

2022 TABLE OF CONTENTS

Pursuant to M.G.L. c. 30A, the MA Department of Environmental Protection (MassDEP) has proposed amending the Water Resources Management Program Regulations (310 CMR 36.00) to add a condition to Water Management Registrations that would restrict nonessential outdoor water use by registrants during times of drought declared by the Secretary of Energy and Environmental Affairs. This regulatory amendment would better align water use during times of drought with the Massachusetts Drought Management Plan, as updated in 2019.

MassDEP held virtual hearings on the proposed amendments on October 27th and 28th, 2022, and conducted a public comment period beginning on October 6th that was extended until November 18th, 2022, requesting written comment. MassDEP received over 524 comments. All unique comments are included below. Numerous copies of the same comment were submitted as part of three separate email campaigns. One copy of each email campaigns is included here with a list of names of those who participated in one of the email campaigns.

SENATOR VELIS

REPRESENTATIVE ASHE

REPRESENTATIVE BOLDYGA

REPRESENTATIVE MESCHINO

REPRESENTATIVE OLIVEIRA

REPRESENTATIVE PUPPOLO

AMHERST DPW

AVON DPW

GEORGETOWN WATER DEPT

HARWICH WATER DEPT

LYNN WATER AND SEWER COMMISSIONS

MANCHESTER-BY-THE-SEA

MILFORD WATER DEPT

MONSON W&S DEPARTMENT

MASSACHUSETTS WATER RESOURCES AUTHORITY

NEEDHAM, TOWN OF

READING, TOWN OF

SALEM AND BEVERLY WATER SUPPLY BOARD

SPRINGFIELD, CITY OF

SPRINGFIELD CITY COUNCIL

SPRINGFIELD WATER AND SEWER COMMISSION

STOUGHTON, TOWN OF

THREE RIVERS FIRE DISTRICT

WESTFIELD DPWP, CITY OF

WORCESTER DPW, CITY OF

BERKSHIRE ENVIRONMENTAL ACTION TEAM

BLACKSTONE RIVER W'ATERSHED ASSOCIATION

CENTER FOR ECOLOGICAL ECONOMIC AND ETHICAL EDUCATION

CHARLES RIVER CONSERVANCY
CHARLES RIVER WATERSHED ASSOCIATION
CONNECTICUT RIVER CONSERVANCY
CONSERVATION LAW FOUNDATION
DEERFIELD RIVER WATERSHED ASSOCIATION
DEERFIELD RIVER WATERSHED CHAPTER OF TROUT UNLIMITED
ENVIRONMENTAL LEAGUE OF MASSACHUSETTS
ESSEX COUNTY GREENBELT ASSOCIATION
FORT RIVER WATERSHED ASSOCIATION
FRIENDS OF THE MALDEN RIVER
GARDEN CLUB OF THE BACK BAY
GREATER BOSTON CHAPTER OF TROUT UNLIMITED
GREEN NEWTON
HOOSIC RIVER REVIVAL
IPSWICH RIVER WATERSHED ASSOCIATION
JONES RIVER WATERSHED ASSOCIATION
MASS AUDUBON
MASS RIVERS ALLIANCE
MASSACHUSETTS WATER WORKS ASSOCIATION
MYSTIC RIVER WATERSHED ASSOCIATION
NEIGHBORHOOD ASSOCIATION OF THE BACK BAY
NASHUA RIVER WATERSHED ASSOCIATION
NEPONSET RIVER WATERSHED ASSOCIATION
OCEAN RIVER INSTITUTE
PARKER RIVER CLEAN WATER ASSOCIATION
SAVE THE BAY
TAUNTON RIVER WATERSHED ALLIANCE
THE NATURE CONSERVANCY
WATER SUPPLY CITIZENS ADVISORY COMMITTEE
CONFIDENTIAL CITIZEN – 1
CONFIDENTIAL CITIZEN - 2
BECK, J.
BEHLAU, I.
BORERI, S.
CARTER, D.
COELHO, R.
COMB, D.
DAVIS, C.
ENZER, L.
FELDMAN, A.
FIELD-JUMA, A.
GATES, S.
GEORGE, A.
GRISWOLD, P.

HANSEN, L.
HANSON, K.
HARITON, J.
HAPP, M.
HAZARD, N.
HONETSCHLAGER, K.
HUNTON, N.
JAMES, H.
KLEMPNER, C.
KRICKER, D.
LALYRE, Y.
MCCORD, M.
MELTO, C.
MEYER, J.
POKORNY, M.
PRINDLE, S.
ROBINSON, J.
ROETTER, M.
ROST, C.
ROTH, R.
SCHEINOST, T.
SCHLEIFER, J.
SCHLOSS, M.
SCOTT, D.
SCOTT, F.
SEARLES, M.
SHEA, T.
SMITH, O.
SNYDER, G.
SUMMERS, J.
TAPPAN, S.
TINGER, B.
TUCCI, P.
WEEKS, K.
WHEELER, J.
WHITE, G.
WHITING, B.
WHITTIER, J.
WINTHROP, S.

IDENTICAL EMAILS SUBMITTED BY INDIVIDUALS

ABRAMS, E; AIBEL, J; ALWARD, J; AMYOT, L; ANDERSON, A; ANDREWS, A; APPEL, K; ARMSTRONG, S; AU, P; BACON, K; BAIMAS, P; BAIRD, D; BALLARD, S; BANKEY, E; BARNARD, B; BARNARD, T; BARRY, I; BARUNAS, K; BARWELL, N; BAXTER, M; BEMIS, E; BENDER, R; BENDER, E; BENTLEY, M; BERG, J; BERGEN, H; BERGEN, J;

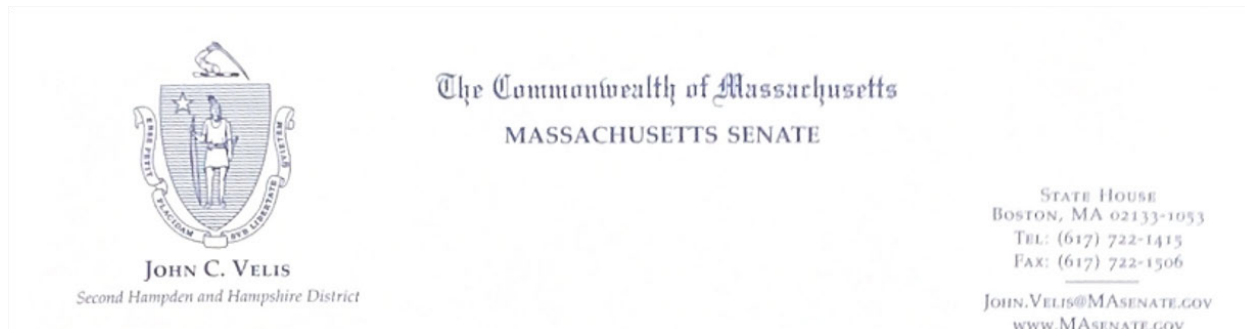
BERING, C; BIRDSEYE, E; BIRMINGHAM, T; BLAKE, B; BLOOM, S; BOOTH, C;
BORTEN, K; BOUDROT, P; BOURNE, D; BOWER, K; BOYD, N; BRAINARD, C; BRAMS,
D; BRAUN, B; BRAUN, L; BRAUNLICH, S; BRAYTON, S; BRENNAN, T; BRENNEN, K;
BRIEN, B; BROOKS, S; BROWN, S; BUCK, K; BURATI, R; BURCHESKY, D; BURGESS,
H; BURN, D; BUTTNER, M; C, S; CARMÍ, L; CAROLE; CARON , S; CARON, A; CARR, B;
CARUSO, D; CAVANAUGH, J; CAVANAUGH, K; CHAPLINE, Z; CHICK, R;
CHITTENDENAND, A; CIANCI, J; CLARKE, D; CLARKE, D; CLYMER, J; COGAN, B;
COHEN, R; COLE, M; COREY, R; COTTER, J; COUNT, G; COVAIS, L; CRAIG, J;
CRAWFORD, R; CRISP, V; CROSBY, C; CROWLEY, J; CULBERT, J; CULLETON, R;
CUMMINGS, J; CUNEO, M; CURRAN, E; CZAPLICKI, A; D'AMICO, J; DARDECK, K;
DARNELL, S; DAS, É; DAVIDSON, G; DAVIDSON, G; DAVIDSON, M; DAY, M; DAY, M;
DEBAY, G; DELANEY, B; DESAI, A; DEYOUNG, P; DIADIUK, V; DIX, A; DIXON, M;
DOHERTY, S; DONAHUE, S; DONNELLY, L; DONNOE, J; DONOVAN, F; DOWLING, D;
DOWNING, D; DOYLE, C; DRAPER, R; DRISKO, S; DUNIPACE, R; DUVAL, T; DYER, P;
EDWARDS, S; EISENHAURE, B; ELIA, M; ENDO, P; ENNEN, S; ENYEDY, E; EOSCO, S;
EVANS, L; FAY, K; FEASTER, A; FEIST, C; FERGUSON, L; FIELD, L; FIELD, L; FIERCE,
A; FITZGERALD, J; FITZGERALD, L; FLORIO, J; FOLINO, D; FORNO, V; FREEMAN, S;
FREHILL, L; FULLER, L; FURMAN, S; FYLER, N; GALLACHER, K; GALLAGHER, B;
GARDNER, N; GARPOW, W; GARPOW, W; GEORGE, A; GERNHADRT, K; GESNER, M;
GIBSON, G; GLATFELTER, W; GOLDBERG, E; GOODE, D; GOODMAN, A; GORDON, A;
GORMAN, K; GORMLEY, K; GRAY, D; GREEN, B; GREEN, J; GREEN, K; GROSSMAN,
A; GRUBBS, K; GUARINO, K; HACKETT, K; HADDADAND, G; HALL , M; HALL, K;
HALLEN, N; HALLOWELL, L; HALM , J; HAMMOND, M; HANCOCK, S; HANNAFIN, C;
HASHA, A; HAUTAU, C; HAYES, O; HEALY, J; HEEBNER, S; HELLER, S; HENNEBURY,
P; HERREN, C; HESS, J; HIGGINS, E; HIGGINS, L; HILLIKER, W; HIRSCH, G; HOAGLIN,
D; HOBBS, C; HOOD , V; HOPCROFT, F; HOPKINSON, R; HORST, L; HOWE, D;
HOWELL, B; HOWELL, T; HUGHES, L; HUMPHREY, G; HUSBAND, A; IBRAHIM, D;
IZZO, K; JACOBSEN, M; JANE; JEC, S; JOHNSON, D; JOHNSON, E; JOHNSON, J;
JOHNSON, J; KAN, J; KARASS, K; KARNOFSKY, K; KASTENS, K; KEITH, S; KELLY, L;
KELLY, M; KELNER, K; KERR, D; KEUTMANN, M; KING, S; KINRAIDE, R; KRISTAN, P;
KULACKI, K; LAMDAN, A; LARGY, T; LASELL, M; LEAHY, A; LEARY, J; LENAHAAN,
D; LEONARD, J; LIPPERT, M; LO, J; LUPPINO, C; MACCALLUM, S; MACMAHON, J;
MACNULTY, A; MALONE, M; MANDLER, G; MANGANELLO, C; MANION, M; MANN,
J; MANNING, P; MARTIN, G; MARTIN, J; MATTE, J; MATTEI, L; MATTHEWS, A;
MCCANTY, S; MCCARTHY, M; MCCARTHY, S; MCGREGOR, M; MCGREGOR, R;
MCKNIGHT, C; MCCLAUGHLIN, M; MCMENEMY-MCCOLM, N; MCNEIL, B;
MCQUILLAN, P; MELLORS, R; MESHOULAM, D; MEYER, B; MILLER, S; MINIER, M;
MINIHANE, K; MOOSBRUKER, J; MORAN, J; MORAN-QUEENAN, P; MORRILL, Y;
MULLIGAN, C; MURRAY, K; MURRAY, S; MUSHERO, N; NALVEN, S; NELSON, D;
NEVILLE, M; NEVIN, L; NICOL, A; NIELS; NIGREEN, B; NORDHOFF, E; NORTON, M;
O'BRIEN, H; O'DONNELL, L; O'HANLON, G; OLSON, M; ORLANDI, B; ORME, S;
OSEASOHN, S; OVERHOLT, C; OWEN, S; PACKARD, H; PAGEL, T; PAPPALARDO, K;
PFAUTZ, K; PHINNEY, B; PIERCE, J; PIZZELLA, K; PONSESTTO, S; POPP, K; POTTER,
R; PROFFITT, T; PROFFITT, T; PROKOSCH, M; Q, K; READ, D; REEVES, C; REID, C;

RISITANO, J; ROBINSON, C; ROSE, J; ROSS, T; ROTH, K; ROWLEY, J; ROYCE, J; RYAN, V; RYDJ, A; RYER, J; S, I; SALMOND, D; SALTER, R; SANSOUCY, H; SANTIAGO, J; SAVAGE, N; SCERBO, S; SCHEINER, M; SCHLAUCH, R; SCHLOSS, M; SCHNEIDER, J; SCHNEIDER, Z; SCHNIPPER, A; SCHUMACK, S; SCIACCA, T; SCOTT, D; SHARPE, D; SHEA, N; SHEALY, J; SHEEHAN, L; SHELDON, M; SHERIDAN, M; SHERMAN, D; SIDEMAN, A; SILVERSTEIN, L; SIMMER, E; SLADE, L; SMITH, C; SMITH, K; SNUFFER, C; SNYDER, C; SPRAGUE, G; SPRECHER, S; ST.GERMAIN, R; STARK, G; STEEGSTRA, R; STEVENSON, J; STODDART, M; STONE, K; STOWBRIDGE, M; STRAHLE, N; STUCK-GIRARD, A; STUCK-GIRARD, C; STURGIS, E; SULLIVAN, B; SULLIVAN, E; SYMONDS, J; SYNNESTVEDT, I; TANIA; THATCHER, L; THAXTER, S; THILL, L; THOMSON, E; THOMSON, E; THOMSON, L; TOMEK, P; TOWER, J; WAITT, C; WALSH, A; WALSHAND, M; WARD, T; WATTERS, A; WEAN, D; WEBSTER, M; WEEKS, K; WEINER, J; WEINSTEIN, D; WEISS, R; WENDELL, M; WENNEMER, J; WERNER, N; WHELAN, J; WHELAN, J; WHITE, S; WHITMORE, J; WIEAND, J; WILLIAMS, P; WILSON, C; WITTRUP, A; WOLFE, S; WOLK, M; WOODS, S; YEOMANS, E; YOUNG, D; ZADE, M; ZARKAUSKAS, J; ZASTROW, L; ZUCKERMAN, J

FROM 83 COMMUNITIES IN 2 STATES

MASSACHUSETTS: ABINGTON, ACTON, ANDOVER, ARLINGTON, ASHLAND , AYER, BEDFORD, BELMONT, BILLERICA, BOSTON, BREWSTER, BRIDGEWATER, BRIGHTON, BROOKLINE, CAMBRIDGE, CANTON, CARLISLE, CONCORD, DANVERS, DORCHESTER, DOVER, DUXBURY, EAST WALPOLE, ESSEX, FOXBOROUGH, GRAFTON, HANOVER, HANOVER, HANSON, HARVARD, HINGHAM, HUDSON, HULL, HUMAROCK, IPSWICH, JAMAICA PLAIN, KINGSTON, LINCOLN, LITTLETON, LOWELL, LYNNFIELD , MANCHESTER BY THE SEA, MARBLEHEAD, MARSHFIELD, MATTAPAN, MAYNARD, MEDFIELD, MEDWAY, MIDDLETON, MILFORD, MILLIS, MILTON, NEWBURYPORT, NEWTON, NATICK , NORTHBOROUGH, NORWELL, NORWOOD, PEABODY, PEMBROKE, PLYMOUTH, QUINCY, READING, ROCKPORT, ROSLINDALE, SALEM, SCITUATE, SHARON, SHREWSBURY, SOMERVILLE, STOW, SUDBURY, TOPSFIELD, TOWNSEND, WALPOLE, WALTHAM, WATERTOWN, WAYLAND, WEST MEDFORD, WEST ROXBURY, WESTBOROUGH, WEYMOUTH

CALIFORNIA: SAN FRANCISCO



November 16, 2022

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection
Bureau of Resource Protection
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00

Commissioner Suuberg:

I am writing to express my concern about the proposed amendments to 310 CMR 36.00. If implemented, these amendments may impact communities in my district, specifically the town of Agawam, where water demands are vastly different than in other parts of the state.

I am concerned that a “one size fits all approach” will impact Western Massachusetts disproportionately. During the last five state drought declarations in the Connecticut River Valley region, the Commission’s Cobble Mountain Reservoir was within normal capacity levels, in accordance with their drought management plan. In fact, during one declaration the capacity level was over 95%, and during another, 85%, representing close to a two-year supply.

These water restrictions that are untethered to actual water supply, may dissuade economic development in our area as our region’s ample water supply has been a selling point in the past. The proposed changes may create an unnecessary hardship and could potentially impact our public water utilities and DPWs that rely on the revenue from the sale of water to replace leaking pipes and inefficient infrastructure.

Proper state-wide drought management is imperative for a healthy Commonwealth, but I also believe that tailoring regulations to the needs of every community will best serve our state. Thank you for your commitment to bettering our Commonwealth and for your consideration.

Sincerely,

Senator John C. Velis
Massachusetts State Senator
2nd Hampden and Hampshire District



**MASSACHUSETTS GENERAL COURT
STATE HOUSE, 02133-1053**

November 17, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations (Submitted by Email to dep.talks@mass.gov)

To Whom It May Concern:

We are writing to express our concerns about the proposed amendments to 310 CMR 36.00 – Conditions on WMA Registrations.

It is our understanding that the proposed regulations would add conditions to the Springfield Water and Sewer Commission's (Commission) Water Management Act (WMA) registration, which legally entitles the Commission to 39.1 MGD annual withdrawal. The Commission provides wholesale drinking water to the communities of Southwick, Agawam, Longmeadow, and East Longmeadow, which are located within our districts. The proposed regulations would require WMA Registrants such as the Commission to adopt water use restrictions in accordance with the state's drought management plan. Such restrictions would subsequently need to be implemented within the wholesale communities the Commission serves, regardless of the system's reservoir capacity at the time.

Since 2021, there have been five state drought declarations in the Connecticut River Valley region. Within all of those, the Commission's Cobble Mountain Reservoir was within normal capacity levels according to the Commission's individual, system-specific drought management plan. In fact, during one such declaration the capacity level was over 95%, and during another, 85%, representing close to a two-year supply. During each of those declarations, if these regulations were in place our residents and businesses would have been required to drastically curtail or outright suspend their outdoor water use when the reservoir serving them was amply full. This creates an unnecessary hardship not only for our constituents and economy, but also for public water utilities and DPWs that rely on the revenue from the sale of water to replace leaking pipes and inefficient infrastructure.

In addition, our region's ample water supply is one of the selling points to attract economic development, a message that will become lost amid repeated water restrictions that are untethered to actual water supply. Ultimately, these unnecessary restrictions will result in both wholesale and retail rate increases that will be impactful to the region.

We acknowledge that climate change is impacting water supply issues, most notably in the eastern areas of the state. But it must be emphasized that those areas have *very* different development patterns (and water demands) than we do here in Western Massachusetts. According to the Commission, the water supply that serves our constituents has not fallen below 50% in well over 50 years; in addition, over that time, average water withdrawals have fallen to 33 MGD, 6 MGD below the registered withdrawal. Our watershed and reservoir are resilient by design and because of the lessened development pressures here. Importantly, the Commission also adopted a revised drought management plan in 2020 that incorporates the impacts of climate change.

We have learned that the proposed regulations allow an alternative from state-mandated water use restrictions for water suppliers relying on reservoirs with multi-year storage capacity. However, as currently defined, this alternative is only available to a public water supplier serving metro Boston communities. Since Cobble Mountain Reservoir holds an approximate two-year supply, and the Commission's drought management plan incorporates historic and modeled drought scenarios that demonstrate the resiliency of the reservoir during multi-year droughts, we believe the Commission should also be eligible to rely on their drought management plan instead of having to relinquish local control and enact state-mandated water restrictions.

Thank you for your time and consideration in this matter.

Sincerely,

State Representative Brian M. Ashe
2nd Hampden District

State Representative Jake Oliveira
7th Hampden District

State Representative Angelo Puppola, Jr.
12th Hampden District

State Representative Nicholas Boldyga
3rd Hampden District

CC: Martin Suuberg, Commissioner
Duane LeVangie, Program Chief of Water Mgmt.

From: [Meschino, Joan \(HOU\)](#)
To: [DEP Talks \(DEP\)](#)
Subject: 310 CMR 36.00 proposal - Comments
Date: Friday, November 18, 2022 3:05:14 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)

Dear Commissioner Suuberg,

I represent the 3rd Plymouth District, which includes the towns of Hingham, Hull, Cohasset, and North Scituate. I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that will restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions are a key first step toward ensuring the Commonwealth adapts its water management to our new climate crisis.

My district includes the Weir River Watershed, and is adjacent to the North and South Rivers Watershed. My municipal water systems manage water use to the best of their ability to preserve water resources and habitat. However this missing component is needed to manage all water draws.

The Weir River Watershed is a beautiful area that is important for coastal resilience; it is important for sustaining wildlife habitat; and it is much beloved for quiet enjoyment of open space and outdoors natural environment.

Excessive water withdrawals have threatened the stream health here in 3rd Plymouth district and statewide for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Thank you.

Rep. Joan Meschino
3rd Plymouth District

Stay in Touch:

State House, Room 34 | Boston, MA 02133
P.O. Box 523 | Hull, MA 02045
617-722-2320 | www.JoanMeschino.com





AMHERST *Massachusetts*

OFFICE OF THE SUPERINTENDENT OF PUBLIC WORKS
586 SOUTH PLEASANT STREET
AMHERST, MA 01002
TEL. 413-259-3050

November 17, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

Subj: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations
VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

Please accept this letter as the City known as the Town of Amherst's Department of Public Works written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. We are strongly in favor of wise water management, especially during times of drought, but feel that promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. As a member of Massachusetts Water Works Association (MWWA), we support the comments they have submitted, and like MWWA, urge MassDEP to withdraw these proposed regulations.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has very sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. As we have seen over the past few years, the drought declaration has built in discretion, and have therefore become political rather than strictly relying on numbers.

Every water system is different and unique, and this is not captured in these proposed regulations. In Amherst, about 1/3rd of our population leaves every summer which results in June, July and August having lower water demand than many other months. We also rely on ground water sources for approximately 2/3rd of our usage and these wells are drilled to below a confining layer. These are unique factors that are not represented in a one-size-fits-all regulation as is being proposed.

While MassDEP is providing an exemption from following the MA Drought Management Plan, the criteria for exemption limits the possible applicants to a very small number of the total water systems in the state. All surface water and/or groundwater Public Water Systems should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so

that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for exemption.

One of the rationales for these regulations used by MassDEP is to promote consistency for all water systems. However, we do not see how these regulations accomplish the goal, when registered systems follow one set of regulations, permitted systems follow another set of regulations, and the few systems that qualify for an exemption follow their own drought management plan. This will still result in a patchwork of implementations across the state.

While we are opposed to these regulations, we do want to comment on the nonessential outdoor water use carve-out that is included in the most recent draft. We are in favor of allowing irrigation of public parks and public recreation fields as allowable regardless of drought level. All municipalities, including Amherst, invest heavily in the parks, recreation and playing fields throughout the Town. We believe that maintaining these facilities promotes environmental justice by offering public recreation facilities. Concentrating allowable usage to public facilities is a way to maintain these investments and allow all residents to have locations to play, recreate, and cool off while being outside, regardless of the drought status..

Finally, in the *Fairhaven*¹ case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. The drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought. Also, Section 3 of MGL 21 G requires consultation with the Water Resources Management Advisory Committee which MassDEP has not done since members of the Committee have not been appointed by the governor.

The Town of Amherst DPW believes it has been shown that the proposed regulations will not foster water system resiliency, and will not provide consistency across the state. The Town of Amherst DPW requests MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.

Sincerely,

Guilford B. Mooring II, P.E.

Guilford B. Mooring, II, P.E.
Superintendent

cc: Paul Bockelman, Town Manager
Lynn Griesemer, Council President
Jo Comerford, State Senator
Mindy Domb, State Representative

¹ *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010)

From: [Bill Fitzgerald](#)
To: [DEP Talks \(DEP\)](#)
Subject: Water Management Regulations
Date: Thursday, October 27, 2022 7:27:41 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hi

On the public parks and recreation fields:

On fields—we have some natural soils fields. These require less water than constructed soil fields.

However, there must be some strategic watering over the summer to insure the fields are safely playable when, say, fall play starts. I'm simplifying, but we may need a good deal of water in August to soften the fields for play in the fall.

We are looking into a well, but irrigation wells for fields generally meet a higher cost/benefit ratio when they are constructed soils that need much more and continuous watering. (Doesn't mean we aren't going ahead with getting an irrigation well, but cost/benefit could be a factor of the people making the funding decisions.)

Hopefully these nuances are taken into account if there are more conditions than a straight exemption on field watering.

On parks, I very much appreciate the interest in maintaining public parks, and highlighting those who have less access to open space in urban areas. However, if you are trying to distinguish between those that meet that criteria and those that don't: We have a park we are redeveloping with state funding to provide full accessibility. 3/4th of our town are in EJ census blocks. This park is literally across the street from these block groups.

The point is I think it could be counterproductive to try and draw some operational definition as to what are parks that are 'urban areas used by people who do not have private recreation options'

If the debate is about unnecessary overuse for these purposes, another thought is to include a separate category in the ASR for field and park water use as a subset of municipal use.

Hope this is helpful.

Thanks,

Bill Fitzgerald
Avon DPW

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations

VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

I am a member of Massachusetts Water Works Association (MWWA) and wish to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. Wise water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. I support the comments that MWWA submitted in July of 2021 and our concerns still stand. I urge MassDEP to withdraw these proposed regulations and instead ask systems to develop their own system-specific drought management plan.

The Georgetown Water Department has had a successful drought management plan for decades. We revised our policy in 2019 to better inform our residents with a color coded 4 Phase Restriction Policy that restricts usage during drought over and above our current permitted stream gage restrictions. We have been able to manage our water supply appropriately, and therefore conditions placed upon our Registration are unnecessary.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. During this past year of severe drought, we maintained a critical drought enforcement with a part time laborer policing the town for outdoor watering. We found that the drought, water ban and severe heat wave caused an increase in our water age. We believe the lower usage; higher water age and higher water temps caused a Total Coliform hit at a routine sampling site. While MassDEP is providing an alternative approach from following the

MA Drought Management Plan, the criteria make it such that only MWRA would qualify. The requirement for multi-year storage of no less than three times a Registrants authorized withdrawal has no scientific basis and that is problematic. The addition of the new language that excludes water below the intake elevations further limits our ability to even have a conversation about using our own drought plan instead of defaulting to the state's plan. Surface water and/or groundwater Public Water Systems should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for review and approval.

While MassDEP made slight changes to the definition of Non-Essential Outdoor Water Use within the re-noticed regulations, we would urge you to adopt the more comprehensive definition proposed by MWWA when they commented last July. Further, we understand that MassDEP is interested in comments regarding the exemption to public parks and recreation fields within the definition. Communities have made significant investments in their parks and recreation fields and should be allowed to water them if they have the capacity to do so in order to maintain that investment.

The proposed regulations will cause a financial hardship for our utility and may impact our ability to undertake other infrastructure improvements that could more meaningfully enhance our water system's resiliency

Our core responsibility as water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months. We would urge the Department to consider the unintended water quality consequences that could occur should we have to comply with arbitrary conditions restricting water use. As we all know increased water age in a distribution that relies on breakpoint chlorination poses a problem with Disinfection By Products. Georgetown has one well that is heavy in organics and we have been blending with our other wells to lower the precursors through our system but added water age due to restrictions makes higher TTHMs results inevitable.

Finally, in the *Fairhaven*¹ case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. We believe that the drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought.

¹ *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010)

Georgetown Water Department believes it has been shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade our water system. Georgetown Water Department requests MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.

Sincerely,



Marlene Ladderbush
Georgetown Water Department Utility Director

cc: Orlando Pacheco, Georgetown Town Administrator
Doug Dawes, Georgetown Board of Selectpersons Chair
Lenny Mirra, State Representative



Town of Harwich Water Department

196 Chatham Road, Harwich, MA 02645 USA * www.harwichwater.com
P. 508-432-0304 * F. 888-774-3557 *

November 17, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations
VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

I am a member of Massachusetts Water Works Association (MWWA) and wish to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. Wise water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. I support the comments that are being submitted by MWWA, and like MWWA, urge MassDEP to withdraw these proposed regulations.

The uniqueness of each water system and their ability to supply water in varying conditions cannot be understated. Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has very sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. A recent example of this occurred during the summer of 2016 when a drought declaration was made for the entire Cape Cod region due to conditions effecting the Sagamore Lens when, at the time, water levels in the Monomoy Lens were at or above historical median. The restriction of non-essential water use in 2016 would have resulted in considerable revenue loss and offered no benefit to the Sagamore Lens where groundwater levels were of concern. Furthermore, the hydrology of the Cape Cod lenses is such that 69% of the of the total groundwater discharges to the coast, with this being the case, limiting a water systems ability to pump when groundwater levels are normal, as was the case in 2016, does not preserve the water within the lens but instead allows it to migrate to the coast. It should also be noted that the Cape Cod Lenses are recharged by off-season precipitation occurring during the months of November-May while drought declarations consider precipitation that occurs throughout the summer which has no measurable effect on groundwater levels or our ability to produce an adequate supply of water. In contrast to 2016, the lack of off-season precipitation in the winter of 20/21 and 21/22 was cause for lower-than-average groundwater levels in the Monomoy Lens and resulted in a mandatory ban on all non-essential outdoor water use, which begs the question, what problem are we trying to solve? As a Public Water Supplier and steward to our water resources Harwich has a history of making data driven decisions in the best interest of the environment and residents. While MassDEP is providing an exemption from following the MA Drought Management Plan, the criteria for exemption, especially the requirement for multi-year storage of no less than three times a Registrants authorized withdrawal, makes it such that only one Public Water System in the state will likely qualify for



Town of Harwich Water Department

196 Chatham Road, Harwich, MA 02645 USA * www.harwichwater.com
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an exemption. Surface water and/or groundwater Public Water Systems should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for exemption.

The proposed regulations will cause a financial hardship for our utility and may impact our ability to undertake other infrastructure improvements that could more meaningfully enhance our water system's resiliency. The implementation of this year's mandatory ban on non-essential outdoor water use resulted in a quarterly revenue loss of over \$250,000 reducing the departments enterprise fund contribution by half. In 2016 the department exceeded its revenue projections contributing over \$600,000 to the departments enterprise fund which was later used in support of ongoing capital improvement projects.

Our core responsibility as water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months. We would urge the Department to consider the unintended consequences that will arise should these regulations be adopted.

Additionally, in the Fairhaven case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. The drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought. Also, Section 3 of MGL 21 G requires consultation with the Water Resources Management Advisory Committee which MassDEP has not done since members of the Committee have not been appointed by the governor.

In addition to the comments above please also consider revisions to the following sections:

Registration Conditions: 36.07 (2)(c)(1) states that "no later than 24 months after the issuance statement, the registrant shall establish enforceable restrictions limiting nonessential outdoor water use." It should be noted that changes to bylaws or ordinances sometimes require actions and approvals beyond the purview of the Public Water System. There needs to be recognition that if the Public Water System makes their best effort, and enforceable restrictions are not approved by the local approving authority (i.e., Town Meeting; District Meeting), that the Public Water System will be held harmless. We suggest modifying this to say, "no later than 24 months after the issuance statement, the registrant shall put forward for approval of the governing body enforceable restrictions limiting nonessential outdoor water use."



Town of Harwich Water Department

196 Chatham Road, Harwich, MA 02645 USA * www.harwichwater.com
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Registration Conditions: 36.07 (2)(c)(1)(a) through (c) Tying watering restrictions to the Massachusetts Drought Management Plan and regional drought declarations is not appropriate. The Drought Plan is based on many indices that are not water supply related. Public Water Systems should have their own system-specific drought management plan with triggers and response actions tailored to their system's unique characteristics.

36.07 (2)(c)(3) provides an exemption for Registrants with an "accepted drought management plan." While we agree with the provision for an exemption, Harwich Water Dept. is concerned with the requirement that in order to submit a Drought Plan for approval and exemption the system must have a minimum of three times their authorized withdrawal in storage. Harwich Water Dept. requests that MassDEP strike the language in 36.07 (2)(c)(3) and replace it with the following:

"A registrant may implement non-essential outdoor water use restrictions in accordance with an accepted drought management plan instead of the restrictions described in 310 CMR 36.09(2)(c)1. The Department will accept system-specific drought plans that are developed in accordance with American Water Works Association's "M60 Drought Preparedness and Response" manual, or other state-endorsed drought plan guidance."

The Harwich Water Dept. believes it has been shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade our water system. Harwich Water Dept. requests MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with Public Water Suppliers on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency. That said, Harwich Water Dept. is fully supportive of drought planning and preparedness and would like to offer an alternative regulatory proposal. Harwich Water Dept. would fully support MassDEP moving forward with an amendment to 310 CMR 22.04 (13) to ensure that every Public Water System in the state has a system-specific drought plan as a component of their Emergency Response Plan (to be developed within 5 years of promulgation of the regulation), containing triggers and response actions based on the water system's capacity.

Respectfully,

Daniel R. Pelletier

Superintendent of Water & Wastewater

November 17, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

**RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA
Registrations**

VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

As a member of the Massachusetts Water Works Association (MWWA), the Lynn Water & Sewer Commission (Commission) would like to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. The Commission realizes that the prevention of wasteful water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. I support the comments that MWWA submitted in July of 2021 and those concerns still stand. I urge MassDEP to withdraw these proposed regulations and instead ask systems to develop their own system-specific drought management plans.

The Commission has Registrations for the North Coastal and Ipswich River basin as summarized below:

North Coastal Basin: 8.93 MGD
Ipswich River Basin: 2.62 MGD *

- = Withdrawals may occur between December 1st and May 31st when at least 10.0 Million gallons of streamflow remain after pumping.

The Commission has a Surface Water system that relies on withdrawals from the North Coastal Basin including the Saugus River, and the Ipswich River. The Commission has four reservoirs with a total storage capacity of 4,204.5 Million Gallons.

During the past ten years the Commission has made successful efforts to maintain a withdrawal rate below the registered volumes. While not required to by any regulatory

mandate, the Commission has established a Drought Management Plan that has allowed us to persevere during recent drought periods. We have been able to manage our water supply appropriately, and therefore conditions placed upon our Registration are unnecessary.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. The Commission's water supply can be distinguished from other water suppliers in the area by the fact that withdrawals are not made from the Ipswich River during the summer and fall months. The Commission's reservoir system capacity would almost always be at or near full operating range during the early summer months when some drought indices would be met.

While MassDEP is providing an alternative approach from following the MA Drought Management Plan, the criteria make it such that only MWRA would qualify. The requirement for multi-year storage of no less than three times a Registrants authorized withdrawal has no scientific basis and that is problematic. The addition of the new language that excludes water below the intake elevations further limits our ability to even have a conversation about using our own drought plan instead of defaulting to the state's plan. Public Water Systems who use surface water and have a proven record of sustaining capacity during drought periods should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for review and approval.

While MassDEP made slight changes to the definition of Non-Essential Outdoor Water Use within the re-noticed regulations, we would urge you to adopt the more comprehensive definition proposed by MWWA when they commented last July. Further, we do **not** agree with the MassDEP's interest regarding the exemption to public parks and recreation fields within the definition. Individual Public Water System's should be left to determine the impact caused by shutting off the water to their parks and recreation fields. In many instances, the water supplied to municipal parks is a non-revenue source and would have no impact on operating budgets if the irrigation systems were shut down. In Lynn, the Commission's water supply system and Drought Management Plan triggers would most likely occur during mid to late summer when school and most of the other sports programs would have concluded. It has also been demonstrated during recent years that grass goes dormant during the drought and grows back later in the fall when the sun angle is lower and the rains return.

The proposed regulations will cause a financial hardship for our utility and may impact our ability to undertake other infrastructure improvements that could more meaningfully enhance our water system's resiliency.

Our core responsibility as water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months. We would urge the Department to consider the unintended water quality consequences that could occur should we have to comply with arbitrary conditions restricting water use.

Finally, in the *Fairhaven*¹ case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. We believe that the drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought.

The Commission strongly believes it has been shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade our water system. The Commission requests MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.

Sincerely,

 Daniel F. O'Neill, P.E.

Daniel F. O'Neill, P.E.
Executive Director

cc: Mayor Jared Nicholson
State Senator Brendan Crighton
State Representatives Daniel Cahill, Peter Capano, Donald Wong

¹ *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010)



MANCHESTER-BY-THE-SEA

DEPARTMENT OF PUBLIC WORKS

TOWN HALL, 10 CENTRAL STREET

Manchester-by-the-Sea, Massachusetts 01944-1399

Telephone (978) 526-1242

FAX (978) 526-2007

November 17, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations
VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

I am the responsible party of the Manchester by the Sea Public Water System 3160000 as well as a member of Massachusetts Water Works Association (MWWA) and wish to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. Wise water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is overreaching and unnecessary. I support the comments that are being submitted by MWWA, and like MWWA, urge MassDEP to withdraw these proposed regulations.

While not required to by any regulatory mandate, our system has an established an aggressive increasing block rate structure that promotes conservation and keeps our use within our registered limits. While this system works well for us, it is not for everyone. Furthermore, to undo it would have serious unintended consequences to all of our rate payers in the form of higher rates at the lower tiers. Along with subsidizing the lower tiers, the increased rates at higher tiers are figured into our capital planning. Consequently, capital planning would likely be paused and/or critically delayed. Being one of the oldest towns and systems in Massachusetts, the majority of our system was installed in the late 1800's. It is imperative that our capital projects continue as scheduled.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has very sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. Even in the drought of 2020 and 2016 our reservoir levels remained stable. As we watch these levels regularly, had there been a reason, we would not have hesitated to issue restrictions on our own at the Town level.

In fact, during the 2022 drought the Town voluntarily imposed mandatory outdoor water use restrictions. We did not do this because our reservoir was low, but rather to be proactive with our supply, ensure our water resilience and to promote good stewardship of our environment. We did not need to be regulated to do so. Going through the 2022 drought it also became apparent that the state metric is unable to move in and out of declarations to respond to local conditions. Its likely by design and for some other good reason, however, in practice at the local level it becomes confusing and a great point of contention between the water suppliers and our customers. Moreover, the non-essential outdoor use associated with irrigation should be limited to the actual season where irrigation is needed and not lumped with other outdoor use that becomes essential in the fall. Its apparent there needs to be more concise guidance and language to make a meaningful impact, which is better done at the local level.

We fully support having a local drought management plan and are hoping DEP and the State may make funding of these studies a priority. While MassDEP is providing an exemption from following the MA Drought Management Plan, the criteria for exemption, especially the requirement for multi-year storage of no less than three times a Registrants authorized withdrawal, makes it such that only one Public Water System in the state will likely qualify for an exemption. Surface water and/or groundwater Public Water Systems should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for exemption.

Our core responsibility as water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months. We would urge the Department to consider the unintended water quality consequences that could occur should we have to comply with arbitrary conditions restricting water use.

Finally, in the Fairhaven¹ case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. The drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought. Also, Section 3 of MGL 21 G requires consultation with the Water Resources Management Advisory Committee which MassDEP has not done since members of the Committee have not been appointed by the governor.

The Town of Manchester by the Sea believes it has shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade our water system. Manchester requests MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.

If you have any questions or would like additional information about our resources, feel free to contact me at dame@manchester.ma.us or by phone at 978 526-1242.

All the Best,



Charles J. Dam P.E.
Director of Public Works

Cc: Greg Federspiel, Town Administrator
Nate Desrosiers – Town Engineering

¹ *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010)



Milford Water Department

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www.milfordwater.com

November 3, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations

VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

I am a member of Massachusetts Water Works Association (MWWA) and wish to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. Wise water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. I support the comments that MWWA submitted in July of 2021 and our concerns still stand. I urge MassDEP to withdraw these proposed regulations and instead ask systems to develop their own system-specific drought management plan.

