

## NYS DEC Regulates Water Withdrawals for Agriculture Facilities

<https://dec.ny.gov/environmental-protection/water/water-quantity/agricultural-water-withdrawals/permits-for-agricultural-facilities>

DEC describes a regulatory water “threshold volume”. The water threshold volume for farms is a withdrawal of water equal to or in excess of an average of **100,000 gallons per day** in any thirty-day consecutive period (3 million gallons during a 30-day period) year round. Agricultural facilities that withdraw less than the threshold volume are not required to obtain a water withdrawal permit but are encouraged to submit annual reports to DEC.

**So, if an agricultural operation withdraws less than 100,000 gallons of water per day year round they do not need a permit and are “encouraged” to submit an annual report to DEC.**

There are several interesting caveats related to agricultural facility expansions:

Firstly, “registration” was available as an alternative to a permit for existing agricultural withdrawals that were reported to DEC prior to February 15, 2012. Any sources (and the capacity / withdrawal of those sources) that were reported to DEC prior to that date are considered to be registered withdrawals. Any new sources or increases in withdrawal capacity after that date cannot be registered; a permit is required for them if the farm is withdrawing more than the water threshold volume.

**Thus, if an existing agricultural facility were to expand and increase water withdrawals, a permit would be required.**

Secondly, DEC has an interesting policy for “Multiple-Parcel Farms”. According to the DEC farms with multiple locations / parcels will be considered to be a single facility if contiguous or proximate properties used for agricultural purposes are owned or operated by the same business entity or legally responsible party.

**Thus, “if contiguous or proximate properties used for agricultural purposes are owned or operated by the same business entity or legally responsible party” and the operation exceeds the water threshold volume, a permit is required. In short, owners cannot sub-divide an integrated agricultural facility out of permitting if the water threshold volume is exceeded in aggregate.**