**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 27 Ill. Reg. 3390, effective February 6, 2004)