While not required to by any regulatory mandate, our system has an established Drought Management Plan which has been in place since June 2003. We, like many systems in our area have managed our water supply appropriately year after year, and therefore conditions placed upon our Registration are unnecessary.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. While MassDEP is providing an alternative approach from following the MA Drought Management Plan, the criteria make it such that only MWRA would qualify. The requirement for multi-year storage of no less than three times a Registrant's authorized withdrawal has no scientific basis and

that is problematic. The addition of the new language that excludes water below the intake elevations further limits our ability to even have a conversation about using our own drought plan instead of defaulting to the state's plan. Surface water and/or groundwater Public Water Systems should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for review and approval.

While MassDEP made slight changes to the definition of Non-Essential Outdoor Water Use within the re-noticed regulations, we would urge you to adopt the more comprehensive definition proposed by MWWA when they commented last July. Further, we understand that MassDEP is interested in comments regarding the exemption to public parks and recreation fields within the definition. Communities have made significant investments in their parks and recreation fields and should be allowed to water them if they have the capacity to do so in order to maintain that investment.

Our core responsibility as water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities, for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months.

Finally, in the *Fairhaven*¹ case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. We believe that the drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought.

Milford Water Department believes it has been shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade our water system. Milford Water Department requests MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.

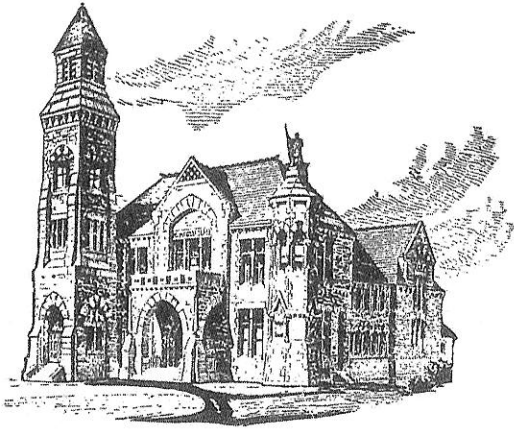
¹ *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010)

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Condrey". The script is cursive and fluid, with the first name "David" and last name "Condrey" clearly distinguishable.

David L. Condrey
General Manager

cc: Town Administrator - Richard A. Villani, Esq.
Acting Town Counsel – Gerald M. Moody, Esq.
Water Commission Chair – Jonathan Bruce
Senator Ryan C. Fattman
Representative Brian W. Murray



Select Board

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Monson, Massachusetts 01057

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Phone: 413-267-4100

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November 1, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations
VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

We, the members of the Monson Selectboard and the Monson Water & Sewer Commission, wish to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. Wise water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. We continue to support the comments that we and MWWA submitted in July of 2021 and our concerns still stand. We urge MassDEP to withdraw these proposed regulations and instead ask systems to develop their own system-specific drought management plan.

From MassDEP's registration renewal statement from 2021, Monson's allocated registered withdrawal amount is 0.92 MGD (million gallons per day) or 336.49 MGY (million gallons per year) as established in 1986. That is the **maximum** we are allowed to pump from our aquifer, the Chicopee River Water Basin.

Year	Total Pumped	% of Max	RGPCD*	Water Rate
1987	237.2 MG	70%	-	\$0.75/1000 gal
1997	206.1 MG	61%	-	\$1.32/1000 gal
2007	172.2 MG	51%	58	\$3.70/1000 gal
2016**	145.3 MG	43%	53	\$4.85/1000 gal
2020**	128.9 MG	39%	51	\$5.60/1000 gal
2021**	116.3 MG	34%	48	\$5.60/1000 gal

* = Residential Gallons per Capita Day ** = precipitation deficit year

While not required to by any regulatory mandate, our system has significantly reduced our water usage over the decades. This has been accomplished by multiple efforts including pipeline replacements, aggressive leak detection, plumbing fixture improvements, public education and natural conservation via the water rate. Our water system has gone from using primarily a single well to supply the Town in 1987 to now operating four wells to meet a lower demand in 2021 thereby reducing the environmental impact and increasing our resiliency. Variable frequency drives at two of the four wells provide flexibility and the ability to tune their output for maximum wire to water efficiency. All four wells have large diameter well casings but downsized pumps which equates to lower pumping velocities and extended well and pump life. We instituted a Water Supply Protection District Bylaw and Impervious Surface limitations to help protect our sources and maintain and improve our aquifer recharge capability. In short, the Chicopee River Basin is in much better shape now than it was 30 years ago and in 1986 it was already considered a *low stress basin*. There is no environmental science to justify conditioning our registrations and restricting water use in our community. We have been able to manage our water supply appropriately, and therefore conditions placed upon our Registration are unnecessary.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. Monson's pumping and drawdown data from 2016, 2020 and 2021 (supposed drought years) demonstrate normal levels and an over-abundance of capacity. Imposing restrictions on a system that is operating at less than 45% of its withdrawal volume is simply conservation for no purpose. If the goal is to conserve for the sake of conservation, then shouldn't all systems have to abide by the same rule? While MassDEP is providing an alternative approach from following the MA Drought Management Plan, the criteria make it such that only MWRA would qualify. The requirement for multi-year storage of no less than three times a Registrants authorized withdrawal has no scientific basis and that is problematic. The addition of the new language that excludes water below the intake elevations further limits our ability to even have a conversation about using our own drought plan instead of defaulting to the state's plan. Surface water and/or groundwater Public Water Systems should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for review and approval.

While MassDEP made slight changes to the definition of Non-Essential Outdoor Water Use within the re-noticed regulations, we would urge you to adopt the more comprehensive definition proposed by MWWA when they commented last July. Further, we understand that MassDEP is interested in comments regarding the exemption to public parks and recreation fields within the definition. Communities have made significant investments in their parks and recreation fields and should be allowed to water them if they have the capacity to do so in order to maintain that investment.

The proposed regulations will cause a financial hardship for our utility and may impact our ability to undertake other infrastructure improvements that could more meaningfully enhance our water system's resiliency. As an exercise, the water rate for FY2022 was re-calculated with the mandatory restrictions in place from the beginning of April to the end of September. The methodology we used differs in that our typical billed usage estimates are conservative, based on wet years with lower usage. However, a year with restrictions would equate to less usage than a wet year because even during a wet year it does not rain every day. There is watering and car washing going on in between and that difference is quite significant. The billed usage estimates dropped from 90 MG to 77 MG (a difference of 13 MG) and left a budget shortfall of \$72,000 at the present water rate of \$5.60/1000 gal. To recoup that shortfall a rate increase of \$0.95/1000 gal (17% increase to \$6.55!) would be required. The major issue with that scenario is once our registration is conditioned the rate increase would be mandatory as we cannot deficit spend and if the possibility of a drought declaration exists, we must account for it. That is a huge increase for our ratepayers for no gain in services, no infrastructure improvement and as we pointed out earlier, no quantifiable environmental benefit which in turn could build resentment to future needed increases for infrastructure or water treatment systems. The financial aspect of the proposed restrictions cannot be overstated. The less water we sell the more we must charge to recoup the loss. MassDEP must certainly face a similar situation when calculating the Safe Drinking Water Assessment. Has MassDEP given any thought to the impact of the restrictions on that calculation, or will that be passed along to the water systems in Massachusetts as well?

The core responsibility of water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months. Disinfection by-product compliance has never been an issue in Monson. However, with water restrictions we will be entering uncharted territory. We have 1.5 MG of water storage and without our normal summer usage we may be faced with the ludicrous scenario of restricting water use due to a drought declaration and simultaneously flushing water from hydrants to maintain water quality compliance. We would urge the Department to consider the unintended water quality consequences that could occur should we have to comply with arbitrary conditions restricting water use.

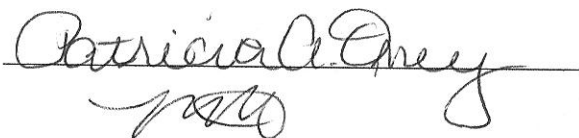
Finally, in the *Fairhaven*¹ case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. We believe that the drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought.

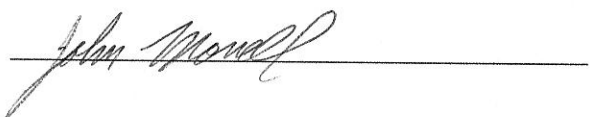
¹ *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010)

We, the Monson Selectboard and Monson Water & Sewer Commission, believe we have shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade the Town of Monson's water system. We respectfully request MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.


Sincerely,


Monson Selectboard






Monson Water & Sewer Commission







cc: Senator Ryan Fattman
Representative Brian Ashe



MASSACHUSETTS WATER RESOURCES AUTHORITY

Charlestown Navy Yard
100 First Avenue, Building 39
Boston, MA 02129

Frederick A. Laskey
Executive Director

Telephone: (617) 242-6000
Fax: (617) 788-4899
TTY: (617) 788-4971

November 18, 2022

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Program,
One Winter Street, 5th floor,
Boston, MA 02108

Submitted electronically via: dep.talks@mass.gov, Subject Line: WMA Regulations

Subject: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations

Dear Commissioner Suuberg:

Thank you for the opportunity to review and comment on the Massachusetts Department of Environmental Protection's (MassDEP) proposed revisions to the Water Management Act (WMA) regulations (310 CMR 36.00). The changes are designed to require more uniform mandatory restrictions on non-essential water use based on regional triggers in the Massachusetts Drought Response Plan.

The Massachusetts Water Resources Authority (MWRA) provides drinking water from the Quabbin and Wachusett Reservoirs in central Massachusetts to customers in 53 communities spanning several of the state's drought regions. When the WMA registrations were determined based on demand in the early 1980's, the MWRA system was withdrawing an average of just over 312 million gallons per day (mgd), and thus MWRA is registered for that amount. MWRA's current water withdrawals are now around 200 mgd, which is roughly a 35 percent reduction, despite adding eight additional communities to the MWRA water system, and several hundred thousand additional residents after the enactment of the WMA.

MWRA supports and appreciates that MassDEP has recognized that water suppliers can have very different circumstances, and has provided some flexibility in its approach to managing drought. MassDEP's approach identifies one key characteristic that would suggest that a water system would perform very differently during drought conditions than the typical system in its geographic region – the amount of reservoir capacity to store water during wetter years for use during drier periods. MWRA's sources meet the specific proposed definition of "Multi-Year Drought Storage" contained in the proposed regulations at 310 CMR 36.03. The proposed regulations allow systems meeting the storage requirements to manage their systems during drought using their local drought plans. MWRA believes that its MassDEP-approved drought plan meets the proposed specific requirements of 310 CMR 36.07(2)(c)3 in the proposed regulations.

Our specific comments on the proposed regulations text are as follows:

36.03: Definitions; Multiyear Drought Storage

This highlighted sentence below should be clarified.

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. 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.

In the highlighted sentence, MWRA believes that MassDEP is suggesting two separate limitations – first, only including storage above the intake, and second, not including any storage that requires an emergency declaration. In this regard, the sentence would be clearer if the second clause read “... and does not include any storage that requires an emergency declaration or order to use.”

36.07(2)(c): Registrations

36.07(2)(c)(4) appears to be misplaced. As currently positioned, it appears to cover all registrants, while it should not cover those with multi-year storage and accepted local drought plans, as discussed in 36.07(2)(c)(3). The type of restrictions and timing would be governed by the accepted drought plan, not by the Secretary's drought declaration nor the actions required by 36.07(1) or 36.07(2) above. MWRA recommends switching the order of 36.07(2)(c)(3) and 36.07(2)(c)(4) for clarity.

36.07(2)(c)(3)(e): It is not clear why only those with multi-year storage would have the regulatory requirement to “monitor and document water use reductions.” If the system with multi-year storage is following its accepted drought plan triggers and response actions that would seem adequately parallel with all other systems following the Secretary's drought stage declarations and following the specific actions in section 36.07(2)(c)(1) and 36.07(2)(c)(2).

36.07(2)(c)(5): If MassDEP intends to “impose planning, recording, and reporting requirements,” MWRA believes that these requirements should have been defined in the proposed regulations and subject to public review and comment, rather than left open ended.

As the WMA regulations have evolved as discussed at the Water Resources Commission and at the WMA Advisory Committee, MWRA believes that over time they have lost some flexibility. Water resource planning and operation is subject to the vagaries of weather, climate, changes in demand patterns and other circumstances and requires flexibility to be resilient and effective. We appreciate MassDEP's movement in this direction and hope that further changes would continue to provide this flexibility and avoid narrowly drafted language that would make it much more difficult to adapt to the specific local conditions during a specific set of drought conditions. MWRA believes that the WMA regulations should allow for some degree of collaboration and commonsense by state officials, water providers and users.

While all systems with only WMA registrations are using less water now than when the WMA was passed nearly 40 years ago, another important characteristic is not mentioned in the proposed regulations, specifically the degree to which any system is below its reliable (or “safe”) yield. Water systems with demand below their individual system safe yield would, by definition, be expected to perform well in droughts as severe as the drought of record used in determining that safe yield. The proposed regulations are notably silent on this important aspect of water system reliability, and impose uniform levels or restrictions on system regardless of their specific system resiliency.

If MassDEP needs clarification on any of these comments, MWRA would be happy to provide additional detail or respond to any questions. Feel free to contact Stephen Estes-Smargiassi at smargias@mwra.com.

Sincerely,

A handwritten signature in blue ink, appearing to read 'D. Coppes', with a horizontal line underneath.

David W. Coppes, P.E.
Chief Operating Officer

Cc: Fred Laskey, Executive Director

Joseph Favaloro, MWRA Advisory Board Executive Director

Rebecca Weidman, Director of Environmental and Regulatory Affairs



TOWN OF NEEDHAM

TOWN HALL
Needham, MA 02492-2669

Office of the
TOWN MANAGER

TEL: (781) 455-7500
FAX: (781) 449-4569

November 18, 2022

Via email only (dep.talks@mass.gov)

Department of Environmental Protection
Water Management Program
Attn: WMA Regulations
One Winter Street
Boston, MA 02108

Re: **Proposed Amendments to the Water Management Act Regulations**

Dear Department Staff,

On July 26, 2021, the Town of Needham submitted comments on the Department of Environmental Protection's proposed *Water Management Act* (WMA) regulations, published June 2, 2021, containing significant additions to 310 CMR 36.07, Registration Conditions, including requiring restrictions on "Nonessential Outdoor Use" during declared droughts.¹ Although the Department made some additional changes to the draft regulations since 2021, we believe that the the draft regulations continue to infringe upon the Town's registration rights and are inconsistent with the State's strategy for creating resiliency as the climate changes. The Town resubmits its original comments for consideration by the Department.

The Town of Needham respectfully requests that the Department abandon its proposed regulations and work with communities to develop regulations that maintain registrants' rights while promoting resiliency.

Respectfully submitted,

Kate Fitzpatrick
Town Manager

Encl.

¹ The Town of Needham's comments are available in the package on DEP's website and attached hereto.



TOWN OF NEEDHAM
TOWN HALL
Needham, MA 02492-2669

Office of the
TOWN MANAGER

TEL: (781) 455-7500
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July 26, 2021

By email: dep.talks@mass.gov

Massachusetts Department of Environmental Protection
Bureau of Resource Protection
Water Management Program
One Winter Street, 5th floor
Boston, MA 02108

Dear Department Staff:

The Town of Needham hereby submits its comments on the Department's proposed *Water Management Act* (WMA) regulations, published June 2, 2021, containing significant additions to 310 CMR 36.07, Registration Conditions, including requiring restrictions on "Nonessential Outdoor Use" during declared droughts. These regulations represent a significant change for the Department, which, less than four years ago, determined that placing water conservation restrictions on registrants would "likely result in little actual water savings" and, at worst, "remove their incentive to keep their overall demand below their registered volume." Department of Environmental Protection, Response to Massachusetts Rivers Alliance Request for Adoption of Rules at 10 (Sept. 22, 2017). Some of the factors that gave rise to the Department's 2017 determination, as well as some additional ones, lead us to conclude that the proposed regulations should not be adopted in their current form.

I. The Department Has Failed to Comply with M.G.L. c.21G, §3 in Developing Its Proposed Regulations.

The available public information suggests that the proposed regulations were developed without following the procedures prescribed by section 3 of the WMA, which requires that any such proposal be developed "after consultation with" and "with the advice of" the Water Resources Management Advisory Committee. That Committee is required to "review the development of...regulations for water resources management and shall...supply recommendations concerning methods by which existing water management practices and the laws regulating them may be supplemented and improved and their administration financed."

For the Department to have the necessary consultation with the Advisory Committee, the Committee itself must have, in fact, deliberated such that it can provide its substantive opinions. As a public body, the Advisory Committee cannot deliberate to form such an

opinion except at a meeting that complies with the *Open Meeting Law*. M.G.L. c.30A, §20. To the Town's knowledge, no such meeting has taken place.¹

II. The Department's Proposed Regulations Would Infringe upon the Town's Registration Rights.

In *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010), the Supreme Judicial Court ruled that the Department can place conditions on WMA registrations only if (1) it first adopts regulations authorizing the conditions; and (2) the conditions do not "infringe" on registrants' right to withdraw water.² Under the *Fairhaven* decision, the Department cannot impose water conservation restrictions on Needham's WMA Registration Statement, at least as long as the Town is not exceeding the withdrawal volumes that it is entitled to under its registration. Yet the introduction of water restrictions in the Department's proposed regulations at 310 CMR 36.07(2)(c) purport to do just that.

The SJC recently reaffirmed the central holding of the *Fairhaven* decision in *Town of Concord v. Water Dep't of Littleton*, 487 Mass. 56, 61 (2021). In that decision, the Court explained that, "[i]f a registrant timely filed a registration statement and renewals, the registrant was entitled to existing withdrawals." (emphasis added). "By registering and timely renewing, a registrant 'may continue forever to withdraw water at the rate of its existing withdrawal [at the time of its initial registration statement],' except in the case of a declared water emergency." *Id.* at 61-62 (citing *Fairhaven*).

These SJC decisions highlight an important distinction between permittees (which must abide by conservation restrictions) and registrants. The latter are entitled by their Registration Statements to withdraw no more water today than they were in the period from 1981-85.³ Permittees, in contrast, have received permission to undertake new withdrawals that did not exist in 1981-85. It makes sense that these new withdrawals came with strict conditions. To that end, "[w]ithdrawal by registration is treated very differently from withdrawal by permit." *Fairhaven*, 455 Mass. at 747. But the proposed regulations fail to honor this distinction.

III. The Proposed Regulations Are Inconsistent with the Executive Office's Overall Strategy for Creating Resilience as the Climate Changes.

¹ This procedural error be erased by convening the Committee, holding a meeting in conformance with the *Open Meeting Law*, and obtaining a vote on the Department's fully formed regulations. Rather, the WMA requires that the regulations be developed "after consultation with" the Committee—not before—and with its active participation and advice.

² While the Court did not expressly determine whether the Department's conservation measures would have infringed upon registrants' withdrawal rights if they had been imposed via regulation, 455 Mass. at 749 ("[T]he conservation measures imposed on the plaintiff registrants as 'registration conditions' might have been lawful if they had been imposed by regulation on all registrants....") (emphasis added), it did make clear that "limiting a registrant's water use to less than the existing withdrawal," even by regulation, would infringe those rights. *Id.*

³ MassDEP, *Fact Sheet: Water Management Act – Registration and Permitting*, available at <https://www.mass.gov/service-details/fact-sheet-water-management-act-registration-and-permitting>.

Putting aside, for the moment, the Department's procedural issue and its noncompliance with the holdings in the *Fairhaven* and *Concord* decisions, the Town does not understand how the proposed regulations are an appropriate strategy for dealing with droughts brought about by climate change. According to EEA's Climate Clearinghouse for the Commonwealth⁴:

[C]ommunities, sectors and individuals have the ability to address many climate-related risks, reduce negative impacts, and take advantage of possible opportunities that may arise from the changing climate.

Planning for climate change is much like any other planning for any other effort, it is a process. Typically, the process includes these steps:

1. Determine your focus
2. Determining risks and vulnerabilities
3. Identifying and selecting options [to] address risks and vulnerabilities
4. Formulate an implementation plan
5. Implement
6. Assess results.

The Clearinghouse asks communities to “assess...how to create resiliency as the climate changes (adaptation),”⁵ but the regulations do not ask public water suppliers to do that at all. Instead, they immediately compel public water suppliers to force their customers to undertake strategies⁶ that will inevitably exacerbate the impacts of drought and do nothing to promote resiliency.⁷

According to the Clearinghouse⁸:

⁴ Resilient MA, *Plan Development*, available at <https://resilientma.org/actions/planning>

⁵ *Id.*

⁶ The Department's confidence in these strategies is certainly called into question by the broad and sweeping exceptions built into the proposed definition of “nonessential outdoor water use,” which seeks to classify water uses based on the Department's view of their necessity, rather than based on their environmental impact.

⁷ As noted, as recently as four years ago, the Department itself acknowledged that subjecting registrants to conditions similar to permit conditions, along with being unnecessary, could even increase usage by incentivizing registrants to apply for permits.

Registered-only water systems have not increased their demands in 35 years and most have significantly reduced their demand over time.... Imposing water conservation conditions on registered-only systems...will remove their incentive to keep their overall demand below their registered volume.

Response to Massachusetts Rivers Alliance Request for Adoption of Rules at 10.

⁸ Resilient MA, *Take Action*, available at <https://resilientma.org/actions>

Climate change is among the greatest environmental challenges of this generation, with potentially profound effects on the economy, public health, water resources, infrastructure, coastal resources, energy demand, natural resources, and recreation. The Commonwealth of Massachusetts is committed to doing its part to mitigate and adapt to this challenge, recognizing the necessity of engaging in adaptation planning today by taking a close look at strategies that could help the state become more resilient and ready to adapt to climate change as it occurs.

Clearly, achieving climate change resiliency is far more complicated than placing restrictions on water uses that the Department deems to be non-essential. The proposed regulations represent only the same strategy that the Department has pushed on WMA permittees for years.⁹

For the foregoing reasons, the Town of Needham respectfully requests that the Department abandon its proposed regulations and utilize the extra time afforded by the Governor's COVID 19 Executive Order 42 to work with communities to develop resiliency plans that follow the leadership of the Executive Office of Energy and Environmental Affairs, as expressed in its Climate Clearinghouse for the Commonwealth.

Thank you for your courtesy and attention to these comments.

Very truly yours,



Kate Fitzpatrick
Town Manager

cc: Ray Miyares, Esq.
Carys Lustig, Director of Public Works
Select Board

⁹ <https://www.mass.gov/doc/water-use-restrictions-map/download>. Indeed, Needham gave up its WMA permit in 2018, thereby lowering its overall authorized water withdrawals, precisely because it wished to avoid the onerous and cumbersome water ban requirements set forth in its permit.



Office of the Town Manager
16 Lowell Street
Reading, MA 01867

781-942-9043
townmanager@ci.reading.ma.us
www.readingma.gov/town-manager

11/01/2022

Via email only (Duane.LeVangie@state.ma.us)

Water Resources Management Advisory Committee
c/o Duane LeVangie
One Winter Street
Boston, MA 02108

Re: Proposed Amendments to the Water Management Act Regulations

Dear Water Resources Management Advisory Committee,

On July 26, 2021, the Town of Reading submitted comments on the Department of Environmental Protection's proposed *Water Management Act* (WMA) regulations, published June 2, 2021, containing significant additions to 310 CMR 36.07, Registration Conditions, including requiring restrictions on "Nonessential Outdoor Use" during declared droughts.¹ The Town's comment letter highlighted the Department's failure to convene the Water Resources Management Advisory Committee, as required by *M.G.L. c.21G*, §3, and triggered the Department to reconstitute your body. However, the Department patently ignored the Town's comments that the proposed regulations infringe upon the Town's registration rights, conflict with the Executive Office's overall strategy for creating resilience as the climate changes, and do little to nothing to improve water management in the Town. As such, the Town respectfully requests that the Advisory Committee formally recommend that the Department revise the proposed regulations to comply with the WMA and address the Town's stated concerns.

The proposed regulations are a significant about-face for the Department, which previously determined that placing water conservation restrictions on registrants would, at best, "likely result in little actual water savings" and would, at worst, "remove their incentive to keep their overall demand below their registered volume." Department of Environmental Protection, Response to Massachusetts Rivers Alliance Request for Adoption of Rules at 10 (Sept. 22, 2017). No

¹ A copy of the Town's comment letter is attached.

information presented to date justifies the need for the regulations to be adopted in their current form.

The Advisory Committee plays a critical role in the development of the WMA regulations. Section 3 of the WMA states that the “committee *shall* review the ... rules and regulations for water resource management and *shall* supply recommendations concerning methods by which existing water management practices and the laws regulating them may be supplemented and improved and their administration financed.” (Emphasis added). The Advisory Committee is therefore obligated to make a formal recommendation – voted on by its members – to the Department, concerning the proposed regulations.

The Town requests that the Advisory Committee urge the Department to abandon its proposed regulations and work with the Advisory Committee and communities to develop resilience plans for the management of this precious resource.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Fidel M.", written in a cursive style.

Fidel Maltez
Town Manager

Encl.



Office of the Town Manager
16 Lowell Street
Reading, MA 01867

781-942-9043
townmanager@ci.reading.ma.us
www.readingma.gov/town-manager

To: Massachusetts Department of Environmental Protection
From: Town of Reading
Date: July 26, 2021
RE: Reading Coalition for Prevention and Support
CC: Town Counsel Ray Miyares

By email: dep.talks@mass.gov

Massachusetts Department of Environmental Protection
Bureau of Resource Protection
Water Management Program
One Winter Street, 5th floor
Boston, MA 02108

Attention: WMA Regulations

Dear Department Staff:

The Town of Reading hereby submits its comments on the Department's proposed *Water Management Act* (WMA) regulations, published June 2, 2021, containing significant additions to 310 CMR 36.07, Registration Conditions, including requiring restrictions on "Nonessential Outdoor Use" during declared droughts.

These regulations represent a significant about-face for the Department, which, less than four years ago, determined that placing water conservation restrictions on registrants would, at best, "likely result in little actual water savings" and would, at worst, "remove their incentive to keep their overall demand below their registered volume." Department of Environmental Protection, Response to Massachusetts Rivers Alliance Request for Adoption of Rules at 10 (Sept. 22, 2017). Some of the factors that gave rise to the Department's 2017 determination, as well as some additional ones, lead us to conclude that the proposed regulations should not be adopted in their current form.

I. The Department Has Failed to Comply with M.G.L. c.21G, §3 in Developing Its Proposed Regulations.

The available public information suggests that the proposed regulations were developed without following the procedures prescribed by section 3 of the WMA, which requires that any such proposal be developed "after consultation with" and "with the advice of" the Water Resources

Management Advisory Committee. That Committee is required to “review the development of...regulations for water resources management and shall...supply recommendations concerning methods by which existing water management practices and the laws regulating them may be supplemented and improved and their administration financed.”

For the Department to have the necessary consultation with the Advisory Committee, the Committee itself must have, in fact, deliberated in order to provide its substantive opinions. As a public body, the Advisory Committee cannot deliberate to form such an opinion except at a meeting that complies with the *Open Meeting Law*. M.G.L. c.30A, §20. To the Town’s knowledge, no such meeting has taken place.¹

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The SJC recently reaffirmed the central holding of the *Fairhaven* decision in *Town of Concord v. Water Dep’t of Littleton*, 487 Mass. 56, 61 (2021). In that decision, the Court explained that, “[i]f a registrant timely filed a registration statement and renewals, the registrant was entitled to existing withdrawals.” (emphasis added). “By registering and timely renewing, a registrant ‘may continue forever to withdraw water at the rate of its existing withdrawal [at the time of its initial registration statement],’ except in the case of a declared water emergency.” *Id.* at 61-62 (citing *Fairhaven*).

These SJC decisions highlight an important distinction between permittees (which must abide by conservation restrictions imposed by DEP) and registrants. The latter are entitled by their Registration

¹ This procedural error cannot be erased by convening the Committee, holding a meeting in conformance with the *Open Meeting Law*, and obtaining a vote on the Department’s fully formed regulations. Rather, the WMA requires that the regulations be developed “after consultation with” the Committee—not before—and with its active participation and advice.

² While the Court did not expressly determine whether the Department’s conservation measures that were challenged in that case would have infringed upon registrants’ withdrawal rights if they had been imposed via regulation, 455 Mass. at 749 (“[T]he conservation measures imposed on the plaintiff registrants as ‘registration conditions’ might have been lawful if they had been imposed by regulation on all registrants...”.) (emphasis added), it did make clear that “limiting a registrant’s water use to less than the existing withdrawal,” even by regulation, would infringe those rights. *Id.*

³ As noted below, the Town is already subject to orders and conditions imposed outside of the WMA registration process, resulting in water restrictions that are in place year-round. Thus, the proposed regulations will have very little practical impact on water management in Reading, other than to add to the Town’s administrative and paperwork burden.

Statements to withdraw no more water today than they were in the period from 1981-85.⁴ Permittees, in contrast, have received permission to undertake new withdrawals that did not exist in 1981-85. It makes sense that these new withdrawals came with strict conditions. To that end, “[w]ithdrawal by registration is treated very differently from withdrawal by permit.” *Fairhaven*, 455 Mass. at 747. But the proposed regulations fail to honor this distinction.

III. The Proposed Regulations Are Inconsistent with the Executive Office’s Overall Strategy for Creating Resilience as the Climate Changes.

Putting aside, for the moment, the Department’s procedural missteps and its noncompliance with the holdings in the *Fairhaven* and *Concord* decisions, the Town does not understand how the proposed regulations are an appropriate strategy for dealing with droughts brought about by climate change. According to EEA’s Climate Clearinghouse for the Commonwealth⁵:

[C]ommunities, sectors and individuals have the ability to address many climate-related risks, reduce negative impacts, and take advantage of possible opportunities that may arise from the changing climate.

Planning for climate change is much like any other planning for any other effort, it is a process. Typically, the process includes these steps:

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The Clearinghouse asks communities to “assess...how to create resiliency as the climate changes (adaptation),”⁶ but the regulations do not ask public water suppliers to do that at all. Instead, they immediately compel public water suppliers to force their customers to undertake strategies⁷ that will inevitably exacerbate the impacts of drought and do nothing to promote resilience.⁸

⁴ MassDEP, *Fact Sheet: Water Management Act – Registration and Permitting*, available at <https://www.mass.gov/service-details/fact-sheet-water-management-act-registration-and-permitting>.

⁵ Resilient MA, *Plan Development*, available at <https://resilientma.org/actions/planning>.

⁶ *Id.*

⁷ The Department’s confidence in these strategies is certainly called into question by the broad and sweeping exceptions built into the proposed definition of “nonessential outdoor water use,” which seeks to classify water uses based on the Department’s view of their necessity, rather than based on their environmental impact. The Town questions whether it is appropriate for the Department to be engaging in such forms of social engineering.

⁸ As noted, as recently as four years ago, the Department itself acknowledged that subjecting registrants to conditions similar to permit conditions, along with being unnecessary, could even increase water usage by incentivizing registrants to apply for permits.

According to the Clearinghouse⁹:

Climate change is among the greatest environmental challenges of this generation, with potentially profound effects on the economy, public health, water resources, infrastructure, coastal resources, energy demand, natural resources, and recreation. The Commonwealth of Massachusetts is committed to doing its part to mitigate and adapt to this challenge, recognizing the necessity of engaging in adaptation planning today by taking a close look at strategies that could help the state become more resilient and ready to adapt to climate change as it occurs.

Clearly, achieving climate change resiliency is far more complicated than placing restrictions on water uses that the Department deems to be non-essential. The proposed regulations represent only the same strategy that the Department has pushed on WMA permittees for years¹⁰ with little obvious impact on low-streamflow watersheds.

IV. Conditioning Registration Statements Will Do Little or Nothing to Improve Water Management in the Town of Reading

The WMA's purposes are laid out in *M.G.L. c.21G, §3*, and include water management and conservation for the purpose of ensuring "an adequate volume and quality of water for all citizens of the commonwealth, both present and future." By prescribing a single water management strategy for all communities, however, the proposed regulations squander the Department's opportunity to take advantage of the unique circumstances of each community.

In the case of Reading, the Town's water management practices are prescribed by:

- An Administrative Consent Order, dated August 1, 2006, as amended;
- The Town's Interbasin Transfer Permit, approved July 12, 2007;
- The Town's current Renewal Registration Statement¹¹ effective January 1, 2008; and

Registered-only water systems have not increased their demands in 35 years and most have significantly reduced their demand over time.... Imposing water conservation conditions on registered-only systems...will remove their incentive to keep their overall demand below their registered volume.

Response to Massachusetts Rivers Alliance Request for Adoption of Rules at 10.

⁹ Resilient MA, *Take Action*, available at <https://resilientma.org/actions>

¹⁰ MassDEP, *Current Municipal Water Use Restrictions*, available at <https://www.mass.gov/doc/water-use-restrictions-map/download>.

¹¹ While the conditions set forth in the Department's "approval" of Reading's Renewal Registration Statement were invalidated by the *Fairhaven* decision, compliance with those conditions nevertheless appears to be compelled by the Administrative Consent Order.

- The Town's Contract with the MWRA presently in effect, 2016-2026

The combined effect of these restrictions is that Reading already imposes year-round restrictions on outdoor water use.¹² At best, therefore, the Department's proposed regulations will be superfluous, as they will have no discernible effect on the Town's water management practices. However, to the extent there is any impact from these regulations, it will be to complicate and confuse the Town's implementation of its water conservation efforts and to increase the Town's already substantial administrative and paperwork burden.

* * *

For the foregoing reasons, the Town of Reading respectfully requests that the Department abandon its proposed regulations and utilize the extra time afforded by the Governor's COVID 19 Executive Order No. 42 to work with communities to develop resilience plans that follow the leadership of the Executive Office of Energy and Environmental Affairs, as expressed in its Climate Clearinghouse for the Commonwealth.

Thank you for your courtesy and attention to these comments.

Respectfully submitted,



Robert W. LeLacheur, Jr. CFA

Town Manager

¹² These year-round mandatory outdoor water use restrictions have been in effect since 2007. Outdoor water use is restricted Monday through Sunday to 4am-9am and 5pm-8pm, even numbered properties on even days of the month and odd numbered properties on odd days of the month. There is no restriction on hand-held watering devices.

SALEM AND BEVERLY WATER SUPPLY BOARD

ALAN F. TAUBERT, JR, P.E. - EXECUTIVE DIRECTOR

BRADLEY E. PERRON – DEPUTY DIRECTOR

50 ARLINGTON AVENUE, BEVERLY, MA 01915-1035

Tel. (978) 922-2600

Fax (978) 921-4584

November 18, 2022

(via Email)

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

Subject: Proposed Amendments to 310 CMR 36.00 –WMA Regulations

The Salem and Beverly Water Supply Board maintains a Water Management Act (MWA) Registration and is directly impacted by the proposed amendments to the WMA Regulations (310 CMR 36.00) by the Department of Environmental Protection (“the Department”) to impose mandatory conservation conditions on all Water Management Act Registrants by a drought declaration by the Secretary of the Executive Office of Energy and Environmental Affairs (“Secretary”).

In the proposed amendments, the alignment of mandatory water use restrictions upon a regional drought declaration is improper use of guidelines, through the Massachusetts Water Conservation Standards, that originally had that intent to provide guidance and actions consistent with best practices and incorporate them into the triggers associated with the Massachusetts Drought Management Plan.

As noted by the intent of the current document, the fundamental basis and framework of the 2019 Drought Management Plan is to provide structure to the actions of state agencies and provide guidance to their permitting activities. Section 8 of the Massachusetts Drought Management Plan (“Drought Preparedness and Response Actions – Guidance for Communities”) highlights that the intended audiences (municipalities and/or public water systems) of this section can and should have procedures in place to prepare for the risks that a drought may have on an individual system.

Additionally, the 2019 Massachusetts Drought Management Plan highlights the authority that the Department currently possesses “for addressing water supply shortage emergencies is derived from the Water Management Act, M.G.L. c. 21G, §§ 15-17, and from M.G.L. c. 111, § 160, related to ensuring the provision of safe drinking water”. Under this authority, the Department is limited to declaring an emergency for a petitioning municipality or area serviced by a specific positioning public water system.

Any declaration made below an “Emergency Level” criterion should be considered as a recommendation to the Governor for potential impact beyond a specific basin, unless outlined within the conditions of a permit issued by a specific agency. Affirmed in the *Fairhaven* case, the Supreme Judicial Court ordered that the Department could not infringe upon the Registrants’ entitlement to existing withdrawals unless otherwise legislated. As far back as 1988, the Executive Office of Environmental Affairs (as referred) provided notice that these “existing withdrawals” are to be grandfathered under the registration phase, which ended on January 4, 1988. As such, previous registrations should reside outside of the permit process of the Department.

In the specific case of the Board, the Board’s enabling legislation further protects the water in the Basin outside of legal diversions, by prohibiting operation of the Ipswich River diversion during the dry period from June through November. Thus, allowing us to protect the resources outside of our infrastructure, while maintaining the water rights associated with such diversion. We are able to supply our customers from impounded reservoirs that may have extensive watersheds that contribute to the overall capacity of the system, thereby preserving flow in the river. Requiring the Board to implement mandatory water restrictions on nonessential water use, without recognizing the material nature of invested infrastructure and considering this important legislative environmental restriction would be inappropriate.

All public water systems (surface water or otherwise) should have the ability to create system-specific drought management plans that reflect their system’s capacity and have response actions that are tied to various trigger points for their system. We recommend the Department modify the criteria so that all Public Water Systems follow industry standards for drought planning (as highlighted in the 2018 Water Conservation Standards) and submit a plan for routine review and certification. This is a similar approach that was taken through the America’s Water Infrastructure Act of 2018 (AWIA) for public water system risk and resilience assessment, which may be an appropriate course of action. Within the existing Drinking Water Program regulations, public water systems would outline the responses to these trigger levels in their Emergency Response Plans. We ask that the Department to **NOT** finalize the proposed regulations as currently presented, which impose conditions on Water Management Act Registrations.

Sincerely,

Bradley E. Perron
Deputy Director



THE CITY OF SPRINGFIELD, MASSACHUSETTS

MAYOR DOMENIC J. SARNO

HOME OF THE BASKETBALL HALL OF FAME

November 17, 2022

Mr. Duane Levangie
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations

Dear Mr. Levangie:

The City of Springfield writes in opposition to the proposed amendments to 310 CMR 36.00 – Conditions on Water Management Act (WMA) Registrations. In addition to its comments submitted in 2021, the City submits the following:

Inequitable Financial Impact

As stated in our 2021 comments, we continue to believe the proposed regulations will have an undue and inequitable financial impact on the businesses and residents of the City of Springfield. Based on estimates by the Springfield Water and Sewer Commission, which owns and manages Cobble Mountain Reservoir, if water use restrictions had been in effect between May and October of 2022, revenue losses would range from \$3,190,606 to \$6,381,211, using actual 2022 consumption data and fiscal year 2023 rates. To make up for this lost revenue would roughly equate to a 3-6% rate increase. Yet at no time during 2022 was the reservoir at drought-condition levels.

Such revenue losses would have a counterproductive impact. First, the Commission's effort to undertake significant infrastructure renewal – including for old, leaking pipes as well as a new water treatment plant to protect public health – would be undermined by the loss of revenue water restrictions would cause. This revenue is critical to upgrading our City's aging infrastructure, some of which has been in continuous operation for over a century. As stated in 2021, the oldest infrastructure is also located in the central core of the city, where many Environmental Justice communities are located.

Even more importantly, water and sewer rates may need to be raised in order to compensate for revenue losses caused by water use restrictions. These increases would be on top of expected increases to finance infrastructure renewal. Compared to other areas in Massachusetts, the City of Springfield is home to a larger proportion of

economically disadvantaged households, for which these additional increases would only serve to make this essential daily resource more unaffordable. That this additional hardship could potentially occur when there may otherwise be plenty of water supply in Cobble Mountain Reservoir makes these proposed regulations all the more injurious to our residents.

Recreational Fields and Spray Pads

Provisions in the proposed regulations exclude recreational fields and public parks from water use restrictions during state-declared regional droughts. We support this exemption as written as we have invested significant amounts of taxpayer funding as well as State and Federal grants into several parks and recreational fields in recent years. Should these regulations be adopted as presented and continue to apply to Registered-only water systems like the Commission, we request that these provisions remain.

