**Section 3730.301 Allocation Permits**

a) No regional organization, municipality, political subdivision, agency or instrumentality, or any other organization, association or individual desiring to use water from Lake Michigan that is subject to allocation under the Act shall divert or use any such water after July 1, 1977, unless it has previously obtained from the Department a valid allocation permit.

b) The Department shall issue an allocation permit to any applicant it determines to be entitled to an allocation of water from the Lake Michigan diversion according to the criteria set out in this Subpart. The permit shall state the allocation the applicant is allowed, the starting date and duration of the permitted allocation, and such conditions as specified in Sections 3730.307 and 3730.309 as the Department may require the applicant to comply with in order to receive or to continue to receive its allocated share of the Lake Michigan diversion. Allocations for residential, industrial and commercial uses will be limited for each annual accounting period. Allocations for navigational makeup and discretionary dilution will be limited by a running average over five annual accounting periods. The Department will hold an amount of Lake Michigan water in reserve for lockage and leakage that will be based on a running average over 40 annual accounting periods.

c) If, over a five-year running period, a permittee appropriates water in amounts greater than 105% of its allocation for that period or if it appropriates in excess of 115% of its allocation in any one annual accounting period, the Department may issue a notice of violation of the allocation permit.

d) If a permittee commits a permit violation under subsection (a), (b) or (c) or if it fails to observe the conditions attached to its allocation permit, the Department may issue a notice of violation. Upon hearing and determination of violation, the permittee shall be deemed to have failed to obey an order made by the Department and may be subject to a fine of not less than $1,000 and not more than $10,000 to be recovered in the name of the People of the State of Illinois in any court of competent jurisdiction. Each day in which the prohibited activity continues shall constitute a new and separate violation of a Department order.

e) If, over a five-year running period, a permittee appropriates water in amounts less than 90% of its allocation for the period, any entity or the Department, on its own motion, may initiate proceedings for a modification according to Sections 3730.204(c) and 3730.310. Any modification shall be preceded by notice as provided in Section 3730.206, and a hearing shall be held in conformance with Subpart B.

f) If a permittee, because of physical limitations, cannot use an allocation, the Department may allocate this water, after notice and a hearing, to another use during an accounting period or hold it in reserve for future use without prejudice to any permittee's allocation in succeeding accounting periods.

(Source: Amended at 38 Ill. Reg. 22801, effective November 18, 2014)