



**Water Management Act  
310 CMR 36.00  
Regulation Change  
Public Hearing**

**Hearing Held via Zoom**

**Thursday, October 27, 2022, 5:30 pm &  
Friday, October 28, 2022, 10 am**

# Public Hearing Rules

- Both Public Hearings are being recorded.
- All attending the meeting should sign into the Chat feature, please include affiliation as appropriate
- Public Comment should be submitted verbally in this hearing.
- Those wishing to verbally comment should raise their hand (all attendees will be muted) and the Hearing Host will call on attendees.
  - Elected officials will have an opportunity to comment first.
  - Phone callers will be recognized at the end.
  - Commenters will be limited to two minutes but will have an opportunity to reenter the comment line.
- DEP is accepting Public Comment, this is not a question and answer period.

# Registration History

- Minimum Registration Conditions (at 310 CMR 36.07) applied to original Registration Statements (1988) are:
  - meter all withdrawals
  - calibrate meters
  - maintain records and report withdrawal data
- Most recent Registration Renewals (2008) included conservation performance standards (65/10) and summer demand management
  - These conditions were appealed to MA Supreme Judicial Court (SJC)
- MA SJC decision in Fairhaven, et al v. DEP, 455 Mass. 740 (2010), required MassDEP to promulgate regulations before including new conditions in registration renewals
- 2017 Permit Extension Act extended the registrations by 4 years and 2020 Covid Order extended registrations another 462 days (April 7, 2023, expiration).

# Statewide Totals by Water Use Type

All volumes in million gallons per day (mgd) (June 2019)

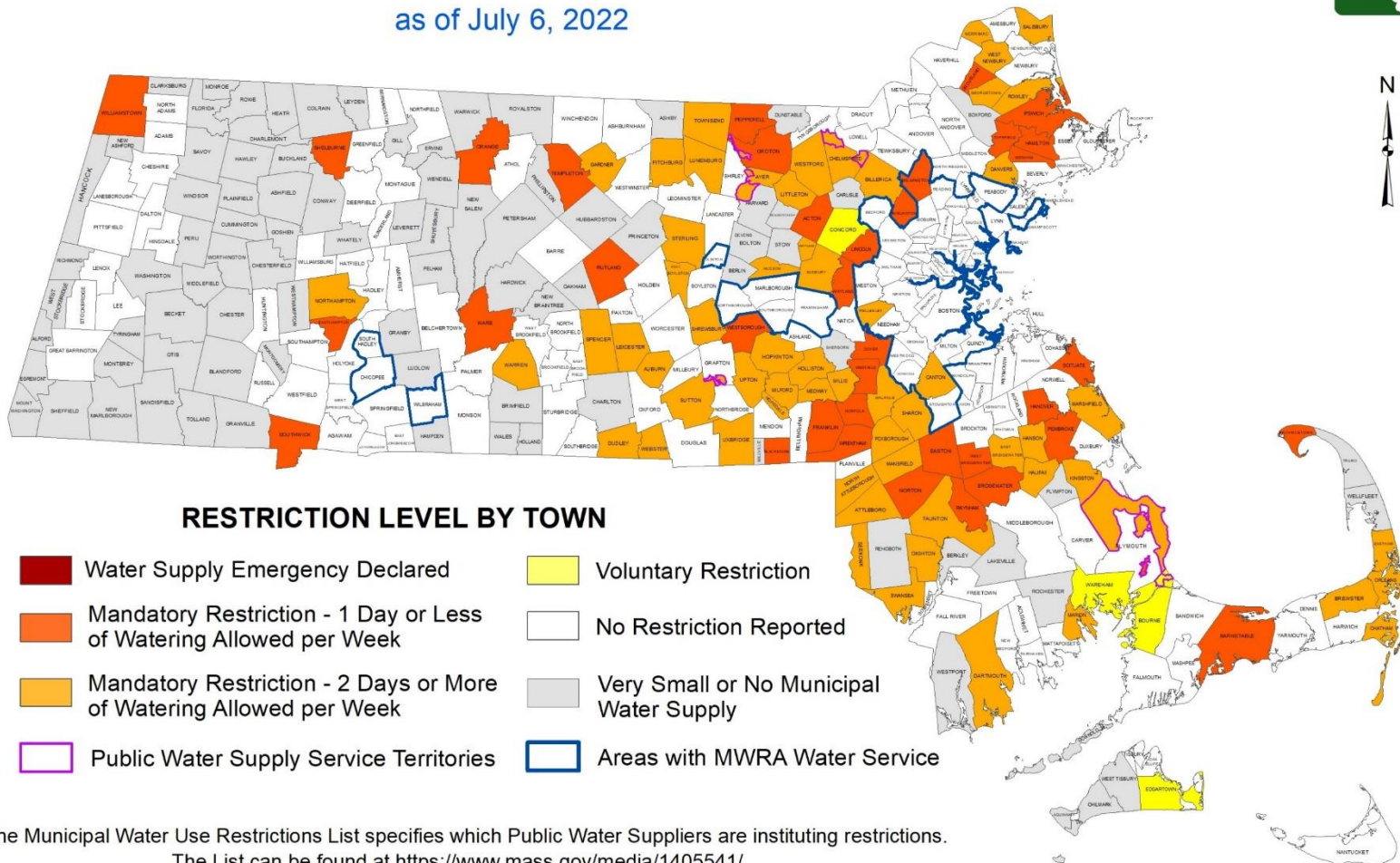
Water Use Type	Registered Volume	Permitted Volume	Total	% of Statewide Total
PWS (municipal) 63 registered only, 181 with permits	799.56	127.2	926.72	71.5%
Agriculture 27 registered only, 4 with permits	4.47	0.40	4.87	0.4%
Cranberry 322 registered only, 41 with permits	106.22	9.67	115.89	8.9%
Golf 87 registered only, 62 with permits	11.12	9.57	20.69	1.5%
Other 68 registered only, 54 with permits	191.51	37.37	228.88	17.6%
Totals 796 registrations, 347 permits	1113.20	184.06	1297.26	100%