We are concerned that there are not provisions to exempt public splash pads and swimming pools from water use restrictions. As written, the proposed regulations are unclear as to their impact on these assets. Similar to public parks and recreational fields, the City has invested significant funding in these types of facilities. Providing access to these types of facilities during periods of high heat are an important to our community's quality of life. We request that the regulations be updated to clearly exempt public splash pads and swimming pools from water use restrictions during state-declared droughts.

Drought Management Plan Eligibility

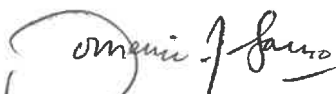
Cobble Mountain Reservoir was constructed close to a century ago when Springfield was a large industrial center and a growing city. At today's reduced and more efficient consumption rates, Cobble Mountain Reservoir's 22.5 billion capacity provides an approximate two-year supply.

The City notes that the proposed regulations provide a compliance alternative for water systems with three-years storage of their registered withdrawals. The alternative implies a system-specific drought management plan is an appropriate strategy to address drought. The City questions why the alternative requires a three-years storage capacity to qualify, effectively limiting the alternative option to the water system serving metro-Boston. This means that communities in metro-Boston, many of which are comparatively much more economically advantaged than Springfield, will be spared the rate impacts of these proposed regulations, further underscoring their inequity. We request that the proposed regulations be revised to allow any public water system with multi-year storage to adopt a system-specific drought management plan as an alternative compliance approach.

Conclusion

In short, the City opposes these proposed regulations as they appear to create new problems for our public water supplier, residents, and businesses with no meaningful benefits in return. The City, and since 1996 the Commission, have responsibly managed our water supply for over a century, and continue to do so. These proposed regulations offer a one-size-fits-all approach to localized water supply problems, more frequently experienced in the more developed and affluent eastern parts of the state, while exacerbating water affordability issues among our City's most vulnerable populations. If not outright withdrawn, we respectfully request that these proposed regulations be revised to make the alternative compliance solution available to all public water systems with multi-year storage capacity.

Respectfully,


Domenic J. Sarno
Mayor

*"Good health & Happy Thanksgiving to all."
God Bless*

SPRINGFIELD CITY COUNCIL

36 COURT STREET SPRINGFIELD, MA 01103 (413)787-6170 FAX (413)787-6833
CITY COUNCIL PRESIDENT JESSE LEDERMAN

November 18, 2022

Mr. Duane Levangie
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations (Submitted by Email to dep.talks@mass.gov)

Dear Mr. Levangie:

As members of Springfield City Council, we are writing to submit comments about the proposed amendments to 310 CMR 36.00 – Conditions on WMA Registrations.

Residents of the City of Springfield receive their drinking water from Cobble Mountain Reservoir, a 22.5 billion-gallon reservoir in Blandford and Granville owned and managed by the Springfield Water and Sewer Commission (Commission). The proposed regulations would apply new conditions to the 39.1 MG the Commission is legally authorized to withdraw under the Water Management Act. The new conditions would require the Commission to impose outdoor water use restrictions onto its customers in the City of Springfield whenever the state declares a drought in the Connecticut River Valley region. The state drought declarations are based on the state drought management plan and outdoor water restrictions will not be tied to how much water is in Cobble Mountain Reservoir at the time.

These proposed regulations are poised to place undue and disproportionate financial impacts on our residents. Due to ongoing and unavoidable reinvestment in the aging water and sewer infrastructure serving our city, including a new water treatment plant, water and sewer rates have increased steadily in recent years. State-mandated restrictions on the sale of water – even when plentiful supply may exist – may require the Commission to raise rates above what is already planned in order to adequately fund infrastructure upgrades and operations. This could lead to double-digit increases with little benefit in return for our residents.

As already mentioned, Cobble Mountain Reservoir holds a 22.5 billion gallon supply when full, which at current consumption rates is approximately a two-year supply. For over 100 years, the City and then the Commission invested in protecting 14,000 forested acres surrounding the reservoir, providing resiliency to the water supply and its sources. The Commission has also recently updated a drought management plan that incorporates the impacts of climate change and is tailored to the unique characteristics of the water supply. Even when other nearby systems may be experiencing drought conditions, Springfield's water supply may be ample. This situation was borne out in recent years during state-declared regional droughts – during all five instances in 2021 and 2022, Cobble's storage capacity remained at normal levels, and at a few points was even 85% and 95% full. We see no reason for these proposed amendments when our water supply has been responsibly and locally managed for over 100 years.

The potential rate impacts for our residents and businesses in Springfield should be taken into careful consideration. Many of our constituents are economically disadvantaged, and rate increases to compensate for state-mandated reduced water usage – even when our local reservoir may be at normal capacity, or overflowing – are an inequitable burden that will make this essential resource increasingly unaffordable for many households. The Commission notes that applying the proposed restrictions to the 2022 drought would have resulted in a \$3.1 to \$6.3 million loss in revenue, roughly correlating to a 3-6% rate increase on top of already planned increases. In return, there is also no meaningful environmental benefit – water that is already in the reservoir will remain so. State-mandated water restrictions in Springfield will not replenish streams or springs emptying into the reservoir.

The proposed regulations provide for an alternative solution. Water suppliers with multiple of years of storage within their surface-water reservoirs may utilize an approved drought management plan in lieu of enacting state-mandated restrictions. However, this alternative as written is only available to metro Boston communities, who rely on the only reservoir in the state with the amount of storage eligible for the alternative. Considering how much more of a burden the potential cost impacts will be on Springfield households than in more affluent areas in and around Boston, we believe that the Commission's reservoir should be eligible for this alternative as well. In this way, MassDEP can be assured that Springfield's water consumption is guided by a comprehensive drought management plan while also not imposing undue and inequitable cost burdens on its residents.

We hope you will take these comments into consideration as you move forward with these proposed regulations.

Thank you for your time and consideration.

Sincerely,

City Council President Jesse Lederman

Ward 8 City Councilor Zaida Govan and Maintenance and Development Committee Chairwoman



SPRINGFIELD WATER AND SEWER COMMISSION

POST OFFICE BOX 995
SPRINGFIELD, MASSACHUSETTS 01101-0995
413-452-1300

November 18, 2022

Mr. Duane LeVangie
Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108
Attention: WMA Regulations

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations

Dear Mr. LaVangie:

The Springfield Water and Sewer Commission (Commission) submits the following written comments to supplement comments submitted on July 26, 2021, and verbal comments provided during the public hearings on July 7 and 16, 2021 and October 27 and 28, 2022.

The Commission serves approximately 250,000 people in the lower Pioneer Valley. The Commission's primary drinking water supply at Borden Brook and Cobble Mountain Reservoirs, and its emergency drinking water supply at Ludlow Reservoir, are all registered-only systems under the Water Management Act (WMA). The Commission's core mission to the public is to provide a safe, uninterrupted, and sustainable supply of drinking water to its customers, which by necessity means we continually monitor and manage our reservoirs and assets to ensure our essential service can be continuously delivered. Continuous delivery of these services requires reinvestment - reinvestment that the Commission is currently undertaking through \$550 million in new and replacement infrastructure to serve the region for generations to come.

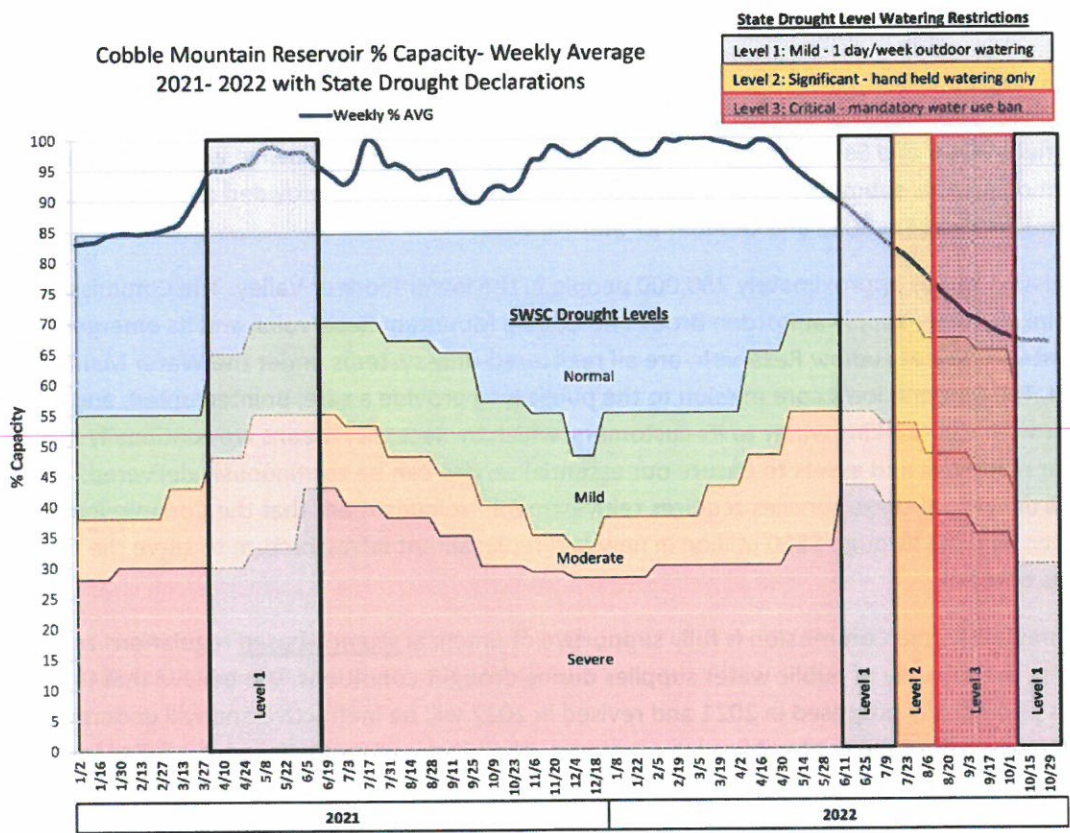
As stated previously, the Commission is fully supportive of practical science-based regulations as they relate to protecting the capacity of public water supplies during drought conditions. We believe that the regulations as originally proposed in 2021 and revised in 2022 will be ineffective and will undermine the sustainability and affordability of public water systems. The proposed regulations have failed to adequately address, or even recognize for that matter, the unintended consequences that will directly and unnecessarily impact access to affordable water for many of the disadvantaged families in Springfield and other communities. We believe the proposed regulations are unnecessary and should be withdrawn, but barring that, we provide additional facts and comments below, along with alternative modifications to the regulations that would provide a far more fair, equitable, and effective solution.

Unnecessary Water Restrictions Create Inequitable Affordability Impacts

The Commission maintains that the proposed regulations will have an undue and inequitable affordability impact on the customers we serve. The Commission's water system is robust and resilient, providing up to two years of available and accessible water supply for consumption by our customers. The Commission

also has a drought management plan (DMP) that was modernized in 2020 to reflect the most recent climate change trends and incorporate advanced tools that utilize data and technology to better predict drought impacts. The Commission developed this advanced DMP not only because it recognizes the need to accurately predict impacts to the water supply, but also to be able to predict impacts on revenue, which supports critically needed renewal projects for our century-old water system. Our DMP includes model simulations that correlate to different types of drought and water use restrictions. Reliably providing water 24/7/365 is not solely reliant on water supply, it is equally reliant on the infrastructure to deliver the water to our customers. For this reason, drought impacts are understandably more complex than just “how much water is in the reservoir.” To this point the Commission has real concerns that the proposed changes as written will limit access to ample water supply based on state-declared environmental conditions that have no correlation to actual conditions of our local water supply. As an example, Figure 1 below shows state-declared droughts in 2021 and 2022 as they correlate to our water supply:

Figure 1.



In every single instance of the drought declarations in 2021 and 2022 the Commission never was out of the normal range of water supply for Cobble Mountain Reservoir, yet it would have had to restrict water use unnecessarily. In fact, the reservoir volume always exceeded more than a 12-month supply. Based on this real data, we have calculated that revenue losses would have ranged from \$3,190,606 to \$6,381,211, using actual 2022 consumption data and current rates. To make up for this lost revenue would roughly equate to an additional 3-6% rate increase beyond the projected 7.5% increase in each of the next few years to

support the already-underway construction of water infrastructure designed to be more resilient, more reliable, and more efficient.

This revenue is critical to upgrading our aging infrastructure, some of which has been in continuous operation for over a century. As stated in our 2021 comments, the oldest infrastructure is also located in the central core of the city, where many of our most disadvantaged customers live, including designated Environmental Justice populations. Furthermore, the Commission has had consistent non-compliance issues with Disinfection Byproducts (DPBs) that the stated investments are targeting to correct. Restricting revenue will undermine the ability to address these issues that disproportionately impact our most vulnerable residents.

To reemphasize, at no time during 2022 was the reservoir even close to less than an entire year's supply, yet water use restrictions would have been mandated according to the proposed regulations. In fact, it should be noted that the Commission's reservoir has not fallen below 50% capacity in close to 60 years, and over that time, water consumption rates have drastically fallen. In addition, it should also be noted that the proposed regulation's purported environmental benefits are also dubious, for in a surface-supply system such as ours, water left unused in our reservoir cannot flow back to replenish the streams and springs in the watershed during a drought, and therefore do not represent any environmental gains.

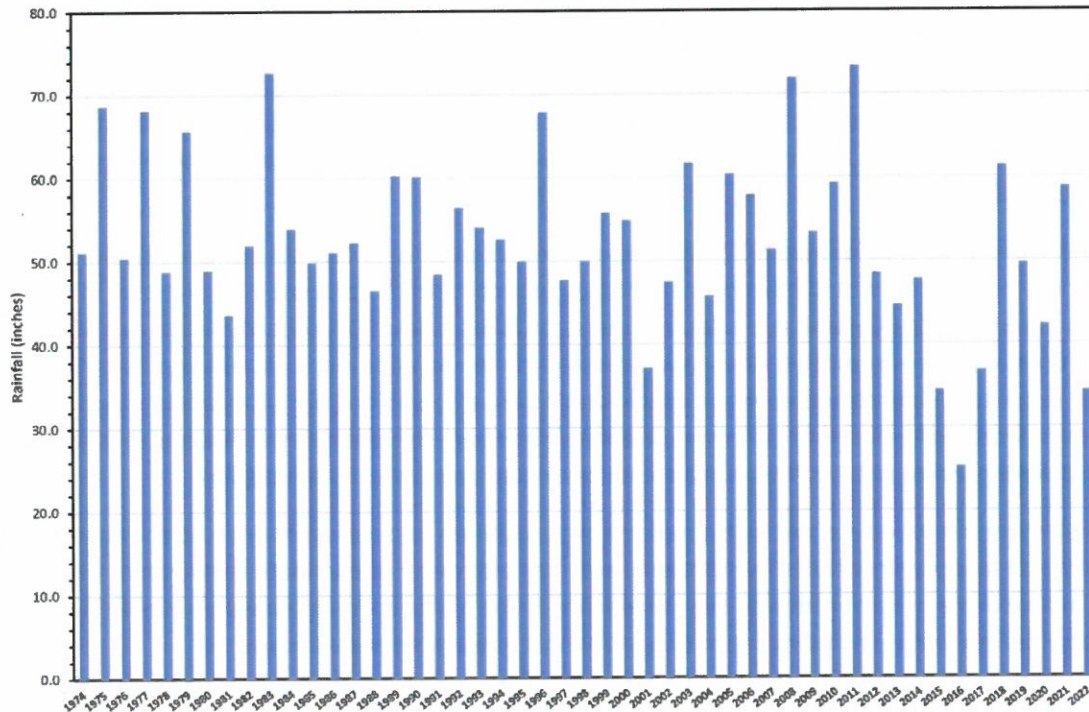
Restricting water use when it is not warranted will at a minimum unnecessarily drive up the cost of essential water and sewer services for residents, and may also delay or eliminate reinvestment in systems that are in desperate need of renewal. This will endanger the ability to maintain water quality standards and reliably deliver water, including for our region's most vulnerable populations.

Inequitable and Baseless Alternative Compliance & Multi-Year Storage Standard

The proposed regulations provide a compliance alternative for water systems with an approved DMP and multi-year reservoir storage capacity.. As defined in the proposed regulations, Multi Year Drought Storage is limited to at least three times the sum of authorized withdrawal capacity, effectively limiting the compliance alternative to the single water system serving metro-Boston. No scientific basis for defining the Multi Year Drought Storage requirement as a three-years supply has been provided. The water sector standards for DMPs (American Water Works Association Manual M60) rely heavily on accepted and proven scientific practices, standard operating procedures, and expansive system-specific criteria. No DMP standards that we are familiar with mention a requirement of three years of storage to be considered resilient. The proposed changes do not recognize that in Massachusetts it is highly unlikely that no, or drastically low, precipitation will endure over sequential years in a row, even in climate change scenarios, as demonstrated in Figure 2:

Figure 2

Springfield Water and Sewer Commission
Total Yearly Rainfall at Borden Brook Reservoir - 1974 - 2022



In practice and as written, the proposed regulations mean that communities in metro-Boston, many of which are comparatively much more economically advantaged than Springfield, will have access to a less expensive alternative compliance strategy, while all other disadvantaged communities such as Springfield will unnecessarily be forced into costly water use restrictions, further widening the equity gap. The Commission requests that the proposed regulations be revised to allow any public water system with multi-year storage to adopt an approved system-specific DMP as an alternative compliance approach. DEP's approval of the DMP should be based on accepted scientific and industry standards such as AWWA's M60 Manual or an equivalent. The Commission suggests the following amended language:

36.03 Definitions

Multi-Year Drought Storage means a registrant's reservoir capacity, as determined by the Department, of not less than 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.

36.07 (2)

3. A registrant that only withdraws from surface water supplies with Multi-Year Drought Storage, as determined by the Department, may implement nonessential outdoor water use restrictions in accordance with an accepted drought management plan instead of the restrictions described in 310 CMR 36.07(2)(c)1. The Department will accept plans that are in accordance with American Water Works Association's M60 Manual (or equivalent), or meet the following criteria:...

Recreational Fields, Spray Pads, and Public Pools

Provisions in the proposed regulations exclude recreational fields and public parks from water use restrictions during state-declared regional droughts. We support this exemption as written as the City of Springfield and other municipalities have invested significant amounts of taxpayer funding as well as State and Federal grants into parks and recreational fields. Should these regulations be adopted as presented and continue to apply to Registered-only water systems like the Commission, we request that these provisions remain.

We are also concerned that there are not provisions to exempt public splash pads and swimming pools from water use restrictions. As written, the proposed regulations are unclear as to their impact on these assets. Similar to public parks and recreational fields, the City of Springfield and other municipalities have invested significant funding in these types of facilities. Due to their importance during periods of hot weather, particularly in urban areas, we request that the regulations be updated to clearly exempt public splash pads and swimming pools from water use restrictions during state-declared droughts.

The Commission suggests the following amended language:

36.03 Definitions: Nonessential Outdoor Water Use Means a use that is not required:

(f) for irrigation of public parks, public recreation fields, and for the operation of public splash pads, and public swimming pools

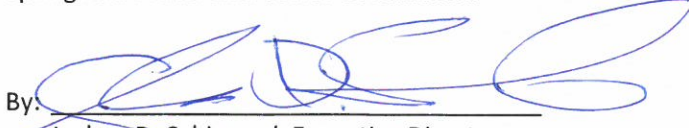
Conclusion

The Commission believes the proposed amendments to the Water Management Act regulations, while well-intentioned, will result in a proliferation of unnecessary financial hardships among public water suppliers and their customers and will ultimately undermine resiliency efforts. Registered public water suppliers such as the Commission already responsibly manage their drinking water supplies, including calling for water restrictions when necessary, and it is in their self-interest to continue doing so. Water restrictions imposed upon us by the state, regardless of how much water is in our reservoir at the time, will undermine our system's resiliency in terms of being able to reinvest in aging infrastructure, and our community's resiliency in terms of being able to afford this essential resource. In short, the costs to these regulations very much outweigh any benefits.

The Commission appreciates the opportunity to comment on the proposed amendments to the WMA Regulations and trust that these will be thoughtfully considered. Please contact me directly with any questions.

Respectfully,

Springfield Water and Sewer Commission

By: 
Joshua D. Schimmel, Executive Director

Copy: Bethany Card, Secretary, Executive Office of Energy and Environmental Affairs

Martin Suuberg, Commissioner, MassDEP

Town of Stoughton

Water & Sewer Department

1748 Central Street · Stoughton MA 02072 · (781) 344-2112 · Fax (781) 344-0205

November 17, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations

VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

I am a member of Massachusetts Water Works Association (MWWA) and wish to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. Wise water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. I support the comments that MWWA submitted in July of 2021 and our concerns still stand. I urge MassDEP to withdraw these proposed regulations and instead ask systems to develop their own system-specific drought management plan.

During times of drought the Town of Stoughton's:

- * Average water use was well below the MWA withdrawal limits;**
- * Water use was below the previous year when there was no drought;**
- * Wells did not dry up;**
- * Residents are responsible customers with RGPCD=52 and UAW 2.3%; and**
- * Billing rates are an aggressive increasing rate structure on both water & sewer to encourage conservation**

We have been able to manage our water supply appropriately, and therefore conditions placed upon our Registration are unnecessary.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan

Town of Stoughton

Water & Sewer Department

1748 Central Street · Stoughton MA 02072 · (781) 344-2112 · Fax (781) 344-0205

has sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. While MassDEP is providing an alternative approach from following the MA Drought Management Plan, the criteria make it such that only MWRA would qualify. The requirement for multi-year storage of no less than three times a Registrants authorized withdrawal has no scientific basis and that is problematic. The addition of the new language that excludes water below the intake elevations further limits our ability to even have a conversation about using our own drought plan instead of defaulting to the state's plan. Surface water and/or groundwater Public Water Systems should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for review and approval.

While MassDEP made slight changes to the definition of Non-Essential Outdoor Water Use within the re-noticed regulations, we would urge you to adopt the more comprehensive definition proposed by MWWA when they commented last July. Further, we understand that MassDEP is interested in comments regarding the exemption to public parks and recreation fields within the definition. Communities have made significant investments in their parks and recreation fields and should be allowed to water them if they have the capacity to do so in order to maintain that investment.

The proposed regulations will cause a financial hardship for our utility and may impact our ability to undertake other infrastructure improvements that could more meaningfully enhance our water system's resiliency.

Our core responsibility as water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months. We would urge the Department to consider the unintended water quality consequences that could occur should we have to comply with arbitrary conditions restricting water use.

Town of Stoughton

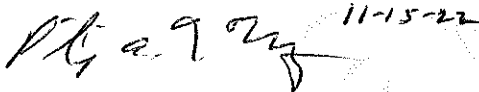
Water & Sewer Department

1748 Central Street · Stoughton MA 02072 · (781) 344-2112 · Fax (781) 344-0205

Finally, in the *Fairhaven*¹ case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. We believe that the drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought.

THE STOUGHTON WATER DEPARTMENT believes it has been shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade our water system. **THE STOUGHTON WATER DEPARTMENT** requests MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.

Sincerely,



Philip A. McNulty, P.E.
Stoughton Water & Sewer Superintendent

cc: Marc Tisdelle, Interim Town Manager
Board of Selectmen

¹ *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010)

November 2, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

**RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA
Registrations**
VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

I am a member of Massachusetts Water Works Association (MWWA) and wish to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. Wise water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. I support the comments that MWWA submitted in July of 2021 and our concerns still stand. I urge MassDEP to withdraw these proposed regulations and instead ask systems to develop their own system-specific drought management plan.

While not required to by any regulatory mandate, our system has found that customers happened to use less water this year as compared to last year. The difference is significant enough that we first considered the possibility of errors but found none, and concluded that customers are being more diligent about their use. We have been able to manage our water supply appropriately, and therefore conditions placed upon our Registration are unnecessary.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. While MassDEP is providing an alternative approach from following the MA Drought Management Plan, the criteria make it such that only MWRA would qualify. The requirement for multi-year storage of no less than three times a Registrants authorized withdrawal has no scientific basis and that is problematic. The addition of the new language that excludes water below the intake elevations further limits our ability to even have a conversation about using our own drought plan instead of defaulting to the state's plan. Surface water and/or groundwater Public Water Systems should have the ability to create system-specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for review and approval.

While MassDEP made slight changes to the definition of Non-Essential Outdoor Water Use within the re-noticed regulations, we would urge you to adopt the more comprehensive definition proposed by MWWA when they commented last July. Further, we understand that MassDEP is interested in comments regarding the exemption to public parks and recreation fields within the definition. Communities have made significant investments in their parks and recreation fields and should be allowed to water them if they have the capacity to do so in order to maintain that investment.

The proposed regulations will cause a financial hardship for our utility and may impact our ability to undertake other infrastructure improvements that could more meaningfully enhance our water system's resiliency.

Our core responsibility as water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months. We would urge the Department to consider the unintended water quality consequences that could occur should we have to comply with arbitrary conditions restricting water use. If use decreases significantly during the warmest months of the year, then it may be challenging to maintain the required chlorine residual throughout the distribution system.

Finally, in the *Fairhaven*¹ case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. We believe that the drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought.

The Three Rivers Fire District believes it has been shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade our water system. The Three Rivers Fire District requests MassDEP rescind these draft regulations as they are not necessary and counter-productive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.

Sincerely,

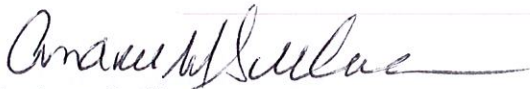
¹ *Water Dep't of Fairhaven v. Dep't of Env't Prot.*, 455 Mass. 740, 751 (2010)



Norman Czech
Prudential Committee Chairman



Richard Pobiegló
Prudential Committee Vice Chairman



Andrea Sullivan
Prudential Committee Clerk

cc: Senator Anne M. Gobi
Representative Todd M. Smola



CITY OF WESTFIELD, MASSACHUSETTS
Department of Public Works, Water Division
28 Sackett Street, Westfield, MA 01085-3572
(413) 572-6226

Director:
Jeffrey Gamelli

Commissioners:
Joseph Popielarczyk, Chairman
Ronald Cole, Secretary
John Niedzielski, Member

November 18, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108
Via Email to: dep.talks@mass.gov

RE: Proposed Amendments to 301 CMR 36.00 – Conditions on WMA Registrations

To Whom It May Concern:

The City of Westfield Massachusetts Board of Water Commissioners and its Department of Public Works – Water Division respectfully submits the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) in response to the above referenced proposed amendments to the Water Management Act regulations regarding Registered Systems. These regulation changes have the goal of protecting the critically valuable water resources that we all depend on, however if amended as proposed, they will have the very significant effect of reducing the ability of water systems like Westfield's to respond to the unique and ever changing challenges that we have been navigating so carefully.

Since 2011, the City of Westfield has invested a tremendous amount of labor and capital in critical drinking water efforts. Some of these include:

- major spillway and raw water main repair requiring full shut down of the City's surface water reservoir for approximately two years,
- responding to newly detected contaminants that required shut down of half of the City's drinking water wells and construction of one temporary and two permanent water treatment facilities, one that has been completed and one that is in progress,
- replacement of half (two) of the City's drinking water storage tanks, one that is complete and one in the design phase,
- full overhaul of the SCADA system to better monitor and respond to changing conditions at department facilities,
- full replacement of residential water meters with remote transmission and abnormal usage detection capabilities for timely leak detection and notification for residents,
- as well as countless sampling adjustments and monitoring changes to meet ever changing regulatory requirements, and all of the other projects, ongoing operations, and maintenance that it takes to operate this system for the ratepayers and this City.

These efforts have come at significant cost and have taken place during very challenging fiscal times, as well as during very challenging hydrological times given the frequency of drought over these years.

The Board of Water Commissioners has enacted timely, specific, and targeted water restrictions over this time as conditions have warranted. Their ability to respond nimbly and based on the actual conditions in Westfield and our associated aquifer and watershed areas has meant that the water supply was never interrupted for the City, pressures were maintained, and fire protection was not jeopardized. For example, in March of 2017, the Commissioners enacted an odd/even restriction due to the ongoing drought and continued need for conservation due to PFAS impact on two of the groundwater wells. This restriction

was put into place before winter usage patterns had shifted into spring usage and allowed the reservoir to fill and remain full through mid-July, which allowed the reservoir to remain online until the October recharging rains finally came. In 2019, the Commission enacted odd/even restrictions in mid-July that reduced the speed of drawdown in the reservoir and allowed the reservoir to remain active and the system to cope with less than 2.5" of rain in the 4 months from August through November. In addition, the City's average daily withdrawal of 4.5 MGD for the past six years has been more than 1.5 MGD less than the withdrawal volume of 6.11MGD allowed by registration. Clearly the water supply is being managed appropriately, and therefore there is no need to place conditions on our Registration to accomplish this: it is already being done.

The Westfield DPW-Water Division has carefully monitored the water supply and, though many around Massachusetts have had difficulty, has been able to provide reliable water that meets the drinking water standards even with all of the hurdles that have come up, especially in the past 10 years. Furthermore, the Water Commission is concerned that these restrictions will limit the revenues collected by the Division and lead to limitations and potential shortfalls within the budget if the mandatory restrictions are enacted regionally.

The loss of revenue from these conditions will impact both system upgrade efforts as well as debt service of prior system upgrades. For example, the DPW-Water Division invested significant resources in upgrading residential water metering, which now allows the Division to notify ratepayers when high usage rates are observed, in effect catching large losses earlier and being proactive in conserving water. Additionally, as PFAS were becoming more concerning on a state and local level, and before regulations were enacted, Westfield proactively began temporarily treating and planning for permanent treatment of these compounds to non-detect levels. The costs for these critical projects have been borne by the ratepayers of this community, as only recently have limited funds become available for these types of projects. While the Division is grateful to be able to begin to recoup some of these costs now, these monies were not available quickly enough to address the issue and get the problems resolved.

It is only through the sale of water to ratepayers that the DPW-Water Division has the resources to address these issues. The careful management of the source water supply, coupled with providing a high quality product, namely drinking water that meets or exceeds regulatory standards, ensures that two things are happening simultaneously: water is conserved and protected to maintain a supply that is available for the future, and water is provided to meet the needs of Westfield's ratepayers who purchase it, thereby providing the funds that run the DPW-Water Division.

Loss of revenue will also affect infrastructure improvement projects such as water main replacements and valve exercising and replacement, where potential problems are identified early, resulting in savings to potential water losses. Focus is already on these types of unmetered losses and is cost effective based on current revenues and fee structures. Overarching drought restrictions do little to address aging infrastructure challenges and the unquantified water losses that can be tackled through systematic distribution system improvements. Redirecting resources from these types of conservation efforts may be an unintended consequence of these restrictions, and is therefore not prudent.


Enforcement of these new rules is another major concern regarding these proposed regulations. Who will be the enforcement body to ensure that any restrictions are adhered to? Will there be an external body that would enforce the regulations, for example the local police department or an appointed body within the water department, and what will fund the enforcement effort? Will the state be providing funding for the additional resources that an effort like this will entail or will the local departments, that are seeing their ability to cover even their existing costs strained, be asked to also foot the bill for this? How will the consistency of the application of these regulations be maintained across the state for all impacted registered systems?

If the registration restrictions are enacted, each system should be able to develop their own effective, specific, targeted drought management plan. As proposed, the only registered system that would be able

to potentially apply for a waiver in order to develop a system specific plan is MWRA. Westfield would be ineligible no matter how much storage is in the system due to utilizing both surface and groundwater. Instead of disqualifying the system, this should further emphasize the need for a system specific plan in order to actually be effective. Although there has been plenty of urging on the part of environmental and watershed groups to enact regulations such as these in a blanket fashion, there have not been the rigorous data analyses nor the in situ research conducted to demonstrate that the proposed regulations and their trigger points will even be effective in their goal of better preservation of our shared resource. Systems should be able to use their own data, experience, and creativity to meet the challenges associated with droughts and the necessary water conservation that is then required, as Westfield is already doing

As demonstrated, Westfield's local management is nimble and effective to deal with challenges in a much quicker and more appropriate manner than a state wide, or even regional drought declaration can. Westfield also has serious concerns about the revenue impact of these restrictions, which will have serious consequences in limiting the ability to do that nimble, effective managing. And finally, the impact of enforcement of these regulations on systems will be expensive, onerous, and will detract from the business of providing clean, safe, drinking water, which should be the focus of any and all water systems. The Westfield DPW-Water Division urges you therefore to rescind these proposed regulations and work with individual systems to ensure timely, appropriate, targeted, and effective drought management based on the individual characteristics of each system.

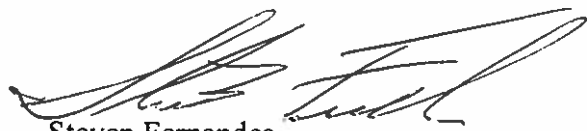
Sincerely,



Francis Cain
Interim Director
Westfield Department of Public Works




Joseph Popielarczyk
Chair
Westfield Board of Water Commissioners



Steven Fernandes
Water Deputy
Westfield Department of Public Works

Ronald Cole
Secretary
Westfield Board of Water Commissioners



Heather (Miller) Stayton, P.E.
Systems Engineer
Westfield Department of Public Works



John Niedzielski
Commissioner
Westfield Board of Water Commissioners

Cc: Mayor Michael McCabe
Senator John C. Velis
Representative Kelly Pease



The City of
WORCESTER
Department of Public Works & Parks

Water & Sewer Operations
Philip D. Guerin, Assistant Commissioner
18 East Worcester Street, Worcester, MA 01604
P | 508-929-1300 F | 508-797-9160
GuerinP@worcesterma.gov

November 17, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations
VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

The City of Worcester Department of Public Works & Parks, Water Supply Division provided comments in July 2021 on MassDEP's proposed changes to the Water Management Act regulations at 310 CMR 36.00. As these latest modifications to those same regulations do not offer any appreciable differences and fail to address our earlier concerns, the July 2021 comments are being resubmitted along with additional points. These proposed regulations would add conditions to Water Management Act (WMA) registrations which have heretofore been unconditioned, other than measuring and reporting requirements, since the inception of the WMA in 1986.

The City of Worcester holds two registrations under the WMA with one covering withdrawal points in the Blackstone Basin and the other in the Nashua Basin. The City also has a permit for additional withdrawals from the Nashua Basin and is therefore already subject to potential permit conditions related to times of drought. While Worcester may not be directly impacted by these regulatory changes owing to our permit, we remain concerned about the precedent being set (i.e., conditioning registrations) and the purpose of these proposed changes.

The proposed regulatory changes are unnecessary, will fail to produce any meaningful outcomes and may be detrimental to the operation of public water systems. Any new regulatory initiative should only be advanced in order to solve a problem that is otherwise unsolvable and the results of such an effort should be meaningful outcomes that support the purpose of the regulation. The benefits of regulations should also outweigh the costs or risks imposed by the new rules. MassDEP's proposed regulations to condition WMA registrations fail on all three counts.

The proposed rules do not solve any problems. In fact, the rules appear designed to address a problem that does not exist, that being, registered-only water systems are flagrantly wasting water and must be controlled through regulation. MassDEP's own data clearly shows that registered-only systems are virtually the same as, if not slightly better than, permitted systems in terms of water use efficiency measures (i.e., RGPCD, %UAW). Nothing suggests that registered-only systems are more likely to have water supply issues during a drought. Registered-only systems continue to use less water than they did 37 years ago and that indicates that they are managing their water supplies effectively.

The proposed rules will not produce meaningful outcomes. Rules designed to address a non-existent problem cannot result in an improvement in anything. These regulations are a solution in search of a problem, designed to appease advocates and satisfy a distaste for lawn watering. Banning lawn watering following a state declaration based on a new formula for drought determinations that assures an almost annual drought is about optics and perceptions, not science, sound public policy or effective solutions.

The benefits of the regulations will not outweigh the costs and risks to public water systems, communities and their ratepayers. There will not be any benefits to be seen but there will be costs and revenue loss associated with the unnecessary restrictions on outdoor water use, regardless of local water supply circumstances, when the state declares a drought.

Worcester's recent history in dealing with drought illustrates our perspective. The drought of 2016 was the most severe faced by the City since the 1960's. Worcester implemented its Drought Management Plan, which uses reservoir storage as a trigger and implements water use restrictions in a stepwise fashion with each step having more severe limits on water use. The City started with an advisory, then implemented odd-even lawn watering limits and finally an outright ban on lawn watering and other outdoor water use. Implementation was labor-intensive and came at the expense of other programs and operational needs. Public education, press releases, reports, inspections and handling numerous inquiries was a full-time job for two middle managers and part time for a multitude of staff. Our goal was to reduce demand so that existing supplies could be maintained until normal rainfall returned but to also assure that combined reservoir storage did not go below 50% capacity. While these efforts did reduce demand, the drought continued and it was the lack of rainfall, not excessive water use, which ultimately prompted the City to activate its emergency supply and purchase water from MWRA. This is an assured supplemental source of water to our reservoirs, rather than an uncertain decrease in withdrawals from our reservoirs, that was necessary to keep the Worcester reservoir system at reliable operational levels.

Looking back at 2016, what if we had banned lawn watering altogether earlier in the summer? Would that have markedly improved our situation by September? Analyzing the data and assuming our summer use for June, July and August was equal to our average winter use, a very unrealistic and unachievable scenario, it was found that by September 1, 2016, the reservoir system would have been at 61% capacity versus the 55% experienced. This marginal improvement, in an extreme case, suggests a lawn watering ban as envisioned in the proposed regulations, would have served little purpose in Worcester while creating a revenue shortfall over \$2 million and adding to even more staff diversions and related costs. Other urban areas across Massachusetts would likely see similar outcomes since lawn watering may be a revenue booster during dry years but limiting lawn watering would have little bearing on available water supply. Keep in mind that Worcester, even in the dead of winter, is still supplying about 20 million gallons per day.

Moving forward to 2021, a much less severe drought was affecting the area. Worcester reservoirs were 95% full on April 1, 2021, despite a very dry month of March, 99% full on May 1, 2021, and 104% full June 1, 2021, the highest June 1st capacity since 1989. Yet the Commonwealth declared central Massachusetts to be in a level 1 drought in May. With the proposed regulations in effect the City of Worcester would have been implementing severe lawn

watering restrictions despite having reservoirs 99% full! This would be inexplicable to the public, the very people for whom we, as public servants, are working.

In 2022 the scenario was repeated once again with the Commonwealth in full-fledged drought panic over what Worcester experienced as a mild to moderate drought. Worcester reservoirs were above average at 101% full on May 1, 2022, as the State declared a level 1 drought for central Massachusetts. While the State declared a Level 2 Significant Drought on June 1, Worcester reservoirs were 97% full and they were still 90% full when a State Level 3 Critical Drought was declared on July 1. Worcester DPW&P again followed its drought management plan which hit its Stage 1 trigger on August 22.

It is clear that there is a vast discrepancy between water supply reality and the agenda-driven state drought bureaucracy. Unfortunately, this divergence only confuses residents and leads them to question the management of their municipal water system, management based on facts, real world data and an understanding of how their system works and responds. It also highlights the perspective offered by the Massachusetts Water Works Association and others that a local drought management plan tailored to the specific water system is far superior to a statewide drought plan crafted to achieve political goals. Water systems, like Worcester's, are unique and management of these systems is best achieved through local plans, not statewide declarations.

Relative to Multi Year Drought Storage, the definition provided is lacking in credibility. The definition is based on authorized withdrawals so one might conclude that an authorized withdrawal under the Water Management Act must include some analysis of reservoir storage, watershed runoff characteristics, stream flow, precipitation and other hydrological factors. But it does not. Authorized volumes are predominantly registered volumes which are simply average water withdrawals during a prescribed and rather arbitrary point in time. Authorized volumes tell nothing of the water supply characteristics, and therefore cannot be a scientifically credible assessment of water availability during drought. Everyone with the slightest understanding of how the Water Management Act works alongside Massachusetts politics knows that the Multi Year Drought Storage is just a manipulation to allow the State's single largest registered-only water system to skirt around these regulations and utilize its own drought management plan. Indeed, they should be allowed to use their own drought plan as should many other water systems across the Commonwealth.

