
ENVIRONMENTAL Fact Sheet



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Water Withdrawals from Surface Waters for Bulk Transport and Delivery

Bulk water transporters that offer such services as filling swimming pools, hydroseeding, spraying for dust control and roadbed compaction at construction sites, and similar activities often withdraw water from rivers or lakes at convenient access points on a short-term or occasional basis. These withdrawals are allowed in New Hampshire without a permit, with certain limitations and conditions. For example, water withdrawals from surface waters are not permitted for bulk drinking water. Tanker trucks for these operations are usually filled at a bridge crossing, roadside stream access, or other public access to a waterbody. The trucks are often highly visible to the public and apt to draw attention, especially during times of low flows and lake levels, when water shortages are in the news.

The conditions and limitations on these temporary withdrawals are:

1. The withdrawal must have the permission of the riparian landowner. A riparian landowner is the owner on property with frontage on the river, stream, lake, or pond from which the withdrawal is made.
2. The withdrawal must not create adverse impact 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 must be “reasonable” with respect to the uses of others. For example, a withdrawal could not take so much water that not enough water is left for irrigation by someone downstream.
4. Cumulative withdrawals from all sources that exceed 20,000 gallons per day averaged over any seven-day period or exceeding a total of 600,000 gallons during any 30-day period must be registered with the Department of Environmental Services. Please call (603) 271-4086 or see fact sheet CO-GEO-4 “Water User Registration and Reporting in New Hampshire” for more information. Once registered, monthly water use must be reported on a regular basis as long as the source is being used.

Conditions 1–3 above derive from New Hampshire common law, which is law that comes from long-established judicial practice and convention rather than from a particular law or statute. Under common law, a riparian owner (someone who owns land with frontage on a water body) can use water from the waterbody as long as the use is reasonable with respect to public trust uses of the waterbody and the uses of all other riparian landowners. Public trust uses include aquatic life, swimming, fishing, boating, and drinking water supply, among others.

Condition 4 above results from Water Use Registration and Water Use Reporting, under RSA 488. If one does not actually own the land abutting the site of the intended 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. No permit is required unless the withdrawal involves a physical disturbance to the bed or banks of the watercourse or water body, in which case a DES wetlands permit is required ((603) 271-2147). If the withdrawal can be made by simply laying a pipe or hose over the bank into the water to pump water out and if the pipe only remains in place on temporary or seasonal basis, a wetlands permit is not needed.

Withdrawals made from state-owned property require written permission from the agency with primary responsibility for monitoring and/or maintaining the site. This is likely to be the NH Department of Transportation, (603) 271-3734, in the case of highway rights-of-way or the NH Department of Resources and Economic Development, (603) 271-2411, or NH Department of Environmental Services, (603) 271-3406. Withdrawals for commercial purposes from any public boat launch or fishing access point owned by the NH Fish and Game Department, (603) 271-2224, is strictly prohibited by administrative rule Fis 1602.01(a)(16).

When making a withdrawal to fill a tanker truck, extreme caution must be exercised to prevent contamination of the waterbody or degradation of the shoreline environment leading to increased erosion. Spillage from filling the tank should be prevented. Under no circumstances should the tank contain residual liquids that could degrade water quality if backflow or spillage should occur. Any discharges, whether intentional or not, are subject to potential enforcement action and penalties by the NH Department of Environmental Services under the provisions of the federal Clean Water Act. Furthermore, 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.). See fact sheet BB-40 "Law Prohibits Exotic Aquatic Weeds" for more general information and fact sheet BB-29 "Nuisance Exotic Aquatic Plants" for a list of waterbodies already affected by nuisance exotic aquatic plants. 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.

Please be aware that water withdrawals from surface waters should not be used for bulk transport of drinking water. For additional information about emergency bulk water for public drinking water, please see fact sheet WD-DWGB-18-2 "Emergency Bulk Water for Public Water Systems."

For Additional Information

Please contact the Drinking Water and Groundwater Bureau at (603) 271-2513 or dwgbinfo@des.nh.gov or visit our website at <http://des.nh.gov/organization/divisions/water/dwgb/index.htm> . All of the bureau's fact sheets are on-line at <http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/index.htm> .

Note: This fact sheet is accurate as of October 2009. Statutory or regulatory changes, or the availability of additional information after this date may render this information inaccurate or incomplete.