

# Surface Water Regulation Stakeholder Workgroup



**Purpose:** DHEC will convene and work with stakeholders to identify issues and work towards solutions to improve regulations and management of surface water in SC



<b>Stakeholder workgroup timeline</b>	Notice of Drafting Published	Monthly Stakeholder Meetings	Evaluate stakeholder recommendations
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Provide updates and opportunities for public comment

# Purpose

How do we improve regulations and management of surface water in SC?

To maximize resource availability

Promote sustainable use

Serve as a regulatory framework to support basin planning

# Purpose

- Discuss R.61-119: “Surface Water Withdrawal, Permitting, Use and Reporting”
- Engage with stakeholders to identify ways to improve R.61-119

# Surface Water Regulation: R.61-119

## Types of Surface Water Withdrawers

Existing Surface  
Water  
Withdrawer

New Surface  
Water  
Withdrawer

Agricultural  
Withdrawer

# Existing Withdrawers

- 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**
- Permit durations with a minimum of 30 years and up to 50 years

- Not subject to 20-30-40 minimum instream flow (MIF) requirements
- No public notice requirement
- Accounts for 94% of permits

# New Withdrawers

## Permit criteria for New or Expanding Surface Water Withdrawal Permit

- Withdrawals will be evaluated for reasonableness
- New surface water withdrawals must be Public Noticed for 30 days (mandatory Public Hearing for Inter-basin Transfers (IBT))

- Withdrawals will be subject to MIF requirements (20, 30, 40 percent of mean annual daily flow (MADF))
- Safe yield will be calculated at the point of withdrawal
- Safe yield shall be considered one factor, should withdrawals in excess of the safe yield be permitted, additional contingency planning shall be required

# Agricultural Withdrawers

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

- Not subject to any reasonable use requirements
- Not required to meet MIF
- Not required to include any best management practices
- No expiration date for registrations
- Only subject to safe yield calculations and reporting requirements

# Observations Since 2011

- Only 6% subject to minimum instream flow (MIF) requirements
- Existing Permits based on pump capacity and are over-permitted when compared to historic use records
- Reasonableness criteria only for New Permits
- Inconsistencies with permit duration



# Withdrawal Durations

## Existing Withdrawers

- 30 years with possible extension to 50 years

## New Withdrawers

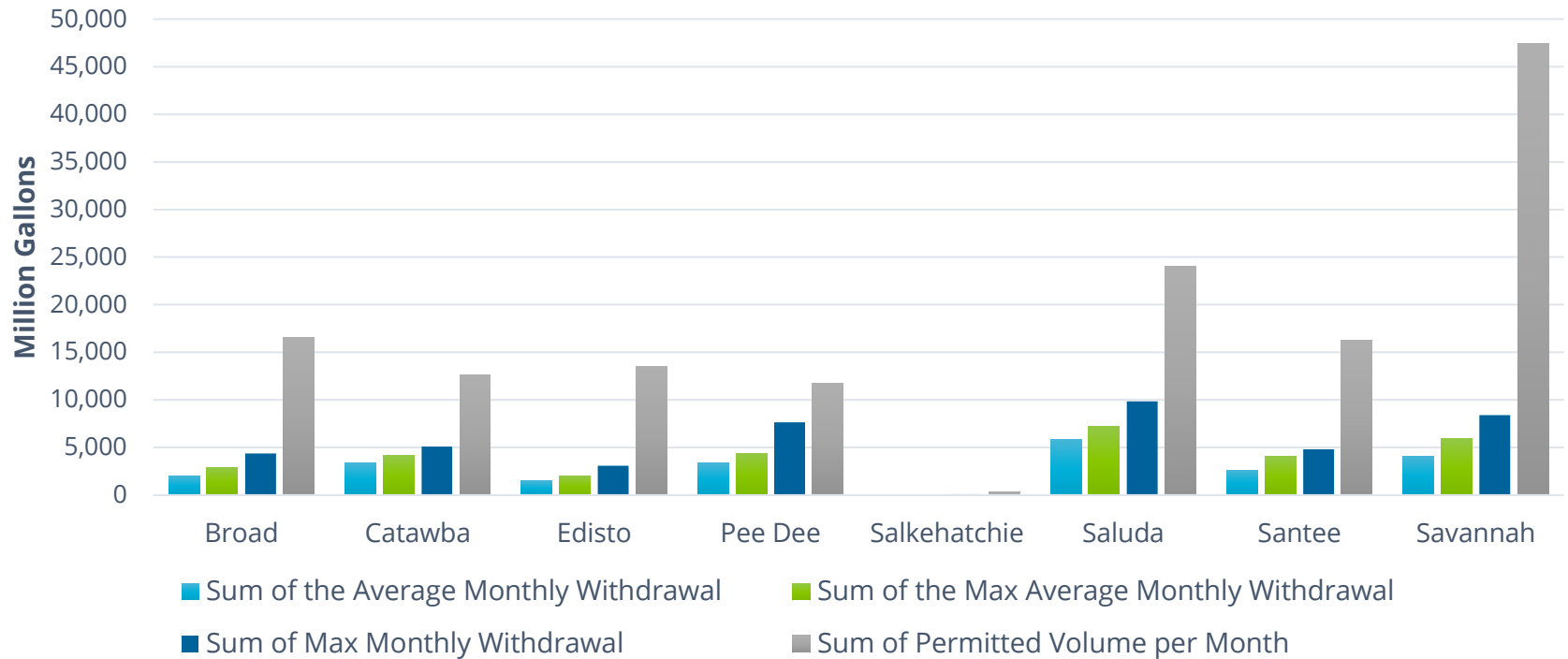
- 20 years with possible extension to 50 years