On the matter of public parks and public recreation fields being deemed essential and allowed an exemption from the state-mandated watering bans during droughts, this Department believes that is a sound and wise position. Public parks and recreation fields used for athletics are needed as such activities are viewed as being vital for the physical and mental well being of youths and adults. Public athletic fields also represent a significant financial investment that can be ruined if watering is overly restricted. Watering is necessary to maintain grass cover on fields that receive heavy foot traffic. Watering also keeps the turf more pliable and can reduce injuries among athletes. It is further suggested that the term "public" be removed from this consideration as private schools, colleges and universities, and private athletic organizations all maintain athletic fields needing watering.

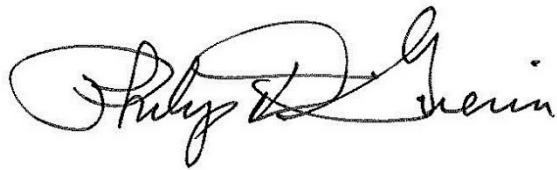
A lesson learned in Worcester from the 2016 drought, as the City enforced its own drought management plan, is that there needs to be a process for granting variances from any

enforcement plan. Water systems and municipalities do not know every aspect of how water is used in the community but when watering restrictions are implemented many new facets of water use are learned. For instance, NCAA standards require college athletic fields to be maintained to certain levels. Failing to meet those standards results in the inability to utilize the field for scheduled sports events, depriving student-athletes of activities and depriving the college of potential revenue and recruiting enhancements. Field hockey fields, for example, must be wet during game play-and that is for artificial turf! While a community in an extreme drought with only enough water to meet basic needs may rightfully preclude watering all fields, in a mild or moderate drought there need to be allowances for situations that may be unique or unknown to the water system. The proposed regulations do not appear to provide for variances or allowances and require severe watering limitations during the mildest of droughts.

While MassDEP is strongly urged to drop this regulatory initiative altogether, it is realized that such a change in direction would be politically impossible. An alternative would be to allow all water systems to use local drought triggers and local drought plan implementation. Those choosing not to do so would be subject to the State plan, triggers and requirements.

Thank you for the opportunity to comment. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink, reading "Philip D. Guerin". The signature is fluid and cursive, with a large loop at the beginning and a long, sweeping tail.

Philip D. Guerin
Assistant Commissioner of Water & Sewer



BERKSHIRE ENVIRONMENTAL ACTION TEAM

20 Chapel St. Pittsfield, MA 01201 • thebeatnews.org

(413) 464-9402 • team@thebeatnews.org

Protecting the environment for wildlife in support of the natural world that sustains us all.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection –Water Management Program
One Winter Street, 5th floor
Boston, MA 02108
Re: WMA Regulations

Dear MassDEP,

Thank you for the opportunity to submit comments in support of the proposed Water Management Act regulations. Berkshire Environmental Action Team (BEAT) is a nonprofit with a mission to protect the environment for wildlife in support of the natural world that sustains us all.

Drought has become a serious threat to Massachusetts wildlife and ecosystems. We are lucky here in the Berkshires that the recent droughts have not been as bad as in the rest of the state, but still we had water use restrictions put in place because our reservoirs were low.

BEAT is grateful that MassDEP has proposed new regulations that fit with the State's Drought Management Plan and the Water Management Act's stated purpose to comprehensively manage water withdrawals.

MassDEP must create a more comprehensive water management system that is preventative rather than reactive. When water registrations were grandfathered in without conservation conditions in the 1980s, climate change was not yet recognized as the existential threat that we now realize it is. Adding water conservation requirements adapts those withdrawals to our reality.

We cannot wait another ten years to make our water management system more resilient. We urge MassDEP to promulgate the proposed regulations as a first step.

Thank you for considering our comments.

Sincerely,

A handwritten signature in purple ink, appearing to read "Jane Winn", is written over a horizontal line.

Jane Winn
Executive Director



271 Oak Street, Uxbridge, MA 01569
508-865-3586 ted.beauvais@thebrwa.org www.thebrwa.org

November 5, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection –Water Management Program
One Winter Street, 5th floor
Boston, MA 02108

Re: WMA Regulations

The Blackstone River Watershed Association (BRWA) supports the proposed changes to the Water Management Program Regulations. It is only fair to subject the last 20% of regulated water withdrawals (184 million gallons per day) to the same water conservation requirements that permittees are already required to do under the Water Management Act.

When water registrations were grandfathered in without conservation conditions in the 1980s, we were not thinking about climate change. Adding in water conservation requirements adapts those withdrawals to our reality and is a step towards meeting our future needs. With drought conditions predicted to get worse, our state needs a coordinated response.

DEP must create a more comprehensive water management system that is preventative rather than reactive. Conditioning water registrations during drought is the minimum of what DEP could do to protect our water resources from excessive withdrawals. Water conservation should occur in advance of a drought, not just when the impacts of drought are already here. Many of our sub-basins are severely stressed, and yet we continue to withdraw from them. While we are sympathetic to the needs of water suppliers to fund their operations, this should not happen at the expense of our rivers and water supplies. We urge MassDEP to promulgate the proposed regulations as a first step.

Sincerely,

/s/ Theodore Beauvais

Theodore Beauvais
BRWA President

Center for Ecological Economic and Ethical Education

*Post Office Box 946
Ipswich, MA 01938*

*Phone: (978) 356-2188 (w) or 617-605-3150 (c)
email: ecologicaleconomics@yahoo.com*

11 November 2022

Sent to dep.talks@mass.gov

Dear Commissioner Suuberg:

My name is Fred Jennings; I'm a resident of Ipswich, MA. I am writing on behalf of three different organizations:

- as President and Founder of my own Center for Ecological Economic and Ethical Education (CEEEE);
- as a long-term Board Member and past President of the Nor'East Chapter of Trout Unlimited; and
- as a volunteer member of the staff for Biodiversity for a Livable Climate based in Cambridge, MA.

I write on behalf of these three organizations to voice our full support of the proposed regulations in 310 CMR 36.00 Massachusetts Water Resources Management Program that are designed to restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions will bring these regulations on water usage into the 21st century, because this is a first step toward ensuring the Commonwealth adapts its water management policies to conform with the implied changes stemming from our new climate reality.

Although my primary concern, as an Ipswich resident, is with the Ipswich River and my ongoing involvement with the Ipswich River Watershed Association (IRWA), there are also many other rivers in our Commonwealth that will also be aided by these restrictions. All three of the organizations for which I am voicing support have long been concerned and involved with many diverse river restoration activities and efforts to protect our water resources from unnecessary depletion.

Excessive water withdrawals have threatened stream health across the Commonwealth now for too many years. Combined with severe droughts stemming in part from poor water management, our waterways have been struggling, with many of our rivers drying up completely this past summer. Adopting the proposed regulations would protect streamflow and help to maintain our water resources at adequate levels, allowing our rivers and streams and their living inhabitants to be more resilient in the face of future drought conditions.

Please pass these regulations as swiftly as possible. Thank you so much for accepting our input on these important issues.

Most sincerely and respectfully,

A handwritten signature in black ink, appearing to read "Frederic B. Jennings Jr.", with a stylized, cursive script.

Frederic B. Jennings Jr., Ph.D.
Post Office Box 946, Ipswich, MA 01938-0946
Cell Phone Number: +1-617-605-3150

President, Center for Ecological Economic and Ethical Education (CEEEE)
Board Member and Past President, Nor'East Chapter of Trout Unlimited
Staff Volunteer at Biodiversity for a Livable Climate, Cambridge, MA



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Commissioner Martin Suuberg
Department of Environmental Protection (DEP)
1 Winter Street, 5th floor
Boston, MA 02108

Re: WMA Regulations

November 8, 2022

Dear Commissioner Martin Suuberg,

On behalf of the Charles River Conservancy (CRC), an organization with a twenty-two-year history of stewardship in the lower Charles, thank you for the opportunity to comment on the Water Management Act (WMA) Program Regulations.

The CRC promotes the active use and vitality of the Charles River parks, and strives to make its parks a well-maintained network of natural urban places that invite and engage all in their use and stewardship. We advocate for the Charles River and its parks, focused on conserving the beauty and integrity of this prominent, natural urban space that is necessary for a sustainable community life.

We are pleased that the Massachusetts DEP are moving forward with the changes to the WMA regulations. **We support the regulation changes which is a first step for the Commonwealth to adapt its water management to our climate reality.** Although we support this regulation change we agree with the specific concerns shared by Massachusetts Rivers Alliance and defer to their comment letter for issues that the DEP should consider. The proposed regulation is the first to put any water conservation requirements on registered water users and it is crucial that these rules are in place as Massachusetts faces increasing severity and frequency of droughts. Excessive outdoor water use during dry periods threatens both water supplies and aquatic ecosystems, and this will only get worse as our climate changes.

Thank you again for the opportunity to comment on the proposed revisions to the WMA Program that will impact the integrity of Massachusetts' water system, including the Charles River. We look forward to our continued involvement in this important process.

Sincerely,

Laura Jasinski
Executive Director



November 16, 2022

Via email

Commissioner Martin Suuberg
MassDEP, Water Management Program
1 Winter Street, 5th Floor
Boston, MA 02108
dep.talks@mass.gov

Re: Comments on Proposed Water Management Act Regulation Revision

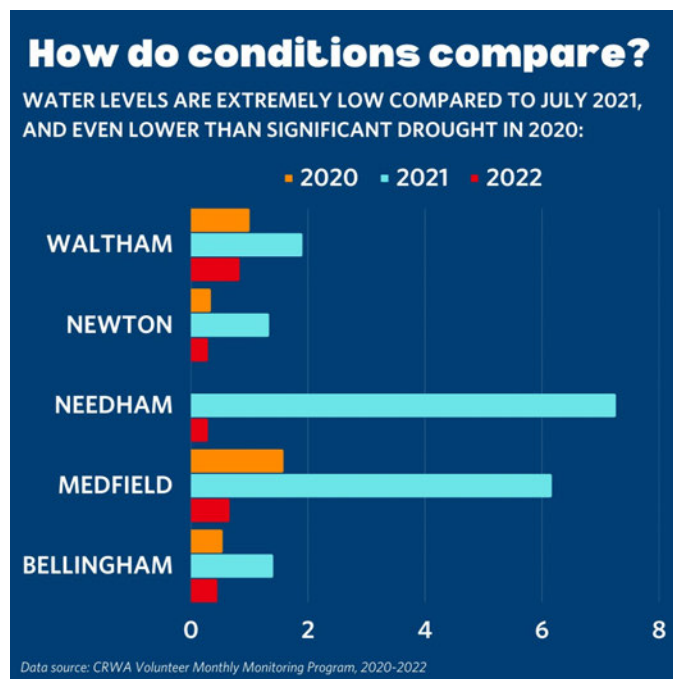
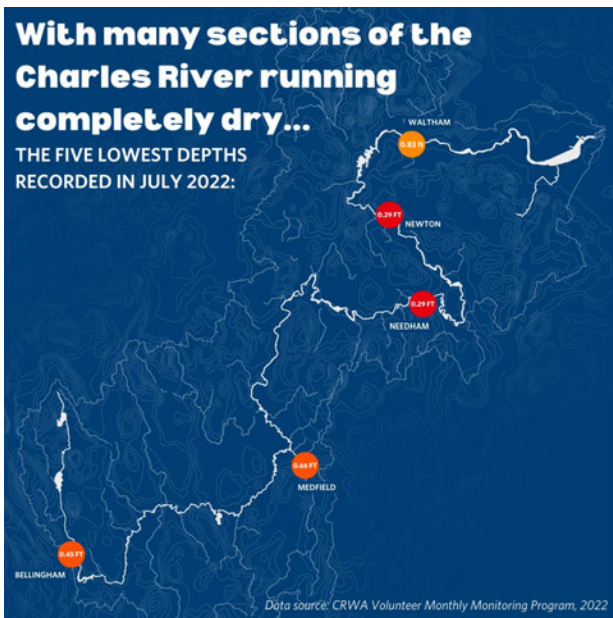
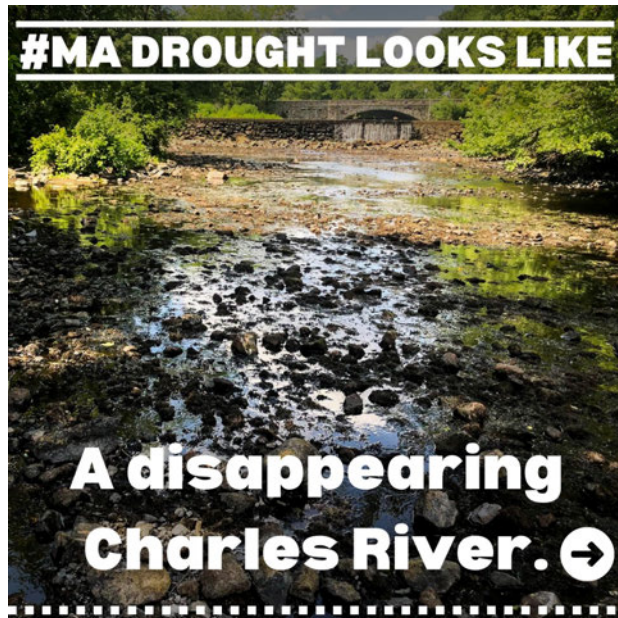
Dear Commissioner Suuberg:

Charles River Watershed Association ("CRWA") submits the following comments on the Massachusetts Department of Environmental Protection's ("DEP") proposed revisions to the Massachusetts Water Management Act ("WMA") regulations, 310 CMR 36.00. CRWA's mission is to protect, preserve, and enhance the Charles River and its watershed through science, advocacy, and the law. CRWA has a long history of working with DEP and our watershed communities on water management issues, including implementation of the WMA.

CRWA strongly supports the proposed regulations that would impose conservation conditions on registrations in order to restrict non-essential outdoor water use by registrants during periods of drought. CRWA has long advocated for this, including by supporting Massachusetts Rivers Alliance's 2017 petition to DEP to condition registered withdrawals.¹ The proposed regulations are a critical first step toward adequately protecting our water bodies and water supplies. We urge DEP to adopt the proposed regulations, which will further strengthen the regulations in order to fully protect the Charles River and all waters of the Commonwealth while ensuring adequate water supply to meet our health and safety needs into the future.

¹ CRWA, Re: Massachusetts River Alliance's Petition to MassDEP to Condition Registered Withdrawals (Sept. 12, 2017).

Droughts are becoming more frequent and impacts are more significant, posing a real threat to the health of the Commonwealth's waters and our economy. CRWA volunteers found that the Charles River ran completely dry in several spots during the summer of 2022.



Droughts harm both water quality and quantity, posing significant threats to communities and ecosystems throughout the Commonwealth. In 2016-2017, we experienced the worst drought to hit Massachusetts since the 1960s, with ground and surface water levels reaching record lows for several consecutive months and widespread crop loss.² In 2020, we again experienced one of the hottest and driest periods on record, with drought conditions lasting from June until early December and the United States Department of Agriculture (“USDA”) declaring every county in Massachusetts a ‘drought disaster area’ due again to widespread crop loss.³ **In 2022, drought continued, reservoirs dropped, and the Charles River ran dry in several places - as did tributaries such as Fuller Brook in Wellesley.**

Climate predictions indicate that the Commonwealth will continue to see increases in the occurrence and severity of droughts in the coming years.⁴ Specifically, climate change is expected to exacerbate naturally-occurring droughts by increasing evaporation rates due to higher temperatures and lengthening periods without precipitation between rainfall events.⁵ When rainfall does occur, it will be more intense, quickly running off of our expansive amounts of impervious surfaces before it can be absorbed back into the ground.⁶ The forecasted reduction in snowfall will also reduce groundwater recharge.⁷ As a result, we must adapt to a “new normal” where drought is more common, and protect our water resources accordingly.

The good news is that Massachusetts has taken significant steps in recent years to improve drought awareness and response. In 2018, the Commonwealth adopted the State Hazard Mitigation and Climate Adaptation Plan (“SHMCAP”) in response to Governor Baker’s Executive Order 569 on climate change.⁸ The SHMCAP

² Mass. Exec. Off. Energy and Env’tl Aff. (“EEA”), Massachusetts Drought Management Plan (2019),

<https://www.mass.gov/doc/massachusetts-drought-management-plan/download>.

³ See USDA, *USDA Designates Three Massachusetts Counties as Primary Natural Disaster Areas*, (Oct. 29, 2020),

https://www.fsa.usda.gov/news-room/emergency-designations/2020/ed_2020_1029_rel_0246.

⁴ EEA, SHMCAP at 4-48 (2018),

<https://www.mass.gov/files/documents/2018/10/26/SHMCAP-September2018-Full-Plan-web.pdf>.

⁵ *Id.*; National Integrated Drought Information System, *Flash Drought*,

<https://www.drought.gov/what-is-drought/flash-drought> (last visited May. 24, 2021).

⁶ Mass. Drought Mgmt. Plan at 9.

⁷ *Id.*

⁸ Mass. Exec. Order. No. 569 (Sept. 16, 2016),

<https://www.mass.gov/executive-orders/no-569-establishing-an-integrated-climate-change-strategy-for-the-commonwealth>.

acknowledges the importance of building long-term drought resilience in Massachusetts, projecting that by the end of the century, consecutive dry days will increase by 18% and average summer precipitation will decrease.⁹ To address this, Massachusetts updated its Drought Management Plan in 2019,¹⁰ creating a systematic approach to assessing drought severity and impacts, including by directing the Drought Management Task Force to collect drought data and provide appropriate guidance for responding to droughts.¹¹

The currently-proposed regulations are a reasonable step towards better protecting Massachusetts' water sources during periods of drought.

Registrants, whose withdrawal limits are based on their extraction rates from 1981-1985—long before climate change impacts were widely understood—currently are not subject to water conservation conditions and have few obligations when it comes to reporting on their withdrawals.¹² In the absence of conservation requirements, registrants can continue to extract water at volumes up to their legal right even when environmental conditions indicate that less water should be extracted, making water sources and aquatic resources/habitat more vulnerable during droughts and periods of water scarcity.

Further, watersheds span municipal boundaries, and many communities in Massachusetts rely on shared water sources. The current lack of conservation conditions on registrants creates inequities, as some communities who are required by permit to conserve water will nevertheless be negatively impacted by neighboring communities who continue to withdraw at unsustainable rates. For example, in the Ipswich watershed, the disparate regulatory treatment of users has precipitated community conflict and threatens adequate water conservation during droughts.¹³

In times of necessity like those posed by drought, DEP must exercise its authority to impose conservation conditions on registrants so as to protect other users. Restricting activities like watering lawns, washing cars, and filling swimming pools are imminently reasonable requests when there is increased stress on water supplies. These water conservation conditions will better protect our water sources, ensuring that adequate amounts of water are available for both in-stream uses and drinking water supplies.

The proposed regulations do not infringe upon the essential water needs of registrants. Customers of registered water suppliers would still be allowed to use water

⁹ SHMCAP at 5.

¹⁰ Mass. Drought Mgmt. Plan at 7.

¹¹ *Id.*

¹² See 310 CMR 36.04-11.

¹³ American Rivers, *America's Most Endangered Rivers* (2021).

indoors as they normally do. Water use for health and safety reasons, including firefighting, and to meet core business functions would not be affected by the proposed regulations, nor would activities like food production. While we acknowledge that water suppliers facing competing demands are rightfully focused on funding to operate and upgrade their systems, such funding should not come at the expense of healthy and sustainable water sources. We urge DEP to work with water suppliers to find solutions to fully fund their operations and keep rates affordable while also protecting our waters. Water conservation coalitions and other support service providers can help water suppliers comply with these regulations at little additional cost.

In addition to supporting restrictions on non-essential water use during drought, CRWA:

- 1. Opposes the proposed blanket exemption for irrigation of public parks and public recreation fields.** CRWA would support a tiered approach, similar to that for golf courses, to reduce water use, keep fields and parks viable, and protect the public investment in these community facilities.
- 2. Opposes the exemption of the Massachusetts Water Resources Authority.** More communities are tying into the MWRA due to contaminated drinking water, and while the Quabbin Reservoir is very large, it is not immune to drought.
 - a. If DEP goes forward with unique requirements or exemption for the MWRA, CRWA suggests establishing a public process for review of alternative drought management plans and allowing for an opportunity to reconsider the special conditions after 10 years.
 - b. This is particularly important in the Charles River watershed, where water supplied by MWRA represents a significant amount of the registered water use by watershed communities. To qualify for the exemption, MWRA communities should be subject to restrictions at least as strict as those elsewhere in the watershed.

The Water Management Act requires conserving water to ensure sustainable use now and in the future. It is DEP's responsibility, as the agency assigned with carrying out the WMA, to impose appropriate water conservation conditions on registrants.

The Water Management Act was enacted in 1985 for the purpose of protecting the Commonwealth's water supply in the face of growing demand.¹⁴ Under the WMA, "[DEP] may, by regulation, establish, for any particular water source, a lower threshold volume than that generally applicable in the commonwealth upon findings that such

¹⁴ See *Fairhaven v. DEP*, 920 N.E.2d 33, 39 (Mass. 2010).

water source is in need of special protection.”¹⁵ Factors like over-consumption and drought necessitate such special protection for water sources.¹⁶

DEP already possesses the regulatory authority to impose water conservation conditions on permittees.¹⁷ DEP also has the authority to impose conservation conditions on registrants during the registration renewal process, as confirmed in 2010 by the Supreme Judicial Court of Massachusetts.¹⁸ In the *Fairhaven* case, the Court held that under § 3 of the WMA, DEP may impose conservation measures on *all* water users, stating that “[DEP] may, by regulation, impose conservation measures on registrants, provided that those measures do not infringe the registrants’ entitlement to existing withdrawals.”¹⁹ Specifically, the Court found that seasonal withdrawal conditions, like limiting outdoor water use in the summer, would not deny registrants their entitlement and would not be an overreach of DEP’s authority, given that the registrants could still withdraw their full entitled quantity of water over the course of the year.²⁰ The time has come for the DEP to exercise this authority and protect our water sources.

Thank you for considering these comments.

Sincerely,



Jennifer Ryan
Deputy Director of Advocacy

¹⁵ G. L. c. 21G, § 4.

¹⁶ G. L. c. 21G, § 3.

¹⁷ See 310 CMR 36.29.

¹⁸ *Fairhaven*, 920 N.E.2d 38.

¹⁹ *Id.* at 42.

²⁰ *Id.* at 40.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection –Water Management Program
One Winter Street, 5th floor
Boston, MA 02108

Re: Water Resources Management Program Regulations (310 CMR 36.00)

To whom it may concern,

I am writing on behalf of the Connecticut River Conservancy (CRC), which is the principal environmental advocate for the protection, restoration, and sustainable use of the Connecticut River and its watershed. The Connecticut River is the longest in New England, and its tributaries are used to supply water to the Boston metropolitan area (through Quabbin Reservoir), the Springfield Water and Sewer Commission (Cobble Mountain Reservoir), as well as numerous smaller and medium-sized water supplies that use groundwater and reservoirs. We have some of the most pristine water bodies in the state, but we also have a large degree of urbanized and agricultural land. Therefore, managing water in a sustainable way is of paramount importance to our organization, and we also look at the issue from many different perspectives.

We support the amendment to the Water Management Act to reduce nonessential outdoor water use during droughts.

Throughout the spring and summer of 2022, the entire Connecticut River watershed in Massachusetts was affected by drought,¹ limiting recreation and economic opportunities, as well impacting local farmers and industry. In addition to the economic impacts of drought, low flow conditions degrade the ecological health of the watershed, as seen this past year when migratory fish became trapped due to low river levels.² While some municipalities within the watershed implemented outdoor water bans or voluntary restrictions, the response to this year's severe drought was piecemealed and inconsistent across both the watershed and the commonwealth. As we well know, climate models predict the worsening of droughts in Massachusetts,³ making clear the need for state-wide, comprehensive regulation to reduce nonessential water use in droughts.

We do NOT support the exemption for golfing greens and all public parks and fields regardless of drought conditions; instead, these facilities should be accounted for in a tiered watering system.

310 CMR 36.07(2)(c)2.a. through d. provides a detailed plan for tiered watering practices dependent upon the drought conditions. CRC suggests two amendments to this section: 1) golfing greens should be included in the tiered structure with fairways and should be watered according to drought conditions, and 2) MassDEP should set up a similar tiered structure for watering public parks and fields. While we recognize that maintaining these facilities is necessary for recreation and economic opportunity, during significant and

¹ <https://droughtmonitor.unl.edu/CurrentMap/StateDroughtMonitor.aspx?MA>

² <https://today.uconn.edu/2022/10/alewives-can-they-get-out/>

³ <https://19january2017snapshot.epa.gov/sites/production/files/2016-09/documents/climate-change-ma.pdf>



critical droughts, water use priorities must be focused on health and safety while sustaining Massachusetts' aquatic ecosystems.

We do NOT support the multi-year drought storage definition, which provides the Massachusetts Water Resources Authority (MWRA) with exemptions from this amendment.

The Quabbin Reservoir diverts water from the Swift River, a tributary of the Ware River and ultimately diverts water that would naturally flow into the Chicopee and then Connecticut Rivers. When the Quabbin Reservoir is at capacity, excess water flows into the Swift River, providing the most basic and vital element of an aquatic ecosystem: water. The MWRA operations directly impact the sustained health of this river and should be held to the same standards as other water users in the state and be subject to restrictions on nonessential outdoor water use during drought. Additionally, there is precedent for the MRWA successfully using mitigation and reduction strategies to meet water demands. In the late 1970's, the Metropolitan District Commission (MDC) proposed to divert the Connecticut River to the Quabbin Reservoir because of projected water needs. When faced with opposition to this plan, the MDC made up for the water need by fixing leaks and improving conservation. Today, the MWRA reports its demand is down to 1950's levels, demonstrating that conservation, rather than additional withdrawal, saved millions of dollars in water treatment costs and infrastructure building and maintenance. The multi-year drought storage definition would allow users, such as the MWRA, to forgo the requirements of this regulation in lieu of developing a drought management plan. The MWRA, which has proven the efficacy of conservation practices, does not need an exemption to this regulation, which would only serve to create inconsistencies for water users throughout the commonwealth. Should MassDEP move ahead with this exemption, which we urge against, CRC requests that there be a public comment process to review and provide input on any proposed drought management plans.

Twelve years ago, the MassDEP was granted the right to require water conservation for registered water users. Considering the severity and impact of the last four droughts, which all took place within the last six years, it is well beyond time for MassDEP to not only enact these regulations to curb nonessential water use, but also to consider the worsening of drought predicted for the next twelve years. While antiquated water supply finance structures present some stumbling blocks for water suppliers, the sale of large quantities of water can no longer serve as a primary source of income during drought conditions. A variety of technical and financial assistance options are available to municipalities to deal with this issue, and it is now appropriate to implement a more comprehensive and consistent response to drought across Massachusetts through this regulatory change.

Thank you for considering these comments,

Kelsey J Wentling

Kelsey Wentling (she/her)

River Steward

Connecticut River Conservancy

November 18, 2022

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection (MassDEP)
One Winter Street
Boston, MA 02108

Submitted via email to dep.talks@mass.gov.

RE: 310 CMR 36.00: Proposed Revisions to the Water Management Program Regulations

Dear Commissioner Suuberg:

Conservation Law Foundation, Inc. (“CLF”)¹, on behalf of its members, submits these comments to the Massachusetts Department of Environmental Protection (“MassDEP”) on the proposed regulations, 310 CMR 36.00, pursuant to the Water Management Act (the “WMA”).

I. MassDEP Should Adopt the Proposed Regulations to Better Prepare Massachusetts for the Impacts of Climate Change.

Massachusetts is experiencing droughts at an alarming frequency, so CLF commends MassDEP’s commitment to an improved and more comprehensive management of water withdrawals. CLF’s advocates use law, economics, and science to design and implement strategies to conserve natural resources, protect public health, and promote vital communities in our region. Mitigating the effects of the climate crisis, including more frequent droughts, is central to that mission. CLF is engaged in efforts to help the New England region prepare for and adapt to climate impacts, such as pushing to update building codes to address climate risk, requiring utility companies to safeguard their infrastructure, and helping communities adapt to climate risks equitably.

MassDEP’s proposed water management regulations further CLF’s climate preparedness goals and are needed immediately. Massachusetts has recently experienced three significant droughts: in 2016, 2020, and 2022. The current regulations, adopted in the 1980s, do not account for droughts of this frequency and magnitude. To ensure that Massachusetts is prepared for the inevitable impacts of the climate crisis, MassDEP should implement updated water withdrawal restrictions. Specifically, CLF supports the restriction of nonessential outdoor water use by

¹ Founded in 1966, CLF is a non-profit, member-supported organization with offices located in Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, and Connecticut.

registered users during declared droughts. All water use affects the water cycle, and therefore unrestrained water use during dry periods exacerbate droughts.

II. MassDEP Should Adopt a Tiered Drought Response for Public Parks, Public Recreation Fields, and Golf Course Greens.

The categorical exemption proposed by MassDEP for the irrigation of public parks, public recreation fields, and golf course greens does not sufficiently restrict water usage during dry periods. Instead, MassDEP should adopt a tiered approach, by which public parks, public recreation fields, and golf course greens are irrigated according to drought stage.²

MassDEP's proposed regulations currently state, pursuant to 310 CMR 36.03(f), that the irrigation of public parks and public recreation fields do not fall within the definition of "nonessential outdoor water use." CLF opposes this categorization. Instead, irrigating state parks and fields for public use should qualify as nonessential water use and require a graduated drought response like that for golf courses under 310 CMR 36.07. Likewise, irrigating golf course greens should also be classified as nonessential water use.³ Such a graduated system for recreational water use would provide a model for other states to adopt.

III. MassDEP Should Adhere to the WMA's Goal of Creating Consistent Water Conservation Measures and Not Consider Financial Effects on Public Water Suppliers.

Some water users have requested exemptions similar to those already in place for essential uses. Because exemptions yield inconsistency, CLF does not support the multi-year storage definition exempting Massachusetts Water Resources Authority from water conservation requirements nor the water users' requests for further exemptions.

The WMA requires MassDEP to "comprehensive[ly] and systematic[ally]" regulate the amount of water from surface and groundwater sources to "ensure an adequate volume and quality of water for all citizens of the commonwealth, both present and future."⁴ Allowing for

² CLF supports the Commonwealth's current water management system (rather than a tiered system) for street trees, which allows trees to be watered during periods of drought. Street trees play an important role in public health and safety by mitigating urban heat islands and providing shade. Martha Bebinger, *In Chelsea, Cooling an Urban Heat Island One Block at a Time*, WBUR (May 12, 2022), <https://www.wbur.org/news/2022/05/12/chelsea-massachusetts-heat-island-cooling>.

³ There is evidence that reducing golf course irrigation does not result in lost revenue and that some golf courses even experience an increase in revenue during droughts (more golfers hire golf carts and buy drinks during hot, dry conditions). Caitlin Clary, *From Farms to Golf Courses, Newton Businesses are Feeling the Heat During Extreme Drought*, THE HEIGHTS (Sept. 11, 2022), <https://www.bcheights.com/2022/09/11/newton-businesses-are-feeling-the-heat-during-extreme-drought/>.

⁴ M.G.L. c. 21G § 3.

further exemptions would create inconsistencies and consequently impede the WMA's stated purpose of creating *systematic* principles, policies, and guidelines to protect the Commonwealth's water supply. Consistency is imperative in order to avoid confusion about whether state water restrictions apply to certain users. Consistency also ensures fairness and ease of administrability. MassDEP should therefore reconsider the Multi-Year Drought Storage definition to eliminate its exemptions and reject any additional exemptions to the Multi-Year Drought Storage definition under 310 CMR 36.03 proposed by public water suppliers.

Notwithstanding the pressure from the Massachusetts Water Works Association and other public water suppliers, MassDEP has no mandate to ensure that its regulations financially benefit public water suppliers. MassDEP's responsibility is to uphold the WMA's purpose, to "comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources."⁵ In identifying nonessential outdoor water use that may be restricted during periods of drought, MassDEP considers whether water is used for "health and safety purposes, the core function of a business, food and fiber production, including vegetable gardens, watering livestock, and water use required by a statute or regulations."⁶ Although MassDEP does consider general economic stability during drought periods and core business functions in formulating regulations, these considerations fall short of a responsibility to create regulations that ensure public water suppliers' financial solvency. MassDEP should not, therefore, amend its regulations according to what would economically benefit public water suppliers, and if pressured to do so, should clarify its proper role.

Public water suppliers can alleviate any potential financial strain resulting from these regulations by revising their rate structure to rely less heavily on sales by water volume, especially during dry periods resulting in constrained water resources. Massachusetts already provides resources for public water suppliers to help revise their rate structures to promote water conservation while preserving financial integrity.⁷ Public water suppliers should apply these water pricing recommendations and MassDEP should, in turn, avoid amending regulations to redundantly address this issue.

MassDEP's creation of a more comprehensive and consistent water management system to protect Massachusetts communities from the impacts of drought is of great importance to the members of Conservation Law Foundation. On their behalf, we thank you for your consideration of these comments.

⁵ *Massachusetts Water Resources Management Program Summary of Amended Regulations at 310 CMR 36.00*, MASSDEP, <https://www.mass.gov/doc/310-cmr-3600-summary-of-proposed-revisions-0/download> (last visited Nov. 9, 2022).

⁶ *Id.*

⁷ Water Resources Commission, *Water-Pricing*, COMMONWEALTH OF MASSACHUSETTS, <https://www.mass.gov/guides/water-pricing> (last visited Nov. 17, 2022).



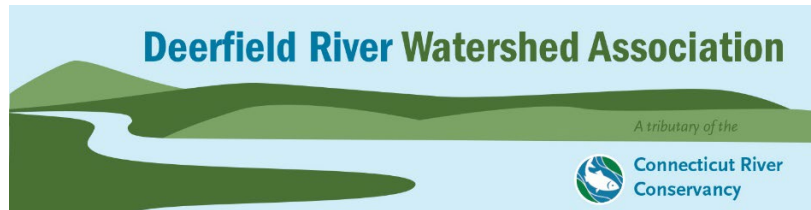
Respectfully submitted,

/s/ Emy Metzger

Emy Metzger
Legal Intern, Clean Air and Water Program
Conservation Law Foundation
62 Summer St.
Boston, MA 02110

/s/ Chelsea Kendall

Chelsea Kendall
Staff Attorney
Conservation Law Foundation
62 Summer St.
Boston, MA 02110



November 8, 2022

RE: WMA Regulations dep.talks@mass.gov

Dear Commissioner Martin Suuberg and Secretary Bethany Card:

The Deerfield River Watershed Association (DRWA) is requesting DEP strengthen the proposed draft regulations for registered water suppliers. DRWA is a non-profit environmental organization with a mission of promoting healthy habitats, clean water, protection of scenic qualities, responsible public use, protection from spills and runoff, thoughtful development policies, and appropriate land use practices for the Deerfield River watershed.

Droughts have been increasing in both frequency and severity here in Massachusetts, with the most recent drought just this year. Excessive outdoor water use during dry periods threatens both water supplies and aquatic ecosystems. This will only get worse as our climate changes.

The proposed regulations are a start, and long overdue. A 2010 court ruling (Fairhaven v. MassDEP) determined that MassDEP could require water conservation for registered water users if the Department issued regulations for this. That was 12 years ago.

Under current regulations, 53% of the public water supply is exempt from any water conservation requirements. The proposed restrictions are a small first step toward ensuring the Commonwealth adapts its water management to the new climate reality.

If the agency goes forward with its plan to exempt water systems that meet the Multi-Year Drought Storage definition, MassDEP should:

- Revise the language regarding an alternative drought management plan (36.07(2)(c)3) from “accept” to “approve;”
- Establish a public process for the community to review and comment on proposed alternative plans; and
- Reconsider this exemption before the next registration renewal if the MWRA expands its system to provide more water to new or existing customers within the next ten years.

Thank you,

A handwritten signature in dark ink, appearing to read 'Jim Perry', is located below the 'Thank you,' text.

Jim Perry, President

Deerfield River Watershed Association



Deerfield River Watershed Chapter #349

To protect the Deerfield River and its watershed in Massachusetts, with diverse community partners, and to enhance wild and native trout habitat for future generations through science-based conservation and education.

November 16, 2022

Re: Water Management Regulations dep.talks@mass.gov

Dear Commissioner Martin Suuberg and Secretary Bethany Card,

The Deerfield River Watershed Chapter of Trout Unlimited (DRWTU) is requesting DEP consider strengthening the proposed draft regulations for registered water suppliers. We fully support this regulation change to restrict nonessential outdoor water use by registered users during times of declared drought. DRWTU is a non-profit organization whose missions stated in the letterhead above is "To protect the Deerfield River and its watershed in Massachusetts..."

Droughts have been increasing in both frequency and severity here in Massachusetts, with the most recent drought just this year. Excessive outdoor water use during dry periods threatens both water supplies and aquatic ecosystems. This will only get worse as our climate changes.

The proposed regulations are a start, and long overdue. A 2010 court ruling (Fairhaven v. MassDEP) determined that MassDEP could require water conservation for registered water users if the Department issued regulations for this. That was 12 years ago.

We support the tiered response to golf courses; however, we oppose the exemption for watering greens regardless of drought stage.

Under current regulations, 53% of the public water supply is exempt from any water conservation requirements. The proposed restrictions are a small first step toward ensuring the Commonwealth adapts its water management to the new climate reality.

If the agency goes forward with its plan to exempt water systems that meet the Multi-Year Drought Storage definition, MassDEP should:

- Revise the language regarding an alternative drought management plan (36.07(2)(c)3) from "accept" to "approve;"
- Establish a public process for the community to review and comment on proposed alternative plans; and
- Reconsider this exemption before the next registration renewal should the MWRA expand its system to provide more water to new or existing customers within the next ten years.

Thank you,

Eric Halloran

DRWTU President

Sheila Kelliher

DRWTU Vice President



November 17, 2022

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
1 Winter Street
Boston, MA 02108

Comments on proposed revisions to Water Management Act Regulations in 310 CMR 36.00

Dear Commissioner Suuberg,

The Environmental League of Massachusetts wishes to provide comments in support of the proposed Water Management Act regulatory update in 310 CMR 36.00. These revisions, which would require registered water users to implement plans for water conservation measures during periods of drought, will improve the Commonwealth's ability to implement science-based, standardized drought management policies as accelerating climate change impacts increase the frequency and severity of extreme weather events.

Droughts are increasing in frequency and severity in Massachusetts, with the Commonwealth experiencing major droughts 4 of the last 7 years. 2022 was the 9th driest year in the last 128 on record according to the U.S. Drought Monitor, and at our driest point this summer, 94% of Massachusetts experienced drought conditions while over half the state was determined to be in "extreme" drought. This persistent, multiyear stress on our watersheds has significant ecological, economic, and public health impacts.

65 water supplies across Massachusetts operate under Water Management Act registrations dating back to the 1970s. Although many communities whose water is supplied by WMA registrations have some drought management policies, there is currently no uniform statewide requirement for registered users to include specific water conservation measures in their planning and operations. Furthermore, misapplied local water use restrictions that do not align with data-driven best practices can exacerbate stresses or create enforcement challenges. These proposed regulatory updates would create baseline requirements in line with the statewide Drought Management Plan to limit nonessential outdoor water use in periods of drought in proportion with severity. Successful management of our water resources cannot rely on a patchwork of inconsistent local regulations; the Commonwealth must move toward implementing consistent watershed-based policy statewide.

These regulations represent a significant step forward toward increased consistency in water conservation policy across all water users in Massachusetts. We know that frequent extreme weather events will exert increasing stress on our water supply as climate change continues to impact cities and towns across Massachusetts, and comprehensive regional water



ELM

ENVIRONMENTAL LEAGUE
OF MASSACHUSETTS

management is an important resiliency measure. ELM supports the proposed regulatory updates and urges the Department to continue to seek policy solutions which prioritize consistency, preparedness, and data-informed decision making in drought management.

Thank you for your consideration of these comments and please do not hesitate to contact ELM with any questions.

Sincerely,

David Melly

Legislative Director

From: [Kate Bowditch](#)
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Thursday, November 10, 2022 10:26:01 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

On behalf of Greenbelt, I am writing to share our organization's support for the proposed revisions to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

As a land trust with a strong focus on climate and resiliency for our region, and being located in the Massachusetts county with the longest lasting drought of 2022, we are acutely aware of the need to find new ways to manage and protect our region's precious water resources.

