



# Finish Discussion of Policy, Regulatory, and Legislative Recommendations

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Agenda Item 4



# Three often referenced issues of the current withdrawal law and regulations:

1. There are disincentives for withdrawers to get new permits even where resources are plentiful.
2. There is an overestimation of water availability (safe yield allocation) that may lead to stream flows below MIF and potential future shortages.
3. An unequal application of surface and ground water laws and regulations (SY, MIF, reasonable, review periods, etc.) for different types of withdrawals (existing, new permits, and registrations).

# For RBC Consideration

- The safe yield definition should be updated using median statistics (80% median rather than 80% mean or average) in recognition that median statistics more accurately characterize typical water availability in stream flows that are non-normally distributed. 80% median (60+ % availability) is a “safer” safe yield compared to the current 80% mean (40+ % availability) and is a compromise in recognition that permittees may not utilize their entire permit allocation.

Green bucket



*Proposed by Jason Thompson*

# For RBC Consideration

- All permits and registrations requesting volumes above safe yield (80% median) should be required to develop and submit to SCDES, realistic contingency and/or conservation capabilities and plans commensurate with their requested volume which will trigger at minimum instream flow. As is the case in the current law, withdrawers will be allowed to shift back to their primary withdrawal source once the contingency supply has been exhausted.

Green bucket



*Proposed by Jason Thompson*

# For RBC Consideration

- Minimum instream flows (MIF) and minimum water levels (MWL) should be based on median statistics in recognition that median statistics more accurately characterize typical water availability, since most stream flows are non-normally distributed.

Yellow bucket – RBC to Revisit



# For RBC Consideration

- ~~MIF and MWL should be calculated as a net flow or level based on the hydrology present (i.e., considering tidal influences and/or the periodicity of intermittent, upstream discharges if downstream of a licensed or otherwise flow controlled impoundment).~~
- When considering MIF and MWL criteria for new permits, SCDES should be allowed to use alternative hydrologic assessments and take into account water quality considerations due to complex hydrology, as is the case in coastal areas impacted by tides.



Green bucket



*Proposed by Jason Thompson*



# For RBC Consideration

- The Surface Water Withdrawal, Permitting, Use and Reporting Act (SC Code Sections 49-4-10 and the R. 61-119) should be amended to require all surface water withdrawals (existing, new, and registrants) over 3,000,000 gallons a month to be subject to permit requirements and review. **Yellow/Green – want Ag input.** 
- **Review periods for gw and sw permit renewal should be re-evaluated, to facilitate long-term planning efforts, support bond issuance, protect withdrawers' investment in infrastructure, and protect the biological, physical and chemical integrity.** Existing regulations should be amended to align users' renewal periods and permit requirements for surface water and groundwater withdrawals as much as reasonably possible.  
**Yellow/Green** 
- ~~The Groundwater Use and Reporting Act (SC Code Section 49-5-10 and R.61-113) and Surface Water Withdrawal, Permitting, Use and Reporting Act should be amended to reflect a 30-year permit renewal period to facilitate long-term planning efforts, support bond issuance, and protect withdrawers' investment in infrastructure. Review periods of hydrologic conditions by CUA and river basin every [10 years] should occur. If conditions warrant, permits may be revisited within the 30-year period.~~

*Proposed by Allan Clum*

# For RBC Consideration

- ~~A withdrawal review may occur as soon as every 10 years if monthly withdrawals by the permitted or registered user are not at least 10% of the allocation. The withdrawal review process should consider if the infrastructure present or being constructed could utilize at least a 1/3<sup>rd</sup> of the allocation and include a mechanism for reduction in the size of the allocation if warranted.~~
- ~~Enable all registrations to transition to permits of equal allocation quantities if they have utilized at least 10% of their allocation in any given month and if the infrastructure present or being constructed could utilize at least a 1/3<sup>rd</sup> of the allocation.~~



## Other Recommendations

- ~~Counties and municipalities should prioritize and incentivize native tree canopy protection and permanent vegetative cover within headwater streams and along riparian areas.~~ Trees and tree canopies provide ecosystem services for watersheds by protecting headwater streams, slowing evapotranspiration, cooling waters, slowing runoff, and directly affecting surface drinking water supply. Trees are the cornerstone of ecosystem services for watersheds.
- SCDNR/SCDES should review the science behind MIF standards to ensure they are based on best available science to adequately protect designated uses and recognize regional differences.

Green bucket, but include with previously approved MIF rec.



# Other Recommendations

- ~~The water withdrawal permitting process should specifically assess the permit application's alignment with the current River Basin Plan [or alternatively, the legislatively approved State Water Plan].~~
- Require high use industrial water users (3 mgm) purchasing from a municipal supply to report monthly water usage to SCDES, aligning with existing SCDES water use reporting requirements.

## Green bucket



## Other Recommendations

- ~~Regulation 61-119 Surface Water Withdrawal, Permitting, Use and Reporting should be reviewed to ensure consistency with the South Carolina Surface Water Withdrawal, Permitting Use, and Reporting Act, including a review of the existing definition of “safe yield” (SY) in the implementing regulations. SY should be redefined to be consistent with the law and protective of minimum instream flow requirements that safeguard the integrity and designated uses of state waters. For example, Regulation 61-119 states that for stream segments not impacted by impoundment, SY is calculated at the point of withdrawal as 80 percent of the mean annual daily flow (MADF). Since MIF is calculated as 20, 30, or 40 percent of the MADF, depending on the month, by definition, in months where MIF is 30 or 40 percent of MADF, MIF will not be achieved if the full safe yield is withdrawn.~~

*The RBC approved a Safe Yield-related rec earlier in the meeting, so this Saluda RBC rec was not discussed further*