



Ohio Revised Code

Section 1522.12 Program for issuance of withdrawal and consumptive use permits.

Effective: September 4, 2012

Legislation: House Bill 473 - 129th General Assembly

(A) For purposes of the compact, not later than one hundred eighty days after the effective date of this section, the chief of the division of soil and water resources shall establish a program for the issuance of permits for the withdrawal and consumptive use of water from the Lake Erie watershed. Upon establishment of the program, the owner or operator of a facility within the Lake Erie watershed that is not otherwise exempt under section 1522.14 of the Revised Code shall obtain a withdrawal and consumptive use permit from the chief if the facility meets any of the following threshold criteria:

(1) The facility has a new or increased capacity for withdrawals or consumptive uses from Lake Erie or a recognized navigation channel of at least two and one-half million gallons per day.

(2) Except as provided in division (A)(3) of this section, the facility has a new or increased capacity for withdrawals or consumptive uses from any river or stream or from ground water in the Lake Erie watershed of at least one million gallons per day.

(3)(a) Except as provided in division (A)(3)(b) of this section, the facility has a new or increased capacity for withdrawals or consumptive uses from any river or stream in the Lake Erie watershed that is a high quality water of at least one hundred thousand gallons per day. Division (A)(3) of this section does not apply to withdrawals and consumptive uses from outstanding state waters that are designated as such by the environmental protection agency due to their exceptional recreational values.

(b) If a river or stream or segment thereof is designated as a high quality water as of the effective date of this section, the threshold established in division (A)(3)(a) of this section applies to the river or stream or segment thereof and the entire watershed upstream of that river, stream, or segment. If a river or stream or segment thereof is designated as a high quality water after the effective date of this section, the threshold established in division (A)(3)(a) of this section applies to the river or



stream or segment thereof and the entire watershed upstream of that river, stream, or segment, provided that the director of environmental protection and the director of natural resources, or their designees, jointly determine that the proposed withdrawal or consumptive use would cause the high quality water to lose its designation as a high quality water. If the directors determine that the proposed withdrawal or consumptive use would not cause the high quality water to lose that designation, the threshold established in division (A)(2) of this section applies to the withdrawal or consumptive use at a point beginning one thousand feet upstream of the upstream end of the designated high quality water segment or at a point beginning two times the length of the river, stream, or segment that has been designated as a high quality water, whichever is greater.

Upon establishment of the withdrawal and consumptive use permit program under this division, the owner or operator of a facility that is not otherwise exempt under section 1522.14 of the Revised Code and that is subject to a threshold specified in division (A)(1) or (2) of this section, after submitting an application for a permit under this section and a determination by the chief that the application is complete, may commence installation of the facility or equipment that will result in a new or increased withdrawal or consumptive use of water in the Lake Erie watershed prior to issuance of the withdrawal and consumptive use permit.

Upon establishment of the withdrawal and consumptive use permit program under this division, the owner or operator of a facility that is not otherwise exempt under section 1522.14 of the Revised Code and that is subject to a threshold specified in division (A)(3) of this section shall not install or operate the facility or equipment that will result in a new or increased withdrawal or consumptive use of water in the Lake Erie watershed without first obtaining a withdrawal and consumptive use permit.

(B) Permits issued under this section shall be issued only for the amount of withdrawal or consumptive use capacity of a facility that meets or exceeds threshold amounts established in division (A) of this section. A permit shall not be required for the portion of the withdrawal and consumptive use capacity of the facility below that threshold amount.

(C) An applicant for a permit shall submit an application to the chief on a form that the chief prescribes. The applicant shall include with the application all of the following:



- (1) The name, address, and telephone number of the applicant and of a contact person for the applicant;
- (2) The names, addresses, and other necessary contact information of any other owners and operators of the facility;
- (3) A description of all of the following:
 - (a) The facility's current withdrawal capacity per day if the withdrawal is to occur at a facility already in operation;
 - (b) The total new or increased daily withdrawal capacity proposed for the facility;
 - (c) The locations and sources of water proposed to be withdrawn;
 - (d) The locations of proposed discharges or return flows;
 - (e) The locations and nature of proposed consumptive uses and the applicable consumptive use coefficient for the facility;
 - (f) The estimated average annual and monthly volumes and rates of withdrawal;
 - (g) The estimated average annual and monthly volumes and rates of consumptive use;
 - (h) The environmentally sound and economically feasible water conservation measures to be undertaken by the applicant;
 - (i) Other ways the applicant's need for water may be satisfied if the application is denied or modified;
 - (j) Any other information the chief may require to adequately consider the application.
- (4) A nonrefundable application fee of one thousand dollars, the proceeds of which shall be credited



to the water management fund created in section 1501.32 of the Revised Code.

(D) Provided that a facility meets all applicable permit conditions, a permit for the facility is valid until the facility is the subject of facility abandonment. Once every five years, the owner or operator of a facility shall certify to the chief that the facility is in compliance with the permit that has been issued for the facility.

(E) No person that is required to do so shall fail to apply for and receive a withdrawal and consumptive use permit.

(F) A permit issued under this section shall include terms and conditions restricting the withdrawal and consumptive use by a facility to amounts not exceeding the capacity of the facility.

(G) The chief shall issue or deny a permit not later than ninety days after receipt of a complete application. If applicable, the chief shall comply with the requirements regarding prior notice established in Section 4.6 of the compact. The chief shall issue or deny a permit through issuance of an order. The chief shall issue a permit if all applicable criteria for receiving the permit are met as provided in sections 1522.10 to 1522.21 of the Revised Code.