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# ENVIRONMENTAL Fact Sheet

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## Intermittent Water Withdrawals from Surface Waters

Intermittent water withdrawals from surface waters are allowed in New Hampshire without a permit under certain conditions. Examples of intermittent withdrawals include drawing water from rivers or lakes at convenient access points by bulk water transporters for the purpose of filling swimming pools, hydro-seeding, spraying for dust control and roadbed compaction at construction sites, and similar activities. Other examples include occasional withdrawals for irrigation and for dust control at gravel pits.



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Temporary surface water withdrawals are subject to various conditions, including New Hampshire common law. Common law comes from long-established judicial practice and convention rather than from a particular law or statute. Such conditions include:

1. The withdrawal shall have the permission of the riparian landowner. A riparian landowner is the owner of the property with frontage on the river, stream, lake or pond from which the withdrawal is made. Please see the next page for more details.
2. The withdrawal shall not create adverse impacts to aquatic life, recreation or other public use of the waterbody. For example, a withdrawal must not result in significant lowering of stream flow or lake levels.
3. The withdrawal shall be "reasonable" with respect to the uses of others. For example, a withdrawal should not be so large that not enough water is left for irrigation by someone downstream.

Temporary surface water withdrawals are also subject to the below conditions pursuant to current state and federal regulations:

1. Water withdrawals from surface waters shall not be used for bulk transport of drinking water. Additional information about emergency bulk water for public drinking water is available from NHDES.
2. The withdrawal shall not involve a physical disturbance to the bed or banks of the surface water. If the withdrawal can be made by simply laying a pipe or hose over the bank into the water without

causing erosion and if the pipe only remains in place on a temporary or seasonal basis, a wetlands permit is not needed.

3. The withdrawal shall not exceed 20,000 gallons per day averaged over a 7-day period or over 600,000 gallons in a 30-day period without determining if a water quality certificate is required and without registering and reporting water use.
4. The withdrawal shall not result in any discharges to the waterbody. Whether intentional or not, spillage, backflow, or erosion of the shoreline into the waterbody is considered a discharge and may result in a water quality violation or a wetlands violation. The tank should not contain residual liquids that could degrade water quality in the case of backflow or spillage.
5. Invasive plants shall not be introduced into the waterbody. Pipes and hoses should be carefully inspected to be certain that they are free of any traces of exotic weeds (e.g., Eurasian milfoil, fanwort, purple loosestrife, water chestnut, etc.).

### **Riparian Landowner Permission Details**

If one does not actually own the land abutting the site of the intended water withdrawal, then explicit permission of the riparian landowner is required before a withdrawal can occur. Essentially, in this case, the landowner is conveying his/her riparian water right to the person making the withdrawal, still subject to reasonable use.

Withdrawals made from state-owned property require written permission from the agency with primary responsibility for monitoring and/or maintaining the site. These agencies include:

New Hampshire Department of Environmental Services (603) 271-3406

\*State owned dams and flood control areas.

New Hampshire Department of Transportation (603) 271-3734

\*State highway rights of way and bridges.

New Hampshire Department of Natural and Cultural Resources (603) 271-2411

\*State parks, beaches, natural areas, trails, historic sites, ski mountains.

New Hampshire Fish and Game Department (603) 271-1134

\*Withdrawals for commercial purposes from any public boat launch or fishing access point owned by New Hampshire Fish and Game are prohibited by administrative rule Fis 1603.01(y).

Care should also be exercised to avoid creating a safety hazard to motorists and other passersby and to not interfere with other accepted activities at the site of withdrawal.

### **For More Information**

Please contact the Watershed Management Bureau at (603) 271-3289 or the Drinking Water and Groundwater Bureau at (603) 271-2513.

Note: This fact sheet is accurate as of August 2019. Statutory or regulatory changes or the availability of additional information after this date may render this information inaccurate or incomplete.