## Agricultural Withdrawers

- Does not expire, but is nontransferable

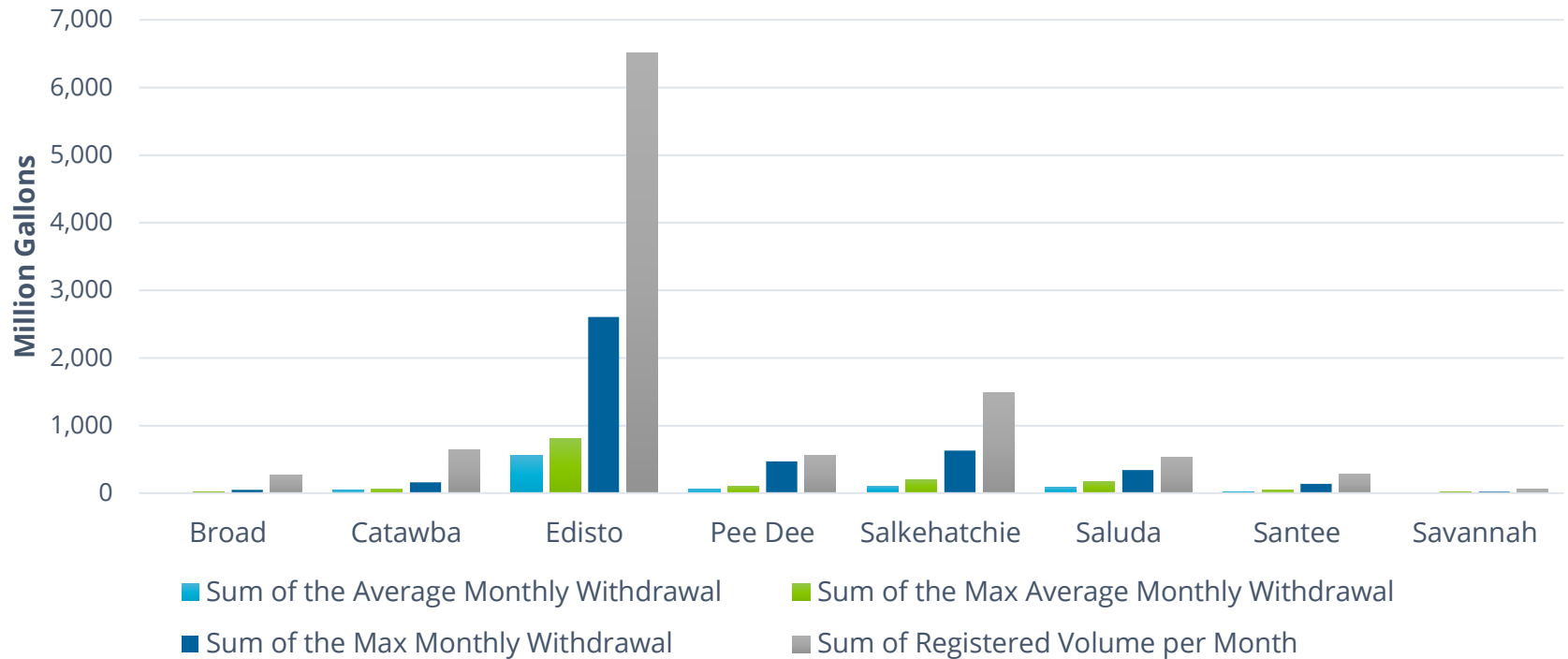
## Permitted Volume vs Reported Use by Basin

