**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)