**Registered volumes equal 86% of the total water allocated.**


# CURRENT MUNICIPAL WATER USE RESTRICTIONS

## Non-Essential Outdoor Water Use Restrictions

as of July 6, 2022



### RESTRICTION LEVEL BY TOWN

- |   |   |
|---|---|
|  Water Supply Emergency Declared                                     |  Voluntary Restriction                   |
|  Mandatory Restriction - 1 Day or Less of Watering Allowed per Week  |  No Restriction Reported                 |
|  Mandatory Restriction - 2 Days or More of Watering Allowed per Week |  Very Small or No Municipal Water Supply |
|  Public Water Supply Service Territories                           |  Areas with MWRA Water Service         |

The Municipal Water Use Restrictions List specifies which Public Water Suppliers are instituting restrictions.  
The List can be found at <https://www.mass.gov/media/1405541/>.

#### SOURCES:

MassDEP Bureau of Water Resources, Water Management Program; MassDEP GIS Program; MassGIS.  
Restriction Level data provided by municipal Public Water Suppliers or by MassDEP internet search.

For more information contact MassDEP Water Management Program at 617-292-5706.

NOTE: Sub-town water supply service areas are approximate.

# Proposed Regulation Revisions

## 310 CMR 36.00

- Two definitions
  - Multi-Year Drought Storage
  - Nonessential Outdoor Water
- 36.07 Registration Conditions
- 36.17 Effective Dates and Expiration Dates for Permitting by Water Source
- 36.43 Orders, Violations and Penalties



# Registration Renewal Proposal

- During drought- condition nonessential water use
  - Align registrations with Drought Management Plan using drought status

State Drought Plan	Nonessential Outdoor Water-Use Restrictions
<b>Level 1-Mild</b>	1 day per week watering, before 9 a.m. or after 5 p.m.
<b>Level 2-Significant</b>	Hand-held hoses or watering cans only, before 9 a.m. or after 5 p.m.
<b>Level 3-Critical</b>	Ban on all nonessential outdoor water use
<b>Level 4- Emergency</b>	Ban on all nonessential outdoor water use



# Nonessential Water Use Updates

## 2021 vs. 2022

Nonessential Outdoor Water Use means a use that is not required:

