

with that limit, provided that the Tier I criterion or whole effluent toxicity (WET) criterion was adopted (or, in the case of a narrative criterion, Tier II value, or Tier I criterion derived pursuant to the methodology in appendix A of part 132, was newly derived) after July 1, 1977.

2. When the compliance schedule established under paragraph 1 goes beyond the term of the permit, an interim permit limit effective upon the expiration date shall be included in the permit and addressed in the permit's fact sheet or statement of basis. The administrative record for the permit shall reflect the final limit and its compliance date.

3. If a permit establishes a schedule of compliance under paragraph 1 which exceeds one year from the date of permit issuance or modification, the schedule shall set forth interim requirements and dates for their achievement. The time between such interim dates may not exceed one year. If the time necessary for completion of any interim requirement is more than one year and is not readily divisible into stages for completion, the permit shall require, at a minimum, specified dates for annual submission of progress reports on the status of any interim requirements.

C. Delayed Effectiveness of Tier II Limitations for Existing Great Lakes Discharges.

1. Whenever a limit (calculated in accordance with Procedure 3) based upon a Tier II value is included in a reissued or modified permit for an existing Great Lakes discharger, the permit may provide a reasonable period of time, up to two years, in which to provide additional studies necessary to develop a Tier I criterion 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, no later than five years after permit issuance or modification, and contain a reopener clause.

2. The reopener clause shall authorize permit modifications if specified studies have been completed by the permittee or provided by a third-party during the time allowed to conduct the specified studies, and the permittee or a third-party demonstrates, through such studies, that a revised limit is appropriate. Such a revised limit shall be incorporated through a permit modification and a reasonable time period, up to five years, 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.

3. If the specified studies have been completed and do not demonstrate that a revised limit is appropriate, the permitting authority may provide a reasonable additional period of time, not to exceed five years with

which to achieve compliance with the original effluent limitation.

4. Where a permit is modified to include new or more stringent limitations, on a date within five years of the permit expiration date, such compliance schedules may extend beyond the term of a permit consistent with section B.2 of this procedure.

5. If future studies (other than those conducted under paragraphs 1, 2, or 3 above) result in a Tier II value being changed to a less stringent Tier II value or Tier I criterion, after the effective date of a Tier II-based limit, the existing Tier II-based limit may be revised to be less stringent if:

(a) It complies with sections 402(o) (2) and (3) of the CWA; or,

(b) In non-attainment waters, where the existing Tier II limit was based on procedure 3, the cumulative effect of revised effluent limitation based on procedure 3 of this appendix will assure compliance with water quality standards; or,

(c) In attained waters, the revised effluent limitation complies with the State or Tribes' antidegradation policy and procedures.

[60 FR 15387, Mar. 23, 1995, as amended at 63 FR 20110, Apr. 23, 1998; 65 FR 67650, Nov. 13, 2000]

PART 133—SECONDARY TREATMENT REGULATION

Sec.

133.100 Purpose.

133.101 Definitions.

133.102 Secondary treatment.

133.103 Special considerations.

133.104 Sampling and test procedures.

133.105 Treatment equivalent to secondary treatment.

AUTHORITY: Secs. 301(b)(1)(B), 304(d)(1), 304(d)(4), 308, and 501 of the Federal Water Pollution Control Act as amended by the Federal Water Pollution Control Act Amendments of 1972, the Clean Water Act of 1977, and the Municipal Wastewater Treatment Construction Grant Amendments of 1981; 33 U.S.C. 1311(b)(1)(B), 1314(d) (1) and (4), 1318, and 1361; 86 Stat. 816, Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217; 95 Stat. 1623, Pub. L. 97-117.

SOURCE: 49 FR 37006, Sept. 20, 1984, unless otherwise noted.

§ 133.100 Purpose.

This part provides information on the level of effluent quality attainable through the application of secondary or equivalent treatment.