

**455B.261 Definitions.**

As used in this part of division III, unless the context otherwise requires:

1. “*Aquifer*” means a water-bearing geologic formation which is capable of yielding a usable quantity of water to a well or spring and which transports and stores groundwater.
2. “*Aquifer storage and recovery*” means the injection and storage of treated water in an aquifer through a permitted well during times when treated water is available, and withdrawal of the treated water from the same aquifer through the same well during times when treated water is needed.
3. “*Basin*” means a specific subsurface water-bearing reservoir having reasonably ascertainable boundaries.
4. “*Beneficial use*” means the application of water to a useful purpose that inures to the benefit of the water user and subject to the user’s dominion and control but does not include the waste or pollution of water.
5. “*Depleting use*” means the storage, diversion, conveyance, or other use of a supply of water if the use may impair rights of lower or surrounding users, may impair the natural resources of the state, or may injure the public welfare if not controlled.
6. “*Diffused waters*” means waters from precipitation and snowmelt which is not a part of any watercourse or basin including capillary soil water.
7. “*Established average minimum flow*” means the average minimum flow for a given watercourse at a given point determined and established by the commission.
  - a. The “average minimum flow” for a given watercourse shall be determined by the following factors:
    - (1) Average of minimum daily flows occurring during the preceding years chosen by the commission as more nearly representative of changing conditions and needs of a given drainage area at a particular time.
    - (2) Minimum daily flows shown by experience to be the limit at which further withdrawals would be harmful to the public interest in any particular drainage area.
    - (3) The minimum daily flows shown by established discharge records and experiences to be definitely harmful to the public interest.
  - b. The determination shall be based upon available data, supplemented, when available data are incomplete, with whatever evidence is available.
8. “*Floodplains*” means the area adjoining a river or stream which has been or may be covered by flood water.
9. “*Floodway*” means the channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to carry and discharge the flood water or flood flow of any river or stream.
10. “*Groundwater*” means that water occurring beneath the surface of the ground.
11. “*Nonregulated use*” means any beneficial use of water by any person of less than twenty-five thousand gallons per day.
12. “*Permit*” means a written authorization issued by the department to a permittee which authorizes diversion, storage, including storage of treated water in an aquifer, or withdrawal of water limited as to quantity, time, place, and rate in accordance with this part or authorizes construction, use, or maintenance of a structure, dam, obstruction, deposit, or excavation in a floodway or floodplain in accordance with the principles and policies of protecting life and property from floods as specified in this part.
13. “*Permittee*” means a person who obtains a permit from the department authorizing the person to take possession by diversion, storage in an aquifer, or otherwise and to use and apply an allotted quantity of water for a designated beneficial use, and who makes actual use of the water for that purpose or a person who obtains a permit from the department authorizing construction, use, or maintenance of a structure, dam, obstruction, deposit, or excavation in a floodway or floodplain for a designated purpose.
14. “*Regulated use*” means any depleting use except a use specifically designated as a nonregulated use.
15. “*Surface water*” means the water occurring on the surface of the ground.
16. “*Waste*” means any of the following:

a. Permitting groundwater or surface water to flow, or taking it or using it in any manner so that it is not put to its full beneficial use.

b. Transporting groundwater from its source to its place of use in such a manner that there is an excessive loss in transit.

c. Permitting or causing the pollution of a water-bearing strata through any act which will cause salt water, highly mineralized water, or otherwise contaminated water to enter it.

17. “*Watercourse*” means any lake, river, creek, ditch, or other body of water or channel having definite banks and bed with visible evidence of the flow or occurrence of water, except lakes or ponds without outlet to which only one landowner is riparian.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §455A.1; [82 Acts, ch 1199, §15, 96](#)]

C83, §455B.261

[83 Acts, ch 137, §7, 8](#); [85 Acts, ch 7, §1](#); [98 Acts, ch 1043, §1, 2](#); [2012 Acts, ch 1023, §57](#)

Referred to in [§455B.265A](#)