- (a) for health or safety reasons;
- (b) by permit, license, statute or regulation;
- (c) for the production of food, including vegetable gardens, and fiber;
- (d) for the maintenance of livestock;
- (e) to meet the core functions (those functions essential to the commercial operations) of a business, including but not limited to:
  - 1. plant nurseries as necessary to maintain stock;
  - 2. golf courses as necessary to maintain greens and tees, and limited fairway watering per 310 CMR 36.07(2)(c)2.a. through d.;
  - 3. ~~golf courses with an event~~ venues used for weddings or similar special events as part of the core business, when that limited to watering by to hand-held hose or drip irrigation as necessary to maintain gardens, flowers and ornamental plants;
  - 4. professional washing of exterior building surfaces, parking lots, driveways and/or sidewalks as necessary to apply surface treatments such as paint, preservatives, stucco, pavement, or cement in the course of construction, reconstruction or renovation work;
- (f) for irrigation of public parks and public recreation fields; or
- (g) to establish a new lawn as necessary to stabilize soil in response to new construction or following the repair or replacement of a Title 5 system.





# Golf Conditions

87 Registered  
vs.  
62 permitted

Registered Golf Courses would be required to implement Seasonal Demand Management Plan with graduated reductions in nonessential irrigation based on drought levels.

**Irrigation can be reduced either by reducing irrigation times, or by irrigating fewer acres**  
**Watering allowed up to designated percent**

MA Drought Level	Tees & Greens	Fairways	Roughs	Landscape & Ornamentals
Normal	100%  Essential Use	100%	100%	100%
Level 1 (Mild)		80%†	50%†	Courses whose core business includes a special event venue may continue to irrigate gardens, flowers and ornamental plants by means of hand-held hose or drip irrigation
Level 2 (Significant)		60%†	0%	
Level 3 (Critical)		40%†		
Level 4 (Emergency) **	TBD	40%†		0%

† Irrigation use shall not occur between the hours of 9 a.m. and 5 p.m., except that hand-watering of hot spots may occur at any time

\*\* Additional actions to be determined by the Governor's Emergency Proclamation.

# Alternative Restrictions Criteria

- PWS registered-only systems supplied entirely by surface water reservoirs
- Multi-Year Drought Storage
  - Not less than 3 times the sum of registered volume plus any required releases
  - Applies only to active water supply reservoirs that do not need further MassDEP approval for use



# Multi-Year Drought Storage Definition 2021 vs. 2022

|  
Multi-Year Drought Storage means a registrant's reservoir capacity, as determined by the Department, of not less than three times the sum of a registrant's authorized withdrawal and any required reservoir release established by statute, regulation, permit or other approval issued by a state or federal agency, as determined by the Department. Multi-Year Drought Storage does not include the volume of water below intake elevations and does not require an emergency declaration or order for use.

# Drought Management Plan Elements

Must present an approved plan that demonstrates systems can meet the following criteria:

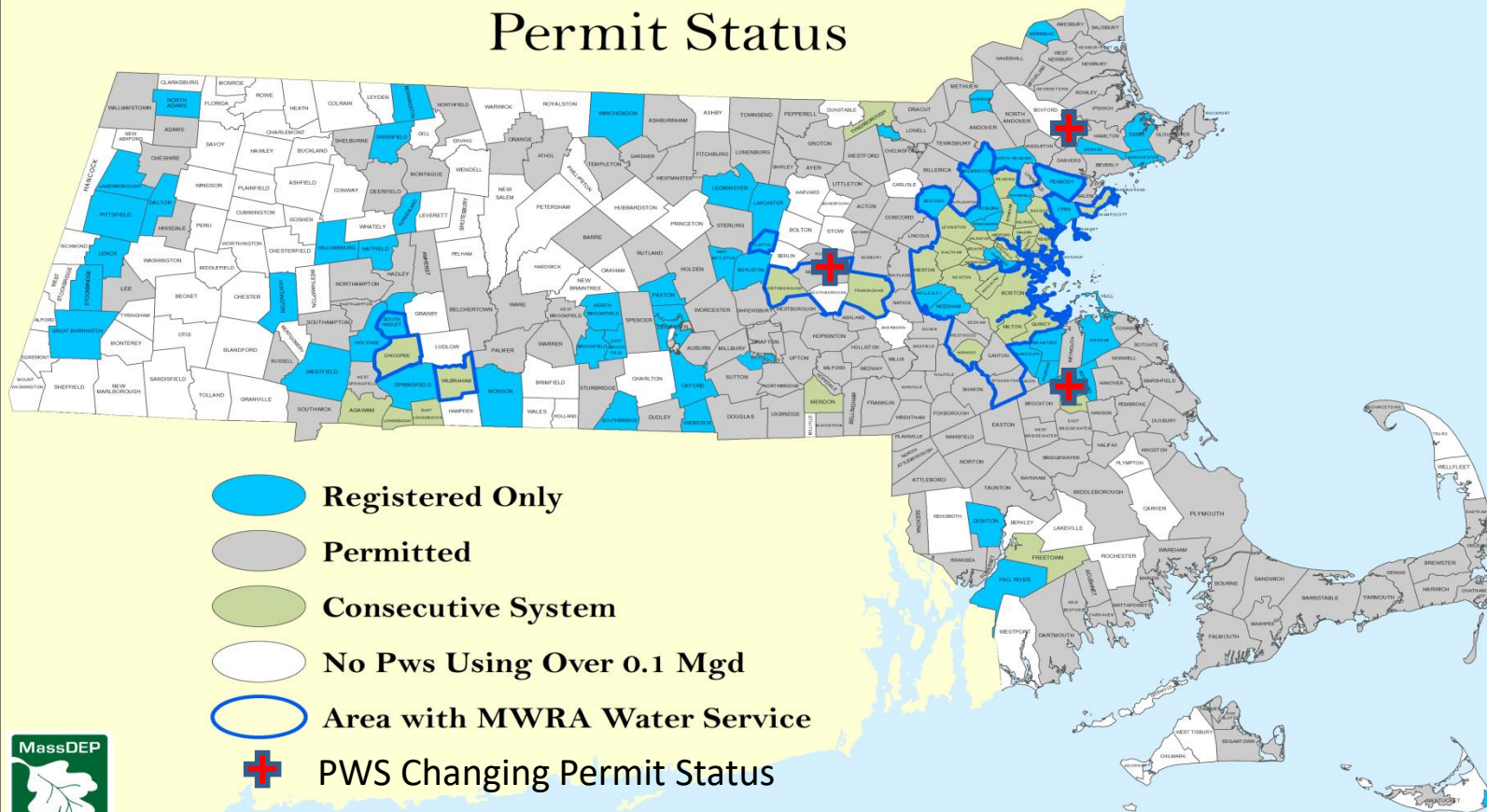
- Drought stages determined by:
  - actual or modeled historical levels to set triggers shall include the drought of record;
  - days of supply remaining and seasonal levels of demand;
  - predicted drawdown and refill probabilities; or a functionally equivalent method.
- Actions triggered at each drought stage;
- Protocols for communicating drought stages & actions to public & officials;
- Plan for local enforcement authority & penalties for violations;
- A system to monitor and document water use reductions





