, VA 22312, referenced in 35 Ill. Adm. Code 307.2201, 307.2400, 307.2402 through 307.2407, and 307.3901 and Section 310.602.

BOARD NOTE: The 1987 SIC Manual is available for online search 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 (OMB) announced that the North American Industry Classification System (NAICS) was replacing the SIC (62 Fed. Reg. 17288 (Apr. 9, 1997)) for statistical purposes. OMB announced the adoption of a 2012 edition of NAICS (76 Fed. Reg. 51240 (Aug. 17, 2011)). The 1997 NAICS Manual is available for online search or purchase (as electronic or hard copy) at http:/www.naics.com. Until USEPA amends its regulations to change references to SIC codes to references to NAICS codes, the Board will continue to use the 1987 SIC codes.

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

40 CFR 2.302 (2020) (Special Rules Governing Certain Information Obtained Under the Clean Water Act), referenced in Section 310.105.

40 CFR 3.2 (2020) (How Does This Part Provide for Electronic Reporting?), referenced in Section 310.106.

40 CFR 3.3 (2020) (What Definitions Are Applicable to This Part?), referenced in Section 310.106.

40 CFR 3.10 (2020) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 310.106.

40 CFR 3.2000 (2020) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 310.106.

40 CFR 25 (2020) (Public Participation in Programs Under the Resource Conservation and Recovery Act, the Safe Drinking Water Act, and the Clean Water Act), referenced in Section 310.510.

Tables II (Organic Toxic Pollutants in Each of Four Fractions in Analysis by Gas Chromatography/Mass Spectroscopy (GS/MS)) and III (Other Toxic Pollutants (Metals and Cyanide) and Total Phenols) in appendix D to 40 CFR 122 (2020) (NPDES Permit Application Testing Requirements), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 122.23(b) and (c) (2020) (Concentrated Animal Feeding Operations), referenced in 35 Ill. Adm. Code 307.2201.

Appendix A to 40 CFR 127 (2020), as amended at 85 Fed. Reg. 69189 (Nov. 2, 2020) (Minimum Set of NPDES Data), referenced in Sections 310.106 and 310.612.

BOARD NOTE: Only those segments relevant to electronic reporting under the wastewater pretreatment program (NPDES data groups 1, 2, 3, 7, and 8) are intended.

40 CFR 136 (2020) (Guidelines Establishing Test Procedures for the Analysis of Pollutants), referenced in 35 Ill. Adm. Code 307.1003 and 307.6500 and Sections 310.605, 310.610, and 310.611.

40 CFR 401.15 (2020) (Toxic Pollutants), referenced in 35 Ill. Adm. Code 307.1005.

40 CFR 403 (2020) (General Pretreatment Regulations for Existing and New Sources of Pollution), referenced in Section 310.432.

40 CFR 403.12(b) (2020) (Reporting Requirements for POTWs and Industrial Users), referenced in Section 310.602.

40 CFR 403.15 (2020) (Net/Gross Calculation), referenced in Section 310.801.

Appendix D to 40 CFR 403 (2020) (Selected Industrial Subcategories Considered Dilute for Purposes of the Combined Wastestream Formula), referenced in Section 310.233.

Appendix G to 40 CFR 403 (2020) (Pollutants Eligible for a Removal Credit), referenced in Section 310.303.

40 CFR 503 (2020) (Standards for the Use or Disposal of Sewage Sludge), referenced in Section 310.303.

c) The following federal statutes are incorporated by reference:

Section 1001 of federal Crimes and Criminal Procedure (18 U.S.C. 1001 (2019)), referenced in Section 310.633.

The federal Clean Water Act (CWA) (33 U.S.C. 1251 et seq. (2019)), referenced in Sections 310.110 and 310.705.

Section 204(b) of the federal Clean Water Act (33 U.S.C. 1284(b) (2019)), referenced in Section 310.510.

Section 212(2) of the federal Clean Water Act (33 U.S.C. 1292(2) (2019)), referenced in Section 310.110.

Section 307(b), (c), and (d) of the federal Clean Water Act (33 U.S.C.1317(b), (c), and (d) (2019)), referenced in Section 310.110.

Section 308 of the federal Clean Water Act (33 U.S.C. 1318 (2019)), referenced in Section 310.510.

Section 309(c)(4) of the federal Clean Water Act (33 U.S.C. 1319(c)(4) (2019)), referenced in Section 310.633.

Section 309(c)(6) of the federal Clean Water Act (33 U.S.C. 1319(c)(6) (2019)), referenced in Section 310.633.

Section 405 of the federal Clean Water Act (33 U.S.C. 1345 (2019)), referenced in Section 310.510.

Subtitles C and D of the federal Resource Conservation and Recovery Act (42 U.S.C. 6921-6939g and 6941-6949a) (2019)), referenced in Section 310.510.

d) This Part incorporates no future editions or amendments.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.110 Definitions

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

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

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

"Approval Authority" means the Agency after USEPA has approved the Illinois wastewater pretreatment program. "Approval Authority" means USEPA before USEPA approval of the Illinois wastewater pretreatment program.
BOARD NOTE: Derived from 40 CFR 403.3(c) (2016).

"Approved POTW pretreatment program" or "program" or "POTW pretreatment program" means a program administered by a POTW that has been approved by USEPA, under 40 CFR 403.11, or the Agency, in accordance with Sections 310.541 through 310.546.
BOARD NOTE: Derived from 40 CFR 403.3(d) (2016).

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

"Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sections 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).

"Blowdown" means the minimum discharge of recirculating water for 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).

"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 for which USEPA has not clearly reserved the function to itself.

"CWA" means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 U.S.C. 1251 et seq.).
BOARD NOTE: Derived from 40 CFR 403.3(b) (2016).

"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 Sections 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.

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

"Existing source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which occurred before the date that would qualify the building, structure, facility, or installation for definition as a "new source", as defined in Section 310.111.
BOARD NOTE: The Board added this definition of a fundamental term that is used throughout the categorical standards to determine the applicability of those standards.

"Indirect discharge" or "discharge" means the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the CWA (33 U.S.C. 1317(b), (c), or (d)), incorporated by reference in Section 310.107.
BOARD NOTE: Derived from 40 CFR 403.3(i) (2016).

"Industrial user" or "user" means a source of an indirect discharge.
BOARD NOTE: Derived from 40 CFR 403.3(j) (2016).

"Industrial wastewater" means the spent or used water containing dissolved or suspended matter discharged by an industrial user to a sewer tributary to a POTW.

"Interference" means a discharge, alone or in conjunction with a discharge or discharges from other sources, for which both of the following are true:

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 Section 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 requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
BOARD NOTE: Derived from 40 CFR 403.3(p) (2016).

"Person" means an individual, corporation, partnership, association, State, unit of local government, commission, or any interstate body. This term includes the United States government, the State of Illinois, and their political subdivisions.
BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 U.S.C. 1362(5) (2014).

"Point source" means any discernible, confined, and discrete conveyance, including 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.
BOARD NOTE: Derived from 40 CFR 401.11(d) (2016).

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

"Pollution" means the man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
BOARD NOTE: Derived from 40 CFR 401.11(g) (2015).

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

"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 Section 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, if 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 Section 310.233.
BOARD NOTE: Derived from 40 CFR 403.3(s) (2016).

"Pretreatment permit" means a permit to discharge to a sewer that is issued by the Agency as the Control Authority.
BOARD NOTE: The Board added this term to distinguish an "authorization to discharge", which is a control mechanism issued by a POTW.

"Pretreatment requirement" means any substantive or procedural requirement related to pretreatment imposed on an industrial user by a pretreatment permit or lawful order, other than a pretreatment standard.
BOARD NOTE: Derived from 40 CFR 403.3(t) (2016).

"Pretreatment standard" or "standard" means any regulation containing pollutant discharge limits promulgated by USEPA, and incorporated by reference in 35 Ill. Adm. Code 307. This term includes prohibitive discharge limits established under Sections 310.201 through 310.213 or 35 Ill. Adm. Code 307.1101. This term also includes more stringent prohibitions and standards adopted by the Board in this Part or 35 Ill. Adm. Code 307, including 35 Ill. Adm. Code 307.1101, 307.1102, and 307.1103. The term also includes local limits that are a part of an approved pretreatment program, as provided in Section 310.211.
BOARD NOTE: Derived from 40 CFR 403.3(l) (2016).

"Process wastewater" means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
BOARD NOTE: Derived from 40 CFR 401.11(q) (2016).

"Process wastewater pollutants" means pollutants present in process wastewater.
BOARD NOTE: Derived from 40 CFR 401.11(r) (2016).