Excessive water withdrawals have threatened stream and wetland health in our state for many years. Adopting the proposed regulations would be a solid step forward as we work to adapt to a new climate reality.

Please pass these regulations as swiftly as possible.

Thank you,

Kate Bowditch
President
Essex County Greenbelt Association



November 7, 2022

RE: WMA Regulations

Dear Commissioner Martin Suuberg:

The Fort River Watershed Association (FoRWA) requests that DEP strengthen the proposed draft regulations for registered water suppliers. FoRWA is a non-profit environmental organization with a mission that includes: restore and protect the Fort River and its watershed; support educational programs for people of all ages; and make the Fort River and its banks more accessible for low-impact recreation.

Droughts have been increasing in both frequency and severity here in Massachusetts, with the most recent drought just this year. Excessive outdoor water use during dry periods threatens both water supplies and aquatic ecosystems. This will only get worse as our climate changes.

The proposed regulations are a start, and long overdue. A 2010 court ruling (Fairhaven v. MassDEP) determined that MassDEP could require water conservation for registered water users if the Department issued regulations for this. That was 12 years ago.

Under current regulations, 53% of the public water supply is exempt from any water conservation requirements. The proposed restrictions are a significant step toward ensuring the Commonwealth adapts its water management to the new climate reality.

If the agency goes forward with its plan to exempt water systems that meet the Multi-Year Drought Storage definition, MassDEP should:

- Revise the language regarding an alternative drought management plan (36.07(2)(c)3) from "accept" to "approve;"
- Establish a public process for the community to review and comment on proposed alternative plans; and
- Reconsider this exemption before the next registration renewal if the MWRA expands its system to provide more water to new or existing customers within the next ten years.

Thank you,



Brian Yellen, President

Fort River Watershed Association

From: [Friends of the Malden River](#)
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Wednesday, November 16, 2022 7:20:40 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg, I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought. The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality. Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts. Please pass these regulations as swiftly as possible.

Thank you.

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- **Support the Massachusetts Waterways with a Mass Environmental Trust license plate:** [Purchase an Environmental Trust Plate](#)

Mission of The Friends of Malden River: The Friends of the Malden River seek to promote awareness of and interest in the Malden River, improve its water quality, and increase access for public enjoyment.

Check out our [facebook page](#) and [website](#) for more information!

From: [Maureen O'Hara](#)
To: [Suuberg, Martin \(DEP\)](#); [DEP Talks \(DEP\)](#)
Cc: [Tracey Cannistraro](#)
Subject: WMA Regulations
Date: Thursday, November 17, 2022 7:51:46 PM

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Commissioner Suuberg,

For over 20 years the Garden Club of the Back Bay has worked in partnership with the Boston Parks Department to plant, protect and care for the street trees in this historic neighborhood.

One of the most important elements of this program is the pruning, disease treatment and watering of the 1400 street trees in our neighborhood that add significant benefits to the urban tree canopy in the city of Boston.

Volunteers from our organization as well as other residents in the Back Bay make sure that newly planted and other vulnerable street trees receive adequate water to get established and to survive in times of drought.

While we are very fortunate to have a committed group to accomplish this. Other neighborhoods are not so fortunate. We would hope that your proposed guidelines would include an exemption for the watering of street trees by citizen volunteers in times of particular need.

There is increasingly widespread advocacy for the enhancement of the urban tree canopy as both a social justice issue as well as an important element in addressing the challenges of climate change. Urban street trees are the most vulnerable element of this and any restrictions on those who care for them would have very negative impacts on this goal.

We urge you to exempt this activity from your proposed regulations.

Thank you very much for your time.

Respectfully,

Maureen O'Hara and Tracey Cannistraro

Co- Presidents

The Garden Club of the Back Bay

Boston, Massachusetts

Maureen O'Hara

mo_ohara@yahoo.com

From: [Rui Coelho](#)
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Wednesday, October 19, 2022 2:37:46 PM
Attachments: [image.png](#)

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Massachusetts Department of Environmental Protection
Bureau of Resource Protection –Water Management Program
One Winter Street, 5th floor
Boston, MA 02108

Re: WMA Regulations

Dear MassDEP,

Thank you for the opportunity to submit comments in support of the proposed Water Management Act regulations. I currently volunteer as president of the Greater Boston chapter of Trout Unlimited (GBTU), a regional non-profit organization dedicated to protecting and restoring the state's cold water resources, with ~1,000 members in our area and over 4,000 statewide.

Drought has become a serious threat to Massachusetts communities and ecosystems, as you heard from many people in the two public hearings. I personally have participated in Lobby for the Rivers Day 3 times (in person or visually) to support the statewide drought management legislation. In 2016, 2020, and now again in 2021, Massachusetts is experiencing record low flows across the state that threaten aquatic life, recreational opportunities, agriculture, and our water supply.

Please allow me to share a story. I was just on the phone with one of our supporting business owners, Charlie Shadan of the Evening Sun Fly Shop in Pepperell MA. He had a tough year, the water levels were too low to support great fishing. You know the ripple effect, people don't go to the river to fish, they don't go to the restaurants to eat, or the gas station to fuel up... From his Oct Newsletter:

To my loyal & valued customers,

Crisp, clean air and no water or fish for our area rivers is not a situation I thought would be prevalent this year. The DFW in Massachusetts has decided NOT to stock the Nissitissit and Squannacook rivers with its fall allotment of fish. Low water has been the culprit. In my 57 years of fly fishing and my 17 years of owning the shop, I don't ever remember this happening!!!

I've had to cancel my two October Beginners Learn to Fly Fish schools much to the

chagrin of the students. Mother nature can be cruel and unforgiving.

While we can't control the weather, we can, with sound legislation, control the water usage.

Personally, my lawn (right) looked so poor this Summer and is now coming back to life. My neighbors (left) just kept watering, including overspray onto the street, and had beautiful laws, but at what cost to others (e.g., farmers) in the community?



What I am trying to point out, this isn't just about water management, but the impact on the state overall. Everything is connected and a holistic vision is required along with a complete water management plan

For example, in the fall of 2020 each county was individually declared a “drought disaster area” by the USDA due to drought damage to crops, six communities declared water supply emergencies, and many streams experienced fishkills. Depleting our water resources just for summer lawn watering and other non-essential outdoor watering does not make sense. It’s obvious that our current regulations fail to meet the challenge of drought.

In light of that, GBTU is grateful that MassDEP has proposed these new regulations that fit so squarely with the State’s Drought Management Plan and the Water Management Act’s

stated purpose, to *comprehensively manage water withdrawals*.

With drought conditions predicted to get worse, our state needs a coordinated response. It is only fair to subject the last 20% of regulated water withdrawals (184 million gallons per day) to the

same water conservation requirements that permittees are already required to do under the Water Management Act. This is the least we can do to make our water management system resilient.

When water registrations were grandfathered in without conservation conditions in the 1980s, we weren't thinking about climate change in the way we need to now. Adding in water conservation requirements adapts those withdrawals to our reality, and is a step towards meeting our future needs.

DEP must create a more comprehensive water management system that is preventative rather than reactive. Conditioning water registrations during drought is the minimum of what DEP could do to protect our water resources from excessive withdrawals. Water conservation should occur in advance of a drought, not just when the impacts of drought are already here. Many of our sub-basins are severely stressed, and yet we continue to withdraw from them.

While we are sympathetic to the needs of water suppliers to fund their operations, this should not happen at the expense of our rivers and water supplies. We simply cannot wait another ten years for the next opportunity to make our water management system more resilient. We urge MassDEP to promulgate the proposed regulations as a first step.

Thank you for this opportunity, and we look forward to working with MassDEP in creating a stronger water management system for the Commonwealth. Please contact me with any questions.

Sincerely,

Thank You.

Rui Coelho

President

Greater Boston Chapter of TU

617-285-1665

From: [Marcia Cooper](#)
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Wednesday, November 9, 2022 7:48:10 PM

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Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108

Dear Commissioner Suuberg,

On behalf of the environmental nonprofit organization, Green Newton, I would like to weigh in on the MassDEP proposal to condition registered water withdrawals during times of drought. We understand that the state is taking action for the first time to put *conservation requirements* on registered allocations and that the amendments will require restrictions on nonessential outdoor water use by Water Management Act registrants during times of drought declared by the Secretary of Energy and Environmental Affairs.

Please do not let outmoded water supply financing structures prevent us from improving climate resilience. While some water suppliers rely on selling large quantities of water during droughts to finance their operations, the solution is for them to restructure water rates, not sell more water when it is most damaging to the environment. Restructuring water rates to achieve both environmental and equity goals can provide more revenue stability for water suppliers during droughts and rainy summers.

Excessive outdoor water use during dry periods threatens our water supplies and aquatic ecosystems, while droughts have been increasing in frequency and severity in the Commonwealth. Therefore, Green Newton requests that MassDEP strengthen the proposed draft regulations for registered water suppliers.

Respectfully,

Marcia Cooper

President, Green Newton
marcia@greennewton.org
617-964-8567 (h) 617-416-1969 (c)
www.greennewton.org



From: [Cary Kandel-Nadler](#)
To: [DEP Talks \(DEP\)](#)
Cc: [Judy Grinnell](#)
Subject: Please Strengthen WMA Regulations
Date: Sunday, November 6, 2022 12:25:29 PM

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MassDEP's Bureau of Resource Protection
Water Management Program
One Winter St, 5th floor
Boston, MA 02108

November 6, 2022

Dear MassDEP:

I am writing to ask you to strengthen your proposed draft regulations for registered water suppliers. As a non-profit organization based in North Adams, MA that focuses on the rehabilitation of the Hoosic River, the Hoosic River Revival supports forward-thinking governmental regulations that promote water conservation.

Here's what we know:

- Droughts have been increasing in both frequency and severity here in Massachusetts, with the most recent droughts in 2016, 2017, 2020, and 2022. **Excessive outdoor water use during dry periods threatens both water supplies and aquatic ecosystems.** This will only get worse as our climate changes.
- **The proposed regulations are a start, and long overdue.** A 2010 court ruling (Fairhaven v. MassDEP) determined that MassDEP could require water conservation for registered water users if the Department issued regulations for this. **That was 12 years ago.**
- Under current regulations, 53% of public water supply is exempt from *any* water conservation requirements. **The proposed restrictions are a small first step toward ensuring the Commonwealth adapts its water management to the new**

climate reality.

- **Do not let outmoded water supply financing structures prevent us from improving climate resilience. We realize that some water suppliers rely on selling large quantities of water during droughts to finance their operations. However, the solution is for them to restructure water rates, not sell more water when it is most damaging to the environment.** Restructuring water rates to achieve both environmental and equity goals can provide more revenue stability for water suppliers during both droughts and rainy summers (when people purchase less water). The MA DCR and the Water Resources Commission, the Alliance for Water Efficiency, the American Water Works Association, and consultants that serve the industry can provide assistance and technical support for municipalities seeking to address this challenge. MassDEP's own "SWMI grants" for municipalities can also be used to fund consultants who specialize in this area.

Here's what needs to be done:

- **We oppose the blanket exemption for irrigation of public parks and public recreation fields** (Part (f) of the definition of Nonessential Outdoor Water Use). ***MassDEP should impose a tiered drought response for playing fields similar to that for golf courses, with the goal of keeping these fields viable.*** With some limited exceptions (i.e., water parks in state-designated environmental justice communities), parks should not be watered during droughts. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought. It is also important for Massachusetts residents to become used to and accept drier, browner landscapes during droughts.
- **We do not support the Multi-Year Drought Storage definition which exempts the Massachusetts Water Resources Authority from these requirements.** While it takes a long time to drain the Quabbin, it also takes a long time to replenish it. With PFAS, drought, and possible climate migration to our state, it is likely that more communities will want to tie into the Quabbin, and that existing customers will want to use more water in the future. Finally, everyone should conserve water during a drought, and omitting this exemption will provide more consistency (and less confusion) around the state about water restrictions. In no case should there be any additional exemptions.
- **Should the agency go forward with its plan to exempt water systems that meet the Multi-Year Drought Storage definition, MassDEP should:**
 - Revise the language regarding an alternative drought management plan (36.07(2)(c)3) from "accept" to "approve;"
 - Establish a public process for the community to review and comment on proposed alternative plans; and
 - Reconsider this exemption before the next registration renewal should the MWRA expand its system to provide more water to new or existing customers within the next ten years.
- **We support the tiered response to golf courses; however, we oppose the exemption for watering greens regardless of drought stage.**

Thank you for your consideration of our comments and for moving this important work forward in a way that benefits Massachusetts residents, as well as its rivers, to the maximum amount.

Best,

Cary Kandel-Nadler, Hoosic River Revival Clerk

Hoosic River Revival
P.O. Box 434 North Adams, MA 01247
www.HoosicRiverRevival.org Tel. 413.398.5288 info@HoosicRiverRevival.org

The Hoosic River Revival (Inc.) is a non-profit 501 c (3) Corporation EIN: 46-1081343



November 12, 2022

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed changes to the Water Management Act regulations

Dear Commissioner Suuberg,

Thank you for the opportunity to comment on DEP's proposed changes to the Water Management Act regulations. We strongly support conditioning registrations to align with the drought stages as called for in the Massachusetts Drought Management Plan and applaud DEP's proposal to increase protection of the Commonwealth's threatened and increasingly at risk water resources.

As an organization whose mission is to protect and restore the Ipswich River Watershed for both people and nature, we feel that conditioning registrations is fundamental to DEP's mission and is required under the WMA since there is no way to comprehensively protect water resources as required under the WMA without doing so. In fact, this fundamental requirement is exemplified in the Ipswich Watershed as approximately 80% of regulated withdrawals are functionally registered. [we say functionally since the largest water withdrawal in the basin, Salem-Beverly has never had its WMA "permit" implemented such that it is managed as a registration.] Not only do we believe that conditioning registrations is a requirement of the law doing so now is even more critical due to climate change which is already upon us. In the Ipswich River, the devastating droughts in 2015-16, 2020 and 2022 produced the lowest river flows in recorded history.

Given that registrations make up the vast majority of withdrawals in the Ipswich there simply is no way to provide the for the balancing requirement in the WMA without conditioning them. Moreover, we have seen a huge challenge with gaining compliance with water conservation requirements and water bans in the few communities in the Ipswich Basin that enact them because most people in the watershed (or obtain here water from it) are exempt because of registrations. We have documented more than 1000 next door neighbors throughout the basin where one is subject to a water ban and the other is exempt from any water conservation requirements because of registrations. This dynamic is untenable. In the Ipswich, where more than 50% of summertime water use is non-essential, it is nonsensical that we would allow for non-essential water use during droughts and risk our precious water supplies and water security as we do currently.

Additionally, for the same reasons above we strongly oppose the provisions in the proposed regulations giving exemptions to specific water supply sectors, including the MWRA. Having any exemptions sends the wrong message and will lead to non-compliance as we observe in the Ipswich. Moreover, public water

suppliers as governmental or pseudo governmental organizations should lead by example in this regard because much of the public do not rely on public water systems and should also be encouraged to conserve water during droughts as all water is connected.

We are also strongly against the proposed blanket exemption for public parks and recreational facilities for some of these same reasons. We and DEP itself has learned from our mutual foray into social marketing (e.g. the Healthy Lawn Happy Summer Campaign) that the two strongest motivators in human behavior are peer pressure and fairness. As public entities, exempting public parks from common sense water conservation requirements is nonsensical and extremely counterproductive as public entities need to set the example. In the Ipswich Watershed, we have seen an explosion in the installation of new, irrigated public recreational facilities in the last 20 years. While most of these are irrigated via wells and are not on public water supplies, many across the state are. At the very least, DEP could employ a scheme like they do for golf courses during WMA permitting so that only the critically important parts of recreational fields (e.g. newly established playing fields) are watered but are still subject to tiered drought restrictions. Having restrictions on public parks and playing fields would also help incentivize land managers to install and maintain drought-resistant landscapes as opposed to bluegrass sod-based surfaces which are still far too prevalent. DEP needs to be the leader in encouraging these positive behaviors!

We are grateful to DEP for proposing these common sense and long overdue improvements to the Water Management Act regulations. Not only are these changes important to protect The Ipswich River and streams across the Commonwealth, they will improve public health & safety, preserve limited water supplies for essential human needs and make our precious and increasing threatened water resources more resilient in the face of climate change.

Thank you for considering our comments,

Sincerely,

A handwritten signature in dark ink, appearing to read "Wayne Castonguay", written in a cursive style.

Wayne Castonguay
Executive Director



17 November 2022

Executive Office of Energy and Environmental Affairs
Secretary Bethany Card
Massachusetts Department of Environmental Protection
Commissioner Martin Suuberg
Bureau of Resource Protection –Water Management Program
One Winter Street, 5th floor
Boston, MA 02108
Via email at: dep.talks@mass.gov, Subject *WMA Regulations*

Re: Comment on WMA Regulations Proposed changes

Dear Secretary Card, Commissioner Suuberg, and Staff of the Bureau of Water Resource Protection,

Silver Lake is getting progressively worse with on-going chronic management by the City of Brockton for water supply. Increasing anoxia, establishment of invasive species, cyanobacteria delivered through the diversion of Monponsett Pond to "supplement" supply has led to the Category 5, TMDL requirement in the most recent CWA Integrated Waters listing. Brockton's management kills the freshwater mussels through dewatering of the shallows, almost every year. Symptoms of drought is an annual experience for the creatures that live in Silver Lake, only because Brockton sucks too much. Why? Because they have no restriction to guide them when it might be appropriate to water the sidewalks outside city hall, sell water to Abington, in violation of their Registration, pump more water to increase revenues for their budget. What Brockton is doing in this management scheme is an evolving tragedy in our ecosystem, despite our best efforts, and DEP is complicit in that evolution.

Needless to say the Jones River Watershed Association is in full support of the changes currently being proposed. To properly manage our living resources for all, we must do so sensibly and fairly, as well as with a deep understanding and appreciation of the full scope of their essential life-giving value. This is what the Water Management Act sought to do at its inception.... **Such principles, policies and guidelines shall be designed to protect the natural environment of the water in the commonwealth...** But so far, we have failed, especially regarding Silver Lake in the Jones River watershed. This Great Pond, shared geographically by four abutting towns, has been long abused due to the take, and out of basin transfer of way too much water. Despite its daily yield of 2 to 4 million gallons¹, Brockton has been allowed to take twice, to almost five times that much during the period of registration prior to January 1, 1986, and since! So, despite gushing water through leaks in uncared for piping systems in the early 80's, and despite failure to comply with the regulations in the first filing for a Registration because the city comingled two distinct river basins, (Registration Statement 1989) DEP (DEQE) issued a Registration anyway. Yes, DEP did eventually issue an ACO requiring leaks to be stopped, and a Conservation Officer and Water Commission to be established--but the Officer is long gone, and the

¹ <https://jonesriver.org/ecology/silver-lake/> see Silver Lake & Jones River Flow Study

Commission no longer has power. A Water Management Plan and Drought Management Plan were required by DEP but were never approved. So instead of requiring conditions to be met, DEP abandoned the ACO and transferred it to Monponsett Pond. Yet today we still live with Brockton's 11.11mgd Registration, which has NEVER been appropriate, or legally established. Yet year after man-made droughty, damaging, species killing year, the DEP has reneged on its obligation to protect this natural environment for present and future generations. To make matters even worse, and despite the WMA Registration rules, Brockton is now providing water to Abington, Stoughton and possibly also to Easton--even though the Registration was explicitly for ONLY the communities served prior to Jan. 1, 1986. Brockton did eventually have a permit for the Avon Reservoir--but that is not in use now due to PFAS contamination. Brockton has a permit to take water from Aquaria, which it is doing now, in the most minimalist way--but still NO water has flowed to the Jones River since the beginning of June. One may conclude that this is because of the drought. But in context, this is the situation every year at Silver Lake. This lake is 80 ft deep, glacially formed, primarily groundwater fed, and one of the 12 largest natural lakes in the Commonwealth. The Jones River was formed as the glacier breeched east 14,000 years ago and is the largest river draining to Cape Cod Bay. One must appreciate the importance of this spawning ground to river herring, shad, eels, white perch as well as trout. We need these species, and they are in serious decline due only to our so-called management. It is our duty to improve this condition, and the proposed regulation is only one small step that must be taken.

When the Jones River flow drops below a certain level at Elm Street, the Kingston water department is required to issue mandatory water restrictions. Kingston withdraws less than 2 MGD from ground water sources. Silver Lake is 17% of the watershed above the USGS guage, and Brockton extracts all water that would flow to the Jones River and lowers the lake as well. Yes, in place of cool clean water, the city diverts filthy, cyano-ridden flow from the shallow Monponsett Ponds complex--but that was SUPPOSED to be an emergency fix during the mid-1960's drought. It was NEVER supposed to be a permanent resolution of Brockton's scarcity of supply. Dis-interest on the part of regulators and city officials is leading to ecosystem catastrophe --how will you fix this? Leave it to the children and grandchildren who will be struggling to survive an increasingly bleak future of shortages and contamination? Why? Surely, we know more now. Surely, we care. We are one of the most water rich states, people will be coming here as climate change takes hold. When will we take measures to ensure that everyone has a good chance at survival because of good water and food from the sea and the streams of our coastal communities?

Brockton should not be allowed to ever water sidewalks and streets with Silver Lake water. They could/should collect water as they did in the past with cisterns under the city. That is not hard or mysterious. They have roofs and gutters and downspouts and can dig a hole to put a box in them--some old infrastructure probably still exists in Brockton. In addition, we know Brockton's current supply resources have long been inadequate to fully service the city. Therefore, JRWA with other regional partners are coming together to assist the city with planning a robust and sustainable supply system. However, we will never get anywhere if the State fails to take an interest in protecting the ecosystems associated with water supplies. We need your help, and implementing the proposed regulations is the smallest of steps you can take.

JRWA supports the recommendations of the Mass Rivers Alliance for all the water suppliers in the Commonwealth. We must collectively advance more sustainable management, and this must include restructuring water rates so that the systems do not need people to use more water generally or use limited resources to grow regionally inappropriate landscapes or promote wasteful recreational practices. It is time to evolve to use more earth friendly and sustainable practices. Not everyone is a golfer, but everyone suffers when sloshing water on putting greens is considered necessary. Golf

courses can be encouraged to create irrigation reservoirs to use during droughts and times of water shortage. Choice of vegetation matters and installing drought resistant, low maintenance, habitat friendly turf should be used for golf and other recreation developments to preserve water for all of nature's needs. Public parks are the same too. More care and attention must be given to landscape plans and maintenance to provide the most inclusive, earth friendly, non-toxic, and less consumptive/maintenance demanding environments. This takes planning to avoid expunging our native and wild resources that provide the joy we seek in nature as well as healthy ecosystems that can sustain our societies now and in the future.

Some reservoirs are man-made, others are not. Silver Lake has only been a "reservoir" since the Acts of 1899 gave Brockton the right to use Silver Lake for water supply if the city provided water to Whitman too. To accomplish this Brockton constructed a 38-inch-tall dam on the Jones River 1600 feet below the Silver Lake outlet. Silver Lake is the glacial headwater of the Jones and was a primary habitat for spawning fish from Cape Cod Bay and the Gulf of Maine. The purpose of the dam was to raise the lake level one foot to provide Brockton with its water supply from that one foot of water! But time and a failure to address serious and more management is causing the collapse of our fisheries. JRWA is working with DMF, who does have an MOU with Brockton to install a fishway into its pitiful dam. We hope to accomplish this next year. But will there be flow to the ladder to get fish in and out? Without flow we cannot achieve necessary restoration. Failure of management is not a basis for allowing all these species to decline. There is nothing that can forgive this environmental abuse.

The below link is a collection of photos from Silver Lake in January 2017, where we estimate over 5 million freshwater mussels, including special concern tidewater mucket perished. During this drought we have pictures of Brockton irrigating its sidewalks around City Hall, when the rest of the region had mandatory water restrictions. Exemptions such as this must end.

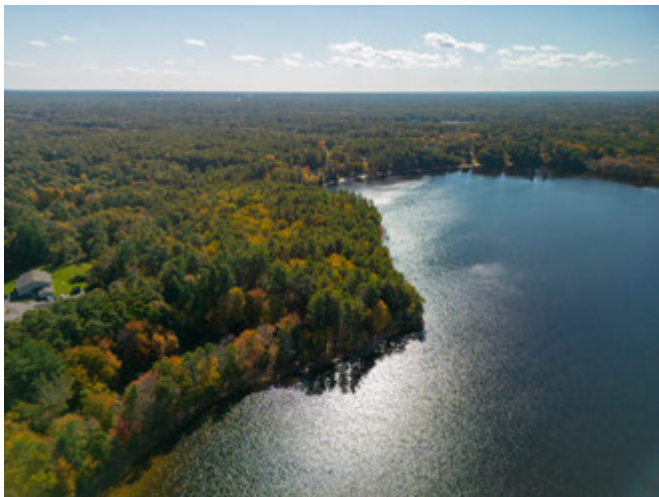
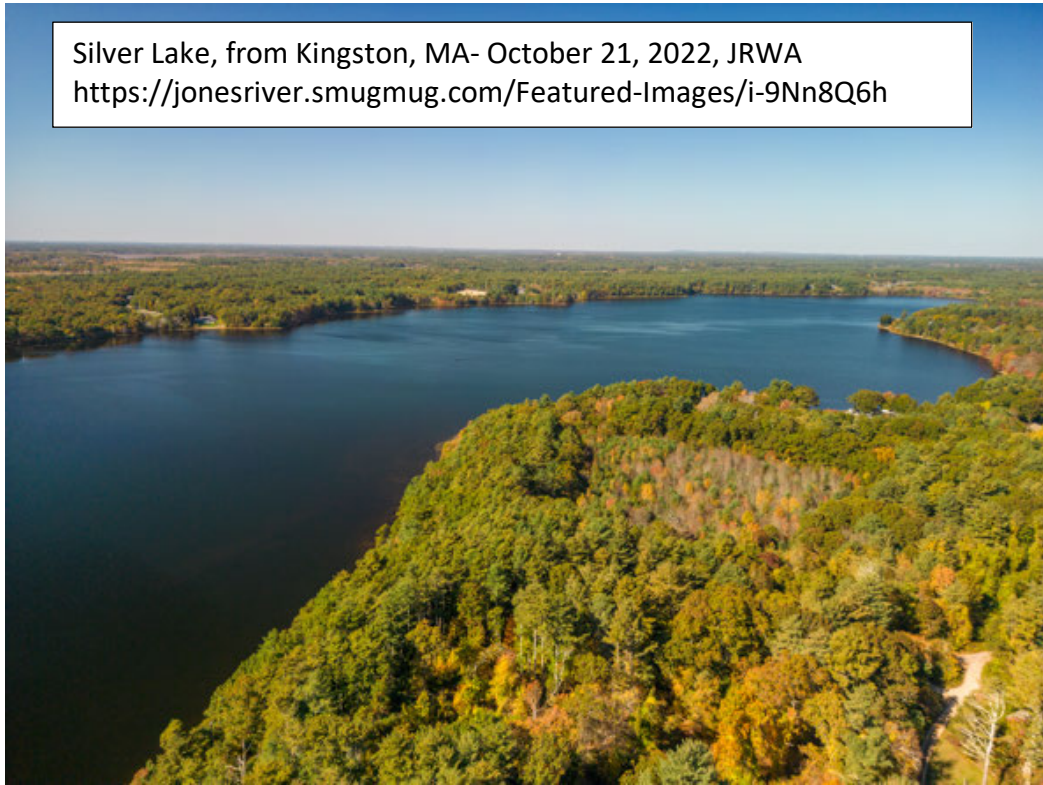
<https://goo.gl/photos/b8a3wJBDjWJfTrLk6>

Drawdowns such as this, which have been repetitive, occurring multiple times each decade, cause long term damage to the quality of lake's water and the species that live there. Mussels are important, if not essential to maintaining water quality, and they take a long time to rebound in numbers sufficient to perform this important service. No amount of chlorine, fluorides, potassium per-magnate, or solar bees can outperform the water purification of a robust mussel population. To extract water out of basin without regard to this and other consequences is damaging to the environment and the long-term health of our communities.

Silver Lake is not so low this year, but the consequences to migrating fish populations, river herring, American eel, shad, white perch, and others is enormous. Despite a relatively full lake, management by Brockton takes ALL the available water and leaves NONE for the river and to support other ecosystem services.

The following pictures were taken on October 21, 2022, by JRWA. The beautiful lake now is contaminated with cyanobacteria as tested by the CPCWDC consultant TRC. There has been NO flow to Jones River to pass fish since early June. Kingston was on Mandatory Restrictions on outside watering from late spring. Brockton was never restricted in outdoor water use.

Silver Lake, from Kingston, MA- October 21, 2022, JRWA
<https://jonesriver.smugmug.com/Featured-Images/i-9Nn8Q6h>



Outlet to Jones River--zero flow downstream

The below pictures are from June 18, 2022. No water flow from Silver Lake to Jones River since that time. Picture of fish ladder and eel trap monitored daily by JRWA/DMF to re-establish fish connectivity between Cape Cod Bay and Silver Lake spawning area. Picture on right is immediately below fish ladder at the Brockton dam, a few puddles, but no flow.



In addition to the comments of the Mass Rivers Alliance, JRWA supports the comments of the Taunton River Watershed Alliance. We will continue to work with these groups and others to restore ecosystem health through dam removals, restoration of fish passage and all efforts to improve water quality in our communities. We look to DEP and other EEA agencies for your assistance. Please help.

Yours for Environmental Justice,

A handwritten signature in black ink, appearing to read "Pine duBois". The signature is stylized with a long horizontal line extending from the top left and a large, looped "P" at the beginning.

Pine duBois, Executive Director
Jones River Watershed Association
55 Landing Rd
Kingston, MA 02364
781-424-0353 (m)
pine@jonesriver.org



July 26, 2021

Commissioner Martin Suuberg
Massachusetts Department of Environmental Protection (MassDEP)
Bureau of Resource Protection – Water Management Program
One Winter Street, 5th floor
Boston, MA 02108

Re: **Water Management Act (WMA) Regulations (310 CMR 36.00)**

Submitted Via Email: dep.talks@mass.gov

Dear Commissioner Suuberg:

On behalf of Mass Audubon, I submit these comments in support of MassDEP's proposal to update the WMA regulations at 310 CMR 36.00 pursuant to MGL Ch. 21G. We support the proposal to require water conservation measures for non-essential water uses by registered water suppliers during state-declared droughts.

The proposed regulatory amendments are essential to ensure full and fair administration of the WMA, with reasonable and appropriate conservation and efficiency in the use of the Commonwealth's precious water resources. These revisions are also necessary to address the impacts of climate change, which is resulting in more frequent and intense droughts. It is consistent with Governor Baker's Executive Order 569 *Establishing and Integrated Climate Change Strategy for the Commonwealth*.

Mass Audubon was involved in the drafting and legislative process that led to the adoption of the WMA and has been following its implementation since the mid-1980s. We have longstanding concerns regarding the lack of regulations to require efficiency and conservation by registered users. While the law provided for continued use of those water supplies, the lack of even the most basic conservation provisions for their use effectively precludes the WMA purposes of effective and comprehensive water management. Water conservation by all non-essential users during droughts is a minimum, common-sense measure to ensure adequate water for all essential uses and to protect the natural resources that depend on surface and groundwater levels.

We also encourage MassDEP to adopt regulatory changes that would enable the agency to impose conservation standards on water supplies below the 100,000 gallon per day threshold. This is important as more and more non-essential users are constructing private irrigation wells for lawn and landscape irrigation.

Conserved Lands and Water Supplies

It is also important to note the role of conservation lands managed by federal, state, and municipal governments and nonprofit land trusts in protecting water both for water supplies and to support habitat for fish and wildlife. Ironically, water is chronically depleted in many of the rivers, streams and wetlands located on these protected lands, due to excessive withdrawals.

The attached map shows one aspect of the overlap of these two factors – the location of Mass Audubon's wildlife sanctuaries in eastern Massachusetts in relation to groundwater depleted basins.

These lands, conserved for public trust benefits, are degraded by the persistent lack of natural flows and water levels in streams, ponds, vernal pools, and wetlands. Similar issues exist for a wide array of publicly-owned lands such as Department of Conservation and Recreation Forests and Parks, MassWildlife Wildlife Management Areas, municipal conservation lands, National Wildlife Refuges, lands conserved by other land trusts, and lands held directly by water suppliers.

One example is the Ipswich River, declared one of the ten most endangered rivers in the nation by American Rivers¹. Mass Audubon's Ipswich River Wildlife Sanctuary encompasses some 2,000 acres, and eight miles of the main stem of the Ipswich River flow through the sanctuary. The river is bordered by extensive wetlands including silver maple floodplain forest, shrub swamp, wet meadows, cattail marshes, and other wetland types. Several river islands are also located on the sanctuary providing important upland habitat within the wetland matrix. These extensive wetlands as well as the river itself are impacted by water withdrawals that reduce flows in the Ipswich River and impact groundwater levels and therefore base flow to the river.

The Ipswich River basin is one of the most flow-depleted river basins in Massachusetts. The majority of withdrawals are subject only to registrations. Major sections of the river and its tributaries routinely run dry for weeks or months at a time, and scientific studies have shown that this is due primarily to water withdrawals². These issues were brought into sharp focus during the two most recent droughts.

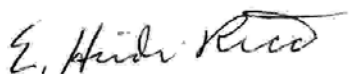
Water Systems Sustainability

One of the comments raised by some water suppliers during the public hearings was concern about loss of revenue from summer water use. However, it is fundamentally unsustainable for water systems to rely on nonessential water sales during droughts. There are other means of addressing the revenue concerns, by adjusting rate structures. Water rates should be fair and equitable, and provide sufficient funding for essential maintenance and improvements to public water supplies. This can be achieved without compromising the integrity of our wetlands, waterways, and groundwater levels.

Conclusion

Water conservation by nonessential water users during declared droughts is a minimum standard, and one that is long overdue. Registration renewals occur only once every ten years, so it is vital that these regulatory reforms be put in place before the current round of renewals. The permit expiration tolling extensions resulting from the pandemic emergency provide more time for MassDEP to finalize the regulations, but we nonetheless urge you to complete the promulgation process expeditiously. This will enable registrants ample time to prepare for implementation.

Sincerely,



E. Heidi Ricci
Director of Policy and Advocacy

Attachment: Mass Audubon Wildlife Sanctuaries in Flow Depleted Subbasins

¹ <https://endangeredrivers.americanrivers.org/ipswich-river/>

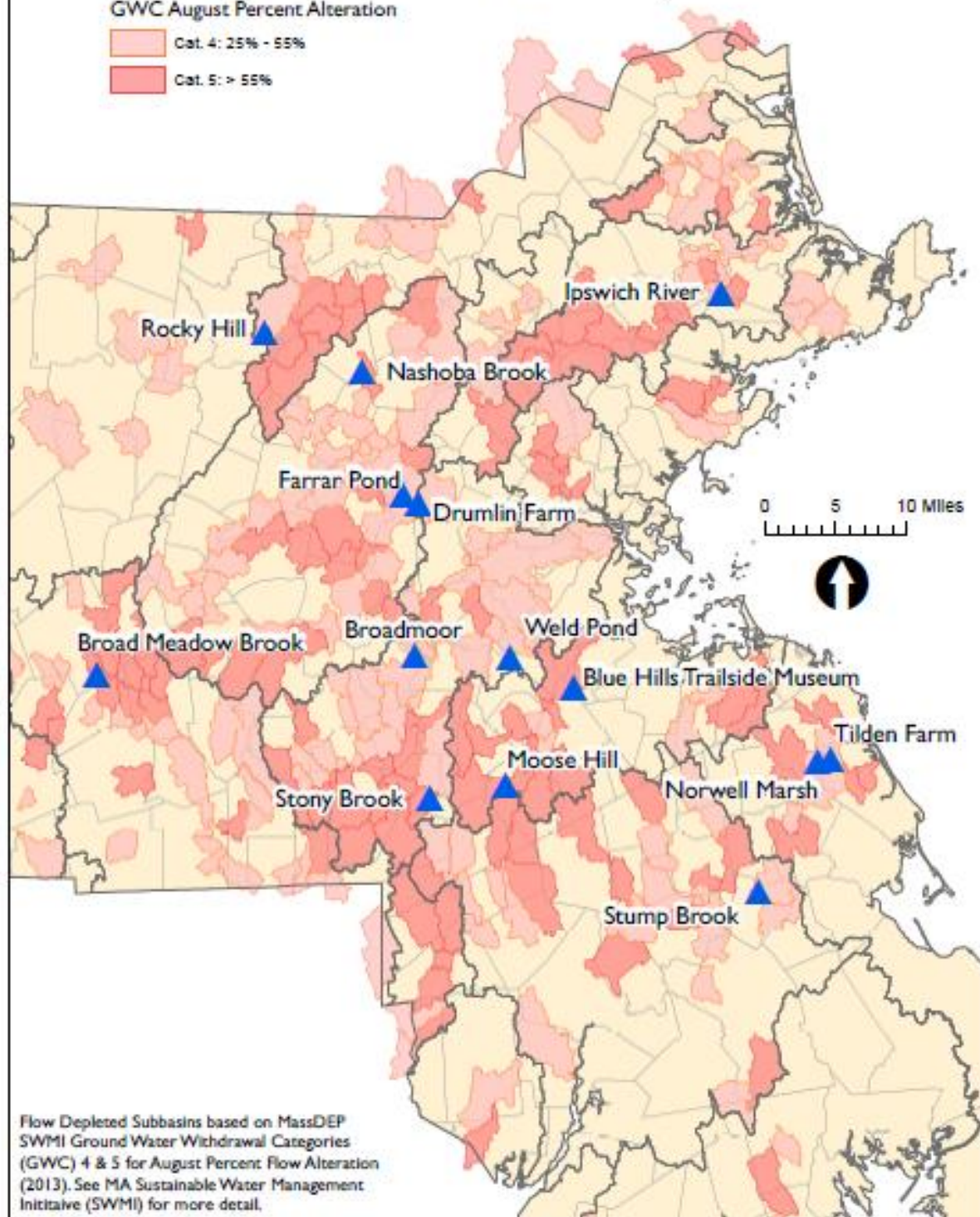
² *A Precipitation-Runoff Model for Analysis of the Effects of Water Withdrawals on Streamflow, Ipswich River basin, Massachusetts*, Water-Resources Investigation Report 00-4029, Phillip J. Zarriello and Kernell G. Reis, III, U.S Department of Interior, U.S Geological Survey (2000).

Mass Audubon Wildlife Sanctuaries in Flow Depleted Subbasins

GWC August Percent Alteration

Cat. 4: 25% - 55%

Cat. 5: > 55%





MASSACHUSETTS Rivers Alliance

2343 Massachusetts Ave, Cambridge, MA 02140
617-714-4272 • www.massriversalliance.org

November 7, 2022

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed changes to the Water Management Act regulations

Dear Commissioner Suuberg,

The Massachusetts Rivers Alliance (Mass Rivers) appreciates the opportunity to comment on MassDEP's proposed changes to the Water Management Act regulations. We strongly support conditioning registrations, as well as Water Management Act permits, to align with the Secretary's determinations of drought stage and corresponding actions under the MA Drought Management Plan.

Mass Rivers is a nonprofit organization established to protect and restore the Commonwealth's rivers and streams. Our membership comprises 83 member organizations across the state. Protecting and restoring streamflow in the Commonwealth's rivers and streams is core to our mission, and this has been one of our highest priorities since the organization was founded in 2007.

As you know, excessive water withdrawals have threatened stream health in our state for many years. While the Ipswich River is considered the "poster child" for this problem, recent droughts have shown that the problem is widespread, with very low/record low flows recorded in rivers and streams across the Commonwealth. As our climate warms and changes, droughts are intensifying in both frequency and severity in the northeast. Since 2016, Massachusetts has experienced three of the worst droughts on record. This summer, for the first time in over 20 years, the entire state was officially in drought, with 94% of the state experiencing severe or extreme conditions by early August. This was the driest summer *ever recorded* in Boston. Many rivers and streams turned into disconnected puddles or dried up completely, damaging water quality (when there was water at all), threatening wildlife that rely on those waterways and impeding recreational activities. Dry conditions also led to increased crop failure, wildfires, and diminished essential groundwater supplies across the state.