Mass.gov

# WMA Registration and Permit Status



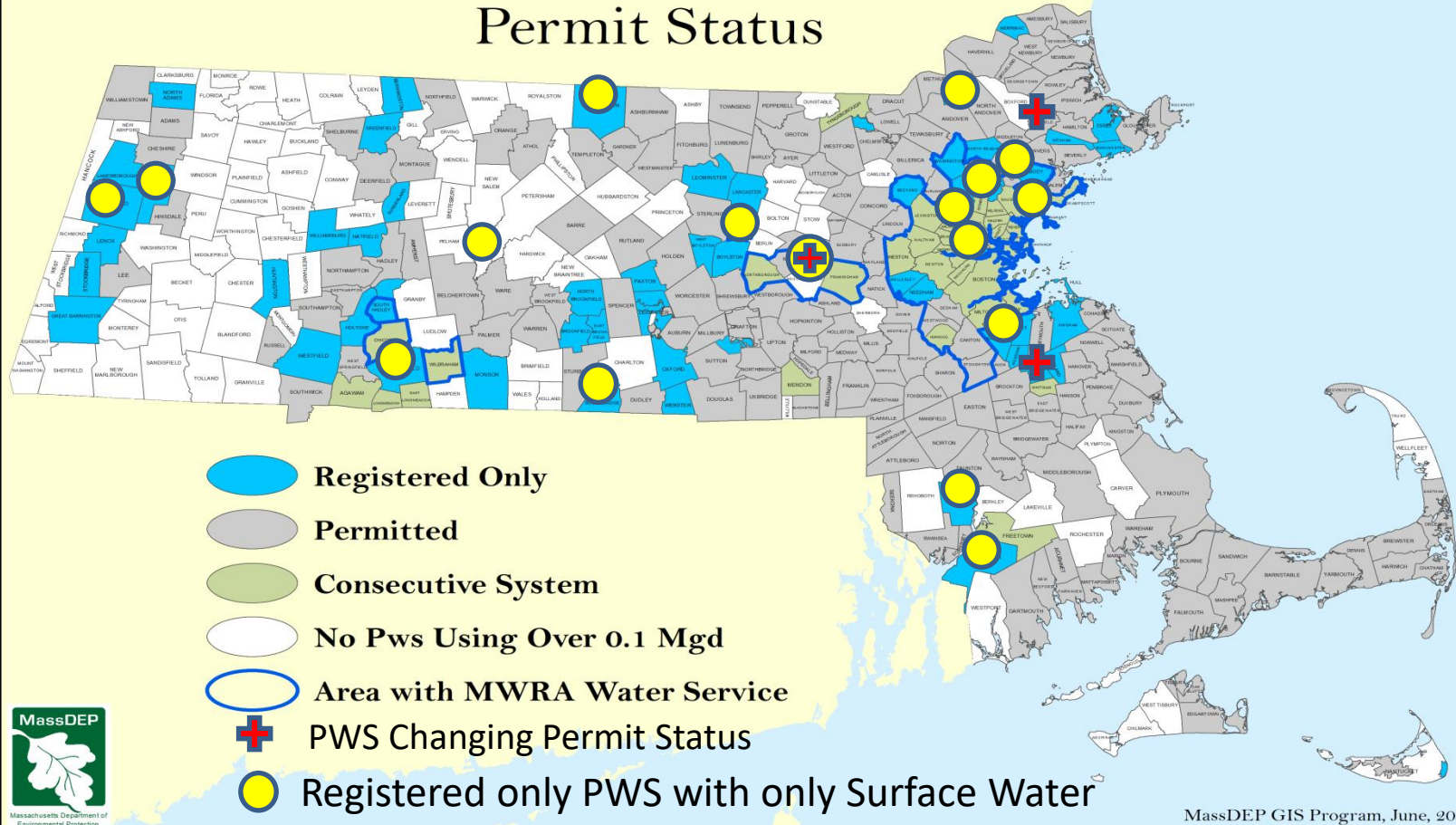
Massachusetts Department of Environmental Protection

MassDEP GIS Program, June, 2019

## Number of Registered only PWS (based on July 2022 Permit Status)

Western Region	Central Region	Northeast Region	Southeast Region
22 + MWRA	17+ MWRA	19	5

# WMA Registration and Permit Status



## # Registered Only PWS with only Surface Water (based on July 2022 Permit Status)

Western Region	Central Region	Northeast Region	Southeast Region
3 + MWRA	4 + MWRA	6	2



# Nonessential Outdoor Water Use Restrictions

## Permit vs. Registration

Non-Essential: Uses not required for health or safety reasons, by regulation, for production of food or fiber, for maintenance of livestock, or to meet the core function of a business

### Permits

RGPCD for prior year	Calendar		STREAMFLOW		
	May 1 to Sept 30	7 day Low-Flow Trigger	Flow above ABF	Flow below ABF	7 day Low-Flow Trigger
	< 65	7 days*	1 day*	7 days*	1 day*
	>65 or Minim. subbasin	2 days*	1 day*	7 days	2 days*