"Publicly owned treatment works" or "POTW" means a "treatment works" that is owned by the State of Illinois or a "unit of local government." This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastewater. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the "unit of

local government" that has jurisdiction over the indirect discharges to and the discharges from such a treatment works.
BOARD NOTE: Derived from 40 CFR 403.3(q) (2016).

"Schedule of compliance" means a schedule of remedial measures included in an authorization to discharge or a pretreatment permit, or an NPDES permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with this Part and 35 Ill. Adm. Code 307. A schedule of compliance does not protect an industrial user or POTW from enforcement.
BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 U.S.C. 1362(17).

"Significant industrial user" means significant industrial user as defined in Section 310.112.
BOARD NOTE: Derived from 40 CFR 403.3(v) (2016).

"Sludge requirements" means any of the following permits or regulations: 35 Ill. Adm. Code 309.155 (NPDES Permits), 309.208 (Permits for Sites Receiving Sludge for Land Application), 703.121 (RCRA Permits), 807.202 (Solid Waste Permits); Section 39(b) of the Act (NPDES Permits); Section 405(b) of the federal Clean Water Act (federally-imposed sludge use and management requirements); and 40 CFR 501 and 503.
BOARD NOTE: Derived from 40 CFR 403.3(k)(2) and 403.7(a) (2016).

"Submission" means a request to the Agency by a POTW for approval of a pretreatment program, or for authorization to grant removal credits.
BOARD NOTE: Derived from 40 CFR 403.3(w) (2016).

"Treatment works" is as defined in 33 U.S.C. 1292(2), incorporated by reference in Section 310.107. It includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal or industrial wastewater to implement 33 U.S.C. 1281, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment.
BOARD NOTE: Derived from 40 CFR 403.3(q) (2016) and 33 U.S.C. 1292(2).

"Unit of local government" means a unit of local government, as defined by Art. 7, Sec. 1 of the Illinois Constitution. Unit of local government includes municipalities and sanitary districts.
BOARD NOTE: Derived from 40 CFR 401.11(m) (2016) and 33 U.S.C. 1362(4).

"USEPA" means the United States Environmental Protection Agency.

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.111 New Source

a) "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the date specified in 35 Ill. Adm. Code 307 for the particular source category or subcategory applicable to the source, if one of the following is true:

1) The building, structure, facility, or installation is constructed at a site at which no other source is located;

2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

b) Construction on a site at which an existing source is located results in a modification, rather than a new source, if the construction does not create a new building, structure, facility, or installation that meets the criteria of subsection (a)(2) or (a)(3), but which otherwise alters, replaces, or adds to existing process or production equipment.

c) Construction of a new source, as defined in this Section, has commenced if the owner or operator has done either of the following:

1) It has begun or caused either of the following to begin as part of a continuous on-site construction program:

A) Any placement, assembly, or installation of facilities or equipment; or

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

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).

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 47 Ill. Reg. 5083, effective March 23, 2023)

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 Sections 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 Section 310.510(f)).

b) The Control Authority may determine that an industrial user subject to categorical pretreatment standards under Sections 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) Prior to the Control Authority's finding, the industrial user has consistently complied with all applicable categorical pretreatment standards and requirements;

2) The industrial user annually submits the certification statement required in Section 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 from an industrial user or POTW, and in accordance with Section 310.510(f), determine that such industrial user is not a significant industrial user.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

SUBPART B: PRETREATMENT STANDARDS

Section 310.201 General Prohibitions

a) No industrial user may introduce into a POTW any pollutant that causes pass through or interference.

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:

1) 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

2) Either of the following:

A) The POTW developed in accordance with Section 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 before and during the pass through or interference; or

B) If the POTW has not developed local limits in accordance with Section 310.210 that are designed to prevent pass through or interference for the pollutants that caused the pass through or interference, the industrial user's discharge immediately before 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 the case of interference, sludge requirements.

c) These general prohibitions and the specific prohibitions in Section 310.202 apply to each industrial user introducing pollutants into a POTW whether or not the industrial user is subject to other pretreatment standards or any national, State, or local pretreatment requirements.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.202 Specific Prohibitions

No person may cause or allow the introduction into a POTW of the pollutants specified in 35 Ill. Adm. Code 307.1101(b).

BOARD NOTE: Derived from 40 CFR 403.5(b) (2005), as amended at 70 Fed. Reg. 60134 (Oct. 14, 2005).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.210 Local Limits Developed by POTW

a) Each POTW that is required to develop a pretreatment program must develop and enforce, as part of the program, local limits to implement the prohibitions listed in Sections 310.201(a) and 310.202. Each POTW with an approved pretreatment program must continue to develop these local limits as necessary and effectively enforce them.

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

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

d) A POTW may develop best management practices (BMPs) to implement subsections (a) and (b). Such BMPs are to be considered local limits and pretreatment standards under this Part.

e) The POTW must base limitations developed pursuant to this Section on the characteristics and treatability of the wastewater by the POTW, effluent limitations that the POTW must meet, sludge requirements, water quality standards in the receiving stream, and the pretreatment standards and requirements of this Part and 35 Ill. Adm. Code 307.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.211 Status of Local Limits

If a POTW develops local limits in the form of specific prohibitions or limits on pollutants, pollutant parameters, or BMPs, such local limits are to be considered pretreatment standards for the purposes of this Part.

BOARD NOTE: Derived from 40 CFR 403.5(d) (2005).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.220 Categorical Standards

Pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties that may be discharged to a POTW by an existing or new industrial user in a specific industrial source category or subcategory will be established as separate regulations under 35 Ill. Adm. Code 307. These standards, unless specifically noted otherwise, must be in addition to the standards and requirements set forth at 35 Ill. Adm. Code 307.1101 and 310.

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

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.221 Source Category Determination Request

a) Application Deadline

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

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

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

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

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

b) Contents of Application. Each request must contain a statement that includes the following information:

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

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 must, 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.

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 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.222 Deadline for Compliance with Categorical Standards

a) If a compliance date for an existing or new source categorical pretreatment standard is adopted or incorporated by reference in 35 Ill. Adm. Code 307, then industrial users must comply with the standard by the latest of the following times:

1) The date specified or incorporated by reference; or

2) The date the Board adopts or incorporates the standard by reference; or

3) The date USEPA approves the Illinois pretreatment program.

b) If no compliance date for a categorical pretreatment standard is adopted or incorporated by reference in 35 Ill. Adm. Code 307, then industrial users must comply with the standard by the latest of the following times:

1) The date the Board adopts or incorporates the standard by reference; or

2) The date USEPA approves the Illinois pretreatment program.

c) This Section must not be construed as extending compliance dates for enforcement of categorical pretreatment standards pursuant to statutes and regulations existing prior to authorization of the Illinois pretreatment program.

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

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

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 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.

e) When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the Control Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Control Authority. The Control Authority may establish equivalent mass limits only if the industrial user meets all the following conditions in subsections (e)(1)(A) through (e)(1)(E).

1) To be eligible for equivalent mass limits, the industrial user must undertake the following actions:

A) It must employ or demonstrate that it will employ water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

B) It must currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and it must not have used dilution as a substitute for treatment;

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

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

E) It must have consistently complied with all applicable categorical pretreatment standards during the period before the industrial user requested equivalent mass limits.

2) An industrial user subject to equivalent mass limits must undertake the following actions:

A) It must maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

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) if 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).

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

f) The Control Authority may convert the mass limits of the categorical pretreatment standards of Subparts O, T, and CD of 35 Ill. Adm. Code 307 to concentration limits for calculating limitations applicable to individual industrial users under the following conditions. When converting such limits to concentration limits, the Control Authority must use the concentrations listed in the applicable provisions of Subparts O, T, and CD of 35 Ill. Adm. Code 307 and document that dilution is not being substituted for treatment as prohibited by Section 310.232.

g) Equivalent limitations calculated in accordance with subsections (c) through (f) are deemed pretreatment standards. The Control Authority must document how the equivalent limits were derived and make this information publicly available. Once incorporated into its control mechanism, the industrial users must comply with the equivalent limitations instead of the promulgated categorical standards from which the equivalent limitations were derived.

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

i) Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production-based standard must notify the Control Authority within two business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Control Authority of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long-term average production rate.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.232 Dilution Prohibited as A Substitute for Treatment

Except where expressly authorized to do so by an applicable categorical pretreatment standard or requirement, no industrial user may increase the use of process water or, in any other way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The Control Authority may impose mass limitations on industrial users that are using dilution to meet applicable pretreatment standards or in other cases where the imposition of mass limitations is appropriate.

