

Summary of Proposed Lake Michigan Water Allocation Rule Changes

January 7, 2013

The following is a brief summary of the substantive proposed changes to the Department's Part 3730 - Rules for the Allocation of Water from Lake Michigan.

Part 3730.101 – Scope and Purpose

A purpose section has been added to clearly state that it is the intention of the Department's program for the allocation of water from Lake Michigan to comply with the provisions of the U.S. Supreme Court Decree governing Illinois' allowable diversion. More specifically, Illinois' total diversion is not to exceed a 40 year running average of 3,200 cubic feet per second (2.1 billion gallons per day).

Part 3730.102 – Definitions

The definition of unavoidable leakage and the methodology for determining unavoidable leakage has been eliminated. The definition of unaccounted-for-flow has also been revised so that it no longer includes any mention of unavoidable leakage. With this change, water loss that used to be excused as unavoidable leakage will now be included as part of a water system's unaccounted-for-flow.

Part 3730.206 – Notice of Hearing

Kendall County has been added to the list of counties to receive notification of upcoming hearings, and the Chicago Metropolitan Agency for Planning replaces the Northeastern Illinois Planning Commission.

Part 3730.301 – Allocation Permits

Subpart b) Language has been added to clarify that the Department will no longer issue an allocation for Lake Michigan water diverted to operate the two lakefront locks (lockage), or for Lake Michigan water that may leak through lakefront structures that separate the Chicago Waterway System from Lake Michigan (leakage). The Department will hold an amount of Lake Michigan water in reserve for these two categories of direct diversion. This change reflects the current practice of the Department to no longer hold the Water Reclamation District of Greater Chicago responsible for lockages or leakage since they do not operate the lakefront locks nor are they responsible for all structures that separate the lake from the river system.

Subpart c and d) Language has been revised to give the Department discretion in deciding whether to issue a notice of violation of an allocation permit. Current language says the Department "shall" issue a notice of violation, and the proposed language states that the Department "may" issue a notice of violation.

Part 3730.302 – Application

A new subpart (g) has been added to include a description of an applicant's existing and proposed water conservation program. In actual practice the Department has been asking for this information for many years.

Part 3730.303 – Classification of Water Users

This section and subparts have been revised so that the second category of domestic use (applicants whose use of Lake Michigan water will reduce regional use of the deep aquifer) becomes a higher priority than the use of Lake Michigan water for navigation requirements in the Sanitary and Ship Canal and for minimum discretionary diversion flows to keep the canal in a 'reasonable satisfactory sanitary condition'.

One category is proposed for elimination (applicants whose water demands are for the minimum discretionary diversion flows necessary to meet water quality standards in the Sanitary and Ship Canal). The Department has never granted an allocation for this purpose, and believes that the category covering discretionary diversion flow to keep the canal in a 'reasonable satisfactory sanitary condition' is sufficient.

The upper limit for discretionary diversion is lowered from 320 cubic feet per second to 270 cubic feet per second

Finally, language has been added to clarify that Category III applicants do not qualify to receive a Lake Michigan water allocation. This has been the Department's practice, and will now be stated clearly in the Rules.

Section 3730.304 – Water Needs Criteria

Subpart a) Adds to the list of water conservation practices to include an outside water use control/lawn sprinkling ordinance. New language added to require applicants that exceed 8% unaccounted-for-flow to submit a compliance plan with timeframe outlining the actions that will be taken to come into compliance. Also directs the Department to consider this information in determining proper allocation amounts.

Section 3730.307 – Conservation Practices and Other Permit Conditions

Subpart b) Keeps the unaccounted-for-flow standard at 8% of net annual pumpage, even though the allowance for unavoidable leakage has been eliminated; requires permittees to submit a compliance plan to return to the 8% standard if any two consecutive accounting periods show an unaccounted-for-flow greater than 8%. Adds a sentence that directs the Department to recognize that compliance with the 8% standard can require significant capital expenditures and a lengthy timeframe, which will be taken into consideration in approving compliance plans.

Subpart c)2) Adds a requirement for sub-metering in all multi-family buildings in new construction.

Subpart c)4) Updates the requirement to install water efficient plumbing fixtures in new and replacement plumbing fixtures such that they will be a labeled Water Sense product.

Subpart c)8) Modifies the lawn sprinkling requirement to add a time of day restriction (lawn sprinkling will not be allowed between 10am-4pm nor on consecutive days), and requires new/replacement sprinklers to have a Water Sense labeled irrigation controller.

Subpart f) Adds a recommendation that water rates reflect the full cost of water service, which includes the long term cost to properly maintain and operate the water supply distribution system to keep system losses to a minimum.