Climate scientists predict that droughts will continue to worsen as climate change progresses, and it is essential that MassDEP, entrusted with stewardship of the state's water resources, manage our water to sustain rivers and public health with an eye toward the future. While decreasing our water use during droughts will not prevent all drought impacts to our streams and water supplies, it will make them more resilient, ensuring when water is scarce, it goes where it is most needed. We strongly agree that in times of drought, water necessary for essential human needs and the environment should not be diverted to nonessential uses, such as watering lawns and washing vehicles. Nonessential water use constitutes as much as 50% of household summer water use, stressing water supplies and aquatic ecosystems.

When the Water Management Act regulations were first promulgated in the 1980's, climate change was not the pre-eminent environmental issue that it has since become, and the choice was made to grandfather in existing water withdrawals without conservation requirements. This decision may have made political sense, but it had no basis in science. In the ensuing decades it has become clear that it is vital for the state to use all the regulatory tools at its disposal to safeguard water for public health, safety, and the environment— and especially during droughts. In fact, these proposed regulatory updates requiring restrictions on nonessential outdoor water use by registrants during drought are long overdue. A court ruling (*Fairhaven v. MassDEP*) nearly 13 years ago clarified MassDEP's authority under the Water Management Act to impose conservation measures on registrants through regulations. Environmentalists have been urging the agency to take this important step ever since, including in Mass Rivers' 2017 petition to MassDEP.

The proposed regulatory change on nonessential outdoor water use is a step in the right direction toward more climate-resilient water management for Massachusetts. However, there is much more to be done. As MassDEP is well aware, Mass Rivers considers both the 2014 Water Management Act amended regulations and their implementation weak and ineffectual. The 65 residential gallons per capita per day/10% unaccounted for water use standards are outdated, and water use restrictions in WMA permits still allow significant nonessential watering during droughts.

The proposed updated regulations should be stronger to ensure the Commonwealth is adapting its water management to the new climate reality. Mass Rivers therefore seeks the following improvements to the draft regulations:

I. Enforcement of Section 36.07(2)

The regulations should plainly state that registrants must have water use restrictions in place during times of declared drought, and that this requirement is not predicated on the

discretionary judgment of MassDEP when the registration statement is issued. We suggest the following change to section 36.07(2):

The registration statement shall include the following minimum conditions:

(a) When specified by the Department in the registration statement, the registrant shall install flow meters within a specified time.

(b) The registrant shall accurately record and report annually the quantity of the water withdrawn.

*(c) Unless exempted by 310 CMR 36.07(2)(c)(2) and (3) below, the registrant shall establish enforceable restrictions limiting nonessential outdoor water use during periods when a drought declaration by the Secretary is in effect for the drought region, county or watershed where the registrant's withdrawals are located. During a drought declaration by the Secretary, the registrant's requirements shall restrict nonessential outdoor water use as follows:
[....].*

II. Nonessential Outdoor Water Use Definition

The state's public agencies should set an example of wise water use during drought for the rest of the Commonwealth. Under subsection (f) of the Nonessential Outdoor Water Use definition, irrigation of public parks and public recreation fields is allowed unconditionally despite the severity of the declared drought. We oppose this blanket exemption for irrigation of public parks and recreational fields. Instead, the drought response actions for public parks and fields should be consistent with those for other users and MassDEP should apply a tiered drought response for playing fields (with the goal of keeping these fields viable), similar to that for golf courses. With some limited exceptions (i.e., to establish new plantings, or operate splash parks, irrigating parks during drought is not an essential use of our finite water resources.

III. Golf Course Requirements (Section 36.07(2)(c)2)

While Mass Rivers supports the proposed tiered drought response for all registered-only golf courses, we urge MassDEP to also include limitations for irrigation of greens during times of declared drought. While we recognize the economic value of maintaining the viability of greens, they should not be granted a blanket exemption from all water use restrictions. Greens can easily be, and should be, incorporated into the tiered response plan.

MassDEP should provide a justification of its methodology allowing irrigation of fairways and roughs on a decreasing percentage from normal. MassDEP should justify whether 40% of normal irrigation is actually the bare minimum needed for maintenance of fairways in extreme drought conditions.

IV. Multi-Year Drought Storage Definition

We do not support the Multi-Year Drought Storage definition which would exempt the Massachusetts Water Resources Authority from these conservation requirements. While it takes a long time to drain the Quabbin Reservoir, it also takes a long time to replenish it. With PFAS threatening municipal water supplies, more frequent droughts, and the possibility of climate migration to our state, it is likely that more communities will purchase water from the MWRA, and that existing customers may use more of MWRA's water in the future. Everyone should conserve water during a drought; omitting this exemption will provide more consistency (and less confusion) around the state about wise water use.

If the agency goes forward with exempting water systems that meet the Multi-Year Drought Storage definition, MassDEP should include the following safeguards in the regulations:

- Establish a public process for review and comment on proposed alternative drought management plans. As the regulations are currently drafted, any such plan may be “accepted” by MassDEP. There is no internal or external process in the regulations to determine whether proposed plans in fact meet the state's criteria for an effective drought response.
- Revise the language in section 36.07(2)(c)3 to make it clear that the plans are subject to Department approval.
- Add a clause to the regulations giving MassDEP authority to reconsider this exemption should MWRA expand its system to provide more water to new or existing customers, to be reviewed every five years.

We are aware that some other water suppliers are seeking additional exemptions for their surface water systems, and we strongly oppose this because it would undermine the goals in updating these regulations: to improve stewardship of our water resources during droughts and to create more consistency around the state. Were MassDEP to allow multiple exemptions for water systems around the state, each with its own drought management plan, this would create a bureaucratic nightmare for the agency, decrease climate resilience, and *increase* confusion among the Commonwealth's residents about what they should do to reduce use during a drought.

The proposed regulations, and future WMA permits should both provide clear directives to residents that when drought is declared there is a simple progression of actions to limit nonessential water use, which are prescribed in the state's Drought Management Plan. Importantly, the MA Drought Management Plan does not carve out any exemptions.

V. Water System Finance

Do not let outmoded water supply financing structures prevent Massachusetts from improving climate resilience. We realize that some water suppliers rely on selling large quantities of water during droughts to finance their operations. However, the solution is for them to restructure water rates, not sell more water when it is most damaging to the environment. Restructuring water rates to achieve both environmental and equity goals can provide more revenue stability for water suppliers during both droughts and rainy summers (when people tend to use less water). There are a host of resources— the Massachusetts Water Resources Commission, the Massachusetts Department of Conservation and Recreation, the Alliance for Water Efficiency, the American Water Works Association, and consultants can provide assistance and technical support for municipalities seeking to address this challenge. MassDEP’s own “SWMI grants” for municipalities can also be used to fund consultants specializing in this area.

In conclusion, the proposed regulatory revisions requiring registrants to conserve water during drought are long overdue and minimal measures for balancing competing water needs, including protection of the environment. This change is urgently needed to better protect the already degraded health of Massachusetts’ aquatic ecosystem and we should not have to wait another decade to take this simple, reasonable step. MassDEP should act now to fulfill its obligation to uphold the public trust.

We look forward to continued improvement of the Water Resources Management Program. Please do not hesitate to contact me with any questions.

Sincerely,



Julia Blatt
Executive Director

cc: Secretary Bethany Card, Executive Office of Energy and Environmental Affairs



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November 18, 2022

Duane LeVangie, Water Management Act Program
MassDEP
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA Registrations

Via Email to: dep.talks@mass.gov

Dear Mr. LeVangie:

Massachusetts Water Works Association (MWWA) is providing the following written testimony to the Massachusetts Department of Environmental Protection (MassDEP) regarding proposed amendments to the Water Management Act regulations (310 CMR 36.00) to impose drought restriction conditions on all Water Management Act Registrants. MWWA is a non-profit organization representing more than 1,400 public water supply professionals across the Commonwealth. Our members' core responsibility as water suppliers is to provide the most essential service to their customers - clean, safe drinking water. MWWA certainly agrees that water should be used wisely, especially during times of drought, but we object to the assertion that water use needs to be controlled by promulgating statewide regulations on Registrants that require following state drought declarations and guidance.

MWWA requested a 30-day extension to the public comment period because MassDEP posted a "Notes to Reviewer" document only on October 27, 2022, the same day as the first public hearing. This document was referenced in passing by Kathleen Baskin during the Water Management Act Advisory Committee on October 25, 2022, and MWWA pointed out that it was not on MassDEP's website. The public was not aware of the notice when the proposed regulation revisions were first published. This "Notes to Reviewers" asked commenters to give special attention to the exemption of public parks and recreation fields within the definition of non-essential outdoor water use. While we appreciate that MassDEP granted an extension (albeit much shorter) we are still concerned that not enough interested parties may have known MassDEP was seeking

special attention on this provision of the proposed regulation to receive sufficiently balanced feedback.

In providing these comments, we also refer MassDEP to our more comprehensive comments submitted in July 2021 when these regulations were first noticed. For the sake of not being duplicative, we will not repeat all our prior documented concerns in this letter but know that the concerns we raised in the 2021 letter still stand (especially those relating to potential water quality impacts) and deserve full evaluation.

We will note for the record that at least one watershed group, the Organization for the Assabet Sudbury and Concord Rivers (OARS), sent an email blast to their supporters urging them to comment on the proposed regulations which misrepresented the statistics regarding allocations that have no conservation requirements. MWWA did point out the misrepresentation to OARS, which they agreed to correct in a subsequent email, but people may have commented based on erroneous information, and we do hope that MassDEP keeps that in mind as you review the comments submitted.

We are pleased to see that MassDEP corrected the error we identified in 36.07 (2)(c)(3)(4) of the first draft of the regulations and amended the definition of non-essential outdoor water use to make an exception for any wedding/special event venues, as we had suggested. We were not pleased to see that overall, only minor modifications were made to the regulations prior to putting them back out for public comment; MassDEP had more than a year to consider the comments previously submitted and to make any changes. While MassDEP indicates that they will be considering comments submitted in 2021 during this round of review, it seems less than likely that any substantive changes will be made given the compressed timing to promulgate the regulations so that Registrations renewed in April 2023 can be conditioned. We believe if MassDEP was inclined to make the further changes we suggested they would have done so before soliciting this second round of comments.

MassDEP has given presentations to the Water Resources Commission, the Water Management Act Advisory Committee, and at two public hearings and highlighted text changes between the 2021 and 2022 version of the regulations. Upon closer review, MWWA identified other language changes that were not flagged during those public presentations. For the sake of full transparency, MassDEP should have flagged the following changes as well:

The 2022 version of the regulations say:

- Page 9: 36.07: Registration Conditions (2)(c)(1)
- *“Such restrictions shall be in place during a drought declaration by the Secretary for the drought region, **county or watershed** where the registrant’s withdrawals are located, and nonessential outdoor water use shall be restricted as follows...”* with that same language being carried into the section pertaining to golf courses.

Whereas the 2021 version said just said “*drought region.*” MWWA believes county or watershed is not needed in this section; drought declarations on a county or watershed basis further complicate messaging regarding drought response.

The 2022 version of the regulations say:

- Page 10: 36.07: Registration Conditions (3)
- “*A registrant that only withdraws from surface water supplies with Multi-Year Drought Storage, as determined by the Department, may implement nonessential outdoor water use restrictions in accordance with an accepted drought management plan instead of the restrictions described in 310 CMR 36.07(2)(c)1.*”

Whereas the 2021 version said:

- *A registrant who withdraws from only surface water supplies with **sufficient** Multi-Year Drought Storage, as determined by the Department, may implement nonessential outdoor water use restrictions in accordance with an accepted drought management plan instead of the restrictions described in 310 CMR 36.07(2)(c)1.*

As we indicated in our comments last year, and again below, we believe the definition of Multi-Year Drought Storage needs to be stricken.

Multi-Year Drought Storage:

MassDEP has added language to the definition of Multi-Year Drought Storage in this latest version of the regulations to make it clear that water below the intake elevation or water that requires an emergency declaration or order for use cannot be included in the calculation of the storage volume. We disagree with the definition, and with the inclusion of this new language. Requiring “*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*” is arbitrary and by MassDEP’s own admission was not based on science, but rather professional judgment. This definition likely precludes all but one Registrant from even bringing forward an alternative restriction approach. We reiterate our request to strike this definition and allow **all** Registrants, surface water and/or groundwater, the ability to submit a system-specific drought plan, developed in accordance with AWWA M60 standards (or equivalent), for approval by the MassDEP.

Therefore, we request MassDEP amend 36.07(2)(c)(3) to allow any Registrant (surface water or groundwater) to apply for an alternative restriction approach if they have a drought management plan developed in accordance with industry standards by striking the language proposed and replacing it with the following:

Any registrant who develops a drought management plan in accordance with American Water Works Association’s M60 Manual (or equivalent), may implement nonessential outdoor water use restrictions in accordance with that accepted drought management plan instead of the restrictions described in 310 CMR 36.07(2)(c)1.

Nonessential Outdoor Water Use

With respect to the definition of non-essential outdoor water use, we still believe that our proposed definition submitted in July 2021 provides more clarity around what is allowed or not. Since we submitted comments in 2021, we have heard that there are two other uses that should be added, and we have bolded them below to draw your attention to our new additions. We request MassDEP strike the definition proposed in the draft regulations and replace it with:

Nonessential Outdoor Water Use

1. *Means uses that are not required:*
 - a) *for health or safety reasons;*
 - b) *by 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 of a business including but not limited to:*
 1. *Plant nurseries as necessary to maintain stock*
 2. *Golf courses as necessary to maintain tees, greens, and limited fairway watering per 310 CMR 36.07(2)(c) 2.a. through d.*
 3. *Golf courses with an event venue as part of their core business and other event venues when limited to watering by 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;*
2. *The following uses may be allowed when mandatory restrictions are in place:*
 - a) *irrigation of public parks and public recreation fields; or*
 - b) *irrigation 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; or*
 - c) *irrigation to establish a new lawn and new plantings during the months of May and September; or*
 - d) *irrigation of gardens, flowers, and ornamental plants by means of a hand-held hose or drip irrigation systems; or*
 - e) *irrigation of lawns by means of a hand-held hose only; or*
 - f) *washing of vehicles as necessary for operator safety; or*
 - g) **washing of boats, engines, or marine equipment to prevent negative salt water impacts; or**
 - h) **the operation of public spray pads and swimming pools**
3. *Nonessential outdoor water uses that are subject to mandatory restrictions include:*
 - a) *irrigation of lawns via automatic irrigation systems or sprinklers;*
 - b) *filling swimming pools;*
 - c) *washing vehicles, except in a commercial car wash*

d) washing exterior building surfaces, parking lots, driveways, or sidewalks

To the extent feasible, all summer outdoor water use should take place before 9 am and after 5 pm when evaporation and evapo-transpiration rates are lower.

To respond to MassDEP's "Notice to Reviewers" and interest in hearing comments on the inclusion of irrigation of public parks and public recreation fields within the definition of non-essential outdoor water use, MWWA believes that the exemption to allow irrigation is appropriate. There is a significant public health and safety aspect that cannot be ignored in this discussion; if public parks and recreation fields are not irrigated they could become so severely dry that it could be dangerous for people playing on them should they fall and hit compacted ground. Further, Steve Bartha, Massachusetts Municipal Association's representative to the Water Management Act Advisory Committee, well-articulated the significant investment that municipalities have made toward parks and recreation fields and the substantial cost that could be incurred if they are not allowed to water their fields and the fields subsequently need substantial rehabilitation. For the above reasons, MassDEP should drop the word "public" as private institutions who have recreation fields should also be allowed an exemption. Irrigation of parks and recreation fields should be allowed if the Public Water System feels they have the adequate capacity available to allow it.

Financial Impact, Equity, and Legality

We must point out that MassDEP has done no analysis of what this regulation may cost the regulated entities, which is an irresponsible shortcoming of this regulatory process. Conditioning Registrations to restrict water use during drought will have counterproductive financial impacts on water utilities, a reality that is too lightly dismissed by proponents of these regulations, as well as EEA agency employees. Several MWWA members articulated the fiscal impact in their testimony last summer. It must be emphasized that the lost revenue would likely (and paradoxically) reduce utilities' ability to renew aging infrastructure and invest in increased efficiencies to reduce water loss (unaccounted for water).

MassDEP continues to say that the proposed regulations will "level the playing field" on restrictions across the state, and that is just not the case. There will still be a patchwork of restrictions where private wells are allowed to irrigate and customers on public supply are not. There will be differences in the number of days watering is allowed based on whether the water system has a permit (and the allowable uses under non-essential outdoor water use restrictions will vary for those with permits as the language in the permits differs from the proposed definition in the draft regulations). A Registrant with an approved drought management plan qualifying for an alternative restriction will likely have different triggers and actions tailored to their system than other Registrants who must follow state drought declarations and guidance.

We said in our comments before, and we still contend, that the proposed regulations will violate Registrants' legal entitlements. MassDEP is effectively not allowing these systems to access their full authorized volume if it is mandating Registrants restrict use

during a drought. The Water Management Act calls for the Water Resources Commission to develop “principles, policies and guidelines necessary for the effective planning and management of water use and conservation in the commonwealth.” Blanket water use restrictions that do not scientifically account for the conditions in local water systems, particularly reservoirs, are arbitrary and thus constitute an effective limitation on Registrants’ legal entitlement.

MWWA’s Alternative Recommendation

In conclusion, there is a better alternative to these regulations. MWWA is fully supportive of drought planning and preparedness and has offered an alternative regulatory proposal for consideration. MWWA would fully support MassDEP moving forward with an amendment to 310 CMR 22.04 (13) to ensure that every Public Water System in the state has a system-specific drought plan as a component of their Emergency Response Plan (to be developed within 5 years of promulgation of the regulation), containing triggers and response actions based on the water system’s capacity. If EEA and MassDEP genuinely want to ensure that water systems are resilient, MWWA contends our approach would provide a much more rigorous and meaningful opportunity to enhance water systems’ resiliency to climate change than the current regulatory proposal.

Given the reasons outlined in this letter, as well as our more comprehensive comments submitted in July of 2021, MWWA respectfully requests MassDEP withdraw these proposed regulations and work with MWWA to implement our suggested alternative approach.

Sincerely,

The Board of Directors **Mass Water Works Association**

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MassDEP's Bureau of Resource Protection
Water Management Program
One Winter St. 5th St.
Boston, MA 02108

November 7, 2022

RE: New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00)

To Whom it May Concern,

The Mystic River Watershed Association (MyRWA), a nonprofit advocacy organization dedicated to the sustainable management and wise use of the Mystic River Watershed, including the Mystic River and its tributaries, welcomes this opportunity to file comments regarding the above-referenced proposed revisions to the Water Management Program Regulations (CMR 36.00).

The Mystic River and tributaries is home to the one of the largest documented runs of river herring and American eel in Massachusetts. In recent years, we have had repetitive periods (2016, 2017, 2020, and 2020) of reduced flows and poor water quality during drought conditions. In some cases, the stream (e.g. Horn Pond Brook) has been so impacted to dry up and prevent passage of juveniles back to the ocean. We are very concerned about water management during drought periods and the impact it has on this sensitive fishery.

Here are the positions our organizations hold on the proposed revisions:

- The proposed regulations are long overdue. A 2010 court ruling (Fairhaven v. MassDEP) determined that MassDEP could require water conservation for registered water users if the Department issued regulations for this. That was 12 years ago.
- Previous regulations did not consider climate change and exempted many public water supplies from water conservation. In our new climate, this is an untenable approach to safeguarding our resources.
- Fee structures should not hold up a change in how we manage these limited resources. These utilities need to restructure water rates to protect water during a

drought. The utilities have had a number of years to consider this option and make changes as they've seen data to inform the need to protect these resources.

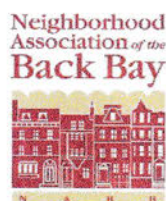
- Our organization opposes the blanket exemption for irrigation of public parks and public recreation fields (Part (f) of the definition of Nonessential Outdoor Water Use). MassDEP should impose a tiered drought response for playing fields similar to that for golf courses, with the goal of keeping these fields viable. With some limited exceptions (i.e., water parks in state-designated environmental justice communities), parks should not be watered during droughts.

Thank you so much for your consideration of these issues and your efforts to protect these resources. Please do not hesitate to contact me with any questions or concerns.

Sincerely,

A handwritten signature in black ink, reading "Patrick M. Herron". The signature is written in a cursive, flowing style.

Patrick Herron
Executive Director



November 17, 2022

Mr. Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection

Subject: Regulations on Water Use in Drought

Dear Commissioner Suuberg:

I am writing to ask that MassDEP exempt watering of street trees from the restrictions on water use during periods of drought. For over 65 years, the Neighborhood Association of the Back Bay has been the voice of the residential community in our neighborhood. For virtually all of that time, we have been involved in stewardship of our street trees, care for the trees on the Commonwealth Avenue Mall for which we work in association with the Friends of the Public Garden, and preserving trees in the paved areas along our public alleys. We have long recognized the health and aesthetic benefits of our tree canopy, which is in far better shape than it was when we were founded.

Urban tree canopy is a benefit for all neighborhoods. The canopy can dramatically reduce temperatures during hot weather; lack of an adequate canopy greatly reduces the viability of an urban neighborhood, an issue of environmental justice in those neighborhoods that have less tree cover. However, these trees exist in what is, for them, a tough environment. Lack of water can quickly reduce the health of an urban tree and make it more vulnerable to the other health threats to which it is exposed in a city neighborhood. That is why many organizations and volunteers water these trees during dry periods.

The proposed list of exemptions from the watering restrictions already includes private golf courses and wedding venues. Surely the urban tree canopy is at least as valuable and more irreplaceable than these uses. NABB urges you to add citizen tree watering in urban areas to the list of exemptions as you craft these regulations.

Very truly yours,

Elliott Laffer
Chair, NABB

Cc: Sen. Lydia Edwards
Sen. Will Brownsberger
Rep. Jay Livingstone
Rep. Jon Santiago

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Jacquelin Yessian
Kathleen Young



Protecting our water, our land, our communities

November 7, 2022

Commissioner Martin Suuberg
MassDEP's Bureau of Resource Protection - Water Management Program
One Winter St, 5th floor
Boston, MA 02108
Via email: dep.talks@mass.gov
RE: *WMA Regulations*

Dear Commissioner Suuberg,

The Nashua River Watershed Association (NRWA) writes to support the proposed Water Management Act regulations to restrict nonessential outdoor water use by registered water users during times of drought. We are seeking a balance between the needs of the water suppliers & rate payers and the needs of aquatic ecosystems. The Nashua River watershed experienced severe low flows in most of our rivers and streams in 2016 and 2020, and again during this Critical Level 3 Drought declaration that much of the Nashua River watershed is still experiencing. Impacts to aquatic ecosystems where public water supplies are located were devastating.

Registered withdrawals make up 55% of the water withdrawals in the Nashua River basin, even more than the 53% statewide percentage of withdrawals currently exempt from *any* conservation requirements. Holdover exemptions from the early 1980s should end or be phased out as we face an increasing number of flash droughts that threaten water supplies and aquatic life.

It's our understanding that some water suppliers are worried that restrictions would reduce needed revenue, and we are mindful of that in seeking solutions. Workable funding mechanisms for beleaguered water suppliers who rely on outdoor water sales in the summer months to fund their operations need to be put in place. Possibly such water suppliers could consider instituting steep block rate increases for the highest consumptive users to cover their costs. This would help to alleviate the reduction in revenue experienced during wet summers, as happened in 2021.

Concerns with the Proposed Regulations

The Nashua River watershed is a donor basin to the Massachusetts Water Resource Authority (MWRA)

through the Wachusett Reservoir. The NRWA does *not* support the Multi-Year Drought Storage definition that exempts the MWRA from the regulations to restrict nonessential outdoor water use. MWRA water sales are approximately 300 mgd during the summer months, close to the volume used in the 1980s before MWRA instituted conservation measures and they were looking to the Connecticut River for additional water. MWRA-serviced communities enjoy unrestricted lawn watering, even during declared droughts. This includes this current drought cycle when tributaries into the Quabbin Reservoir were dry. With additional communities considering joining the MWRA system due to well water PFAS contamination and drought impacts, this is the time to make regulations regarding the management of water consistent across the Commonwealth.

- Should the Water Management Program move forward in its plan to exempt water systems that meet the Multi-Year Drought Storage definition, alternative drought management plans should be “approved” (not “accepted”) by MassDEP, and a public comment process on the proposed alternative plans should be established.
- Any exemptions granted through this process should be reviewed no more than every 10 years, especially in the event MWRA admits new customers or expands service to existing customers.
- While NRWA supports most of the proposed changes to the WMA regulations, we believe that public parks and recreation fields should not be afforded a blanket exemption, but be treated much the same as golf courses, wherein a tiered drought response is imposed. We understand the need to keep fields and parks from dying during a drought, but a drier, less verdant landscape during a severe drought is to be expected and should be the norm for public spaces.
- NRWA supports the tiered restrictions for golf courses but does not agree with the greens exemption regardless of drought stage.

Thank you for the opportunity to comment.

Sincerely,



Elizabeth Ainsley Campbell
Executive Director



Martha S. Morgan
Water Programs Director

November 8, 2022

Martin Suuberg, Commissioner
Massachusetts Department of Environmental Protection
Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108

Officers & Board

*Kyle McBurney,
President, Milton*

*James Green,
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*Bill Pastuszek,
Newton*

*Hung Pham,
Dorchester*

*William Wiseman,
Walpole*

RE: Proposed changes to Water Management Act Regulations (310 CMR 36.00)

Dear Commissioner Suuberg:

The Neponset River Watershed Association (NepRWA) appreciates the opportunity to comment on MassDEP's proposed changes to the Water Management Act (WMA) regulations. While **we strongly support conditioning registrations, as well as Water Management Act permits**, to align with the Secretary's determinations of drought stage and corresponding actions under the Massachusetts Drought Management Plan, the current proposals are inadequate to protect our finite water supplies, especially in the face of climate change.

NepRWA is a nonprofit member-supported conservation organization dedicated to protecting and restoring the Neponset River and its watershed resources. As such, part of our core mission is to ensure that these resources are healthy and accessible enough to support wildlife and recreation, as well as to provide safe and clean water to residents, businesses, and public safety agencies throughout the watershed. The increased severity and frequency of drought caused by our changing climate threaten these resources. It is past time for MassDEP, entrusted to protect our water resources to sustain environmental and public health, to take bold action to make sure they are protected into the future.

The proposed changes to the Water Management Act regulations are a **minimal first step** towards truly aligning the goals of that statute with enforceable and reasonable regulation of water withdrawals. Currently, we have a haphazard approach to water management with permits conditioning certain withdrawals, while registered users (more than half of all withdrawals in the Commonwealth) are not subject to any mandatory conservation measures. Without comprehensive management, some public water withdrawals may be thrown into crisis during times of high water use. Just this past year, 94% of the Commonwealth experienced severe or extreme drought before the end of the summer. In the Neponset River, as in rivers across the state, the mainstem experienced record low flows, and some tributaries were reduced to mere puddles.

Decreasing our water use during droughts will not prevent all drought impacts to our streams and water supplies; however, it will make them more resilient, ensuring that when water is scarce, it is available for the most crucial needs. Nonessential water use constitutes as much as 50% of household summer water use, stressing water supplies and aquatic ecosystems. Water necessary for essential human requirements and the environment should not be diverted to nonessential uses, such as watering lawns and washing vehicles.

Do not let outmoded water supply financing structures prevent us from improving climate resilience. We realize that some water suppliers rely on selling large quantities of water during droughts to finance their operations. However, the solution is for them to restructure water rates, not sell more water when it is most damaging to the environment. Restructuring water rates to achieve both environmental and equity goals can provide more revenue stability for water suppliers during both droughts and rainy summers (when people purchase less water). The Massachusetts Department of Conservation and Recreation and the Water Resources Commission, the Alliance for Water Efficiency, the American Water Works Association, and consultants that serve the industry can provide assistance and technical support for municipalities seeking to address this challenge. MassDEP's own "SWMI grants" for municipalities can also be used to fund consultants who specialize in this area.

Specific comments on the draft regulations include:

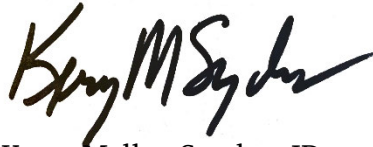
- **We oppose the blanket exemption for irrigation of public parks and public recreation fields** (Part (f) of the definition of Nonessential Outdoor Water Use). ***MassDEP should impose a tiered drought response for playing fields similar to that for golf courses, with the goal of keeping these fields viable.*** With some limited exceptions (*i.e.*, water parks in state-designated environmental justice communities), parks should not be watered during droughts. State and public agencies must set an example for the rest of the Commonwealth with regard to responsible water use during drought. It is also important for Massachusetts residents to become used to and accept drier, browner landscapes during droughts.
- **We do not support the Multi-Year Drought Storage definition which exempts the Massachusetts Water Resources Authority from these requirements.** While it takes a long time to drain the Quabbin, it also takes a long time to replenish it. With PFAS, drought, and possible climate migration to our state, it is likely that more communities will want to tie into the Quabbin, and that existing customers will want to use more water in the future. Everyone should conserve water during a drought and omitting this exemption will provide more consistency (and less confusion) around the state about water restrictions. In no case should there be any additional exemptions.
- **Should the agency move forward with its plan to exempt water systems that meet the Multi-Year Drought Storage definition, MassDEP should:**
 - Revise the language regarding an alternative drought management plan (36.07(2)(c)3) from "accept" to "approve;"
 - Establish a public process for the community to review and comment on proposed alternative plans; and
 - Reconsider this exemption before the next registration renewal should the MWRA expand its system to provide more water to new or existing customers within the next ten years.
- **We support the tiered response to golf courses; however, we oppose the exemption for watering greens regardless of drought stage.**

In short, NepRWA supports MassDEP's proposal to impose water conservation requirements on registered water suppliers as a minimal first step towards more comprehensively managing the state's water resources. Grandfathering these water supplies and exempting them from even the most basic water conservation requirements makes no scientific sense, particularly in our new climate reality.¹ Regulating these withdrawals during times of drought is urgently needed.

MassDEP must not stop with this first step. As MassDEP is aware, watershed organizations across the state consider both the 2014 Water Management Act amended regulations and their implementation weak and ineffectual. The 65 residential gallons per capita per day/10% unaccounted for water use standards are outdated, and water use restrictions in WMA permits still allow significant nonessential watering during droughts. Moreover, MassDEP must revisit authorized withdrawal volumes in both registrations and permits with a more realistic analysis of effects on streamflow.

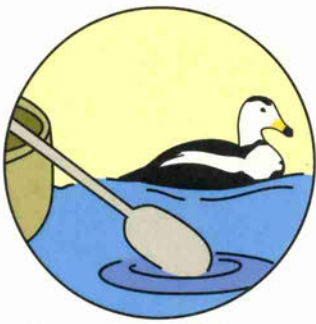
Thank you for your attention to this matter. Should you have any questions, please don't hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerry Malloy Snyder". The signature is fluid and cursive, with the first name "Kerry" being the most prominent.

Kerry Malloy Snyder, JD
Advocacy Director

¹ A court ruling (Fairhaven v. MassDEP) nearly 13 years ago clarified MassDEP's authority under the Water Management Act to impose conservation measures on registrants through regulations. Environmentalists have been urging the agency to take this important step ever since, including through the 2017 petition submitted by the Massachusetts Rivers Alliance to MassDEP.



Ocean River
INSTITUTE

Protecting the Commons

*"All at last return
to the sea—to Oceanus,
the ocean river, like the
ever-flowing stream of
time, the beginning
and the end."*

— Rachel Carson,
The Sea Around Us

Commissioner Martin Suuberg and Secretary Bethany Card

MassDEP's Bureau of Resource Protection - Water Management Program

Re: WMA Regulations

The proposed regulations are a good start and long overdue. With droughts increasing both in frequency and severity, the Commonwealth is being comprehensive and responsive in adapting its water management to the new climate reality. Let's address the too little water in our aquifers, too little water from the ground recharging our rivers, and too much water being sluiced over hard surfaces to the sea.

This water management is a dramatic shift from a scarcity mindset to one of shared abundance. Arguments and the setting of priorities, the lesser of evils, give way to collaborative efforts, helping one another with quality-of-life benefits for everyone, even including good for nature and for open public spaces.

MassDEP's Bureau of Resource Protection - Water Management Program has an opportunity to work with, no longer battle against, climate change. When in great abundance water is slowed down, put into aquifers, and held locally in soils to provide for dry periods of the year. Water users work in collaboration with water managers for mutual benefits.

Completely overlooked in all the climate change talk has been the importance of soil to the world's water and carbon cycles. In soils, that cover less than 10% of the Earth, are more than three times the amount of carbon found in the air. Carbon dioxide amounts to 800 billion tons worldwide versus 2,500 billion tons of organic carbon in soils.¹

Here's the problem. The more carbon and water we have in the air, the less carbon and water we have in the soil. The less water and carbon in the soil, the less plants can grow, and the more carbon and water is left in the atmosphere. It's a vicious circle that we can change. These regulations are much needed improvements. The nature-based solution is to get more organic carbon in the soil and water will follow.

Grasses including salt marsh grasses, sea grasses, prairie grasses, and even residential lawns, build far and away the most soil through photosynthesis. Carbohydrates are pushed out as root exudate. A natural lawn is a chemical-free lawn that is not fertilized. A natural lawn owner may follow the MA Department of Agricultural Resources recommendation of one application of 100% slow-release fertilizer in the fall.

A natural lawn can build as much as an inch of soil in a year. For a lawn that is 240 square feet, an inch of soil weighs one ton. For one ton of root exudate, grass plants pull about seven tons of carbon dioxide from the atmosphere. This is because the carbohydrate molecules weigh 3.64 times as much as a molecule of carbon dioxide and about half of the liquid carbon goes to plant growth, half becomes root exudate. With more than 2,000 square miles of residential lawns in Massachusetts, an inch of new soil would represent a significant amount of carbon dioxide drawdown and would hold a lot of water.

A lawn with four inches of soil will swell to hold seven inches of rainwater. Yet, 60% of increased summertime water use is due to outdoor lawn watering. Natural lawns do not need watering. The blades may go brown. The plants stay alive in the soil by the mycorrhizal fungi network, a symbiotic "wood wide web" of grass, fungi, and bacteria managed by microbes.

Researchers from the University of New Hampshire found that lawns in Springfield Massachusetts were better when not fertilized or watered. Growing in the lawns were thirty-six species of flowers and 93 species of bees, about one quarter of all the bees known in Massachusetts. Fourteen species were new to Hamden County. Bees do not like flying water droplets and, absent irrigation, a remarkable diversity of ground-nesting bees were able to thrive. Not watering and fertilizing resulted in healthier, more robust, lawn ecosystems.²

If Massachusetts were to pay property owners for storing carbon as soil, there would be incentives to stop using chemicals (full stop to pollution from lawns) and to replace hard surfaces such as patios with grass. With deeper soils acting like sponges, storm water runoff is reduced. This is beneficial for homes, neighborhoods, and saves local and regional governments money.

There's more. Farmers in Watsonville, California, irrigate strawberries, artichokes, cauliflower, broccoli, lettuce, natural plants, and raspberries with water pumped up from the aquifer beneath their fields. Trouble was the lens of water in the ground was shrinking and salt water from Monterey Bay was intruding.

In response to the over-pumping problem, California created the Pajaro Valley Water Management Agency to charge water users for the groundwater they drew in hopes that they would use less water. Still, the groundwater diminished.

With a better understanding of water management, PVWMA paid farmers to run their irrigation pumps backwards to recharge groundwater with rainwater that would otherwise go into storm drains to the sea. For the farmers this is a form of net metering much like solar panels earning a rebate for surplus power sent back to the utility. Farmers are credited 50 percent of the infiltration rate against their future groundwater pumping costs. The figure is conservative because some of the infiltrated water will flow outwards into the wider hydrological system before it can be pumped out by the farmer.

In Massachusetts, with conservation of water and when actively restoring groundwater with pumping, the expenses of water management do not go down. Money is needed from the state in keeping with Next-Generation Roadmap for Massachusetts Climate Policy Act. State funds would be well invested as there are multiple spinoff benefits to communities when there is more water in the ground, more water recharging rivers, and greener landscapes capturing more carbon with greater pollinator diversity.

If property owners were paid to pump stormwater into the ground as is being done in Watsonville, there would be dramatic reductions in stormwater damages and more water available during droughts. The pumping is necessary because there is insufficient land available for the recharge areas needed for infiltration. The damaging volume of water on hard surfaces would be dealt with on site. And there would be more water available during times of droughts.

By slowing water down with soil, with more green spaces including on cement and on roofs, and grass lawns, we can adapt to climate change and no longer suffer during heavy rainfalls or long-lasting droughts. By following through with responsible regulations research indicates we can slow sea level rise by as much as 25%.

Thank you for your regulations that will help to put the green back into our landscapes and waters in our rivers.

Best regards,

A blue ink handwritten signature, appearing to be 'Rob Moir', written in a cursive style.

Rob Moir, PhD
Executive Director

1. <https://e360.yale.edu/features/soil-as-carbon-storehouse-new-weapon-in-climate-fight>
2. <https://beta.nsf.gov/news/lazy-lawn-mowers-can-help-support-suburban>

From: [PRCWA](#)
To: [DEP Talks \(DEP\)](#)
Cc: comgeorge1@comcast.net
Subject: WMA Regulations
Date: Thursday, November 17, 2022 3:47:32 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Director Water Management Program:

The Parker River Clean Water Association (PRCWA) supports the new regulations to 310 CMR 36.00 MA Water Resources Management Program that restricts nonessential outdoor water use by registered users during times of declared drought.

PRCWA has documented several devastating droughts over the past dozen years in the Parker River watershed and observed significant drought in nearby basins. PRCWA is also a member of the Parker/Ipswich/Essex Rivers Group.

In the summer of 2016, Governor Baker scheduled an emergency meeting with EEA executive staff at Smolak Farms in North Andover. Driving from Georgetown, it was starkly noticeable to observe brown lawns and dried up wetlands from a permitted community under lawn watering restrictions.

Upon crossing into N. Andover, it was quite a contrast to see lush green lawns drawing from the large reservoir of Lake Cochichewick. Despite the severe drought in the entire State, N. Andover was only under voluntary restrictions. At Smolak Farm, owner Michael Smolak described the crop devastation from his dried-up irrigation ponds. Wayne Castonguay, Executive Director of the Ipswich River Watershed Association stated that reservoirs in the Ipswich had perhaps two weeks of water left before they would go dry.

Fred Laskey of the MA Water Resources Authority stepped to the podium and announced if the Governor supplied the tanker trucks, MWRA would begin to send water from the Quabbin Reservoir to the depleted reservoirs on an emergency basis. After a few moments of taking questions, the State delegation was gone with no clear plan in sight.

On a positive note, later that winter of 2016 Vandana Rao, EEA Water Policy Director, convened a meeting of watershed representatives. The input she took from these stakeholders is probably part of the reason of where we are at today.

These regulations are a small, but necessary step in addressing drought climate resiliency. We must do a better job in protecting the rivers of the Commonwealth. Massachusetts is known as a progressive State, not a reactive or regressive State. PRCWA urges MassDEP to pass these regulations for the betterment of our precious natural resources.

Sincerely,
George Comiskey
Vice President, PRCWA



Save The Bay Center
100 Save The Bay Drive
Providence, RI 02905

P: 401-272-3540
F: 401-273-7153
SAVEBAY.ORG

November 7, 2022

Massachusetts Department of Environmental Protection
Martin Suuberg, Commissioner
Bureau of Resource Protection –Water Management Program
One Winter Street, 5th floor
Boston, MA 02108
Via email at: dep.talks@mass.gov, Subject WMA Regulations

Re: Water Management Act Regulations

Dear Mr. Suuberg,

Please consider the within comments in support of the proposed Water Management Act (WMA) regulations. Save The Bay is a non-profit organization with over 10,000 members and supporters, founded in 1970 by members of our community who wanted to protect Narragansett Bay. Our mission statement is clear: To protect and improve Narragansett Bay. Through advocacy and education, Save The Bay works to protect, restore, and improve the ecological health of the Narragansett Bay watershed. While most of the bay is located in Rhode Island, 60 percent of the Narragansett Bay watershed lies within Massachusetts. Over 3,500 miles of streams and rivers carry water into the bay, and the health of Narragansett Bay is heavily influenced by water quality, habitat conditions and land use changes in the Bay's 1,705 square-mile bi-state watershed. As a result, in order to advance its mission, Save The Bay devotes considerable resources to address environmental issues beyond the Bay and immediate coast. Save The Bay's Riverkeeper works within the Taunton River watershed, Blackstone River watershed, and Ten Mile River watershed in Massachusetts.