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

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.233 Combined Waste Stream Formula

If process wastewater is mixed prior to treatment with wastewaters other than those generated by the regulated process, the Control Authority (or the industrial user with the written concurrence of the Control Authority) must derive fixed alternative discharge limits. When it is deriving alternative categorical limits, the Control Authority must calculate both an alternative daily maximum value using the daily maximum values specified in the appropriate categorical pretreatment standards and an alternative consecutive sampling day average value using the average monthly values specified in the appropriate categorical pretreatment standards. The industrial user must comply with the alternative daily maximum and average monthly limits fixed by the Control Authority until the Control Authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An industrial user must immediately report any such material or significant change to the Control Authority. If appropriate, the Control Authority must calculate new alternative categorical limits within 30 days.

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

1) Alternative Concentration Limit

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

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.

"ΣG_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.

D = The average daily flow (at least a 30-day average) from:

A) Boiler blowdown streams, non-contact cooling streams, stormwater streams, and demineralizer backwash streams, subject to the proviso of subsection (d);

B) Sanitary waste streams if 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

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

where

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.

"ΣG_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) from:

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 if 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 ensure 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) If the self-monitoring schedules for the appropriate standards differ, monitoring must be done according to the most frequent schedule.

3) If 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). If 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 relevant 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 pursuant to paragraph 8 of the NRDC v. Costle consent decree, incorporated by reference in Section 310.107, for one or more of the following reasons (see appendix D to 40 CFR 403, incorporated by reference in Section 310.107):

1) The pollutants of concern are not detectable in the discharge from the industrial user;

2) The pollutants of concern are present only in trace amounts and are neither causing nor are likely to cause toxic effects;

3) The pollutants of concern are present in amounts too small to be effectively reduced by technologies known to USEPA;

4) The waste stream contains only pollutants that are compatible with the POTW.

f) If a treated regulated process waste stream is combined prior to treatment with wastewaters other than those generated by the regulated process, the industrial user may monitor either the segregated process waste stream or the combined waste stream to determine compliance with applicable pretreatment standards. If the industrial user chooses to monitor the segregated process waste stream, it must apply the applicable categorical pretreatment standard. If the user chooses to monitor the combined waste

stream, it must apply an alternative discharge limit calculated using the combined waste stream formula as provided in this Section. The industrial user may change monitoring points only after receiving approval from the Control Authority. The Control Authority must ensure that any change in an industrial user's monitoring point or points will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

SUBPART C: REMOVAL CREDITS

Section 310.301 Special Definitions

For Subpart C, the following definitions apply:

"Consistent removal" means the average of the lowest 50% of the removals measured according to Section 310.311. All sample data obtained for the measured pollutant during the time period prescribed in Section 310.311 must be reported and used in computing consistent removal. If a substance is measurable in the influent but not in the effluent, the effluent level may be assumed to be the limit of measurement, and those data may be used by the POTW at its discretion and subject to approval by the Agency. If the substance is not measurable in the influent, the data may not be used. If the number of samples with concentrations equal to or above the limit of measurement is between eight and twelve, the average of the lowest six removals must be used. If there are less than eight samples with concentrations equal to or less than the limit of measurement, the Agency may approve alternate means of demonstrating consistent removal. "Measurement" refers to the ability of the analytical method or protocol to quantify as well as identify the presence of the substance in question.
BOARD NOTE: Derived from 40 CFR 403.7 (2005).

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

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

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

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

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

"Sludge requirements" is as defined in Section 310.110.

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.302 Authority

Any POTW receiving wastes from an industrial user to which a categorical pretreatment standard applies may, at its discretion and subject to the conditions of Subpart C, grant removal credits to reflect removal by the POTW of pollutants specified in the categorical pretreatment standard. The POTW may grant a removal credit equal to, or at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected industrial user must calculate its revised discharge limits in accordance with Section 310.310. Removal credits must be given for indicator or surrogate pollutants regulated in a categorical pretreatment standard only if the categorical pretreatment standard so specifies.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.303 Conditions for Authorization to Grant Removal Credits

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

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 Sections 310.330 and 310.340.

b) The POTW demonstrates and continues to achieve consistent removal of the pollutant.

c) The POTW has an approved pretreatment program in accordance with and to the extent required by this Part; but a POTW that does not have an approved pretreatment program may, pending approval of such a program, give removal credits conditionally as provided in Section 310.330.

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 Section 310.110.) Alternatively, the POTW demonstrates to the Agency that even though it is not presently in compliance with applicable sludge requirements, it will be in compliance when each industrial user to whom the removal credit would apply is required to meet its categorical pretreatment standard as modified by the removal credit. Removal credits may be made available for any of the following pollutants:

1) For any pollutant listed in appendix G, section I of 40 CFR 403, incorporated by reference in Section 310.107, for the use or disposal practice employed by the POTW, when the requirements in 40 CFR 503, incorporated by reference in Section 310.107, for that practice are met;

2) For any pollutant listed in appendix G, section II of 40 CFR 403, incorporated by reference in Section 310.107, for the use or disposal practice employed by the POTW when the concentration for a pollutant listed in appendix G, section II of 40 CFR 403 in the sewage sludge that is used or disposed of does not exceed the concentration for the pollutant in appendix G, section II of 40 CFR 403; or

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

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.310 Calculation of Revised Discharge Limits

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

$$y = \frac{100x}{(100 - r)}$$

where:

x = Pollutant discharge limit specified in the applicable categorical pretreatment standard.

r = Removal credit for the particular pollutant as established pursuant to Section 310.311 (percentage removal expressed as a percent, that is, a number between 0 and 100).

y = Revised discharge limit for the specified pollutant (expressed in same units as x).

BOARD NOTE: Derived from 40 CFR 403.7(a)(4) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.311 Demonstration of Consistent Removal

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

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

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

c) Sampling Procedures

1) Composite. The influent and effluent operational data must be obtained through 24-hour flow-proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. For discrete sampling, at least 12 aliquots must be composited. Discrete sampling may be flow-proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites must be flow-proportional to either stream flow at time of collection of influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.

2) Number of Samples

A) Twelve samples must be taken at approximately equal intervals throughout the full year. Sampling must be evenly distributed over the days of the week so as to include non-workdays. If the Agency determines that this schedule will not be most representative of the actual operation of the POTW treatment plant, the Agency must approve an alternative sampling schedule.

B) Upon concurrence of the Agency, a POTW may utilize a historical database amassed during the three years immediately preceding the application if the data otherwise meet the requirements of this Section. For the historical database to be approved, it must present a statistically valid description of daily, weekly, and seasonal sewage treatment plant loadings and performance for at least one year.

3) Effluent sample collection need not be delayed to compensate for hydraulic detention time unless the POTW elects to include detention time compensation or unless the Agency requires detention time compensation. The Agency must require that each effluent sample be taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation. The detention period must be based on a 24-hour average daily flow value. The average daily flow used must be based upon the average of the daily flows during the same month of the previous year.

d) Sampling Procedures. Grab. If composite sampling is not an appropriate sampling technique, one or more grab samples must be taken to obtain influent and effluent operational data. Collection of influent grab samples

must precede collection of effluent samples by approximately one detention period. A detention period is to be based on a 24-hour average daily flow value. The average daily flow used must be based upon the average of the daily flows during the same month of the previous year. Grab samples are required, for example, where the parameters being evaluated are those such as cyanide and phenol, which may not be held for any extended period because of biological, chemical, or physical interactions that take place after sample collection and affect the results. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes.

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

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.312 Provisional Credits

For pollutants that are not currently being discharged (new or modified facilities, or production changes) the POTW may apply for provisional authorization to revise the applicable categorical pretreatment standard prior to initial discharge of the pollutant. Consistent removal may be based provisionally on data from treatability studies or demonstrative removal at other treatment facilities where the quality and quantity of influent are similar. In calculating and applying for provisional removal allowances, the POTW must comply with provisions of this Subpart. The POTW must demonstrate consistent removal within 18 months after the commencement of discharge of the

pollutants in question. If, within 18 months after the commencement of the discharge of the pollutant in question, the POTW cannot demonstrate consistent removal pursuant to Section 310.311, the Agency must terminate the authority to grant removal credits, and all industrial users to whom the revised discharge limits had been applied must achieve compliance with the applicable categorical pretreatment standards within a reasonable time, not to exceed the period of time prescribed in the standards, as the Agency must specify.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

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 if 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 ensure 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 ensure 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:

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

where:

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.