**Comparison of Reported Monthly Permitted Withdrawals vs. Permitted Withdrawal Amounts with Max Monthly Withdrawals**



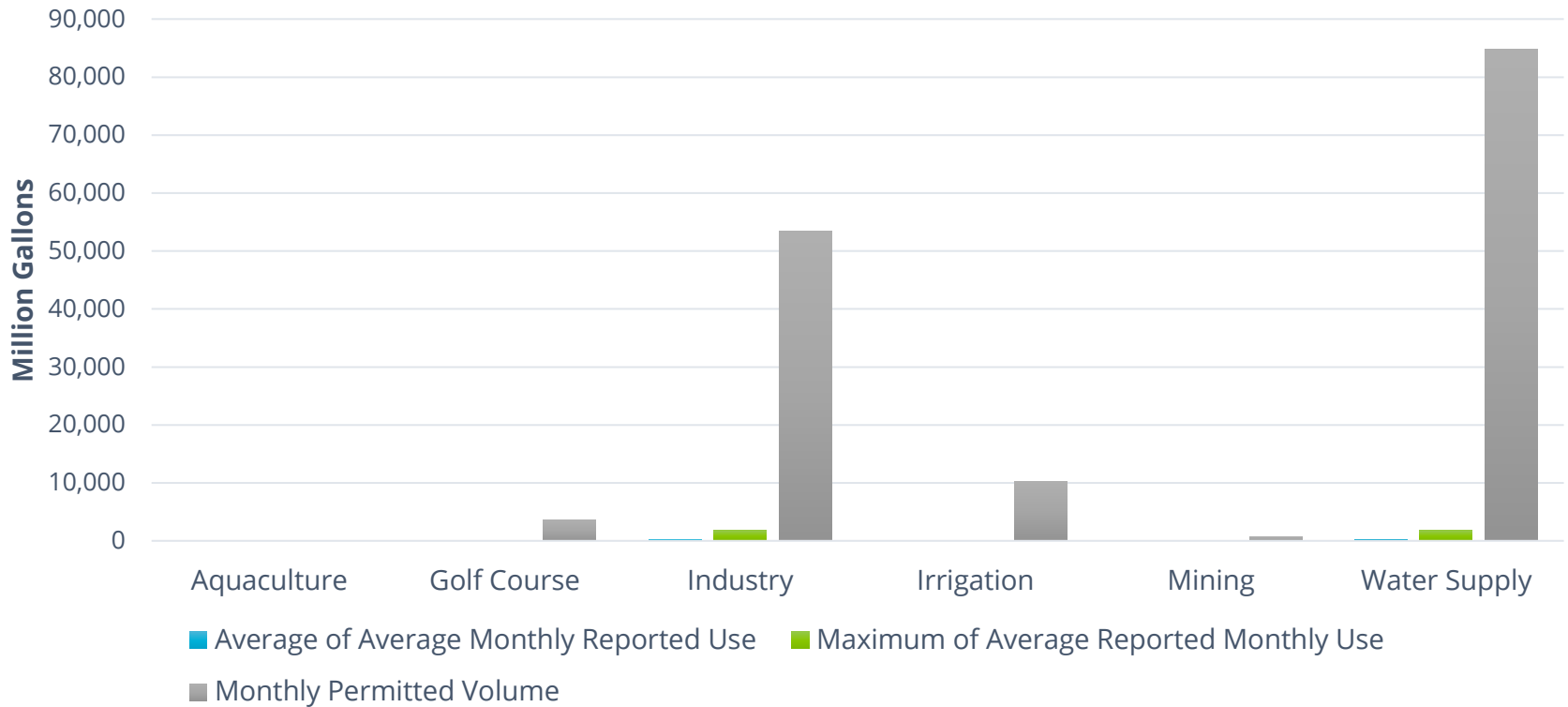
## Registered Volume vs Reported Use by Basin