We strongly support the proposed changes as an important, and long overdue, first step in making the WMA consistent with the original objectives of the Act and the realities of climate change. As you know, twelve years ago in 2010 a court ruling (Fairhaven v. MassDEP) determined that MassDEP could require water conservation for registered water users if the Department issued regulations.

Drought has become a serious threat to water quality and aquatic life in the rivers of the Narragansett Bay watershed. Droughts have been increasing in both frequency and severity here in Massachusetts, with the most recent droughts in 2016, 2017, 2020, and 2022. Excessive outdoor water use during dry periods threatens both water supplies and aquatic ecosystems. This will only get worse as our climate changes.

It is important to subject all water withdrawals to the same water conservation requirements that permittees are already required to do under the Water Management Act. Under current regulations, 53% of public water supply is exempt from *any* water

conservation requirements. The proposed restrictions are a small first step toward ensuring the Commonwealth adapts its water management to the new climate reality. Requiring water conservation requirements is a step towards meeting our future needs.

Outmoded water supply financing structures must not prevent us from improving climate resilience. We realize that some water suppliers rely on selling large quantities of water during droughts to finance their operations. However, the solution is for them to restructure water rates, not sell more water when it is most damaging to the environment. Restructuring water rates to achieve both environmental and equity goals can provide more revenue stability for water suppliers during both droughts and rainy summers (when people purchase less water). The MA DCR and the Water Resources Commission, the Alliance for Water Efficiency, the American Water Works Association, and consultants that serve the industry can provide assistance and technical support for municipalities seeking to address this challenge. MassDEP's own "SWMI grants" for municipalities can also be used to fund consultants who specialize in this area.

We need a more resilient water management system now. Promulgating the proposed regulations is a first step. We further urge MassDEP to encourage municipalities to use their home rule authority to require that private well owners follow the same water restrictions as public water suppliers during declared droughts. Private wells deplete the same groundwater and river water sources as public supplies.

Specific Priorities/Concerns:

- **We oppose the blanket exemption for irrigation of public parks and public recreation fields** (Part f of the definition of Nonessential Outdoor Water Use). *MassDEP should impose a tiered drought response for playing fields similar to that for golf courses, with the goal of keeping these fields viable.* With some limited exceptions (i.e., water parks in state-designated environmental justice communities), parks should not be watered during droughts. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought. It is also important for Massachusetts residents to become used to and accept drier, browner landscapes during droughts.
- **We do not support the Multi-Year Drought Storage definition which exempts the Massachusetts Water Resources Authority from these requirements.** While it takes a long time to drain the Quabbin, it also takes a long time to replenish it. With PFAS, drought, and possible climate migration to our state, it is likely that more communities will want to tie into the Quabbin, and that existing customers will want to use more water in the future. Finally,

everyone should conserve water during a drought, and omitting this exemption will provide more consistency (and less confusion) around the state about water restrictions. In no case should there be any additional exemptions.

- **Should the agency go forward with its plan to exempt water systems that meet the Multi-Year Drought Storage definition, MassDEP should:**
 - Revise the language regarding an alternative drought management plan (36.07(2)(c)(3) from “accept” to “approve;”
 - Establish a public process for the community to review and comment on proposed alternative plans; and
 - Reconsider this exemption before the next registration renewal should the MWRA expand its system to provide more water to new or existing customers within the next ten years.
- **We support the tiered response to golf courses; however, we oppose the exemption for watering greens regardless of drought stage.**

MassDEP must create a more comprehensive water management system that is preventative rather than reactive. Conditioning water registrations during drought is the minimum necessary to protect our water resources from excessive withdrawals. Water conservation should occur in advance of a drought, not just when the impacts of drought are already here.

Thank you for this opportunity, and we look forward to working with MassDEP in creating a stronger water management system for the Commonwealth.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate McPherson', with a stylized flourish at the end.

Kate McPherson
Narragansett Bay Riverkeeper
kmcpherson@savebay.org
401.272.3540 x 107



TAUNTON RIVER WATERSHED ALLIANCE

A VOICE FOR THE RIVER SINCE 1988

November 1, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection –Water Management Program
One Winter Street, 5th floor
Boston, MA 02108
Via email at: dep.talks@mass.gov, Subject *WMA Regulations*

Re: WMA Regulations

Dear MassDEP,

Thank you for the opportunity to submit comments in support of the proposed Water Management Act (WMA) regulations. We strongly support the proposed changes as an important first step in making the WMA consistent with the original objectives of the Act and the realities of climate change.

Drought has become a serious threat to water quality and aquatic life in the Taunton River watershed communities and ecosystems, as you heard from many people in the two public hearings. In 2016, 2020, and now again in 2021. The Taunton River has experienced 7-day 10-year low flows in 5 of the last 7 years. When these flows occur, the river is 50% treated effluent at the Taunton wastewater treatment plant. Our water quality monitoring indicates a significant increase in water quality criteria violations at low river flows.

The second and more unique to the Taunton River watershed drought problem is the impact on our herring/alewife run which is one of the largest in the Commonwealth. We have a large and important run because the Taunton River has such a gentle grade (2 ft per mile of length) that it escaped dam building on the main stem. [The watershed](#) also has the largest natural pond system in the state (the Assawompset Pond Complex (APC)). These large clean ponds which are used for water supply by New Bedford and Taunton are ideal for herring reproduction. After the herring/alewife spawn following their April run they spend a little time in the ponds and head back out to the estuary and eventually the ocean (the adults will return each year if they survive at sea). The fry will spend a little time in the ponds to grow and also follow the same route later in the summer or fall (the fry will return in 3 to 5 years if they survive in the ocean to spawn). The common denominator for the adults and fry is they need to be able to get out of the ponds. As shown in the photos the trip back to the estuary (Mount Hope Bay) and the ocean is problematic in droughts when pond and river flow is too low. Climate change is making droughts more frequent and severe making water conservation during droughts critical.

Our Mission: ...to protect and restore the watershed's natural resources for current and future generations.

Taunton River Watershed Alliance, at Sweets Knoll State Park, 1387 Somerset Ave., (Rt. 138), Dighton
Mailing address: P.O. Box 1116, Taunton, MA 02780 • 508 -828-1101 • www.savethetaunton.org

As you know herring/alewife are incredibly important to the river, estuary, bay and commercial fisheries because everything eats herring. They survive because of their great numbers. In our watershed there can be 150,000 in poor years (2003 - 2005) or almost 1 million in a good year. When we facilitate the survival of this keystone species, we save ourselves.

In most years, the Nemasket River spawning run has been the largest among locations with counts in Massachusetts. This native migration of diadromous river herring has high cultural value for the towns of Middleborough and Lakeville and the Mashpee Wampanoag Tribe and contributes a significant source of forage for a wide range of fish and wildlife in the watershed and coastal waters of Massachusetts.

The Nemasket River migration has been challenged in recent decades, especially during periods of drought, when low water levels (combined with sedimentation in the river) make both the Assawompset Pond Dam fish ladder and the river channel itself impassable. In 2016, with little outflow during the summer into the Nemasket and the fall drought of that year, juvenile river herring could not pass this shallow bed. The Massachusetts Division of Marine Fisheries (DMF) was forced to use the Fishway Crew's Kubota mini-excavator in December 2016 to dig a path through this bend to allow outflow and fish passage. We are looking at a similarly dire fish passage situation this fall after the summer's drought. The attached photos were taken on September 5th - water in the river was barely ankle deep, and the fish ladder is completely dry, leaving river herring fry trapped in the ponds when they would normally be heading into their out-migration.

In the fall of 2020, each county was individually declared a "drought disaster area" by the USDA due to drought damage to crops, six communities declared water supply emergencies, and many streams experienced fish kills. Depleting our water resources just for summer lawn watering and other non-essential outdoor watering does not make sense. It's obvious that our current regulations fail to meet the challenge of drought.

In light of that, we are grateful that MassDEP has proposed these new regulations that fit so squarely with the State's Drought Management Plan and the Water Management Act's stated purpose, to *comprehensively manage water withdrawals*.

With drought conditions predicted to get worse, our state needs a coordinated response. It is only fair to subject the last 20% of regulated water withdrawals (184 million gallons per day) to the same water conservation requirements that permittees are already required to do under the Water Management Act. This is the least we can do to make our water management system resilient.

When water registrations were grandfathered in without conservation conditions in the 1980s, we weren't thinking about climate change in the way we need to now. Adding in water conservation requirements adapts those withdrawals to our reality, and is a step towards meeting our future needs.

DEP must create a more comprehensive water management system that is preventative rather than reactive. Conditioning water registrations during drought is the minimum of what DEP could do to protect our water resources from excessive withdrawals. Water conservation should occur in advance of a drought, not just when the impacts of drought are already here. Many of our sub-basins are severely stressed, and yet we continue to withdraw from them.

We cannot wait another ten years for the next opportunity to make our water management system more resilient. We urge MassDEP to promulgate the proposed regulations as a first step.

We further urge MassDEP to encourage municipalities to use their home rule authority to require that private well owners follow the same water restrictions as public water suppliers during declared droughts because private wells deplete the same groundwater and river water sources as public supplies. Many wealthy homes with large lawns have put in private wells for lawn irrigation to avoid surcharges in many municipal and private water company rate structures. These homes with their “well water” signs out front typically water daily (sometimes twice a day) for hours during state declared drought conditions.

Since 1988, the Taunton River Watershed Alliance (TRWA) has been a voice for the 562 square mile [Taunton River watershed](#) which extends from Mount Hope Bay in Fall River to the City of Brockton, including all or parts of 43 cities and towns. We are an advocate for environmental protection, sustainable development, and responsible stewardship of our precious water resources. We are an Alliance of concerned residents, businesses, and organizations united to restore and properly manage water and related natural resources within the Taunton River Watershed.

The purposes of the Alliance are:

- To protect and restore the watershed’s natural resources for current and future generations
- To build and support responsible stewardship of fragile ecosystems, water quality, forests, farmland, and wetlands
- To provide opportunities for people to enjoy the river and the watershed’s open space
- To be an integral resource for environmental education and be voice for threatened land and water resources.

Additional Specific Technical Comments

Overall Position:

- We fully support this regulation change to restrict nonessential outdoor water use by registered users during times of declared drought. Excessive outdoor water use during dry periods exacerbates drought impacts on water supplies and aquatic ecosystems.
- Climate change was not a top concern forty years ago, when these registrations were grandfathered in. The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to the new climate reality.

Specific Priorities/Concerns:

- We oppose the blanket exemption for irrigation of public parks and public recreation fields (Part (f) of the definition of Nonessential Outdoor Water Use). Propose instead that MassDEP impose a tiered drought response similar to that for golf courses. While maintaining functional greenspace for public use is indeed necessary, a significant portion of parks and fields are non-functional and ornamental, the irrigation of which is certainly not an “essential water use.” These distinct uses require a graduated drought response. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought.

- We support the Multi-Year Drought Storage definition as-is; oppose any additional exemptions for PWS to use drought management plans (as proposed by MWWA and other members of the PWS community). Additional exemptions would limit water use reductions and perpetuate inconsistencies, directly conflicting with the stated purposes of the proposed regulations (i.e., to achieve greater consistency around water conservation).
- We support the tiered response to golf courses; encourage MassDEP to reconsider exemption for watering greens regardless of drought stage.
- We encourage MassDEP to revise language regarding an alternative drought management plan (36.07(2)(c)3) from “accept” to “approve,” and request MassDEP establish a public process for the community to review and comment on proposed alternative plans.
- It is MassDEP’s responsibility to uphold the Water Management Act’s purpose, to “comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources.” It is not within the agency’s purview to ensure financial solvency of PWS. Encourage MassDEP to uphold this distinction, and recommend PWSs revise their rate structure with climate change in mind to lessen their reliance on selling water during a drought.

Thank you for this opportunity, and we look forward to working with MassDEP in creating a stronger water management system for the Commonwealth.

Sincerely,

Stephen J. Silva

Stephen J. Silva
TRWA Secretary and Water Quality Program Coordinator

Attachment

Two photos of Assawompset Pond outlet 9/5/2022





November 7, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108
Attention: WMA Regulations
Via email, dep.talks@state.ma.us

Re: *Proposed Amendments to 310 CMR 36.00, Water Resources Management Program Regulations*

Dear Commissioner Suuberg,

Thank you for the opportunity to provide comments in support of the Department of Environmental Protection's (MassDEP) proposed amendments to 310 CMR 36.00, Water Resources Management Program Regulations.

The Nature Conservancy is a global non-profit conservation organization whose mission is to “conserve the lands and waters on which all life depends.” Working with the best available science and in collaboration with individuals, local communities, businesses, public agencies, and other nonprofit groups, TNC in Massachusetts is working to avoid the unmanageable and manage the unavoidable impacts of climate change. We proudly represent the ideals of 34,000 members in Massachusetts and more than one million members globally.

TNC has been a core partner in establishing the enabling conditions for the State Hazard Mitigation and Climate Adaptation Plan and the Municipal Vulnerability Preparedness Program, as well as in ensuring that nature-based solutions are used by the state to address both climate mitigation and adaptation in policies, plans, and programs. All water is connected, and it is critical that we consider the resilience of our water resources as we all work to build a more resilient Commonwealth. Drought and flash droughts in Massachusetts have increased in duration and frequency in the last few years, and this trend is likely to continue into a further climate altered future.

As indicated in our 2014 and 2021 comments on amendments to Water Resources Management Program Regulations, we support conservation measures for registered water withdrawals and requirements for all withdrawals in the most impacted basins to minimize existing impacts.

We appreciate that the recently proposed amendments are a step forward, and we urge DEP to act consistently with the Commonwealth's Drought Management Plan and the purpose of the Water Management Act (WMA) by proactively managing our water to avoid drought impacts. We ask that DEP continue to keep the purpose of the Water Management Act at the heart of their revisions: to “comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources.”

As the impacts of climate change become more severe (and predicted to worsen), it is critical that we act to make our water management systems more resilient, particularly through comprehensive water conservation. If implemented, the proposed regulations will subject an additional approximately 185 million gallons of water per day (20% of all public water withdrawals) to conservation requirements during droughts. This is particularly important for basins like the Ipswich River and the Jones River, which acutely feel the impacts of drought but have a majority of their withdrawals as registrations.

We also would like to comment on two specific provisions in the new proposed revisions:

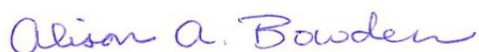
1. *Exemption for irrigation of public parks and public recreation fields ((f) in the “Nonessential Outdoor Water Use definition”)* – While we agree that there are certainly situations where watering during drought would be appropriate (such as operating water/spray parks in urban and environmental justice communities), there are many cases where it would not be necessary. Municipalities and the state should lead by example when it comes to water conservation. We would recommend that DEP:
 - a. Define “public parks and public recreation fields”
 - b. Develop a tiered drought response for these areas, similar to the approach proposed for golf courses, that clarifies in what kinds of situations water use is considered essential.
2. *Multi-year drought storage definition* – We urge DEP to avoid additional exemptions to maintain consistency and clarity around water restrictions. As the effects of climate change worsen, it is critical that as many entities as possible are conserving water. We have already seen multi-year droughts in the last decade, and these may become more common; we would not want to allow such large-scale exemptions now and find in the coming years that this definition of drought storage was not conservative enough or that water usage patterns and needs have changed (for example, more municipalities joining the MWRA).

With water registrations up for renewal, and on the heels of another year of drought, now is the time to implement forward-looking climate adaptation and resiliency policy through these changes. Waiting ten years for the next opportunity could put Massachusetts’ human and natural communities at risk.

Again, thank you for proposing these amendments. The Conservancy is committed to continuing to work to ensure that the Administration and Legislature provide EEA agencies with necessary funds from state operating budget and capital resources to implement and manage the WMA and vital activities. We also support the use of public funding and incentives to help water suppliers meet their goals of providing water for people and protecting the environment.

Please contact me at abowden@tnc.org with any questions. Thank you for your consideration.
Sincerely,

Alison A. Bowden



Director, Conservation Science and Strategy



**WATER SUPPLY CITIZENS
ADVISORY COMMITTEE**
to the Mass. Water Resources Authority

485 Ware Road
Belchertown MA 01007
(413) 213-0454
fax: (413) 213-0537
email: info@wscac.org

November 14, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection-Water Management Program
One Winter Street, 5th Floor
Boston, MA 02108

Re: Water Management Act Regulations (310 CMR 36.00)

Dear MassDEP,

On behalf of the Water Supply Citizens Advisory Committee, we submit these comments in support of MassDEP's proposal to update the Water Management Act regulations at 310 CMR 36.00. The proposed regulations can complement and strengthen the state's Drought Management Plan. We believe that utilizing water conservation, particularly nonessential outdoor water use during a drought, is an immediate tool communities can use to avert negative impacts to water resources.

The impacts of the droughts of 2016, 2020 and 2022 signaled the need for a coordinated statewide response. Communication from the state during the drought this summer showed improvement but many communities are still without a drought plan and many didn't implement voluntary or mandatory outdoor watering restrictions in a timely manner or any at all. MassDEP's proposed regulations can help change this by leading a more unified and applicable response to address the drought impacts we know can occur.

The proposed regulations are reasonable and appropriate, and will help to maintain adequate water for public health and safety as well as provide resiliency for streamflow, groundwater, wetlands, aquatic and wildlife habitat. The recent drought this summer which included the entire state, proved once again the importance of protecting these natural resources.

While we recognize the public investment and public use of parks and recreation fields, we support the irrigation of these facilities only if the region is not in a declared drought. As noted in the MA Drought Management Plan, if the Secretary declares a Level 1 drought, facilities in this region can still water once a week. The Drought Plan provides key information for cities and towns on how to use water once a drought has been declared. Watering lawns and fields is not an essential use when water resources are stressed.

In summary, WSCAC supports MassDEP's step toward aligning water use with the 2019 Massachusetts Drought Management Plan through the conditioning of Water Management Registrations. Restricting outdoor water use during a time of declared drought by the Secretary of EOEEA is an important and necessary step in ensuring balance among competing water needs and the preservation of water resources.

We appreciate the opportunity to comment.

Sincerely,

Gerald Eves, Chair

October 28, 2022

MassDEP
Water Management Program
1 Winter Street, 5th Floor
Boston, MA 02108

Re: WMA Regulations

To Whom It May Concern:

I am writing this letter anonymously to tell my perspective as a single drinking water operator, in part because I do not want my opinion to seem representative of my employer.

I understand the interest in water conservation during a drought declaration. I honestly could not agree more about the importance of correcting issues such as climate change and biodiversity loss. These are complex issues, and undoubtedly mitigating the conditions of drought would lead to improvements. As a drinking water operator, I also understand the complexities involved in delivering healthy drinking water to customers in every part of a distribution system. In this letter, I am not asking you to compromise your priorities regarding our ecosystems, but rather to also consider and account for the unique needs that each drinking water distribution system has in order to deliver a healthy product to each customer.

Water quality is not equal across all aspects of a distribution system, and in fact it varies quite a lot. Customers who live or work along main pipe lines and near the sources of water, such as a well or a surface water treatment plant, receive fresh water. However, the longer drinking water stands in a distribution system, the more stagnant it becomes. Therefore, customers who are located down dead end roads, or on the opposite end of a distribution system from a source of water, or who receive water that has spent time in a drinking water storage tank, are all drinking water that is more stagnant than it is for those customers who are located near the source.

Stagnant water is typically not a concern during the winter, but it is often difficult to manage during the summer. Bacteria such as coliforms and *E. coli* do not grow well during the cold winter months. Also, the chlorine that controls these bacteria will more easily maintain a residual during the months of colder temperatures. The opposite occurs during the warmest months of the year. In warm and stagnant water, coliforms and *E. coli* grow comparatively rapidly. Also in warmer drinking water, chlorine off gasses more readily and is also quickly “used up” by bacteria and other contaminants in the water. Whereas the measured chlorine residual in several locations throughout the distribution system is more consistent during winter months, it varies widely during summer months.

As customers use drinking water, they “pull through” the stagnant water and draw fresh water into various parts of a distribution system. This is most important during the warmest months of the year which, unfortunately, are also the months during which a drought is most likely to occur. A drought in an ecosystem requires water conservation while healthy drinking water for people requires increased flow. These competing priorities exist during the exact same time of the year. Water operators are required by regulations to maintain a chlorine residual; when customers do not use enough water then we as operators must open fire hydrants and waste water, to rid the distribution system of unhealthy stagnant water in order to maintain compliance with the regulations. It feels difficult to waste the water during a drought, knowing that customers may put it to better use.

Each water distribution system is unique, and efforts regarding water conservation during times of drought could focus on maximizing each system’s efficiency; the results would be beneficial both during the summer and throughout the year. For example, when a new pipeline is installed, the plans

could be assessed for how likely the design will mitigate stagnant water. Another example is that operators may be required to work with an engineer to determine the optimal amount of turnover in storage tanks. Different billing structures also encourage customers to conserve drinking water. Perhaps there are additional measures that may be enforced? What I am suggesting here is to optimize the carrot approach before resorting to the stick.

It would be difficult for customers to understand why they must restrict their own water use while they see their water department waste water out of hydrants. It would be even more confusing for customers to understand that water department employees who are enforcing water use restrictions with penalties are the same individuals who are wasting water out of hydrants. Not only would that be confusing, but enforcement also provokes anger from some customers. We are not law enforcement, but there may be times when we find ourselves in dangerous circumstances if we are obligated to serve in that role. If you do require water department employees to enforce drought orders, then please design the system in such a way that prioritizes enforcement at a distance.

I hope that you will consider assessing water systems on an individual basis to determine what each system may do in order to maximize the ways in which we may best mitigate both drought conditions and stagnant water. As climate change worsens, we will have to become increasingly calculating and strategic about the ways in which we mitigate its effects. A single and uniform approach may not maximize the benefits for ecosystems or for water distribution systems.

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Wma regulations
Date: Monday, October 24, 2022 4:46:56 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Your contact info was referred by nswra, for input / comments.

I believe it would be pragmatic to restrict commercial usage.

Dunkin donuts uses how many gallons daily ?

Gotta up that supply rate, idk why towns haven't put a water tax on coffee shops & car washes yet.

Something like 110% above your own supply rate.

If not banning them like they do plastic bags all together.

That's an effective way to reduce water usage.

That water, unlike lawn watering, is not returned to the water table.

Just a thought

Take care

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: re: WMA Regulations
Date: Sunday, November 6, 2022 8:54:08 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Water Management Program Personnel

During the past summer, and several previous years, it's been distressing to see the low water levels in the Ipswich river and tributaries. As a geologist for an environmental consulting firm, I know first hand the impact that excessive (and unnecessary) water use can have during times of drought - depressing water tables, drying out soils, and making it harder to treat contaminated soils. Limiting excessive irrigation of lawns and public parks during periods of drought is a no brainer and should have been made a priority years ago.

Please support the proposed revisions to the water management program regulations.

Thank you,
John Beck
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Tuesday, November 15, 2022 7:16:37 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality.

Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

I can recall this past summer on Conant Road, Westwood, MA which abuts wetlands. The water was low and green with runoff from the lawns. Every day there were residents including my two abutting neighbors, sprinklers kicking on at 5:15AM and off before the DedhamWestwood water district makes their rounds. These same homes are the ones who use exhaustive kill everything but a monoculture lawn with 4 -8 x herbicides with algae promoting fertilizers.

Yet once the rains came, all the lawns recovered. The fish, frogs, turtles, and birds did not and have not from this repetitive cycles of harmful practices including DPW and neighbor's salt runoffs.

We need to move away from temporary mindset of polluting green lawns and excess salt into our waterways and water supplies.

Please pass these regulations as swiftly as possible.

Thank you.

Irmgard Behlau, MD

Sent from my iPhone

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Thursday, November 10, 2022 8:50:34 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Good morning. I am in favor of Mass DEP new proposed revisions to the Water Management proposed regulation 310 CMR 36.00. As you know climate change has placed our availability water resources in a precarious situation. As an avid recreational user of the Ipswich River I have seen first hand the devastation to the mammal, reptile and fish populations who rely on the river for their lives. In times of drought having a “green lawn” should be second hand to preserving the life of our wildlife. Having 53% of grandfathered water abusers that registered their water use in the 1980’s should be revisited and updated based on our current climate situation and the needs of all people. Thank you for allowing me to participate in your decision. Susan k Boreri MD

Sent from my iPhone

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations—please pass 310 CMR 36.00
Date: Tuesday, November 15, 2022 4:51:31 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

My name is Damon Carter and I am a resident of Dedham in the Charles River Watershed. This summer, our river experienced one of the worst droughts in recorded history. Charles River water levels were lower than I've seen them, but Needham never activated any water restrictions; people were watering their lawns. With climate change, droughts are becoming more frequent and severe—we need to be ready.

I urge you to prioritize the conservation of our water resources and swiftly pass the proposed new regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program to protect our rivers.

Sincerely,
—Damon Carter

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Friday, November 11, 2022 10:44:50 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

My name is Rui Coelho, and I'm a resident of Belmont and currently serving as President of the Greater Boston Chapter of Trout Unlimited with almost 1,00 members. **I / we fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program** that restrict nonessential outdoor water use by registered users during times of declared drought. I have participated in the **MRA Lobby for the Rivers Day** at least 3 times to explain the benefits and threats to our water supply and the impact in other areas, like the **\$16M crop loss** several years ago due to lack of irrigation water.

The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality. Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Please pass these regulations as swiftly as possible.

Thank You.
Rui Coelho
President, Greater Boston Chapter of TU
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00)
Date: Wednesday, November 9, 2022 1:24:31 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello,

My name is David Comb and I have been a board member of the Ipswich River Watershed Association for 10 years now. I am writing in favor of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00)

I fully support that this regulation change to restrict nonessential outdoor water use by registered users during times of declared drought. Excessive outdoor water use during dry periods exacerbates drought impacts on water supplies and aquatic ecosystems.

Under current regulations, 53% of public water supply (i.e., that of users who registered their water use in the early 1980s) is exempt from any water conservation requirements. Climate change was not a top concern forty years ago, when these registrations were grandfathered in. The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to the new climate

I Oppose the blanket exemption for irrigation of public parks and public recreation fields (Part (f) of the definition of Nonessential Outdoor Water Use). Propose instead that MassDEP impose a tiered drought response similar to that for golf courses. While maintaining functional greenspace for public use is indeed necessary, a significant portion of parks and fields are non-functional and ornamental, the irrigation of which is certainly not an "essential water use." These distinct uses require a graduated drought response. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought.

I also Support the Multi-Year Drought Storage definition as-is; oppose any additional exemptions

for PWS to use drought management plans (as proposed by MWWA and other members of the PWS community). Additional exemptions would limit water use reductions and perpetuate

inconsistencies, directly conflicting with the stated purposes of the proposed regulations (i.e.,

to achieve greater consistency around water conservation).

In addition I support the tiered response to golf courses; encourage MassDEP to reconsider exemption

for watering greens regardless of drought stage.

I would like to encourage MassDEP to revise language regarding an alternative drought management plan

(36.07(2)(c)3) from “accept” to “approve,” and request MassDEP establish a public process for the community to review and comment on proposed alternative plans.

I affirm that MassDEP’s responsibility is to uphold the Water Management Act’s purpose, to

“comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources.”

It is not within the agency’s purview to ensure financial solvency of PWS. Encourage MassDEP to uphold this distinction, and recommend PWSs revise their rate structure with climate change in mind to lessen their reliance on selling water during a drought.

Thank you!!! Together we are transforming the watershed!

David Comb

[REDACTED]

--

David Comb

[REDACTED]

This message contains information which may be confidential and/or protected by attorney-client privilege. Unless you are the addressee, you may not use, copy or disclose to anyone this message or any information contained in this message. If you have received this message in error, please send me an email and delete this message. Thank you.

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Comments on Proposed WMA Drought Regulations
Date: Tuesday, November 8, 2022 6:10:17 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear MassDEP Water Management Program Staff:

I am writing in support of DEP's proposed revisions to the Water Management Act regulations that would restrict nonessential outdoor water use by holders of Registrations during times of drought, and require water conservation by such users.

I live in Ipswich and am a member of the Ipswich River Watershed Association, based on my concerns about the routine dewatering of the Ipswich River (and the nearby Parker River that helps supply our municipal water in Ipswich). In several recent drought years, portions of the river have gone dry due to excessive upstream pumping by municipal registration holders, which currently have no requirement to conserve water during droughts. At the same time, towns holding DEP WMA permits are annually subject to DEP mandated outdoor watering bans. This distinction makes no sense and is unfair. DEP's obligation under the WMA is to balance competing water needs and to preserve water resources (including protecting river ecology).

When the WMA was enacted in 1986, climate change was not a major concern and droughts were comparatively rare in Massachusetts. Now, climate change is causing almost annual droughts, and our rivers are being depleted by excessive un-regulated municipal pumping, and the Ipswich River has been listed as one of America's 10 most endangered rivers due to unsustainable municipal withdrawals by registered users. DEP needs to update and adapt its WMA regulations to meet current conditions and fulfill the statutory mandate. As such, registration holders (which constitute over 80% of Massachusetts' water allocations) need to be required to restrict nonessential water uses during periods of drought. We need to level the playing field and preserve our water resources.

In this context, I fully support the proposed regulations to restrict nonessential water use by registration holders during declared droughts. This is a long overdue updating of our outdated water management regulations to address recurring droughts exacerbated by climate change.

I am opposed to the blanket exemption for irrigation of public parks and recreation fields in the definition of Nonessential Water Uses. Instead, DEP should impose a tiered drought response requirement similar to that for golf courses. Watering of athletic fields and parks should be limited during drought conditions. Commercial water users should also be restricted in their irrigation water use during droughts. Many municipal and commercial sprinkler systems currently operate daily--and often during daylight hours despite severe drought conditions.--thus wasting precious water and depleting our surface and groundwater resources.

I support the Multi-Year Drought Storage definition and would oppose any additional exemptions for public water systems. Although I am an avid golfer (and indeed live next to a golf course), I strongly support the proposed tiered water use restrictions for golf course fairways and rough (i.e., all portions other than tees and greens). Golf courses are major water

users and can no longer be exempt from water conservation requirements during drought conditions.

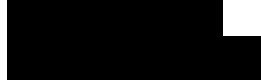
I would ask DEP to reconsider and revise the language regarding alternative drought management plans in section 36.07(2)(c)(3) by changing "accept" to "approve" and ask that DEP establish a public process for public review of proposed alternative drought management plans. DEP should not encourage or facilitate exceptions for public water systems to drought-based water use restrictions.

In general, I believe all registered water users, including public water systems and golf courses, should be subject to the same restrictions on nonessential water use as permitted water users during times of drought. We need to protect the viability and sustainability of our rivers and streams by restricting all water withdrawals.

Thank you for considering my comments.

Sincerely,

Chris Davis

A black rectangular redaction box covering the signature area.

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Regulation 310 CMR 36.00 COMMENTS
Date: Tuesday, November 8, 2022 7:17:22 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

My name is Lisa Enzer, and I am writing from Montague, MA to submit comments on the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program. As a resident of Montague, I care deeply about Lake Pleasant, and also the Mill River in Florence, MA. I urge MassDEP to protect this all bodies of water during times of drought by enacting these conservation regulations.

My son in law is a farmer who owns a CSA, and the recent drought wrecked havoc on his business, since it was so expensive and difficult to irrigate. It is absurd to think golf courses are more important than local food production.

At the very least, golfing greens and public parks and fields should be required to adhere to water use restrictions in a tiered system during times of drought. Finally, the MWRA should not be exempt from these regulations and should be required to take up the same conservation practices as other water users. These changes are an important step in conserving water and should be implemented to reduce water use during droughts, which will increase in intensity and frequency as climate change progresses

*Thank you for your consideration,
Lisa Enzer*

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Saturday, November 5, 2022 3:48:18 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I am writing in favor of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00)

These revisions recognize the many changes that have taken place of the last half-century, insuring that no users are exempt from water conservation requirements. This is in line with our new climate reality!

I also want to register my support for: these **Specific Priorities/Concerns:**

- Support MassDEP imposing a tiered drought response similar to that for golf courses. While maintaining functional greenspace for public use is indeed necessary, a significant portion of parks and fields are non-functional and ornamental, the irrigation of which is certainly not an "essential water use." These distinct uses require a graduated drought response. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought.
- Support the Multi-Year Drought Storage definition as-is
- Support the tiered response to golf courses; encourage MassDEP to reconsider exemption for watering greens regardless of drought stage.
- Encourage MassDEP to revise language regarding an alternative drought management plan (36.07(2)(c)3) from "accept" to "approve," and request MassDEP establish a public process for the community to review and comment on proposed alternative plans.
- Affirm that MassDEP's responsibility is to uphold the Water Management Act's purpose, to "comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources." It is not within the agency's purview to ensure financial solvency of PWS. Encourage MassDEP to uphold this distinction, and recommend PWSs revise their rate structure with climate change in mind to lessen their reliance on selling water during a drought.

Thank you.

Alan Feldman
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulation Revision
Date: Wednesday, November 16, 2022 8:53:41 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

As a resident of the Commonwealth, I fully support the revisions to the regulations to the Massachusetts Water Resources Management Program (310 CMR 36.00) proposed by MassDEP that would restrict nonessential outdoor water use by users with Registered sources during times of declared drought.


As an essential resource for life and our economy, the state has recognized to some degree that we cannot leave water resource management solely to market forces. Economic disincentives to water conservation should be addressed as such--not by selling more water, but through other mechanisms. Our Commonwealth is known for its creativity in addressing market distortions that undermine sustainability and supporting solutions to promote, for example, energy conservation and building of renewable energy sources. It is time for stakeholders and the many brilliant people living and working here to also develop mechanisms that address the concerns of water suppliers so that they may continue to do the important work of providing enough clean water to our communities. We can do this; we must do this.

The proposed restrictions are essential to providing more consistent, fair and effective water management in the Commonwealth, particularly given the realities of climate change. Excessive water withdrawals have threatened stream health and recreational uses in our state for many years. Many communities also rely on surface waters for essential uses such as fire fighting. This decade has brought several severe droughts and we have seen our waterways become stagnant, hot, shallow or completely dry. The state's Drought Management Plan has been revised accordingly and it is time for the Water Management Act regulations to also be revised. Adopting the proposed regulations would better protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

This is a first--and urgently needed--step. I hope that you will approve these regulatory revisions without delay. Thank you for MassDEP's ongoing work to protect our environment.

Yours sincerely,

Alison Field-Juma
[REDACTED]

From: 
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Tuesday, November 15, 2022 9:36:11 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

My name is Sarah Gates and I am a resident of Concord in the Charles River Watershed. This summer, our river experienced one of the worst droughts in recorded history. With climate change, droughts are becoming more frequent and severe—we need to be ready.

I urge you to prioritize the conservation of our water resources and swiftly pass the proposed new regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program to protect our rivers.

Sincerely,

Sarah Gates

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: My comments supporting the proposed WMA Regulations changes
Date: Sunday, November 6, 2022 7:08:06 PM

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Hello

My name is Anthony George, I reside at [REDACTED].

I write you tonight to voice my strong support for the pending Regulation Change to condition registered water withdrawals during times of drought. This is critical that we require restrictions on nonessential outdoor water use by Water Management Act registrants during times of drought declared by the Secretary of Energy and Environmental Affairs.

Droughts have been increasing in both frequency and severity. Excessive outdoor water use during these dry periods threatens both water supplies and aquatic ecosystems, and this will only get worse as our climate continues to change to a warmer overall climate.

Please make this change to current regulations, help us safeguard our most precious resource, our water.

Thank You

Anthony George
[REDACTED]

From: [REDACTED]
To: [Suuberg, Martin \(DEP\)](#); [DEP Talks \(DEP\)](#)
Subject: Public Comment on Water Use Regulations -- Public Tree Watering is Critical
Date: Thursday, November 17, 2022 2:55:18 PM

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Dear Commissioner Suuberg,

My name is Paula Griswold. I am commenting as a resident of the Commonwealth, on an issue I learned about from concerned friends and neighbors.

I have a serious concern with the proposed regulatory changes regarding water use regulation in times of drought. I realize these changes address an important issue, but I worry that the proposed version may have unintended and severe negative consequences in urban settings.

I learned about this issue from an urban tree canopy advocate and protector. I understand the regulations, as proposed, could make it illegal for citizens to water public street trees in times of drought. I hope this is a misunderstanding, but if not - I strongly recommend the regulations be modified.

The Massachusetts urban street tree canopy is a public good throughout the Commonwealth, especially in economically challenged neighborhoods, in which we should be planting even more trees. Urban trees endure harsh conditions, and they are particularly vulnerable during times of drought. These conditions are especially harsh when the trees are surrounded by urban heat islands.

Droughts may be more frequent and more prolonged in New England, but it takes decades for an urban street tree to become established enough to have an effect in a local microclimate. Established urban street trees can make the difference between a healthy environment, and an unhealthy one, with temperatures substantially higher in an urban heat island. The death of any urban street tree has a terrible impact on its local environment, and takes decades to remedy. This should be avoided whenever possible.

Citizens watering trees in the neighborhood can mean the difference between life and death for a street tree during times of drought. It is difficult enough to recruit volunteers to water our urban street trees. Making it illegal to water the tree might make it impossible.

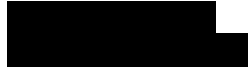
Ideally, we could be adding more trees in our cities. But instead, our urban tree canopies are shrinking rapidly; it is critical that we preserve and nurture the trees we have left.

I urge you to add citizen tree watering to your list of exemptions from these new watering bans. I would argue this is a crucial environmental justice issue. If the regulations would exempt private golf courses and wedding venues from these future water bans, it seems feasible and reasonable to exempt citizen-based tree watering in urban areas from the bans as well.

I strongly hope that you will incorporate this change in the regulations.

Sincerely,

Paula Griswold

A black rectangular redaction box covering the signature area.

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Thursday, November 17, 2022 9:27:52 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

My name is Linda Hansen and work for the Town of Wayland as the Conservation Administrator. I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality. Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Both golf courses in Wayland were still withdrawing water from the Sudbury River this summer during an extreme drought when the channel was less than 8 feet wide. Green fairways should not take precedent over the health of our riverine systems.

MassDEP should also go one step further and implement a state wide water ban on irrigating lawns during a drought, regardless if the homeowner has a private well. This water ban should be coupled with a campaign to encourage more drought tolerant landscaping.

Please pass these regulations as swiftly as possible.

Thank you.
Linda Hansen
Town of Wayland Conservation Administrator

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From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Cc: [Katharine Hanson](#)
Subject: WMA Regulations
Date: Monday, November 14, 2022 11:14:40 AM

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Dear Commissioner Suuberg,

I am a resident of Wellesley MA and fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program. Excessive water withdrawals have threatened stream flow and health in MA for many years and have worsened with the severe droughts recently. The new regulations will serve to protect stream flow and increase resiliency as climate change worsens.

Please pass these regulations, the sooner the better.

Thank you.

Sincerely,

Katy Hanson

[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Saturday, November 5, 2022 9:21:19 PM

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Hello,

I am writing in favor of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00).

As someone who lives close to the Ipswich River, I am acutely aware of its health, as I walk along its banks nearly every day. The river watershed is a critical resource for us here in Topsfield, providing all the water we use, and the nature areas we enjoy.

Accordingly, I fully support this regulation change to restrict nonessential outdoor water use by registered users during times of declared drought. Excessive outdoor water use during dry periods exacerbates drought impacts on water supplies and aquatic ecosystems as well as moisture in the entire watershed area.

It only seems fair for all users of the water from the watershed to share in conserving the water when needed. That way it is not as much of a burden on any of us.

It is clear that climate change is putting more and more stress on our rivers, including the Ipswich. Some years the flow is ample, while other years like 2022 it has been sadly nearly still. It is our responsibility to protect our rivers through these times, and there is no better way to do that than effective regulations. The new proposed revisions are just what is needed.

Thank you.