2) The industrial user can claim consistent removal only if 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 Section 310.107.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

SUBPART C: REMOVAL CREDITS

Section 310.330 Exception to POTW Pretreatment Requirement

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

a) All industrial users who are currently subject to a categorical pretreatment standard and who wish to receive conditionally a removal credit must submit to the POTW the information required by Section 310.602(a) through (g) (except new or modified industrial users must only submit the information required by Section 310.602(a) through (f)), pertaining to the categorical pretreatment standard as modified by the removal credit. The industrial users must indicate what additional technology, if any, will be needed to comply with the categorical pretreatment standard as modified by the removal credit;

b) The POTW must have submitted to the Agency an application for pretreatment program approval meeting the requirements of Subpart E in a timely manner, not to exceed the time limitations set forth in a compliance schedule for development of a pretreatment program included in the POTW's NPDES permit.

c) The POTW must do the following:

1) Compile and submit data demonstrating its consistent removal;

2) Comply with the conditions specified in Section 310.303; and

3) Submit a complete application for removal credit authority in accordance with Section 310.340.

d) If a POTW receives authority to grant conditional removal credits and the Agency subsequently makes a final determination, after appropriate notice, that the POTW failed to comply with the conditions in subsections (b) and (c), the Agency must terminate the authority to grant conditional removal credits and all industrial users to whom the revised discharge limits had been applied must achieve compliance with the applicable categorical pretreatment standards within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard.

e) If a POTW grants conditional removal credits and the POTW or the Agency subsequently makes a final determination, after appropriate notice, that the industrial user failed to comply with the conditions in subsection (a), the POTW or Agency must terminate the conditional credit for the non-complying industrial user and the industrial user to whom the revised discharge limits had been applied must achieve compliance with the applicable categorical pretreatment standard within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard. The conditional credit must not be terminated where a violation of the provisions of this Section results from causes entirely outside of the control of the industrial user or the industrial user has demonstrated substantial compliance.

f) The Agency may elect not to review an application for conditional removal credit authority upon receipt of such application, in which case the conditionally revised discharge limits remain in effect until reviewed by the Agency. This review may occur at any time in accordance with the procedures of Sections 310.541 through 310.547, but in any event no later than the time of any pretreatment program approval or any NPDES permit reissuance.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.340 Application for Removal Credits Authorization

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

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

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

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

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

2) The data required pursuant to Section 310.311.

3) Proposed revised discharge limits for each affected subcategory of industrial users calculated in accordance with Section 310.310.

4) A certification that the POTW has an approved local pretreatment program or qualifies for the exception to this requirement under Section 310.330.

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 Section 310.303(d).

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 Section 310.303(e).

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

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 Sections 310.541 through 310.547.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.343 Assistance of POTW

Nothing in this Part precludes an industrial user or other interested party from assisting the POTW in preparing and presenting the information necessary to apply for authorization.

BOARD NOTE: Derived from 40 CFR 403.7(e)(7) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

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 Section 310.303(d) or its NPDES permit limitations and conditions as required by Section 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 if the POTW maintains compliance with the conditions specified in Section 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 intervals 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 47 Ill. Reg. 5083, effective March 23, 2023)

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 removal capability reports received pursuant to Section 310.350(c) or other information available to it, the Agency determines:

1) That one or more of the discharge limits revisions made by the POTW, or the POTW itself, no longer meets the requirements of this Subpart; or

2) That such discharge limit revisions are causing or significantly contributing to a violation of any conditions or limits contained in the POTW's NPDES permit. A revised discharge limit is significantly contributing to a violation of the POTW's permit if it satisfies the definition of pass through or interference as defined in Section 310.110.

b) Corrective action. If appropriate corrective action is not taken within a reasonable time, not to exceed 60 days unless the POTW or an affected industrial user demonstrates that a longer time period is reasonably

necessary to undertake the appropriate corrective action, the Agency must either withdraw such discharge limits or require modifications in the revised discharge limits.

c) Public notice of withdrawal or modification. The Agency must not withdraw, modify, or revise discharge limits unless it first notifies the POTW and all industrial users to whom revised discharge limits have been applied, and made public in writing the reasons for such withdrawal or modification and provided an opportunity for public hearing. Following such notice and withdrawal or modification, all industrial users to whom revised discharge limits had been applied must be subject to the modified discharge limits or the discharge limits prescribed in the applicable categorical pretreatment standards as appropriate and must achieve compliance with such limits within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

SUBPART D: PRETREATMENT PERMITS

Section 310.400 Preamble

a) Subpart D contains rules for the issuance of pretreatment permits by the Agency when the Agency is acting as the Control Authority. Subpart D does not apply if the POTW is the Control Authority.

b) Industrial users with pretreatment permits are not required to have operating permits under Subpart B of 35 Ill. Adm. Code 309. However, sources may be required to have construction permits under Subpart B of 35 Ill. Adm. Code 309.

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.401 Pretreatment Permits

a) An industrial user must not, without a pretreatment permit, discharge to a POTW, unless the discharge is to a POTW with a pretreatment program approved under Subpart E.

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

1) The user has caused pass through or interference.

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.402 Time to Apply

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.403 Imminent Endangerment

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

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 Section 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 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.411 Certification of Capacity

The industrial user must obtain from the POTW and from the owners of any intermediate sewers that will receive the wastewater a signed statement certifying that they have adequate capacity to treat and transport the wastewater without violating any provisions of any NPDES permit, this Part, or 35 Ill. Adm. Code 302, 304, 307, or 309.

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.412 Signatures

a) If a corporation submits an application, one of the following persons must sign the application:

1) A principal executive officer of at least the level of vice president; or

2) An authorized agent of the corporation, if the agent is responsible for the overall operation of the wastewater source.

b) If a partnership or sole proprietorship submits an application, a general partner or the proprietor must sign the application.

c) If a publicly owned industrial user submits an application, one of the following persons must sign the application:

1) The principal executive officer;

2) The ranking elected official; or

3) An authorized employee.

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

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 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.414 Completeness

a) An application must be deemed filed when the Agency receives all information, documents, and authorizations in the form specified in this Part.

b) The Agency must notify applicants of incomplete applications within 30 days after the Agency receives the application.

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

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 the new application.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.420 Standard for Issuance

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

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.421 Final Action

a) If the Agency denies a pretreatment permit, it must send the applicant a written statement of the reasons for denial, as provided by Section 39(a) of the Act [415 ILCS 5/39(a)].

b) The date of the Agency's final action must be the date the pretreatment permit or statement of reasons for denial is mailed to the applicant.

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.430 Conditions

The Agency must impose the following conditions in each permit:

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

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

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

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

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

f) An expiration date, as specified in Section 310.431.

g) If the applicant does not demonstrate compliance with this Part and 35 Ill. Adm. Code 307, a schedule of compliance as specified in Section 310.432.

h) A requirement that the applicant file an application to modify the permit when notified under Section 310.442.

i) Such additional conditions as the Agency determines are necessary to assure that the discharge complies with the requirements of this Part and 35 Ill. Adm. Code 307.

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.431 Duration of Permits

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

a) Coordination with future compliance deadlines;

b) Maintenance of intensive control over new or experimental processes; and

c) Whether the permit addresses an emergency situation.

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.432 Schedules of Compliance

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

b) Schedules of compliance must require the permittee to take specific steps to achieve compliance within the shortest practicable period of time, and must be consistent with requirements in the Clean Water Act and 40 CFR 403, incorporated by reference in Section 310.107.

c) The schedule of compliance must contain the following:

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

2) A requirement that the industrial user submit progress reports no later than 14 days following each date in the schedule, including the final date for compliance. The progress report must include, at a minimum, the following:

A) Whether or not the industrial user met the date specified in the schedule of compliance; and

B) If the industrial user did not meet the dates, the date on which the user expects to accomplish this increment of progress, the reason for the delay and steps being taken to return construction to the schedule of compliance.

3) A requirement that in no event may more than nine months elapse between progress reports.

4) A statement that the schedule of compliance does not protect the industrial user from enforcement.

d) The schedule of compliance does not protect the industrial user from enforcement. It is not necessary to show a violation of a pretreatment standard or requirement to enforce interim and final compliance dates.

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.441 Effect of a Permit

Existence of a pretreatment permit is a defense only to a charge of operation without a permit.

Section 310.442 Modification

a) The permittee may request modification of the permit at any time by filing an application.

b) If the Agency finds new information or if the Board adopts new regulations relevant to the permit, the Agency must notify the permittee that it intends to modify the permit. The Agency must give the permittee the opportunity to file a new application before it modifies the permit.

