

Summary of Water Management Act Regulation Amendments January 4, 2023

Final amendments to the Water Management Act Regulations (310 CMR 36.00) were filed with the Secretary of State on January 4, 2023, and will become effective upon publication in the Massachusetts Register on January 20, 2023. Two copies of the regulations are included here, a “clean” version of the amended regulations, and a “redline” version showing all changes made to the regulations promulgated in 2014. The amendments include:

- 36.02 Definitions adds two new definitions
 - Multi-Year Drought Storage
 - Nonessential Outdoor Water
- 36.07 Registration Conditions adds a new condition on registrations that will require registrants to restrict nonessential outdoor water use or, in the case of those who supply water to other users, adopt enforceable restrictions on nonessential outdoor water use by their customers, during times of drought declared by the Secretary of Energy and Environmental Affairs. This will better align water use during times of drought with the Massachusetts Drought Management Plan, which was updated in 2019.
 - Essential water uses would be exempt from the restrictions. These include
 - for health and safety purposes, including water used for public splash pads and swimming pools, and for certain types of boat washing,
 - for food and fiber production including vegetable gardens,
 - for livestock maintenance,
 - to meet the core function of a business as defined in the regulations,
 - irrigation of public parks and recreation fields before 9:00 a.m. and after 5:00 p.m.,
 - irrigation of public shade trees and trees in the right-of-way, and
 - 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.
- 36.17 Effective Dates and Expiration Dates for Permitting by Water Source is updated to adjust water source (river basin) expiration dates that have been impacted by the Governor’s COVID-19 Order No. 42 of July 2, 2020. This order tolled the expiration dates for WMA (and other) permits during the state of emergency. As a result, WMA permits in certain river basins now extend beyond the previously established expiration dates. The expiration dates for those river basins will now be in alignment with the expiration dates for the extended permits. This enables the department to align the expiration dates of any new permits in those river basins with the existing permits, as intended by the statute.
- 36.43 Orders, Violations and Penalties is updated to bring the regulations into aligned with other MassDEP regulations.