**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)