



Withdrawal and Consumptive Use Permit

Frequently Asked Questions

What is a Withdrawal and Consumptive Use Permit?

It is a Permit that has been required under Ohio Revised Code Chapter 1522 since 2009 as a result of the Great Lakes Water Resource Compact (the Compact). Generally, any new or increased withdrawal and consumptive use in Ohio's Lake Erie watershed that averages 1 million gallons per day (mgd) or more in any 90-day period (90 million gallons in 90 days), or a direct withdrawal from Lake Erie that averages 2.5 mgd or more over any 90 day period, must obtain a Withdrawal and Consumptive Use Permit. This Permit must be obtained from the Ohio Department of Natural Resources (ODNR) before the new or increased withdrawal or consumptive use occurs.

Doesn't the Compact only regulate water diversions out of the Great Lakes Basin?

No. The Compact banned all future diversion with very narrow exceptions applicable only to communities that straddle the divide between the Lake Erie and Ohio River drainage basins or communities in a county that straddles the divide.

It also required each of the Great Lake States to engage in other types of water management, such as:

- registering and tracking withdrawals, diversions, and consumptive uses of large water users
- developing a water conservation plan
- establishing a program for the management and regulation of new or increased withdrawals and consumptive uses (accomplished in Ohio through this Permit)

What is a new or increased withdrawal and consumptive use?

The Compact required that each state develop a baseline list of withdrawal and consumptive use capacities of existing facilities, as well as any diversions for existing facilities, as of December 8, 2008 – the effective date of the Compact. A new withdrawal and consumptive use is one that did not exist as of that date. An increased withdrawal and consumptive use is one made by an existing facility that exceeds that facility's capacity on the baseline list.

How many Permits have been issued by ODNR?

ODNR has issued one permit as of March 2022.

Did any Permit Application requirements change in the 2019 Budget Bill?

Yes. A Permit Applicant proposing a new or increased withdrawal and consumptive use of ground water must submit a ground water model and supporting data to ODNR. This new requirement pertains to ground water only, and the other existing Permit requirements, thresholds, and exemptions remain unchanged.

Did the Bill make any other changes to the process for a Permit involving ground water?

Yes. The Bill allows ODNR to deny an Application, and to suspend or revoke a Permit, if a withdrawal or consumptive use will result in irreparable damage or destruction to an aquifer. It also allows ODNR to order a Permittee to decrease its withdrawal and submit a revised ground water model if subsequent monitoring or investigations conflict with the Permittee's original model. And it provides for water replacement and investigative processes for property owners who claim loss of their existing ground water supply caused by a Permittee's withdrawal and consumptive use – processes that were largely borrowed from the existing law governing impacts to aquifers by quarry operations.

What were the substantive changes made to Ohio Revised Code Chapter 1522 in the 2019 Budget Bill regarding Withdrawal and Consumptive Use Permits?

- Any Permit Applicant proposing to withdraw ground water must submit an accurate ground water model to ODNR.
- A Permit Application will not be approved if the proposed withdrawal or consumptive use will result in irreparable damage or destruction to an aquifer.
- ODNR will use the Applicant's approved ground water model to establish a "geographic area" that could be impacted by the proposed ground water withdrawal and consumptive use. This area will generally be defined by the 10-foot contour line of the cone of depression predicted by the Applicant's model.
- A Permit Application will not be approved if:
 - (1) the withdrawal or consumptive use will result in significant loss of ground water available to existing wells in the geographic area
and
 - (2) the Applicant has not identified a suitable replacement water supply.
- After a Permit has been issued, if a property owner within the geographic area experiences a loss of ground water supply, they may file a Complaint with ODNR and the Permittee. If such a Complaint is filed, there is a "rebuttable presumption" that the Permittee caused the loss. The Permittee must provide a replacement water supply to the property owner within 72 hours, and then has 14 days to rebut the presumption. If the Permittee successfully rebuts the presumption, they may cease the replacement water supply to the property owner.
- If a property owner outside the geographic area experiences a loss of ground water supply, they may also file a Complaint. However, there is no "rebuttable presumption" that the Permittee caused the loss, and there is no water replacement by the Permittee required. Instead, ODNR will investigate the Complaint and send the results of its investigation to the Permittee and the property owner, who may choose to resolve the Complaint between themselves or in court.
- ODNR may require a Permittee to monitor ground water levels within and outside the geographic area.
- ODNR may require a Permittee to decrease its withdrawal and submit a revised ground water model that may result in an Amended Permit if the Permittee's ground water monitoring conflicts with its ground water model or if the investigations of Complaints outside the geographic area indicate that the Permittee's withdrawal is causing the loss of ground water supply.
- ODNR may suspend or revoke a Permit if the continued withdrawal or consumptive use will result in irreparable damage or destruction to an aquifer.