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.443 Revocation

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

a) Violating permit conditions, including schedules of compliance, monitoring, and inspection;

b) Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts; or

c) A change in circumstances that mandates either a temporary or permanent reduction or elimination of the discharge.

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.444 Appeal

Within 35 days after final Agency action, the applicant may appeal the denial of a pretreatment permit, or the issuance of a pretreatment permit with conditions, to the Board pursuant to Section 40 of the Act [415 ILCS 5/40] and 35 Ill. Adm. Code 105.

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

SUBPART E: POTW PRETREATMENT PROGRAMS

Section 310.501 Pretreatment Programs Required

a) The Agency must require any POTW (or combination of POTWs operated by the same authority) with a total design flow greater than five million gallons per day (mgd) that receives discharges that fulfill either of the following conditions to establish a pretreatment program:

1) The POTW receives discharges from industrial users that pass through or interfere with the operation of the POTW; or

2) The POTW receives discharges from industrial users that are otherwise subject to categorical standards in 35 Ill. Adm. Code 307.

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 to prevent interference or pass through.

c) Regardless of subsections (a) and (b), the Agency may, in its discretion, waive the requirement that any POTW develop a pretreatment program.

1) Waivers must be in writing.

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.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.502 Deadline for Program Approval

A POTW that meets the criteria of Section 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 Section 310.510 and must be administered by the POTW to ensure compliance by industrial users with applicable pretreatment standards and requirements.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.503 Incorporation of Approved Programs in Permits

A POTW may develop an appropriate POTW pretreatment program any time before the time limit set forth in Section 310.502. The approved POTW pretreatment program must be incorporated into the POTW's NPDES permit. The modification of a POTW's NPDES permit for the purposes of incorporating a POTW pretreatment program approved in accordance with the procedure in Section 310.541 through 310.547 must be deemed a minor permit modification subject to Section 310.442.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.504 Incorporation of Compliance Schedules in Permits

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

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.505 Reissuance or Modification of Permits

The Agency must modify or reissue a POTW's NPDES permit to accomplish any of the following:

a) Put the POTW on a compliance schedule for the development of a POTW pretreatment program if the addition of pollutants into a POTW by an industrial user or combination of industrial users presents a substantial hazard to the functioning of the treatment works, quality of the receiving waters, human health, or the environment;

b) Incorporate an approved POTW pretreatment program in the POTW permit;

c) Incorporate a compliance schedule for the development of a POTW pretreatment program in the POTW permit; or

d) Incorporate the removal credits established under Subpart C in the POTW permit.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.510 Pretreatment Program Requirements

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

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

1) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users if those contributions do not meet applicable pretreatment standards and requirements or would cause the POTW to violate its NPDES permit;

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

3) Control, through ordinance, permit, order, or similar means, the contribution to the POTW by each industrial user to ensure compliance with applicable pretreatment standards and requirements, and for each significant industrial user, as defined at Section 310.110, this control must be achieved through individual permits or equivalent individual control mechanisms issued to each such user except as follows:

A) At the discretion of the POTW, this control may include using general control mechanisms if the conditions of subsection (g) are met.

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), which would normally appear at this subsection (a)(3)(A), but which the Board moved to subsection (g) to comply with Illinois Administrative Code codification requirements.

B) All individual control mechanisms and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

i) A statement of duration (in no case more than five years);

ii) A statement of non-transferability without, at a minimum, prior notification to the POTW and

provision of a copy of the existing control mechanism to the new owner or operator;

iii) Effluent limits, including best management practices, based on applicable general pretreatment standards in this Part and 35 Ill. Adm. Code 307, categorical pretreatment standards, local limits, and local law;

iv) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge in accordance with Section 310.605(b), or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards of this Part and 35 Ill. Adm. Code 307, categorical pretreatment standards, local limits, and local law;

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 necessary to assess and assure compliance by industrial users with pretreatment standards and requirements, including 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 Section 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 U.S.C. 1318), incorporated by reference in Section 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 requirements. All POTWs must also have the authority to seek or assess civil or criminal penalties in at least the amount of $1,000 a day for each violation by industrial users of pretreatment standards and requirements.

B) Pretreatment requirements that will be enforced through the remedies set forth in subsection (a)(6)(A) will include but not be limited to: the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; any requirements set forth in control mechanisms issued by the POTW; or any reporting requirements imposed by the POTW, this Part or 35 Ill. Adm. Code 307. The POTW must have authority and procedures (after notice to the industrial user) immediately and effectively to halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW must also have authority and procedures (which must include notice to the affected industrial users and an opportunity to respond) to halt or prevent any discharge to the POTW that presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The Agency must have authority to seek judicial relief when the POTW has sought a monetary penalty that the Agency finds to be insufficient; and

7) Comply with the confidentiality requirements set forth in Section 310.105.

b) Procedures. The POTW must develop and implement procedures to ensure compliance with the requirements of a pretreatment program. At a minimum, these procedures must enable the POTW to do the following:

1) Identify and locate all possible industrial users that might be subject to the POTW pretreatment program. Any compilation, index, or inventory of industrial users made under this subsection (b)(1) must be made available to the Agency upon request;

2) Identify the character and volume of pollutants contributed to the POTW by the industrial users identified under subsection (b)(1). This information must be made available to the Agency upon request;

3) Notify industrial users identified under subsection (b)(1) of applicable pretreatment standards and any applicable requirements under sections 204(b) and 405 of the federal CWA (33 U.S.C. 1284(b) and 1345) and Subtitles C and D of the federal Resource Conservation and Recovery Act (42 U.S.C. 6921-6939e and 6941-6949a), each incorporated by reference in Section 310.107. Within 30 days after approval, pursuant to subsection (f), of a list of significant industrial users, notify each significant industrial user of its status as such and of all requirements applicable to it as a result of such status;

4) Receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with the self-monitoring requirements in Subpart D;

5) Randomly sample and analyze the effluent from industrial users and conduct surveillance and inspection activities to identify, independent of information supplies by industrial users, occasional and continuing noncompliance with pretreatment standards. Inspect and sample the effluent from each significant industrial user at least once a year, except as otherwise specified in subsections (b)(5)(A) through (b)(5)(C):

A) If the POTW has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard in accordance with Section 310.605(c), the POTW must sample for the waived pollutants at least once during the term of the categorical industrial user's control mechanism.

If the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the industrial user's operations, the POTW must immediately begin at least annual effluent monitoring of the industrial user's discharge and inspection.

B) If 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 Section 310.110.

C) In the case of industrial users subject to reduced reporting requirements under Section 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 Section 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 this subsection (b)(6), a slug discharge is any discharge of a non-routine, episodic nature, including 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 must 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 must contain, at a minimum, the following elements:

A) Description of discharge practices, including non-routine batch discharges;

B) Description of stored chemicals;

C) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under Section 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 Section 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 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 defined in Section 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 equal or exceed the product of the numeric pretreatment standard or requirement,

including instantaneous limits as defined in Section 310.110, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants, except pH);

C) Any other violation of a pretreatment standard or requirement as defined in Section 310.110 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference, or pass through (including endangering the health of POTW personnel or the general public);

D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under subsection (a)(6)(B) to halt or prevent such a discharge;

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

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

G) Failure to accurately report noncompliance; or

H) Any other violation or group of violations, which may include a violation of best management practices, that the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

c) The POTW must have sufficient resources and qualified personnel to carry the authorities and procedures described in subsections (a) and (b).

d) Local Limits. The POTW must develop local limits as required in Section 310.210 or demonstrate that they are not necessary.

e) The POTW must develop and implement an enforcement response plan. This plan must contain detailed procedures indicating how a POTW will investigate and respond to instances of industrial user noncompliance. The plan must, at a minimum, do the following:

1) Describe how the POTW will investigate instances of noncompliance;

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

3) Identify (by title) the officials responsible for each type of response; and

4) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards, as detailed in subsections (a) and (b).

f) The POTW must prepare and maintain a list of its industrial users meeting the criteria in the first paragraph of the definition of "significant industrial user" at Section 310.110. The list must identify the criteria in the first paragraph of the definition of "significant industrial user" at Section 310.110 applicable to each industrial user and, if applicable, must also indicate whether the POTW has determined pursuant to the second paragraph of that definition that the industrial user should not be considered a significant industrial user. The initial list must be submitted to the Approval Authority pursuant to Sections 310.521 through 310.533 as a non-substantial program modification pursuant to Section 310.923. Any modification to the list must be submitted to the Approval Authority pursuant to Section 310.612(a).

g) Alternative Use of General Control Mechanisms

1) A POTW may use a single general control mechanism that applies to several facilities in place of several individual control mechanisms applicable to individual facilities. To use a general control mechanism, the following must be true of all of the facilities to be covered by the general control mechanism:

A) The covered facilities must all involve the same or substantially similar types of operations;

B) The covered facilities must all discharge the same types of wastes;

C) The covered facilities must all require the same effluent limitations;

D) The covered facilities must all require the same or similar monitoring; and

E) In the opinion of the POTW, the covered facilities are more appropriately controlled under a general control mechanism than under individual control mechanisms.

