**Section 352.800 Compliance Schedules**

Section 39(b) of the Environmental Protection Act [415 ILCS 5/39(b)] and 35 Ill. Adm. Code 309.148 authorize the Agency to establish schedules of compliance in NPDES permits for a number of circumstances, including a discharge that is not in compliance with applicable water quality standards. NPDES permits with compliance schedules within the Lake Michigan Basin shall be issued according to the following procedures:

a) No delayed compliance dates may be included for new discharges within the basin. Permits issued on or after February 20, 1998 that contain a water quality based effluent limit (WQBEL) shall require compliance with the WQBEL upon commencement of the discharge.

b) Any existing permit reissued or modified after February 20, 1998 that contains a new or more restrictive WQBEL shall allow a reasonable period of time, up to five years after the date of permit issuance or modification, for the permitee to comply with that limit.

c) If the compliance schedule established under subsection (b) extends beyond one year after the date of permit issuance or modification, the schedule shall set forth interim requirements and dates for their achievement as appropriate.

d) Whenever a WQBEL for a toxic substance based on a Tier II value derived pursuant to 35 Ill. Adm. Code 302.563 or 302.565(b) is included in a reissued or modified permit for an existing discharge, the permit shall provide a reasonable period of time, up to two years, to acquire additional data necessary to develop a Tier I criteria or to modify the Tier II value. In such cases, the permit shall require compliance with the Tier II limitation within a reasonable period of time, consistent with subsections (e) and (f) below and contain a reopener clause consistent with subsection (e).

e) The reopener clause referenced in subsection (d) shall authorize permit modifications if additional data become available during the time allowed which demonstrates that a revised WQBEL is appropriate. The revised WQBEL shall be incorporated through permit modification and a reasonable time period, up to five years after the date of permit modification, shall be allowed for compliance. If incorporated prior to the compliance date of the original Tier II limitation, any such revised limit shall not be considered less stringent for purposes of the anti-backsliding provisions of Section 402(o) of the Clean Water Act.

f) If a revised WQBEL is not demonstrated to be appropriate during the time period allowed to collect additional data and derive a Tier I criteria or revised Tier II value, the Agency may provide a reasonable additional period of time, not to exceed five years after the end of the data collection period, to achieve compliance with the original effluent limitation.