

Final Recommendations of the Subcommittee on
Priority Uses
(November 20, 2003)

Whereas the General Assembly has established, by virtue of Chapter 46-15.7 of the Rhode Island General Laws, *Management of the Withdrawal and Use of the Waters of the State*, that management of the state's fresh water resources is essential; and

Whereas Section 46-15-1 (2) of Chapter 46-15 of the Rhode Island General Laws, Water Resources Board, states that the allocation of the state's water resources to all users, purposes, and functions, including water to sustain our natural river and stream systems and natural biotic communities, must be equitably decided and implemented under a process which emphasizes efficiency of use and management, minimization of waste, protection of existing supplies, demand management, drought management, conservation, and all other techniques to ensure that our water resources serve the people of Rhode Island for the longest time, in the most efficient use, and in an environmentally sound manner; and

Whereas the General Assembly has determined that the Water Resources Board is the state agency which manages the withdrawal and use of the waters of the state; and

Whereas the Water Resources Board has initiated a process to establish a statewide Water Allocation Program; and

Whereas the Water Resources Board has appointed a Water Allocation Program Advisory Committee to assist in the development of the Water Allocation Program; and

Whereas the Advisory Committee has appointed a subcommittee to address Priority Uses; and

Whereas the Subcommittee on Priority Uses has adopted a mission to produce a set of dynamic criteria that may be used by the Water Resources Board in developing standards for priorities for the uses of the waters of the state, provided that such criteria should be informed by existing state policy, state and federal law and shall be tailored to the degree supportable by existing data as well as to the unique characteristics of watersheds and basins; and

Whereas the Subcommittee agreed to develop these criteria based upon a review of

1) existing laws, regulations and policies of the State of Rhode Island that pertain to priorities for all uses of water in the State, including but not limited to: drinking water supply, fire protection, agriculture, aquaculture, industry, preservation of the environment, and recreational use; and 2) existing and projected needs for all uses of the State's waters; and

Whereas the Water Supply elements of the State Guide Plan establish goals for water allocation but do not establish priorities for allocation; and

Whereas local comprehensive plans, as required by the *Comprehensive Planning and Land Use Regulation Act*, provide a unique opportunity to address water resource supply and allocation priorities in development decisions; and

Whereas the Water Supply System Management Plans, as required by Chapter 46-15.3 of the Rhode Island General Laws, *Public Drinking Water Protection*, require that suppliers of public water identify priorities for emergency water use; and

Whereas Chapter 46-15.3 of the Rhode Island General Laws, Public Drinking Water Supply System Protection 46-15.3-5.1 (h) states that water supply system management plans shall be consistent with applicable local comprehensive plans and shall be integrated into the water supply plans of the municipality or municipalities in which the service area is or is planned to be

located. Conversely, the local comprehensive plans shall be consistent with water supply plans, and;

Whereas the Water Allocation Program Advisory Committee adopted a set of Guiding Principles on May 29, 2003 including fairness, equitable distribution environmental protection, safe yield of the resource, conservation and integration with all other social, economic and environmental plans of the state;

Whereas Chapter 46-15.7-2(3) of the Rhode Island General Laws defines safe yield as: A sustainable withdrawal that can be continuously supplied from a water source without adverse effects throughout a critical dry period with a one percent (1%) chance of occurrence, or one that is equivalent to the drought of record, whichever is worse;

Whereas State Guide Plan Element 722: Water Supply Plan for Rhode Island further defines safe yield of surface water supplies as the amount of water that can be withdrawn continuously on an average daily basis through periods of drought without exhausting the available water supply at adequate quality standards, and defines safe wellfield yield as the amount of water that can practically be pumped perennially from a developed wellfield without causing long-term storage depletion or unacceptable stream-flow, wetland, environmental, or water-quality impacts.

Now, therefore, the Subcommittee on Priority Uses recommends that the Water Resources Board adopt the following guidance:

Preference, but not exclusive use, should be given to allocation up to the safe yield as currently defined in 46-15.7-2(3) and further defined in State Guide Plan Element 722 *Water Supply Plan for Rhode Island* according to the following priorities:

- Direct human consumption, sanitation or fire suppression insofar as necessary for human survival and health;

- Uses necessary for the survival or health of livestock and to preserve crops or physical plant and equipment from physical damage or loss in so far as it is reasonable to continue such activities in relation to particular water sources; and
- Other uses in such a manner as to maximize employment and economic benefits within the overall goal of sustainable development as set forth in the comprehensive water plan.

Within each preference category, uses are to be preferred that optimize the reasonable and efficient use of water.

Applications to renew a permit (should permits be required) should be evaluated by the same criteria applicable to an original application, except that renewals shall be favored over competing applications for new withdrawals if the public interest is served equally by the competing water uses after giving consideration to the prior investment pursuant to a valid water right in related facilities as a factor in determining the public interest.

When the waters available from a particular water source are insufficient to satisfy all lawful demands upon that water source, permits shall be revoked according to the reverse order of priority set for granting of permits and in accord with existing policy and procedures.

Recommendations for further clarification of Safe Yield. The guidance on priorities was developed based upon the current legal definition of “safe yield.” However, it must be noted that the subcommittee’s discussions reflected a concern that the current definition does not adequately address the biological, chemical and physical integrity of the water resource. The subcommittee recommends that the Water Resources Board further refine the definition of safe yield in light of these concerns. Any such refinements may necessitate additional refinements to the guidance on priority uses.