2) To be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests in accordance with Section 310.605(b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the significant industrial user that such a waiver request has been granted in accordance with Section 310.605(b). The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in subsections (a)(3)(i)(A) through (a)(3)(i)(E), and a copy of the significant industrial user's written request for coverage for three years after the expiration of the general control mechanism. A POTW may not control a significant industrial user through a general control mechanism where the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for a significant industrial user whose limits are based on the combined wastestream formula or net/gross calculations (Sections 310.233 and 310.801).

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 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.511 Receiving Electronic Documents

A POTW that chooses to receive electronic documents must satisfy the requirements of Section 310.106.

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

(Source: Added at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.521 Program Approval

A POTW requesting approval of a POTW pretreatment program must develop a program description that includes the information set forth in Section 310.522(a) through (d). This description must be submitted to the Agency, which will make a determination on the request for program approval in accordance with the procedures described in Sections 310.540 through 310.546.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.522 Contents of Program Submission

The program description must contain the following information:

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

1) Identify the provision of the legal authority under Section 310.510(a) that provides the basis for each procedure under Section 310.510(b);

2) Identify how the POTW will implement the program requirements set forth in Sections 310.501 through 310.510, including how pretreatment standards will be applied to individual industrial users (e.g., by order, permit, ordinance, etc.); and

3) Identify how the POTW intends to ensure compliance with pretreatment standards and requirements and to enforce them if industrial users fail to comply;

b) A copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the POTW for its administration of the program. This submission must include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising or funding the POTW pretreatment program if approved;

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

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.524 Content of Removal Allowance Submission

The request for authority to revise categorical pretreatment standards must contain the information required in Section 310.340.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.531 Agency Action

Any POTW requesting POTW pretreatment program approval must submit to the Agency three copies of the submission described in Section 310.522, and, if appropriate, Section 310.524. Within 60 days after receiving the submission, the Agency must make a preliminary determination of whether the submission meets the requirements of Section 310.522 and, if appropriate, Section 310.524. If the Agency makes the preliminary determination that the submission meets these requirements, the Agency must do the following:

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

b) Commence the public notice and evaluation activities set forth in Sections 310.540 through 310.546.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.532 Defective Submission

If, after reviewing the submission under Section 310.531, the Agency determines that the submission does not comply with the requirements of Section 310.522, or, if appropriate, Section 310.524, the Agency must provide notice in writing to the applying POTW and each person who has requested individual notice. This notification must identify any defects in the submission and advise how the POTW can comply with the applicable requirements of Section 310.522 and, if appropriate, Section 310.524.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.533 Water Quality Management

The Agency must review POTW pretreatment programs to assure consistency with water quality management plans.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.541 Deadline for Review

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.542 Public Notice and Hearing

Upon receiving a submission, the Agency must commence its review. Within 20 work days after determining that a submission meets the requirements of Section 310.522, and, where removal allowance approval is sought, Sections 310.340 and 310.524, the Agency must perform the following actions:

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

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 at least 30 days following the date of the public notice during which 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 on 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 indicate the interest of the person filing such request and the reasons why a hearing is warranted.

2) The Agency must hold a hearing if the POTW so requests. In addition, a hearing will be held if there is a significant public interest in issues relating to whether or not the submission should be approved. Instances of doubt should be resolved in favor of holding the hearing.

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.543 Agency Decision

At the end of the 30-day (or extended) comment period and within the 90-day (or extended) period provided for in Section 310.541, the Agency must approve or deny the submission based upon the evaluation in Section 310.541 and considering comments submitted during the comment period and the record of the public hearing, if held. If the Agency decides to deny the request, the Agency must so notify the POTW and each person who has requested individual notice. This notification must include suggested modifications and the Agency may allow the requestor additional time to bring the submission into compliance with applicable requirements.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.544 USEPA Objection

The Agency must not approve any pretreatment program or authorization to grant removal credits to which USEPA objects pursuant to 40 CFR 403.11(d) (2003). The POTW may contest such an objection only as provided by USEPA rules and procedures.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.545 Notice of Decision

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.546 Public Access to Submission

The Agency must ensure that the submission and any comments upon such submission are available to the public for inspection and copying.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.547 Appeal

Any final Agency action refusing to approve, or approving with conditions, a pretreatment program, may be appealed to the Board as part of an appeal of the Agency's action on the NPDES permit application.

SUBPART F: REPORTING REQUIREMENTS

Section 310.601 Definition of Control Authority (Repealed)

(Source: Repealed at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.602 Baseline Report

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

a) Identifying Information. The industrial user must submit the name and address of the facility including the name of the operator and owners.

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

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

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

1) Regulated process streams; and

2) Other streams as necessary to allow use of the combined waste stream formula of Section 310.233. (See subsection (e)(4).)

e) Measurement of Pollutants

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

2) In addition, the industrial user must submit the results of sampling and analysis identifying the nature and concentration (or mass, if required by the standard or Control Authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, if required) must be reported. The sample must be representative of daily operations. If the categorical standard requires compliance with a best management practice or pollution prevention alternative, the industrial user must submit documentation as required by the Control Authority or the applicable categorical standards to determine compliance with the categorical standard.

3) The user must take a minimum of one representative sample to compile the data necessary to comply with the requirements of this subsection.

4) Samples must be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater before pretreatment, the industrial user must measure the flows and concentrations necessary to allow use of the combined waste stream formula of Section 310.233 to evaluate compliance with the pretreatment standards. If an alternate concentration or mass limit has been calculated in accordance with Section 310.233, this adjusted limit along with supporting data must be submitted to the Control Authority.

5) Analytical Methods. Sampling and analysis must be performed in accordance with the techniques prescribed in 35 Ill. Adm. Code 307.1003. If 35 Ill. Adm. Code 307.1003 does not reference sampling or analytical techniques for the pollutant in question or USEPA has determined that sampling and analysis techniques are inappropriate pursuant to 40 CFR 403.12(b), incorporated by reference in Section 310.107(c), sampling and analysis must be performed by using validated analytical methods or any other applicable sampling and analytical procedures approved by the Agency, including procedures suggested by the POTW or other parties.

6) The Control Authority may allow the submission of a baseline report that utilizes only historical data if the data provides information sufficient to determine the need for industrial pretreatment measures.

7) The baseline report must indicate the time, date, and place of sampling, and methods of analysis, and must certify that the sampling and analysis are representative of normal work cycles and expected pollutant discharges to the POTW.

f) Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in Section 310.633) and certified to by a qualified professional, indicating whether pretreatment standards are being met consistently and, if not, whether additional operation and maintenance (O and M) or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

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

1) If the industrial user's categorical pretreatment standard has been modified by a removal allowance (Subpart C), by the combined waste stream formula (Section 310.233) or a fundamentally different factors determination (Subpart E) at the time the user submits the report required by this Section, the information required by subsections (f) and (g) must pertain to the modified limits.

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

h) Deadlines for Baseline Reports

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

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

A) Baseline reports for existing sources are due within 180 days after the Board adopts or incorporates a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission under Section 310.221(d), whichever is later.

B) New sources, and sources that become industrial users after an applicable categorical standard is promulgated, must submit the baseline report within 90 days before beginning discharge.

