**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)