**Section 310.221 Source Category Determination Request**

a) Application Deadline

1) The industrial user or POTW may request that the Agency provide written certification as to whether the industrial user falls within that particular source category or subcategory. If an existing industrial user adds or changes a process or operation that may be included in a source category or subcategory, the existing industrial user must request this certification before commencing discharge from the added or changed processes or operation. With respect to new standards, the following apply:

A) The POTW or industrial user must direct to USEPA any source category determination requests for pretreatment standards adopted by USEPA prior to authorization of the Illinois program.

B) After authorization of the Illinois program, the POTW or industrial user must direct to the Agency any source category determination requests within 60 days after the Board adopts or incorporates by reference a pretreatment standard for a source category or subcategory under which an industrial user may be included.

2) A new source must request this certification prior to commencing discharge.

3) If a request for certification is submitted by a POTW, the POTW must notify any affected industrial user of such applications. The industrial user may provide written comments on the POTW submissions to the Agency within 30 days of notification.

b) Contents of Application. Each request must contain a statement that includes the following information:

1) Describing which source category or subcategories might be applicable; and

2) Citing evidence and reasons why a particular source category or subcategory is applicable and why others are not applicable. Any person signing the application statement submitted pursuant to this Section must make the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

c) Deficient Requests. The Agency must act only on written requests for determinations that contain all of the information required. The Agency must notify persons who have made incomplete submissions that their requests are deficient and that, unless the time period is extended, they have 30 days to correct the deficiency. If the deficiency is not corrected within 30 days, or within an extended period allowed by the Agency, the Agency must deny the request for a determination.

d) Final Determination

1) When the Agency receives a submission, the Agency must, if it determines that the submission contains all of the information required by subsection (b), consider the submission, any additional evidence that may have been requested, and any other available information relevant to the request. The Agency must then make a written determination of the applicable source category or subcategory and state the reasons for the determination.

2) The Agency must forward the determination described in subsection (d)(1) to USEPA. If USEPA does not modify the Agency's decision within 60 days after its receipt, the Agency's decision is final.

3) If USEPA modifies the Agency's decision, USEPA's decision will be final.

4) The Agency must send a copy of the determination to the affected industrial user and the POTW. If the final determination is made by USEPA, the Agency must send a copy of the determination to the user.

e) Requests for Hearing or Legal Decision

1) Within 30 days following the date of receipt of notice of the final determination as provided for by subsection (d)(4), the requester may submit a petition to reconsider or contest the decision to USEPA, which will act pursuant to 40 CFR 403.6(a)(5).

2) Within 35 days following the date of receipt of notice of the final determination as provided for by subsection (c), (d)(2), or (d)(4), the requester may appeal a final decision made by the Agency to the Board.

BOARD NOTE: Derived from 40 CFR 403.6(a) (2005).

(Source: Amended at 47 Ill. Reg. 5083, effective March 23, 2023)