C) New sources already in existence and discharging on the date the Board adopts or incorporates a categorical pretreatment standard or 180 days after the final administrative decision made upon a category determination submission under Section 310.221(d), as described for existing sources under subsection (h)(1)(A), are considered existing sources for the due date provisions of this subsection.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.603 Compliance Schedule

The following conditions apply to the schedule required by Section 310.602(g):

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

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

c) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user must submit a progress report to the Control Authority including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date

on which it expects to comply with this increment of progress, the reasons for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event may more than nine months elapse between such progress reports to the Control Authority.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.604 Report on Compliance with Deadline

Within 90 days following the date for final compliance with applicable categorical pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements must submit to the Control Authority a report containing the information described in Sections 310.602(d) through (f). For industrial users subject to equivalent mass or concentration limits established by the Control Authority in accordance with procedures in Section 310.230, this report must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or another measure of operation), this report must include the user's actual production during the appropriate sampling period.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)
Section 310.605 Periodic Reports on Compliance

a) After the compliance date of a pretreatment standard or, in the case of a new source, after commencement of the discharge into the POTW, any industrial user subject to a categorical pretreatment standard (except a non-significant categorical user, as defined in Section 310.110) must submit to the Control Authority a report indicating the nature and concentration of pollutants in the effluent that are limited by the categorical pretreatment standards. The industrial user must submit the report in June and December unless the Control Authority or the pretreatment standard requires more frequent reporting. In addition, this report must include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in Section 310.602(d), except that the Control Authority may require more detailed reporting of flows. If the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the industrial user must submit documentation required by the Control Authority or the pretreatment standard necessary to determine the compliance status of the industrial user. In consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control

Authority may alter the months during which the reports required by this subsection (a) are to be submitted. 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 Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

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:

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, the sanitary wastewater is not regulated by an applicable categorical standard, and the sanitary wastewater otherwise includes no process wastewater;

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

3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed in accordance with Section 310.631 and include the certification statement in Section 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 Section 310.107, with the lowest minimum detection level for that pollutant was used in the analysis;

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 reasons supporting the waiver and any

information submitted by the industrial user in its request for the waiver must be maintained by the Control Authority for three years after the expiration of the waiver;

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

> Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutants] in the wastewaters due to the activities at the facility since filing of the last periodic report under 35 Ill. Adm. Code 310.605(a);

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

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

c) If the Control Authority has imposed mass limitations on industrial users as provided by Section 310.232, the report required by subsection (a) must indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.606 Notice of Potential Problems

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

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.610 Monitoring and Analysis

a) Except in the case of a non-significant categorical user, the reports required in Sections 310.602(e), 310.604, 310.605, and 310.611 must contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass if requested by the Control Authority, of pollutants contained in the discharge that are limited by the applicable pretreatment standards. This sampling and analysis may be performed by the Control Authority instead of the industrial user. If the POTW performs the required sampling and analysis instead of the industrial user, the user is not required to submit the compliance certification required under Sections 310.602(f) and 310.604. In addition, if the POTW itself collects all the information required for the report, including flow data, the industrial user is not required to submit the report.

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

1) The Control Authority performs sampling at the industrial user at a frequency of at least once per month; or

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

c) The reports required in Sections 310.602, 310.604, 310.605, and 310.611 must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Control Authority must require the frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. If time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR 136, incorporated by reference in Section 310.107(b), and appropriate USEPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in USEPA-approved methodologies may be authorized by the Control Authority, as appropriate.

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

e) All analyses must be performed in accordance with procedures referenced in 35 Ill. Adm. Code 307.1003, or with any other test procedure approved by the Agency. Sampling must be performed in accordance with the techniques approved by the Agency. If 35 Ill. Adm. Code 307.1003 does

not reference sampling or analytical techniques for the pollutants in question or USEPA has determined as provided in Section 310.602 that sampling and analytical techniques are inappropriate, sampling and analyses must be performed using validated analytical methods or any other sampling and analytical procedures including procedures approved by the POTW or other persons.

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

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 Section 310.107. For 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 Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

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 Section 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 Section 310.106(b)(2), in compliance with this Subpart F and Section 310.106.

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

(Source: Amended at 45 Ill. Reg. 8061, effective June 21, 2021)

Section 310.613 Notification of Changed Discharge

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

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

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.621 Compliance Schedule for POTWs

The following conditions and reporting requirements must apply to the compliance schedule for the development of an approvable POTW pretreatment program required by Sections 310.501 through 310.510.

a) The schedule must contain increments of progress in the form of dates for the commencement and completion of major events leading to the development and implementation of a POTW pretreatment program (e.g.,

acquiring required authorities, developing funding mechanisms, acquiring equipment);

b) No increment referred to in subsection (a) may exceed nine months;

c) Not later than 14 days following each date in the schedule and the final date for compliance, the POTW must submit a progress report to the Agency including as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps taken by the POTW to return to the schedule established. In no event may more than nine months elapse between such progress reports to the Agency.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.631 Signatory Requirements for Industrial User Reports

The reports required by Sections 310.602, 310.604, and 310.605 must include the certification statement as set forth in Section 310.221(b)(2) and must be signed as follows:

a) By a responsible corporate officer, if the industrial user submitting the reports required in Sections 310.602, 310.604, and 310.605 is a corporation. For 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 if 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 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 Sections 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 authorization satisfying the requirements of subsection (c) must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.632 Signatory Requirements for POTW Reports

Reports submitted to the Agency by the POTW in accordance with Section 310.612 must be signed by a principal executive officer, ranking elected official, or another duly authorized employee. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the Approval Authority prior to or together with the report being submitted.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.633 Fraud and False Statements

The reports required by this Subpart are subject to Section 1001 of Crimes and Criminal Procedure (18 U.S.C. 1001), incorporated by reference in Section 310.107, relating to fraud and false statements; section 309(c)(4) of the CWA (33 U.S.C. 1319(c)(4)), incorporated by reference in Section 310.107(c), governing false statements, representations, or certifications in reports required under the CWA; section 309(c)(6) of the CWA (33 U.S.C. 1319(c)(6)), incorporated by reference in Section 310.107(c), regarding responsible corporate officers; and to Title XII of the Act.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.634 Recordkeeping Requirements

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

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

2) The dates analyses were performed;

3) Who performed the analyses;

4) The analytical techniques/methods used; and

5) The results of such analyses.

b) Any industrial user or POTW subject to the reporting requirements established in this Subpart F (including documentation associated with best management practices) must be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this Section) and must make such records available for inspection and copying by the Agency

(and POTW in the case of an industrial user). This period of retention is extended during any unresolved litigation regarding the industrial user or POTW or when requested by the Agency.

c) Any POTW to which reports are submitted by an industrial user pursuant to Sections 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 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 47 Ill. Reg. 5083, effective March 23, 2023)

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, 2520 West Iles Avenue, PO 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

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 after April 27, 1992. Industrial users who commence discharging after April 27, 1992, 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 Section 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 Sections 310.602, 310.604, and 310.605.

b) Exemption to Reporting Requirement. An industrial user is exempt from the requirements of subsection (a)(1) during a calendar month in which the industrial user discharges 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 U.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 those regulations.

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

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

(Source: Amended at 49 Ill. Reg. 12682, effective September 23, 2025)

Section 310.636 Annual Certification by Non-Significant Categorical Users

A facility defined as a non-significant categorical industrial user in Section 310.110 must annually submit the following certification statement, signed in accordance with the signatory requirements in Section 310.631. The following certification must accompany any alternative report required by the Control Authority:

> Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under Subpart [Subpart number of the applicable national pretreatment standard] of 35 Ill. Adm. Code 307, I certify that, to the best of my knowledge and belief that during the period from [insert beginning month, day, year], to [insert ending month, day, year]:
>
> (a) The facility described as [insert facility name] met the definition of a non-significant categorical industrial user, as such is defined in 35 Ill. Adm. Code 310.110;
>
> (b) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
>
> (c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.
>
> This compliance certification is based upon the following information: [insert the information]

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

(Source: Added at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.637 Receiving Electronic Documents

A Control Authority that chooses to receive electronic documents must satisfy the requirements of Section 310.106.

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

(Source: Added at 30 Ill. Reg. 17847, effective October 26, 2006)

SUBPART G: FUNDAMENTALLY DIFFERENT FACTORS

Section 310.701 Definition of Requester

The term "requester" means an industrial user or a POTW or other interested person seeking a fundamentally different factors (FDF) determination from the limits specified in a categorical pretreatment standard.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.702 Purpose and Scope

It may be necessary on a case-by-case basis to adjust the limits in categorical pretreatment standards, making them either more or less stringent, as they apply to a certain industrial user within an industrial category or subcategory. This will only be done if data specific to that industrial user indicates it presents factors fundamentally different from those considered by USEPA in developing the limit at issue. Any interested person believing that factors relating to an industrial user are fundamentally different from the factors considered during development of a categorical pretreatment standard applicable to that user and further, that the existence of those factors justifies a different discharge limit than specified in the applicable categorical pretreatment standard, may request an FDF determination under this Subpart G. Such a determination proceeding may be initiated by the Agency also.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.703 Criteria

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

1) There is an applicable categorical pretreatment standard that specifically controls the pollutant for which alternative limits have been requested;

2) Factors relating to the discharge controlled by the categorical pretreatment standard are fundamentally different from the factors considered by USEPA in establishing the standards; and

3) The request for an FDF determination is made in accordance with the procedural requirements in Section 310.711 and 310.712.

b) Criteria Applicable to Less Stringent Limits. An FDF determination request for the establishment of limits less stringent than required by the standard may be approved only if the following are true:

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

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

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 the 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 the 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 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.704 Fundamentally Different Factors

Factors that may be considered fundamentally different are the following:

a) The nature or quality of pollutants contained in the raw waste load of the industrial user's process wastewater;

b) The volume of the industrial user's process wastewater and effluent discharged;

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

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

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

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.705 Factors that are Not Fundamentally Different

An FDF request or portion of such a request under this Subpart G must not be granted on any of the following grounds:

a) The feasibility of installing the required waste treatment equipment within the time the federal CWA (33 U.S.C. 1251 et seq.), incorporated by reference in Section 310.107(c), allows;

b) The assertion that the standards cannot be achieved with the appropriate waste treatment facilities installed, if that assertion is not based on factors listed in Section 310.704;

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

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

BOARD NOTE: Derived from 40 CFR 403.13(e) (2005).

