**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:

|  |  |
| --- | --- |
| rc= | (8760 - Z)rm |
| 8760 |

where:

|  |  |  |
| --- | --- | --- |
| rm | = | POTW's consistent removal rate for that pollutant as established under this Subpart. |
|  |  |  |
| rc | = | 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)