**Comparison of Reported Monthly Registered Withdrawals vs. Registered Withdrawal Amounts with Max Monthly Withdrawals**



# Permitted and Registered Volume vs Reported Use by Sector

Monthly Reported Use vs. Monthly Permitted Volume



# 10 Year Average Monthly Max\*

Type Use	10 Year Average Monthly Max (Million Gallons (MG))	Average Monthly Registered or Permitted Volume (MG)
Aquaculture	16.56	15.7
Golf Course	31.4	38.7
Industry	348.53	1,444.1
Irrigation	21.58	51.0
Mining	26.99	62.1
Hydro Power^	150,158.84	-
Nuclear Power	20,381.08	17,395.0
Thermo Power	2,667.34	3,557.3
Water Supply	315.63	985.5

\*Active Users

^Not required to be permitted, just report flow-through values

# Unintended Consequences

## Goal

## Consequence

To maximize resource availability



Overallocation limits availability

Promote sustainable use



Flow standards do not apply to majority of permits and registrations

Serve as a regulatory framework to support basin planning



Basin planning activities and regulatory framework are not working together for effective implementation

# Unintended Consequences

Overallocation limits availability

- Have new applicants unable to get permits or registrations due to high volume/low-to-0 use permits and registrations (Pee Dee and Edisto)
  - End up with de facto individual water managers, water no longer managed by the state
  - Current modified riparian rights system moves to more western water law
- Paper allocations don't reflect physical water availability
- Need reasonableness/need based permits and registrations

# Unintended Consequences

Flow standards do not apply to majority of permits and registrations

- Potential conflict between R.61-68 Flow Standards and R.61-119 Surface Water Regulations
- EPA looking at SW Regulations as a possible numeric flow standard
  - 20-30-40 MIF only applies to approximately 6% of permits



# Unintended Consequences

Basin planning activities and regulatory framework are not working together for effective implementation

- State is investing in basin planning and resiliency
- The regulation does not allow for DHEC to implement stakeholder input or technical guidance from DNR and other state agencies
- Withdrawer durations do not allow for timely review of use and potential modification of volume permitted/registered

# Where We Are Now

- Notice of Drafting in State Register
- Asking for stakeholder input on regulation
  - 3 future meetings scheduled for:
    - Thursday, October 21, 2021
    - Thursday, November 18, 2021
    - Thursday, December 9, 2021
- Website for workgroup updates:
  - <https://scdhec.gov/surface-water-stakeholder-workgroup>

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## Surface Water Stakeholder Workgroup

### Overview

DHEC has been directed to develop regulations and guidance on Surface Water Quantity Withdrawals. After a 10 year review of the Surface Water Withdrawal, Permitting, Use and Reporting Act [49-4-10] and Regulation 61-119, DHEC issued a Notice of Drafting on August 27, 2021 and invited a diverse group of stakeholders to provide information and recommendations on these issues. The activities and recommendations of the surface water workgroup will be published to the public and reported to the legislature upon the end of the review.

In monthly meetings, the stakeholder workgroup will discuss how to improve the regulation and management of surface water in SC by maximizing resource availability, promoting sustainability, and serving as a regulatory framework to support basin planning. Summaries and presentations will be added to this page following each meeting with the opportunity to make comments via an [online form](#) or email to [SWQuantity@dhec.sc.gov](mailto:SWQuantity@dhec.sc.gov).

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### Downloads & Links



[Notice of Drafting](#)



[Stakeholder Comment Survey](#)

## Surface Water Regulation Stakeholder Workgroup



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# CONTACT US

**Rob Devlin, Director**  
**803-898-3798**  
**[devlinrj@dhec.sc.gov](mailto:devlinrj@dhec.sc.gov)**

**General Surface Water email**  
**[SWQuantity@dhec.sc.gov](mailto:SWQuantity@dhec.sc.gov)**

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