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.706 More Stringent State Law

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

b) Nothing in this Subpart G may be construed to impair the right of any POTW to impose more stringent limitations pursuant to Sections 310.210 and 310.211.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.711 Application Deadline

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

b) To be considered, requests for FDF determinations must be submitted within the following time limits:

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

2) For standards adopted by USEPA after authorization of the Illinois pretreatment program, the industrial user must request an FDF determination within 180 days after the Board adopts or incorporates the standard by reference unless the user has requested a category determination pursuant to Section 310.221.

c) Where the industrial user has requested a category determination pursuant to Section 310.221, the user may elect to await the results of the category determination before submitting a request for an FDF determination. Where the user so elects, the user must submit the request within 30 days after a final decision has been made on the categorical determination pursuant to Section 310.221(d).

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

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 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.713 Deficient Requests

The Agency may act only on written requests of FDF determination 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 thirty days to remedy the deficiency. If the deficiency is not corrected within the time period allowed, the Agency must deny the request for an FDF determination.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.714 Public Notice

Upon receipt of a complete request, the Agency must provide notice of receipt, opportunity to review the submission and opportunity to comment.

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

1) The POTW into which the industrial user requesting the FDF determination discharges;

2) Adjoining states whose waters may be affected;

3) Federal agencies as designated by USEPA;

4) Regional planning agencies that participate in development of water quality management plans; and

5) Any other person or group who has requested individual notice, including those on appropriate mailing lists; and

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

c) Following the comment period, the Agency must make a determination upon the request taking into consideration any comments received. Notice of the final decision must be provided to the requester (and the industrial user for which the variance is requested, if different), the POTW into which the industrial user discharges and all persons who submitted comments on the request.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.721 Agency Review of FDF Requests

a) Where the Agency finds that fundamentally different factors do not exist, it must deny the request and notify the requester (and industrial user where they are not the same) and the POTW of the denial.

b) If the Agency finds that fundamentally different factors do exist, it must forward the request, with a recommendation that the request be approved, to USEPA.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.722 USEPA Review of FDF Requests

a) USEPA will deny or approve the request for an FDF determination as provided in 40 CFR 403.13(l) and (m) (2003).

b) The Agency may not grant an FDF request unless it has been approved by USEPA.

c) Appeal.

1) The requester may appeal to the Board any finding by the Agency that FDF do not exist.

2) If USEPA refuses to approve a request forwarded by the Agency, the requester may contest the decision only as allowed by USEPA.

BOARD NOTE: Derived from 40 CFR 403.13(l) and (m) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

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 Section 310.107(b).

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

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

SUBPART I: UPSETS

Section 310.901 Definition

For the purposes of this Subpart I, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

BOARD NOTE: Derived from 40 CFR 403.16(a) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.902 Effect of an Upset

An upset may constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Section 310.903 are met.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.903 Conditions Necessary for an Upset

An industrial user who wishes to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that the following has occurred:

a) An upset occurred and the industrial user can identify the cause or causes of the upset;

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

c) The industrial user has submitted the following information to the POTW and Control Authority within 24 hours after becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days);

1) A description of the indirect discharge and cause of noncompliance;

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

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

BOARD NOTE: Derived from 40 CFR 403.16(c) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.904 Burden of Proof

In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset must have the burden of proof.

BOARD NOTE: Derived from 40 CFR 403.16(d) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.905 Reviewability of Claims of Upset

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

BOARD NOTE: Derived from 40 CFR 403.16(e) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.906 User Responsibility in Case of Upset

The industrial user must control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

BOARD NOTE: Derived from 40 CFR 403.16(f) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

SUBPART J: BYPASS

Section 310.910 Definitions

For the purposes of this Subpart J, the following definitions apply:

"Bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility.

"Severe property damage" means substantial physical damage to property, damage to treatment facilities that causes them to become inoperable or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

BOARD NOTE: Derived from 40 CFR 403.17(a) (2003).

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.911 Bypass Not Violating Applicable Pretreatment Standards or Requirements

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

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

Section 310.912 Notice

a) If an industrial user knows in advance of the need for a bypass, it must submit prior notice to the Control Authority, if possible at least 10 days before the date of the bypass.

b) An industrial user must submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the Control Authority within 24 hours from the time the industrial user becomes aware of the bypass. A written submission must also be provided within five days after the time the industrial user becomes aware of the bypass. The written submission must contain the following:

1) A description of the bypass and its cause;

2) The duration of the bypass, including exact dates and times; and

3) If the bypass has not been corrected, the anticipated time it is expected to continue and the steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass.

c) The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

BOARD NOTE: Derived from 40 CFR 403.17(c) (2005).

(Source: Amended at 30 Ill. Reg. 17847, effective October 26, 2006)

Section 310.913 Prohibition of Bypass

a) Bypass is prohibited unless the following are true:

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

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

3) The industrial user submitted notices as required under Section 310.912.

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

SUBPART K: MODIFICATION OF POTW PRETREATMENT PROGRAMS

Section 310.920 General

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

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.921 Substantial Modifications Defined

Substantial modifications include the following types of modifications:

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

b) Modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the maximum allowable industrial loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to Section 310.923. For this Section, "maximum allowable industrial loading" means the total mass of a pollutant that all industrial users of a POTW (or a subgroup of industrial users identified by the POTW) may discharge pursuant to limits developed under Section 310.210;

c) Changes to the POTW's control mechanism, as the control mechanism is described in Section 310.510(a)(3);

d) A decrease in the frequency of self-monitoring or reporting required of industrial users;

e) A decrease in the frequency of industrial user inspections or sampling by the POTW;

f) Changes to the POTW's confidentiality procedures; and

g) Other modifications designated as substantial modifications by the Agency on any of the following bases:

1) The modification could have a significant impact on the operation of the POTW's pretreatment program;

2) The modification could result in an increase in pollutant loadings at the POTW; or

3) The modification could result in less stringent requirements being imposed on industrial users of the POTW.

BOARD NOTE: Derived from 40 CFR 403.18(b) (1997), as amended at 62 Fed. Reg. 38414 (July 17, 1997).

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.922 Approval Procedures for Substantial Modifications

a) The POTW must submit to the Agency a statement of the basis for the desired program modification, a modified program description (see Section 310.522), or such other documents the Agency determines to be necessary under the circumstances.

b) The Agency must approve or disapprove the modification based on the requirements of Section 310.510 and using the procedures in Sections 310.542 through 310.546, except as provided in subsections (c) and (d). The modification must become effective upon approval by the Agency.

c) The Agency need not publish a notice of the decision under Section 310.545 if each of the following conditions is fulfilled:

1) The notice of request for approval under Section 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 Sections 310.542 through 310.546 may be performed by the POTW if the Agency finds that the POTW notice otherwise satisfies the requirements of Sections 310.542 through 310.546.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

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 before its implementation by the POTW, in a statement similar to that provided for in Section 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 Section 310.921(g), the POTW may implement the modification.

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

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)

Section 310.924 Incorporation of Modifications into the Permit

All modifications must be incorporated into the POTW's NPDES permit upon approval. The permit must be modified to incorporate the approved modification in accordance with this Part and 35 Ill. Adm. Code 309.

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

(Source: Amended at 28 Ill. Reg. 3390, effective February 6, 2004)

SUBPART L: FEDERAL PROJECT XL AGREEMENTS

Section 310.930 Federally Approved Pretreatment Program Reinvention Pilot Projects Under Project XL (Repealed)
(Source: Repealed at 44 Ill. Reg. 19486, effective December 3, 2020)