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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



C. HEIDI GREETHER
DIRECTOR

VIA E-MAIL

TO: Senate Natural Resources Committee Members
House Natural Resources Committee Members

FROM: C. Heidi Grether, Director *CHG*

DATE: October 3, 2016

SUBJECT: Report on the Water Withdrawal Assessment Process for Fiscal Year 2016 –
Program Year Seven (Reporting Period July 9, 2015-July 8, 2016)

In accordance with Subsection 32706a(8) of Part 327, Great Lakes Preservation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, attached is the Michigan Department of Environmental Quality's (DEQ) report on the water withdrawal assessment process for program year seven (reporting period July 9, 2015-July 8, 2016).

If you need further information, please contact James F. Milne, Chief, Great Lakes Shorelands Unit, Surface Water Assessment Section, Water Resources Division, at 517-284-5559 or milnej@michigan.gov; or you may contact me at 517-284-6700.

Attachments

cc/att: Dick Posthumus, Governor's Office
Angela Ayers, Governor's Office
Robert Wagner, Program Deputy Director, DEQ
Amy Epkey, Deputy Director, DEQ
Maggie Pallone, Deputy Director, DEQ
Sarah M. Howes, Legislative Liaison, DEQ
Teresa Seidel, DEQ
Kim Fish, DEQ
Dina Klemans, DEQ
James F. Milne, DEQ

Department of Environmental Quality
Michigan Water Withdrawal Assessment Process
Fiscal Year 2016 Annual Report
Program Year Seven
(Reporting Period July 9, 2015-July 8, 2016)

Background

- Michigan must fulfill its commitment to its citizens and the other Great Lakes states under the Great Lakes Compact to protect Great Lakes basin water resources from harmful diversions and withdrawals, which it does under Part 327, Great Lakes Preservation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended. This commitment includes sharing annual water use reporting data and voluntary water conservation.
- Proposed large quantity withdrawals that do not cause an adverse resource impact (ARI) are registered using Michigan’s nationally recognized online screening tool. Withdrawals that cannot be authorized by the online tool must be authorized by a site-specific review (SSR) or permit.
- The percentage of proposed withdrawals authorized by SSRs increased from 20 percent in 2009-2010 to 36 percent in 2015-2016 due to increasing demand for water in certain areas of the state, particularly southwest Michigan. SSR complexity correspondingly increases as more watersheds approach or reach the point where ARIs are likely.
- The Department of Environmental Quality (DEQ), Department of Natural Resources (DNR), and Michigan Department of Agriculture and Rural Development are in the process of implementing some of the Water Use Advisory Council’s (WUAC) 69 recommendations that were in its December 12, 2014, final report. Many of these recommendations will improve the transparency and/or the effectiveness of the DEQ’s Water Use Program.
- The WUAC’s recommendations require significant staff and non-staff investment in monitoring, data management and analysis, procedure and policy development, modeling, engagement of water users, and development of water conservation metrics and strategies.

The DEQ is required under Subsection 32706a(8) of Part 327 to report annually on the following:

Reporting Period: July 9, 2015-July 8, 2016 (Program Year Seven)

Number of Zone C withdrawal SSRs requested by applicants.	47
Number of Zone C withdrawal SSR determinations that resulted in changes from Zone C to Zone B.	5
Number of Zone C withdrawal SSR determinations that resulted in changes from Zone C to Zone A.	9
Number of Zone C withdrawal SSR determinations that resulted in a Zone D withdrawal determination.	0
Number of SSR determinations where the DEQ failed to meet statutory time lines.*	81
Number of registered assessment tool determinations for Zone A.	151
Number of registered assessment tool determinations for Zone B.	76
Number of voluntary requests for SSRs that were submitted to the DEQ and whether the DEQ failed to meet statutory time lines on these SSRs.	0 N/A
Number of registrations submitted to the DEQ under this part.	366

***SSR Timeliness:**

Subsection 32706c(3) of Part 327 requires the DEQ to make its SSR decision within ten business days of receipt. The DEQ could meet this statutory deadline more often, but the consequence would be a significant increase in the percentage of SSR requests that were denied. Ten business days is usually not enough time to explore all available options with the property owner and to reach an agreement on a modified request that will meet the property owner's needs and avoid creating an ARI, or for the property owner to collect and submit additional data to support the SSR request. Denying SSR requests simply to meet the ten-business day deadline would not be good customer service. Instead, our preferred approach is to try to work with the property owner to find a mutually satisfactory proposal. The DEQ will deny an SSR request when all available options have been explored and we are unable to reach a mutually satisfactory solution or when the property owner has not responded in a timely manner.

This time frame also presents challenges as staff identify more potential violations of Part 327, especially in depleted watersheds that are at, or are approaching the point, where an ARI is likely. Of the 139 SSR requests received in year seven of the Water Use Program, 82 (59 percent) were predicted by the Water Withdrawal Assessment Tool (WWAT) to cause an ARI. Violations which may cause ARIs must be evaluated and addressed before other pending SSR requests can be authorized in the affected watersheds, and this adds to staff workloads. In all cases, DEQ staff notifies the applicant when an SSR will not be completed within the ten-business day deadline. The following table provides a breakdown of the reasons why 81 SSR determinations in year seven were late or are still pending:

Reason for Late Responses	Year Seven
Applicant Negotiations	11
No/Delayed Response to Requests for Clarification or Additional Information	8
Compliance Issues	18
Technically Complex Reviews	2
Perennial vs. Non-perennial Stream Review	3
Water Use Program Staff Workload	37
Index Flow Review	0
Test Well Log for Bedrock Requests	0
WWAT Technical Issues	2
Total	81

The Water Use Program currently has two full-time equivalent (FTE) positions dedicated to conducting SSRs, plus an additional 0.25 FTE that provides technical support for stream index flow reviews and additional DEQ and DNR staff providing some portion of their time assisting with perennial versus non-perennial stream determinations. The backlog of SSRs still pending from year five was reduced to seven SSRs. Additionally, 15 SSRs received in year six and 9 SSRs received in year seven continue to be reviewed.