



Review of policy, legislative, and regulatory recommendations discussed by other RBCs

Agenda Item 4

Planning Process, Technical, and Policy, Legislative, and Regulatory Recommendations

The RBC can make specific recommendations at both a basin-wide and state level. These recommendations could include:

1. Suggestions for improving the river basin **planning process**;
2. Considerations for additional **technical** information or tools; and
3. Potential changes to state **policy** or to the **existing regulatory** or **legislative** environment that would benefit the water planning process.

Policy, Legislative, or Regulatory Recommendations

Policy, legislative, or regulatory recommendations may include, but are not limited to:

- Modifications to existing state or local laws, regulations, or ordinances
- New state or local laws, regulations, or ordinances
- Ideas for recurring funding for water planning work
- Restructuring existing groups or agencies

Surface Water Law Refresher

- SC Surface Water Withdrawal, Permitting, Use, and Reporting Act, Section 49-4-10, **passed in 2011**
 - Regulation 61-119, promulgated in 2012
- Regulation established a system and rules for permitting and registering the withdrawal and use of surface water in South Carolina
- Any user withdrawing over **3 MG** in any month must have a permit or registration and report water use annually
- Three types of surface water withdrawers: **existing**, **new**, and **agricultural**. Different standards apply to each.

Surface Water Law Refresher

- **Determining permitted and registered permit volume:**
 - **Safe yield: Amount of water available to be permitted.**
 - Calculated at point of withdrawal: 80% of Mean Annual Daily Flow (MADF)
 - Adjusted for upstream and downstream withdrawals
 - Applies to new permits and new registrations
 - Registrations are granted if requested volume is within safe yield
 - **Minimum instream flows (MIF): Amount of water to remain in stream**
 - 20%, 30% or 40% of MADF, depending on month
 - When streamflow is below MIF, users must curtail withdrawals and begin contingency operations
 - Only applies to new permits

Existing Withdrawer Criteria

- Not subject to 20-30-40 minimum instream flow (MIF) requirements
- No public notice requirement
- Accounts for 94% of permits
- Most were permitted for the designed capacity of the intake structure

Existing surface water withdrawers on January 1, 2011



Permits 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

New Withdrawer Criteria

Withdrawals evaluated for reasonableness

Public Noticed for 30 days
(mandatory Public Hearing for Inter-basin Transfers (IBT))

Permit duration of 20 years with possible extension to 50 years

- Withdrawals are subject to MIF requirements
- Safe yield calculated at the point of withdrawal
- Additional contingency planning shall be required to consider withdrawals more than safe yield

Agricultural Registration Criteria

Registration rather than a permit,
must report their water use

Subject to safe yield calculations

No expiration date

- Safe yield calculated at the point of withdrawal and is the maximum amount that can be registered
- Not subject to MIF or reasonable use requirements
- Not required to include any best management practices

RBCs Most Common/Similar Recommendations

- The South Carolina Surface Water Withdrawal, Permitting, Use, and Reporting Act should allow for reasonable use criteria to be applied to all surface water withdrawals, like those that currently exist for groundwater withdrawals. **[B, PD, and E]**
- The South Carolina Surface Water Withdrawal, Permitting, Use, and Reporting Act should allow for reasonable use criteria to be applied to all **new** surface water withdrawals, like those that currently exist for groundwater withdrawals. **[US]**

Key: US = Upper Savannah RBC; B = Broad RBC; PD = Pee Dee RBC; E = Edisto RBC
Edisto recommendations were by majority, not consensus

RBCs Most Common/Similar Recommendations

- **Improve the current laws that allow for regulation of water use so that they are enforceable and effective.** The current water law, which grandfathers most water users, needs to be improved to support effective management of the state's water resources. **[US and B]**

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RBCs Most Common/Similar Recommendations

- **Water law and implementing regulations should not distinguish between registrations and permits.** All water users that withdraw above the identified threshold should be required to apply for a water withdrawal permit. Current law allows for agricultural surface water users and all groundwater users withdrawing water outside of CUAs to register their water use rather than apply for permits. **[B and E]**

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RBCs Most Common/Similar Recommendations

- **The South Carolina Legislature authorize recurring funding for state water planning activities, including river basin planning.** Currently, nearly all the funding for the river basin planning process has come from the legislature.
[US and PD]

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RBCs Most Common/Similar Recommendations

- **The South Carolina Legislature should establish a grant program to help support the implementation of the actions and strategies identified each RBC's River Basin Plan.** One example is Georgia's Regional Water Plan Seed Grant Program which supports and incentivizes local governments and other water users as they undertake their Regional Water Plan implementation responsibilities. **[US and PD]**

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RBCs Most Common/Similar Recommendations

- The water withdrawal permitting process should specifically assess the permit application's alignment with the current River Basin Plan, particularly regarding proposed withdrawals, returns, resource conservation, and drought response. **[Broad]**
- Water supply information should be considered when evaluating the feasibility of new industries. **[Pee Dee]**

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Other Notable Edisto and Pee Dee Recommendations

- The Surface Water Withdrawal, Permitting, Use, and Reporting Regulations should use 80 percent of median annual daily flows instead of 80 percent of mean annual daily flows to determine safe yield at a withdrawal point. [E]
- The Surface Water Withdrawal, Permitting, Use, and Reporting regulations should use median annual daily flows instead of mean annual daily flows to determine seasonal minimum instream flows at a withdrawal point. [E]
- A cost share program should be developed to drill deeper wells into aquifer units with less development pressure [PD].

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Saluda Recommendations Still Being Discussed (but appear to lack consensus)

- Require permits statewide for all existing and new water withdrawals over 3 MGM, including those before 2011 and all registered users. All users must be evaluated for reasonableness and must meet minimum instream flow (MIF) requirements.
- Remove “safe yield” (SY) entirely as a metric in the SC water withdrawal law and implementing regulations.
- Revise minimum instream flow (MIF) standards based on best available science to adequately protect designated uses and recognize regional differences.

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