\* No watering 9 am to 5 pm on any day






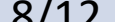




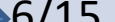
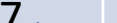






Note: Cape and Island requirements are based on GW and Drought Triggers

## Proposed Registration Conditions

State Drought Plan	Nonessential Outdoor Water-Use Restrictions
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# Restriction Triggers 2020 & 2022

Year	Basin	Triggers, Dates and Watering allowed				
		Permit-ABF	Permit 7-Day LF	Drought Level 1	Drought Level 2	Drought Level 3
Watering allowed		2-Days wk	1-day	1-day	Hand only	none
2020	Charles R.	5/29-7/5 off 7/15-8/9  8/31-9/10  	8/10-8/30 9/11-9/30	NE 7/9  	NE 6/24 8/12 	10/9
2020	Taunton R.	6/5-6/14 off 6/18-7/5 off 7/24-8/9 	8/10-9/30		8/12 	10/9
2022	Charles R.	5/18-7/18  9/21-9/29	7/19-9/12 off	NE 5/11 	6/15  NE 10/7 	NE 7/21  8/9
2022	Taunton R.	5/21-7/12  8/31-9/29	7/28-8/30 off	5/11  10/7 	6/15  9/2 	8/9

USGS Gage	May-June (ABF- cfs)	July – Sept. (ABF)	7-Day Low Flow (cfs)
Charles River @ Dover	170	62	30
Taunton River @ Bridgewater	265	119	47

# 36.17 Permit Term Expiration Dates

Water Source	Effective Date	First Expiration	Second Expiration
XXXXX Basin	August 31, 1988	August 31, 2008	August 31, 2028

A. Basins Renewed for a second term prior to PEA	B. Basins Renewed for a second term after PEA	C. Basins with permits both renewed and not before Covid Order	D. Basins with no permits renewed from first term
	PEA Extended first expiration date		
PEA & Covid Order both extend 2 <sup>nd</sup> expiration date	Covid Order applied to 2 <sup>nd</sup> expiration	2 <sup>nd</sup> expiration date adjusted to original schedule + Covid Order added	Covid Order not applicable because administrative continuance
Hudson Blackstone Charles North Coastal	Deerfield	Boston Harbor, South Coastal, Taunton; Cape; Islands; Concord, Buzzards Bay	15 Remaining basins

# Public Comments

- Comments received in 2021 and 2022 will be considered at this time.

Number of comments received in 2021

- 21 Public Water Suppliers\*
- 13 Environmental Organizations\*
- 6 Business or Industry Representatives
- 1 Legislator
- 11 Individual Residents
- 317 Emails

\* a few submitted multiple comments



# Next Steps for Registration Renewals

- **October 6, 2022 - Registration Renewal Expiration Date**
- **10/13 WRC Review**
- **10/25 WMA Advisory Committee Meeting**
- **10/27 Public Hearing- 5:30 pm via Zoom**
- **10/28 Public Hearing- 10 am via Zoom**
- **11/7 Public Comment Period Closes**
- **December 2022**
  - WRC Vote on WMA Regulations
  - Regulation Promulgation
- **February – April 6, 2023 – Prepare & issue Registration Renewals**

# Comments and Questions

- The proposed regulations are available for review at:  
[www.mass.gov/eea/agencies/massdep/news/comment/](http://www.mass.gov/eea/agencies/massdep/news/comment/).
- All comments previously filed in July 2021 are available at [\*\*310 CMR 36.00: Massachusetts Water Resources Management Program | Mass.gov\*\*](#).
- Comments on the proposed regulations may be filed at:  
[\*\*dep.talks@mass.gov\*\*](mailto:dep.talks@mass.gov)
  - Email comments should include “WMA Regulations” in the subject line.
  - Written comments shall be submitted to:  
MA Department of Environmental Protection, BWR – WMA Program  
One Winter Street, 5th floor  
Boston, MA 02108  
Attention: WMA Regulations.
  - All comments must include the name and contact information for the person providing the comments
- For more information contact Duane LeVangie at 617-780-1962 or  
[\*\*duane.levangie@mass.gov\*\*](mailto:duane.levangie@mass.gov)