

Water Management Rule Proposal

Comments, Revisions, and Timeline

February 10, 2023

Rule Proposal Status

- ▶ Rule proposal published September 2022
- ▶ Public hearings and comment period through November 2022
- ▶ P & I Committee discussion of revisions in November 2022
- ▶ Meetings with NJDEP and aggregate industry representatives in December 2022
- ▶ Notice of substantial change drafted, discussed with P&I Committee in January 2023 and approved by the Governor's office in February 2023

Nonconsumptive Use Definition (7:50-2.11)

- ▶ "Nonconsumptive use" means the use of water diverted from surface or ground waters in such a manner that at least 90 percent of the diverted water is returned to the source surface or ground water at or near the point from which it was taken.

Key Revisions

- ▶ Definition of nonconsumptive use
- ▶ New application requirement for resource extraction diversions
- ▶ Exemption of nonconsumptive resource extraction diversions from water management standards
- ▶ Clarified reference to the Statewide Water Supply Plan for Low Flow Margin calculations

Nonconsumptive Use Definition (7:50-2.11)

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Exemption for nonconsumptive resource extraction diversions

7:50-6.86(d)2iii. Any proposed diversion for a resource extraction operation that constitutes a nonconsumptive use, provided the water returned to the source is not discharged to a stream or waterbody or otherwise results in offsite flow, and the diversion and return are located on the same parcel.

Application requirement for resource extraction diversions

7:50-4.29(b)6xi. If the application includes a proposed diversion from the Kirkwood-Cohansey aquifer, a hydrogeologic report that identifies the volume of the diversion, the volume of water to be returned to the source, a description of the route of return to the source, the methodology used to quantify the volume of water returned to the source and a description of any other existing or proposed water diversions or discharges on the parcel. The report shall also include a map that depicts the location of the diversion, the return, all resource extraction operations and wetlands.

Reference to Statewide Water Supply Plan

Refer specifically to Appendix A and current depletive-consumptive use

- ▶ **6.86(d)6. A proposed diversion shall be deemed to have an adverse regional impact if it, combined with all current depletive-consumptive net use in the same HUC-11 watershed, exceeds 20 percent of the stream low flow margin for the year of peak use. For this analysis, applicants shall use Appendix A of the New Jersey Statewide Water Supply Plan at <https://www.state.nj.us/dep/watersupply/pdf/wsp-appendix-a.pdf> as amended and supplemented, and refer to the HUC-11 watershed where the proposed diversion will be located (hereafter referred to as “the affected HUC-11 watershed”). Applicants shall use the tables in Appendix A entitled “Summary of HUC11 area, Low Flow Margin and Remaining Water” and specifically, the values for the HUC-11 Low Flow Margin in the column labeled LFM(mgd) and the values for current depletive-consumptive net use in the column labeled “Current Net Dep-Con (mgd).2**

Minor corrections and clarifications

- ▶ Cite for NJDEP rule for replacement wells recodified at 7:9D
- ▶ Use same definition of Stream Low Flow Margin as found in glossary of Statewide Water Supply Plan
- ▶ Combined new and existing diversions considered for 50,000 gpd threshold
- ▶ Interbasin transfer applicable to water sources within the Pinelands Area

Rule Revision Process and Schedule

- ▶ Substance of revisions requires re-proposal of rule
- ▶ November 2022 and January 2023 P&I Committee review
- ▶ Governor's office review and approval
- ▶ Full Commission authorization - February 2023
- ▶ Publication in NJ Register - April 2023
- ▶ 60-day comment period & public hearing
- ▶ Response to comments preparation
- ▶ P&I Committee and Governor's office review
- ▶ Adoption by Commission - August 2023