



Surface Water Law and Regulation

Joe Koon, Director

Division of Water Monitoring, Assessment, and
Protection



Water Quantity Programs

- **Capacity Use Program**

- Since the 1970s
- Issue permits in designated areas of the coastal plain over 3 million gallons in any month (100,000 gallons per day)

- **Surface Water Withdrawal Program**

- Since June 2012 – R.61-119
- Issue permits and registrations statewide if over 3 million gallons in any month

- **Water Use Reporting**

- All registered and permitted groundwater and surface water withdrawers report their annual water use to the department
- DHEC compiles this information and produces water use reports, which are available on our website for public use

Surface Water Withdrawals

- Statewide:
 - Active Permits: 199 with 257 intakes
 - Active Agricultural Registrations: 114 with 216 intakes
- Pee Dee Specific:
 - Active Permits: 51 with 60 intakes
 - Active Agricultural Registrations: 18 with 28 intakes

Surface Water Regulation: R.61-119

Types of Surface Water Withdrawers

Existing Surface
Water
Withdrawer

New Surface
Water
Withdrawer

Agricultural
Withdrawer

Existing or “Grandfathered” Permits

- Existing surface water withdrawers on January 1, 2011
- Permits were required to be issued for the **largest of**: documented historical use, current permitted treatment capacity, **designed capacity of intake structure**.
- Required to submit Operation and Contingency Plan based on industry standards for conditions when flow is below the minimum in stream flows

Agricultural Registration

- Registration rather than a permit, but report their water use
- Safe yield or “legally available water” is calculated to be 80% mean annual daily flow (MADF) at the point of withdrawal. This is the maximum amount that can be registered for a withdrawal

Agricultural Registration

New or Expanding Agricultural Withdrawals:

1. A proposed withdrawer must request its anticipated withdrawal quantity or increase on a form to the Department
2. Safe Yield will be determined at the point of withdrawal, if the withdrawal is within the safe yield, it will be considered registered
3. If the withdrawal is not within the safe yield, the registrant may modify its request to a reduced withdrawal quantity that is within the Safe Yield

New or Expanding Surface Water Withdrawer

Permit criteria for New or Expanding Surface Water
Withdrawal Permit:

1. Withdrawals will be evaluated for reasonableness
2. Withdrawals will be subject to minimum instream flow (20, 30, 40 percent of mean annual daily flow)
3. Safe Yield will be calculated at the point of withdrawal
4. Safe Yield shall be considered one factor, should withdrawals in excess of the safe yield be permitted, additional contingency planning shall be required
5. New surface water withdrawals must be Public Noticed for 30 days (mandatory Public Hearing for IBT)



Process per Withdrawer Type	Existing Surface Water Withdrawer	Agricultural Withdrawer	New or Expanding Surface Water Withdrawer
Permit Duration	Minimum 30 years not to exceed 50	Registrations never expire	Minimum 20 years not to exceed 50
Registered or Permitted Withdrawal Amount	Based on Greater of Historical Use or Intake Capacity	Based on Historical Use or Requested Use	Based on Reasonable Use Criteria
Public Notice	No	No	Yes 30-day Public Notice
Minimum Instream Flow Requirements	Subject only to Operation and Contingency Plan	Not subject to Minimum Instream Flow	Must meet Minimum Instream Flow (20, 30, 40)
Reasonableness Criteria for withdrawal	No	No	Yes



Process per Withdrawer Type	Existing Surface Water Withdrawer	Agricultural Withdrawer	New or Expanding Surface Water Withdrawer
Operation and Contingency Plan	Only address appropriate industry standards for water Conservation	Not subject to operation and contingency plans	Contingency plan must discontinue water withdrawals from surface water that results in a decrease in flow
Operation and Contingency Plan for Public Water System	Public Water Systems must follow their Drought Plan	Not applicable	Public Water Systems must follow their Drought Plan
Transferability	Yes, for same use	No	Yes, for same use



New or Expanding Surface Water Withdrawals

Agricultural Registration	Withdrawal on River	Withdrawal on Reservoir (FERC) or ACOE
Conduct Safe Yield Analysis	Conduct Safe Yield Analysis	Request for FERC or ACOE approval
If within Safe Yield and Adjusted Safe Yield , it is deemed registered	If within Safe Yield and Adjusted Safe Yield, conduct Minimum Instream Flow	Public Notice Permit
	Use Flow model to analyze historical 20,30,40 flow	Issue Permit
	Review type and size of supplemental water source or contingency plan (Water Supply uses Drought Plan)	
	Determine if withdrawal will adversely impact current withdrawers	
	Public Notice Permit	
	Issue Permit	



Water Conservation Measures

If requested to minimize water use further during period of extreme drought, several measures to reduce water consumption are as follows:

- Limit use of site car wash station.
- Stop all continuance trench flushes, except when required for safety purposes.
- Minimize the use of water for wash downs. Operating areas routinely wash containment areas to maintain housekeeping.
- Reschedule emergency response drills.
- Survey all areas to detect and eliminate leaks.
- Communicate to all plant employees the need to minimize water usage.

Exemptions

Users exempt from surface water withdrawal regulations:

- Those withdrawing less than 3 mgm
- Ponds that are completely contained with no inflow/outflow to tributaries (surficially or runoff fed)
- Dewatering operations
- Wildlife management
- Hydro power (must only comply with being registered and reporting use)
- Emergency withdrawals



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