Respectfully submitted,

Joel Hariton

[REDACTED]
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Wednesday, November 16, 2022 12:02:02 PM

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Dear Commissioner Suuberg,

I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality. Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. I have personally been witness to this through my monthly water sampling activities in the Neponset River watershed area as a member of the NepRWA Citizens Water Monitoring Network. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Please pass these regulations as swiftly as possible.

Thank you.

Mary P. Happ
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Monday, November 14, 2022 7:07:09 AM

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Dear Commissioner Suuberg,

My name is Nancy Hazard and I'm a resident of Greenfield, MA.

I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

The need to update our water-related regulations to address the climate and biodiversity crises became clear for me this summer. In Greenfield a ban on watering outside was instituted, which was a shock to me.

Please update our water regulations by passing the proposed regulations as soon as possible.

Thank you for safeguarding our water and our planet!

Nancy Hazard

[REDACTED]
[REDACTED]
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Comments on WMA Regulations
Date: Tuesday, November 8, 2022 3:54:19 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To MassDEP,

My family has lived near the Ipswich River in Reading for 27 years. We kayak on it in the summer, snowshoe on it in the winter, and birdwatch along it year-round. I have seen it go dry many times, though since Reading joined the MWRA I have only seen it run dry once - this past summer. I strongly support MassDEP's new proposed revisions to the Water Management Program Regulations (310 CMR 36.00).

Nonessential outdoor water use by registered users must be restricted during declared droughts to protect the plants and animals in/along the river, to allow recreational use of the river, and to ensure the water supply for municipalities who draw from the river. Fair and uniform regulations should apply up and down the river. Climate change makes this regulation particularly important as this summer's drought demonstrates.

Reading residents and businesses are subject to locally-imposed year-round water restrictions. Other registered users should, at a minimum, be subject to limits during state-declared droughts. This includes public parks and playing fields. DEP should impose a tiered drought response (similar to golf courses) on municipal open space water use. Force municipalities to model sustainable water use! In addition, while I support the tiered response required of golf courses, they should be required to limit watering greens during severe droughts. This is not essential water use! Also, please require a public involvement process for any alternative drought management plans so residents can weigh in if municipalities or other registered users offer alternate plans.

Finally, I encourage MassDEP to balance the competing needs of the aquatic ecosystem with water supply needs as required by the Water Management Act. The river I love is being sucked dry by the water suppliers! For too long MassDEP regulations have favored PWSs. The PWSs should modify their rates and withdrawals to acknowledge climate change and the detrimental effects they are having on the river. MassDEP is uniquely positioned to ensure that they do. The proposed revisions to the Water Management Program are an important step in that direction.

Sincerely,

Kim Honetschlager

[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Monday, November 14, 2022 11:22:11 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg:

I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use during times of declared drought. I live in the town of Acton, which has strict watering limitations each summer, and I also believe all communities should adopt similar measures.

The proposed restrictions are a first step toward ensuring the Commonwealth adapts its water management to our new climate reality.

Excessive water withdrawals threatened stream health in our state. Due to this past summer's severe drought, many waterways dried up completely. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Please pass these regulations as soon as possible.

Thank you,

Nancy Hunton
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Please Exempt Citizen Tree Watering from Proposed Bans on Outdoor Watering.
Date: Tuesday, November 15, 2022 10:15:05 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

My name is Parker James. I am a co-founder of the Charlesgate Alliance and an active member of Friends of Melnea Cass Boulevard, but I am writing this letter from the perspective of an individual citizen of the Commonwealth of Massachusetts.

This letter is in response to proposed regulatory changes regarding water use regulation in times of drought. Although I have no doubt that these changes are well-intentioned, I worry that they may have unintended consequences.

I would like to offer the following example, from the perspective of an urban tree canopy advocate and protector: the regulations, as proposed, could make it illegal for citizens to water public street trees in times of drought.

The Massachusetts urban street tree canopy is an unequivocal public good. This is true all over the Commonwealth, but it is especially true in economically challenged environmental justice neighborhoods. Urban trees endure harsh conditions in the best of times, but they are particularly vulnerable during times of drought, and even more so when surrounded by urban heat islands. Droughts in New England come and go, but it takes decades for an urban street tree to become well-enough established to make a difference in a local microclimate. Established urban street trees can make the difference between a healthy environment and a harsh and unhealthy urban heat island. The death of any urban street tree has tragic consequences. This should be avoided whenever possible,

Citizen watering can mean the difference between life and death for a street tree during times of drought. It is difficult enough to recruit local citizens to water our urban street trees. Making that illegal would make the situation much worse.

Our urban tree canopies are shrinking rapidly, and we need to recruit and train a new, young generation of tree enthusiasts to cherish, preserve, and nurture the trees we have left.

I urge you to add citizen tree watering to your list of exemptions from these new watering bans. I view this, in large part, as an environmental justice issue. If you are willing to exempt private golf courses from these future water bans, I respectfully request that you exempt

citizen-based tree watering in urban areas from the bans as well.

I strongly hope that you will consider this as you craft these regulations.

Sincerely Yours,

H. Parker James

[REDACTED]
[REDACTED]

Nov. 4, 2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Water Management Program,
One Winter Street, 5th floor
Boston, MA 02108

Attention: WMA Regulations

To whom it may concern,

My name is Cara Klempner, and I am a registered voter in Montague, MA.

Please accept my comments on the proposed regulations to 310 CMR 36.00
Massachusetts Water Resources Management Program.

I care deeply about the many rivers in my area, The Deerfield, Connecticut,
Greenfield, Sawmill and others, and urge MassDEP to protect these bodies of
water during times of drought by enacting stricter conservation regulations.

The changes proposed are an important step in conserving water and should be
implemented to reduce water use during droughts. However, the measure
should go farther by limited water use by golfing greens, and public parks and
fields using a tiered water management system.

Also, larger water users and the MWRA should not be exempt from these
regulations.

Finally, the MWRA should not be exempt from these regulations and should be
required to take up the same conservation practices as other water users.

Thank you for your consideration.

Sincerely,



Cara Siano Klempner

Cara Klempner



From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Tuesday, November 15, 2022 4:40:06 PM

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Dear Commissioner Suuberg,

My name is Dee Kricker and I am a resident of Waltham in the Charles River Watershed. This summer, our river experienced one of the worst droughts in recorded history. With climate change, droughts are becoming more frequent and severe—we need to be ready.

I urge you to prioritize the conservation of our water resources and swiftly pass the proposed new regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program to protect our rivers.

I have never understood how the state allows non-essential use of ground water for athletic fields golf courses and the like. Nor do I understand how corporations can be allowed to waste precious water in summertime droughts through irrigation sprinklers, on acres of non-native grassy lawns, even during a rain event. I see this habit frequently along Wyman St., Trapelo Rd, and elsewhere in Waltham.

I urge you to protect our wonderful Charles River in order that we may all continue to enjoy its beauty, its recreational use, and our water supply.

Sincerely,
Dee Kricker

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Wednesday, November 2, 2022 6:24:09 PM

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My name is Yvonne Lalyre and I am a member of the *Friends of Melnea Cass Boulevard*. I am writing to request that the **proposal to consider the irrigation of public parks and public recreation fields as an essential use** be accepted. Furthermore, that we, citizens, must retain the right to water public street trees in times of drought. Streets planted on my neighborhood would have perished if my husband and I had not watered them regularly for six months after they were planted. The Parks Department should notify the residents when a tree is planted on the streets near their homes, so that we can help take care of them.

Thank you for your attention to my request.

Yvonne Lalyre, Ed.D.

[REDACTED]

From: [REDACTED]
To: [REDACTED] [DEP Talks \(DEP\)](#)
Cc: [REDACTED]
Subject: Watering public trees.
Date: Friday, November 18, 2022 3:37:49 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

November 18, 2022

Dear Commissioner Suuberg:

I want to align my comments with those expressed in the letters on this matter from H.P. James and, separately, from Martyn Roetter. And for what it's worth, I know them both and I can attest to their upstanding characters, high levels of civic engagement, and to their refined reasonableness of perspective that 'passes all understanding'

A small personal story: When I worked for a time, until retirement, on Marlborough Street, I purchased a hundred feet of hose which I attached to my shorter hose and used that length to reach quite a way in either direction up and down the block. That spring there were two new trees planted, and the summer before at least one—each in one of those green bags. I kept those bags full over a 4-6 week hot and dry spell, and while I have no proof, I believe that water helped to save those young trees from dying. I say that because I live on Beacon Hill and daily walked by several stretches of homes where people were too busy, or too indifferent, to water new trees and those trees, sadly, did not make it into the next season.

I know new trees are costly to install, and I think it would be a mistake to prevent any citizen of the Commonwealth from protecting a vulnerable public asset by watering public trees during a ban.

Thank you for the work you do on our behalf.

Sincerely yours

Michael McCord

[REDACTED]

[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Saturday, November 5, 2022 5:19:57 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello,

I am writing in favor of Mass DEPs new proposed revisions to the water management program regulations (310 CMR 36.00)

I am an educator who works with area high school and college students who host community conversations about protecting the Great Marsh — we call these conversations, Climate Cafes.

Over the past seven years we have talked with more than 2000 community members about protecting our rivers/watersheds, especially the Ipswich River. The students expect Mass Dep and our local communities to protect the river for their children and grandchildren!

I fully support the regulation change to restrict nonessential outdoor water use by registered users during times of declared drought.

I oppose the blanket exception for irrigation of public parks and public relation fields and propose instead that mass step impose a tiered route response similar to that for golf courses.

I encourage MassDEP to revise language regarding an alternative route management plan from “accept” to “approve”

I affirm that MassDep’s responsibility is to uphold the Water Management Acts’s purpose.

Thank you on behalf of the this generation and the ones to come!

Charla Melto

[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Wednesday, November 16, 2022 5:33:52 AM

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Dear Commissioner Suuberg,

My name is Julie Meyer and I am a municipal employee working for the Protection of Wetlands and waterways in the Charles River Watershed.

I support DEP in its prioritization efforts to pass 01-0647781 the proposed new regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program.

Thank you for all of your hard work!

Julie Meyer
[REDACTED]

From: [REDACTED]
To: [REDACTED]; [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Thursday, November 17, 2022 5:41:33 PM

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Dear Commissioner Suuberg,

First, thank you for extending the comment period for this very important new set of regulations. I am writing as a 40-year resident of the Back Bay and a long-time Board member and volunteer with several urban park advocacy groups.

In recent years we have seen an increased understanding and awareness of the crucial contribution that the urban forest and tree canopy makes to not only the quality of life in the city but as part of a complex system of factors that affect climate change and resilience.

The urban street tree has the toughest job to do in contributing to these current pressing issues. Many organizations and individuals come forward to protect and care for these trees. While they are technically the property of the City of Boston the Parks Department does not have the capacity to provide continual care and maintenance for these trees stressed and struggling in our sidewalks. Water for these trees is the most important thing that helps them get established and stay healthy. Being able to water them especially in times of drought, as we experienced this past growing season, is crucial to their survival.

I hope that you will consider making citizen/volunteer watering of urban trees an exception to the other prohibitions you are proposing. It seems to me that they deserve as much consideration as golf courses and wedding venues. Their health and survival is beneficial to all of our citizens.

Thank you for your consideration.

Sincerely,
Margaret Pokorny

From: [REDACTED]
To: [REDACTED]
Cc: [DEP Talks \(DEP\)](#)
Subject: Street tree watering
Date: Friday, November 18, 2022 9:05:11 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

My name is Susan Prindle. I am a long-time resident of the Back Bay and currently serve as Co-chair of our Neighborhood Association's Architecture Committee. I am writing today in response to the proposed changes regarding water use regulation in times of drought. I am deeply concerned about the maintenance of the urban tree canopy under the proposed regulations.

The Back Bay neighborhood is justifiably known for its architecture, but it is the relationship of its buildings to its greenspaces that makes it unique. Its street tree canopy is an essential element in its design, but more importantly it is an integral part of the lungs of the neighborhood and of the city as a whole.

Consistent watering can mean the difference between life and death for a street tree during times of drought. This is particularly true of trees during their first two years of life, as I am sure you know. While we applaud the Boston Parks Department's efforts to expand the number of street trees throughout the City, we are acutely aware that they will need care, and that the Parks Department does not have the funds to provide it. If the trees are survive, citizens will need to fill this role.

Although I believe the proposed watering bans are entirely appropriate during drought periods, I strongly urge you to add citizen tree watering to the list of exemptions.

Thank you for considering this perspective.

Sincerely Yours,

Susan D. Prindle

[REDACTED]

[REDACTED]

From: [REDACTED]
To: [REDACTED] [DEP Talks \(DEP\)](#)
Subject: Citizen Tree Watering Rights During Times of Drought
Date: Friday, November 18, 2022 3:37:55 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

I am writing to express my concern that changes in the regulation of water use would prevent citizens from watering public street trees during drought conditions.

Street trees, as you know, frequently suffer just to survive in normal conditions, but they have an even greater challenge during droughts.

Protecting the tree canopy in Massachusetts and supporting new and old trees in all of our communities contributes to a reduction of greenhouse gases and lower temperatures when they are high.

Trees also remove pollution from the atmosphere and improve air quality and our health.

The death of any urban street tree has tragic consequences. This should be avoided whenever possible. Citizen watering can mean the difference between life and death for a street tree during times of drought.

I urge you to add citizen tree watering protections to your list of exemptions from these proposed new watering bans. Please consider this as an environmental justice issue. If you are willing to exempt private golf courses and wedding venues from these future water bans, I respectfully request that you exempt citizen-based tree watering in urban areas from the bans as well.

JoAnn Robinson, Chair of the Emerald Necklace Conservancy Park Advisors

From: [REDACTED]
To: [REDACTED] [DEP Talks \(DEP\)](#)
Cc: [REDACTED]
Subject: WMA Regulations
Date: Friday, November 18, 2022 8:29:39 AM
Attachments: [image.png](#)

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

I am writing to express my strong support for the request in the letter sent to you by Parker James requesting an exemption for Citizen Tree Watering from Proposed Bans on Outdoor Watering (amendments to the **Water Resources Management Program Regulations** (310 CMR 36.00)). While I, like many others, recognize the need to conserve water during periods of drought, the choices of how to do this most intelligently and sensibly should apply a number of criteria when assessing which outdoor watering activities should be restricted, and the priorities for banning them that should be established.

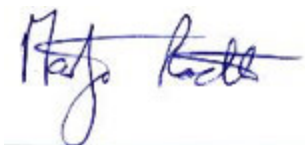
Two criteria I suggest for your consideration - I apologize if you already do so - which justify this exemption are comparisons of :

1. The risk, extent, and durability of the potential damage; and
2. The number of people who will be at risk of harm, if the exemption is not granted.

Application of these two criteria, among others you may be considering , supports the point, eloquently expressed by Parker, that established urban street trees can make the difference between a healthy environment and a harsh and unhealthy urban heat island. The death of any urban street tree has tragic consequences, which cannot be repaired easily or swiftly. Harm to urban street canopies will be felt by everyone from affluent to Environmental Justice Communities, and especially the latter. Moreover, urban heat islands increase the use of air conditioning which as long as the grid is not green, contributes to air pollution and the emission of greenhouse gases from fossil fuel power plants.

In contrast, other potential exemptions from outdoor watering bans such as for golf courses affect far fewer residents and their consequences are not as durable and are easily fixed (e.g. car washing). I urge you to assign a high priority to an exemption for Citizen Tree Watering from proposed Outdoor Watering Bans,

Thank you for the opportunity to offer this testimony.



--

Martyn Roetter



From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations comment
Date: Thursday, November 17, 2022 6:25:13 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

11/17/2022

To Whom It May Concern,

I fully support the proposed amended Water Resources Management Regulations (310 C MR 36.00). In my opinion, the proposed amendments are in response to an anticipated on going threat to our collective well being with the expected reoccurrence of drought conditions here in the northeast. I support our state DEP responding pro actively and appropriately with these proposed amendments and sincerely hope these changes will be approved and enacted without delay.

Thank you for the opportunity to submit my comments.

Sincerely,

Cynthia Rost

[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Cape water
Date: Thursday, November 10, 2022 8:19:40 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Clean drinking water is essential for good health and should be a priority for all communities. Robert Roth, [REDACTED]
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Wednesday, November 16, 2022 1:44:12 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

11/16/2022

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Water Management Act Program
One Winter Street, 5th Floor
Boston, MA 02108

RE: Proposed Amendments to 310 CMR 36.00 – Conditions on WMA

Registrations

VIA EMAIL TO: dep.talks@mass.gov

To Whom It May Concern:

I am a member of Massachusetts Water Works Association (MWWA) and wish to submit the following written comments to the Massachusetts Department of Environmental Protection (MassDEP) regarding the proposed changes to the Water Management Act Regulations, 310 CMR 36.00. Wise water use is important, especially during times of drought, but promulgating statewide regulations on Registrants that do not recognize the unique characteristics of every water system is unnecessary. I

support the comments that MWWA submitted in July of 2021 and our concerns still stand. I urge MassDEP to withdraw these proposed regulations and instead ask systems to develop their own system-specific drought management plan.

South Hadley Fire District 2 operates from a ground water source that gives us the fortunate advantage of access to a plethora of water. In the year 2006 in order to install a second well on the site a 24-hour pump test was done to gather data about the available water. We pumped over 1,000,000 gallons in a 24-hour period, the recovery rate of our well was the same as if we had pumped for 1 hour! Regardless of how much water is pumped, our recovery rates do not fluctuate. We return to static level in 10 minutes or less. The hydrogeology class at the University of Massachusetts Amherst along with the geology students at Mt. Holyoke College do a study at our well site annually. The data they gather are always consistent with the year prior regarding draw down and recovery regardless of rainfall conditions. All this data is at our disposal and can be submitted to you.

Our water system is registered for 0.68 Million Gallons per Day. Our historical use has been 0.41 MGD over a 10-year average. This is 40% below our registered allowance. Our highest on

record was 2020 (pandemic year one) with an anomaly of 0.46 MGD, still 32% below allowed registered use. Most recently, due to a massive district-wide leak detection and investigation we have lowered the average to 0.36 MGD. This puts us at 48% below our registered daily use. This is the lowest average in nearly 2 decades which is as far back as we could trace data. While not required to by any regulatory mandate, our system has an established program for water conservation on many fronts. This has been largely an effort to help people reduce the cost of their water bill for personal consumption but consequently the byproduct of our customers' saving money is water conservation. We've handed out literature on water saving fixtures for homes such as low flow showerheads and faucet aerators, alternative watering techniques such as implementing the use of rain barrels. We also provide an in-house stock of water saving nozzles for hoses, as well as water conserving sprinklers for watering lawns and gardens available for customers anytime. We have been able to manage our water supply appropriately, and therefore conditions placed upon our Registration are unnecessary.

Imposition of mandatory water use restrictions upon a regional drought declaration is inappropriate for a number of reasons. The Massachusetts Drought Management Plan has sensitive metrics, many of which are not water supply-related nor directly related to our capacity to supply our customers, even during times of drought. At no time during this past summer of 2022 did our wells capacity show any sign of being in danger. Recovery rates as always, were under 10 minutes on average. As stated previously, due to a wide scale effort on leak detection the year prior our MGD average in 2021 what is the lowest it's been in nearly 2 decades, at 0.36 MGD. This increased our available registered water by nearly 20% from the year prior. The answer for our water conservation is not burdening our budget or the residents of the district, but continual system maintenance and leak detection. This is a commitment we as water system operators at South Hadley District 2 take seriously and have made tremendous strides in over the last few years. It is a direction we do not intend to stray from for generations to come.

While MassDEP is providing an alternative approach to following the MA Drought Management Plan, the criteria make it such that only MWRA would qualify. The requirement for multi-year storage of no less than three times a Registrant's authorized withdrawal has no scientific basis and that is problematic. The addition of the new language that excludes water below the intake elevations further limits our ability to even have a conversation about using our own drought plan instead of defaulting to the state's plan. Surface water **and/or** groundwater Public Water Systems should have the ability to create system specific drought management plans that reflect their system's capacity and have response actions that are tied to various trigger points for their system. If the proposed regulations are adopted, we urge MassDEP to modify the criteria so that all Public Water Systems who follow industry standards for drought planning and preparedness can also submit a plan for review and approval.

While MassDEP made slight changes to the definition of Non-Essential Outdoor Water Use within the re-noticed regulations, we would urge you to adopt the more comprehensive

definition proposed by MWWA when they commented last July. Further, we understand that MassDEP is interested in comments regarding the exemption to public parks and recreation fields within the definition. Communities have made significant investments in their parks and recreation fields and should be allowed to water them if they have the capacity to do so to maintain that investment.

The proposed regulations will cause a financial hardship for our utility and may impact our ability to undertake other infrastructure improvements that could more meaningfully enhance our water system's resiliency. The potential loss in revenue would be devastating to running our system. A commitment to providing safe, clean potable water at the lowest possible cost to the customer already puts us in the margins of a budget that has no wiggle room. Forcing these regulations on us will no longer allow us to sell water to a local pool-filling company, restrict our biggest customer the Orchards (a local golf course), and drive our water rate through the roof. This is without taking into consideration the potential lost revenue from our average residents, which makes up 60% of our system.

With infrastructure aging out 80 to 100 years, two storage tanks that need to be painted, one in the next year, to the tune of \$700,000 dollars per tank, we simply cannot afford the loss in revenue. Our core responsibility as water suppliers is to provide the most essential service to our customers - clean, safe drinking water. We are environmental stewards of the water resources in our communities for without adequate protection of the resources, we would not be able to provide the service we do. We also must adhere to rigorous water quality standards established under the Safe Drinking Water Act (SDWA) to ensure protection of public health. We play a key role in providing fire protection within the community; and for that reason, storage reservoirs must be kept full and system pressure maintained. We must constantly balance water quality and quantity demands, especially during the summer months. We would urge the Department to consider the unintended water quality consequences that could occur should we have to comply with arbitrary conditions restricting water use. Less water usage, as you know, dramatically increases our chance for disinfection byproduct noncompliance, potentially endangering our current very safe drinking water.

Finally, in the *Fairhaven* case, the Supreme Judicial Court affirmed that MassDEP could not infringe upon the Registrants' entitlement to existing withdrawals. We believe that the drought conditions that MassDEP seeks to impose would most certainly infringe upon our entitlement to our existing withdrawals by limiting our ability to sell that water during a drought.

South Hadley Fire District 2 Water believes it has been shown that the proposed regulations will not foster water system resiliency, and will, in fact, be detrimental by limiting revenues needed to maintain and upgrade our water system. South Hadley Fire District 2 Water requests

MassDEP rescind these draft regulations as they are not necessary and counterproductive, and instead work with MWWA and Public Water Systems on the creation of system-specific drought plans and other measures that will yield more meaningful and tangible results toward increasing water system resiliency.

Sincerely,

Tyler Scheinost

Water System Operator/Foreman

From: [REDACTED]
To: [REDACTED] [DEP Talks \(DEP\)](#)
Cc: [REDACTED]
Subject: Please Preserve Tree Watering Rights During Times of Drought
Date: Friday, November 18, 2022 2:51:41 PM
Attachments: [image001.png](#)
[image002.png](#)

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg:

My name is Jack Schleifer, and I am the Field Operations Manager with the Emerald Necklace Conservancy. I am reaching out in in response to the proposed regulatory changes regarding water use regulation in times of drought. I am concerned that aspects of these changes will have significant consequences for our city's ability to appropriately invest in and develop our urban tree canopy.

Given my work in urban forestry and ecology, I recognize the tremendous value in citizen tree watering, especially during times of drought. Should the proposed regulations make it illegal for citizens to do this, I believe that our urban canopy and its numerous social benefits will suffer.

Urban trees endure incredibly difficult growing conditions, which are only worsened during times of drought. The city has recognized the importance of our urban canopy and is dedicating time and resources towards this work through its new Urban Forestry Plan and Forestry Division. These plans recognize the importance of watering trees, especially during hot summer weeks, and instructions to do so are explicitly listed on the [Boston.gov website](#). The linked webpage says that "*during really hot weather, a tree will need 30 gallons of water each week in two separate waterings*". This statement is rooted in the ecological needs, and it reinforces the necessity of citizen and organizational watering during drought conditions.

I recognize the need to respond to changing climate conditions and increased drought, but trees are our most trusted technology in combatting these changes. They cool our cities, filter our stormwater, sequester our carbon, and require our support and watering to be successful.

Citizen watering can mean the difference between life and death for these trees, and I urge you to add citizen tree watering protections to your list of exemptions from these proposed new watering bans. Please consider this as an environmental justice issue and a requirement to operate in accordance with the city's Urban Forest Plan and goals. There are no exemptions that could be more important than this, for our city's future and our public health.

Thank you for your consideration, and I would always be happy to discuss this further.

Sincerely,
Jack Schleifer

=====

Jack Schleifer
Field Operations Manager



CHARLESGATE PARK | BACK BAY FENS | RIVERWAY | OLMSTED PARK | JAMAICA POND | ARNOLD ARBORETUM | FRANKLIN PARK

MAILING ADDRESS: 350 Jamaicaway | Boston, MA 02130

617.522.2700 | emeraldnecklace.org

#GivingTuesday is almost here! Support the Emerald Necklace parks today with [a tax-deductible gift](#), and help keep these 1,100 acres vibrant in this season of giving and year-round.



From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Proposed regulations 310 CMR 36.00 Mass Water Resource Mgmt Program
Date: Friday, November 18, 2022 11:30:58 PM

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Dear Commissioner Suuberg,

My name is Mary Ellen Schloss and I'm a resident of Scituate. I also work as a Conservation Administrator for a South Shore municipality. I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

I know from experience that some municipal leaders bend to political pressure to avoid water restrictions, even in times of drought. If not required to restrict outdoor water use, communities may choose green lawns over rivers and ponds and the aquatic life they support. I have seen this firsthand. If state regulations require water use restrictions in times of low water, this will remove political pressure from municipal leaders.

Please pass these regulations as swiftly as possible. It is the responsible thing to do and is an important step toward ensuring the Commonwealth adapts its water management to our new climate reality.

Thank you.

Mary Ellen Schloss

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Fwd: Support 310 CMR 36.00
Date: Thursday, November 10, 2022 5:26:39 PM

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Sorry - hit send before I was ready
My name is Devan Scott & I am a resident of Watertown
Thank You!!

Begin forwarded message:

From: D S [REDACTED]
Date: November 10, 2022 at 5:24:46 PM EST
To: dep.talks@mass.gov
Subject: Support 310 CMR 36.00

Hello

I am a resident of Watertown Mass.

I am writing to express my support for the proposed regulations.

This is absolutely critical and I appreciate the work you all are doing to try and stop the daily waste of water to ensure we are better equipped to deal with our growing challenges.

I can appreciate that for some people and businesses this feels dramatic and terrible. However, living with more responsible water usage and making different choices about how to present properties and ensure our health and safety going forward is neither debatable nor sad. We can have beauty, safety and health for all of us and our plants, trees, bugs, birds, wildlife....

Thank You for the work you do!

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Saturday, November 5, 2022 2:21:25 PM

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I am writing in favor of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00). I am a resident of Lynnfield and I am very concerned about chronic depleted water levels of the Ipswich River and the aquifers which our town draws from its watershed.

I fully endorse the policy positions recommended by the Ipswich River Watershed Association as listed below:

Overall Position:

- Fully support this regulation change to restrict nonessential outdoor water use by registered users during times of declared drought. Excessive outdoor water use during dry periods exacerbates drought impacts on water supplies and aquatic ecosystems.
- Under current regulations, 53% of public water supply (i.e., that of users who registered their water use in the early 1980s) is exempt from any water conservation requirements. Climate change was not a top concern forty years ago, when these registrations were grandfathered in. The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to the new climate reality.

Specific Priorities/Concerns:

- Oppose the blanket exemption for irrigation of public parks and public recreation fields (Part (f) of the definition of Nonessential Outdoor Water Use). Propose instead that MassDEP impose a tiered drought response similar to that for golf courses. While maintaining functional greenspace for public use is indeed necessary, a significant portion of parks and fields are non-functional and ornamental, the irrigation of which is certainly not an "essential water use." These distinct uses require a graduated drought response. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought.
- Support the Multi-Year Drought Storage definition as-is; oppose any additional exemptions for PWS to use drought management plans (as proposed by MWWA and other members of the PWS community). Additional exemptions would limit water use reductions and perpetuate inconsistencies, directly conflicting with the stated purposes of the proposed regulations (i.e., to achieve greater consistency around water conservation).
- Support the tiered response to golf courses; encourage MassDEP to reconsider exemption for watering greens regardless of drought stage.
- Encourage MassDEP to revise language regarding an alternative drought management plan (36.07(2)(c)3) from "accept" to "approve," and request MassDEP establish a public process for the community to review and comment on proposed alternative plans.
- Affirm that MassDEP's responsibility is to uphold the Water Management Act's purpose, to "comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources." It is not within the agency's purview to ensure financial solvency of PWS. Encourage MassDEP to uphold this distinction, and recommend PWSs revise their rate structure with climate change in mind to lessen their reliance on selling water during a drought.

Sincerely yours,

Frank D. Scott

[REDACTED]

[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Monday, November 7, 2022 8:23:50 PM

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Dear DEP Bureau of Resource Protection,

I write in strong support of DEP's draft regulations on registrations concerning the withdrawal of water during a period of declared drought.

Although registered users may be pumping within the threshold established by their 1980s registration, groundwater users have an outsized, negative impact on the water bodies they draw from. Unnecessary, outdoor water exacerbates periods of low water flow, endangering the ecosystem of a river. During periods of low flow, the habitats for amphibians shrink, warmer water temperatures deplete dissolved oxygen needed for fish, and drought-stressed plants become vulnerable to pests.

As someone who plays golf on occasion, I believe golf courses should be held to the same standard as everyone else during times of drought. Just as a poor craftsman blames his tools, a greener fairway is not going to keep my ball out of the woods!

No raindrop blames itself for the flood, we all must buy-in to make a difference to save our cherished natural resources. Thank you for your efforts on this regulatory change and for your consideration of my comments.

Mike Searles
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Cc: [REDACTED]
Subject: WMA Regulations (310 CMR 36.00)
Date: Friday, November 18, 2022 4:43:51 PM

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MASS DEP Submission
Restriction on Water Registrants
310 CMR 36.00
November 18, 2022

I am fortunate to say I am a 63 year customer of the Springfield Water and Sewer Commission and a four year academic year customer of Waltham's water system and therefore the MWRA/Quabbin System

I have read the proposed regulations and am familiar with the original 1986 Act. I am also familiar with the operations and finances of public and private water utilities as well as large scale hydro-electric systems. I have worked extensively with hydrologists throughout the New England States in their study of projected water resources

Merriam Webster defines regulation as, "an authoritative rule dealing with details or procedure" as well as "to bring order, method and uniformity".

What I am seeing in the proposed regulations is the Massachusetts DEP attempting to regulate and solve problems that do not exist. Also, the proposed regulation and its uniformity is flawed by not taking into account individual water resources.

Background

The Springfield system originates in the mid 1800's and serves six municipalities and the Quabbin began in the 1930's and supplies water to over 50 mostly eastern Mass customers. Both systems reported normal reservoir levels and system capacity this summer and fall during a period of low rainfall.

Both of these water registrants are examples of large well managed entities that operate as true water utilities. In fact, the business world and academia both say the best run institutions both private and public are ones where decision making is at the operating level.

- Why is the DEP attempting to micro-manage these two well run organizations as well as the other water registrants in the State?
- If these instructions had no problems in 2022 and the prior low rainfall years – what is the issue?
- Water Registrant were specifically excluded from the 1986 Act, the DEP has not stated pr justified why changes are needed.

A fatal flaw in the proposed regulation and in the operations of the Drought Task Force in its assessment of "Drought Conditions" is it does **not** take into account the resource levels of

specific reservoirs like Springfield's Cobble Mountain, the Quabbin or other Registrants. I did review the Regulations and the DEP summary document which are both unclear and overly complex to me and I have worked with utility rate setting and regulation for 38 years. It took the speaker approximately one-half hour to "summarize" how the unnecessary regulations would work.

I can see why maybe some systems that have low safety capacity and/or are well and lake and pond dependent have issues which the DEP already controls.

There are seven Regions the Drought Management Task Force ("DMTF") has identified. During 2022, the Drought Task Force originally restricted and then banned all outdoor watering from June 2, 2022, through October 6 for large portions of the State. Meanwhile Springfield, Quabbin and other Registrant's reservoirs **were at normal levels**. In 2021, the DMTF issued drought restrictions across broad swaths of the state while the Springfield and Quabbin systems were over-flowing their reservoirs and watersheds.

The proposed regulations are an admitted attempt to restrict water usage to levels asserted to be "proper" by the DEP as 65 gallons and referred to as a "Performance Trigger". The proposed effective date of April 2023 seems aggressive to say the least.

The speaker said the DEP is looking for uniformity and consistency but that makes no sense if resource levels are not considered, and some one size formulas are followed by the DEP. It sounds like water **socialism**. Is the DEP attempting to somehow address the situations similar to when Westwood has needed water usage restrictions while Newton does not, but the lowest common denominator is to restrict both systems. There are plenty of things that are not equitable and so be it.

In Summary,

The proposed regulations are an attempt to regulate and address problems that do not exist.

The proposed regulations are unnecessary and an overreach of the Massachusetts DEP to take away local control of water resources from the entities and manage the use of water by citizens.

The management of the Water Registrants have the power to enact resource or usage restrictions, if necessary, based on their intimate knowledge of the water resource and not a broad "one size fits all edict from Boston. The Water registrant system has been in effect since 1986 has withstood the test of time. The proposed regulations should not take effect and be rescinded.

Invitation

I would like to propose upper-level DEP employees with regulatory authority come out to Western Massachusetts to see the Springfield and Quabbin systems and their management and employees. You can discuss the management of these resources and their dynamic and extensive plans for the management, capital plans and protection of the water resources. I think they would be a very eye-opening meetings and tours. You could see both in a single day and the car ride is relatively easy. I believe you will conclude additional regulation is unnecessary.

--

Tom Shea



From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations - Public Comment 310 CMR 36.00
Date: Friday, November 18, 2022 4:51:11 PM

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Good afternoon,

Thank you for providing the opportunity to comment on the proposed rulemaking for Water Resources Management Program Regulations. I reviewed the proposed rulemaking and read published public comments. I offer the following comments:

1) I agree with the Commonwealth promulgating a definition of non-essential water use. There should be a uniform standard of defining what essential and non-essential water use is. Currently, you can drive from jurisdiction to jurisdiction and see inconsistency in the application of water restrictions. If members of the public observe others watering lawns (whether permitted to or not), it erodes public confidence in effective management practices. DEP taking discretion away from water suppliers and municipalities would allow science and not politics to drive water management decisions.

2) In the published comments, many water suppliers expressed concern about a "one size fits all" standard pertaining to mandatory water restrictions. I think the solution being proposed by the Commonwealth is to address the perceived inconsistency with water resources monitoring. There should be a uniform standard which assures the resiliency of a water supply in drought conditions. I recognize that different water supplies have different watersheds, soil characteristics, baseline consumption, and other complicating factors. Because of this, each water supply may have a different drought threshold. With the changing climate, perhaps DEP should consider a performance based regulation which would require a water supplier to review their existing drought contingencies and propose thresholds when drought countermeasures are required. Historical data may no longer accurately represent today's climate. One water supplier may be more drought prone in a Level 2 drought than a different water supplier is in a Level 3 drought. The "one size fits all" standard may discourage a water supplier from instituting more stringent drought countermeasures. A performance based regulation would require a water supplier to implement drought countermeasures in a more consistent fashion. DEP would be required to monitor a water supplier's compliance with their submitted plan.

I believe that the DEP is attempting to address a problem. Current climate conditions are changing and it's becoming more difficult to police non-essential water use. Watersheds generally span multiple jurisdictions, so it is imperative that DEP become involved to enforce the consistent application of good watershed management practices. DEP can develop a framework which the water suppliers are required to follow.

--

Owen Smith
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations, 310 CMR 36
Date: Monday, November 7, 2022 8:34:40 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Hello DEP-talks,

I am writing in favor of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00) to restrict water use during droughts.

I applaud MassDEP's regulation change to restrict non-essential outdoor water use by registered users during times of drought. Outdoor water use increases dramatically during dry periods and intensifies the impacts of drought on water supplies and aquatic ecosystems. We need to do a better job of protecting our resources, especially during times of drought.

The town of Reading knows about the impacts of drought – indeed, Reading put the financing in to access MWRA as a water supply and remove their dependence on the Ipswich River which suffers in every drought. Reading now has water restrictions imposed continually (<https://www.readingma.gov/DocumentCenter/View/1670/Water-Conservation-Notice-March-2022>) and shows just how do-able it is. The recovery of the Ipswich River in Reading is a great example of what an individual town can accomplish.

The proposed change to the CMR is a good first step to bringing other communities into the reality of our changing climate conditions.

A couple of changes would improve the proposal –

More consistent restrictions - for example, impose a tiered drought response for irrigation of public parks and public recreation fields similar to that for golf courses.

Also, MassDEP should include a public process for communities to review and comment on proposed alternative drought management plans and a requirement that MassDEP approve such alternative plans.

The intent behind the Water Management Act (WMA) is good. And, MassDEP is responsible for upholding it and “comprehensively” managing “water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources.” This is going to get more

difficult as our climate changes, and many aspects of water management and water use will have to change with it.

Thank you for your proposed changes and for your consideration of these comments,

Gina Snyder



From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Friday, November 18, 2022 8:32:45 AM

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Dear Commissioner Suuberg,

My name is James Summers and I'm a resident of Marshfield. I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality. Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Please pass these regulations as swiftly as possible.

Thank you.
James Summers

P.s. using our water supply on gold courses is a tragic waste - please help eliminate that waste as well

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Saturday, November 5, 2022 1:55:37 PM

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Hello,

I am writing in favor of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00)

I fully support this regulation change to restrict outdoor water use during droughts and near drought conditions.

The current regulations do not account for the risks of climate change and must be changed for the 53% of public water supplies exempt from water conservation requirements.

I do not think there should be an exemption for public parks and recreation fields. These public resources should be models for private homeowners and demonstrate conservation techniques. I also believe that golf course water use needs to be regulated.

Thank you for your work and consideration.

Sarah Tappan
[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Monday, November 7, 2022 2:22:09 PM

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Hello,

I am writing in favor of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00).

I have been concerned about this issue for a long time as I've watched the Ipswich River suffer through drought after drought, and continue to be frustrated by a lack of leadership within Mass to combat this problem.

However, the recently proposed regulations are a step in the right direction and I support the change to restrict nonessential outdoor water use by registered users during times of declared drought. Under current regulations, 53% of public water supply (i.e., that of users who registered their water use in the early 1980s) is exempt from any water conservation requirements. Climate change was not a top concern forty years ago, when these registrations were grandfathered in. The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to the new climate reality.

I oppose the blanket exemption for irrigation of public parks and public recreation fields (Part (f) of the definition of Nonessential Outdoor Water Use). Instead I would like to see the MassDEP have the power to impose a tiered drought response similar to that for golf courses. While maintaining functional greenspace for public use is indeed necessary, a significant portion of parks and fields are non-functional and ornamental, the irrigation of which is certainly not an "essential water use." These distinct uses require a graduated drought response. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought.

I support the Multi-Year Drought Storage definition as-is; and I oppose any additional exemptions for PWS to use drought management plans (as proposed by MWWA and other members of the PWS community). Additional exemptions would limit water use reductions and perpetuate inconsistencies, directly conflicting with the stated purposes of the proposed regulations (i.e., to achieve greater consistency around water conservation).

I support the tiered response to golf courses; and I encourage MassDEP to reconsider the exemption for watering greens regardless of drought stage.

I believe MassDEP's responsibility is to uphold the Water Management Act's purpose, to

“comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources.” It is not within the agency’s purview to ensure financial solvency of PWS. Encourage MassDEP to uphold this distinction, and recommend PWSs revise their rate structure with climate change in mind to lessen their reliance on selling water during a drought.

-Brian Tinger

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Saturday, November 5, 2022 5:24:35 PM

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Hello,

I am writing in favor of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00).

I fully support this regulation change to restrict nonessential outdoor water use by registered users during times of declared drought. Excessive outdoor water use during dry periods exacerbates drought impacts on water supplies and aquatic ecosystems. As a neighbor to the Ipswich River, I have witnessed the devastation first hand. It is inexcusable for us as caretakers to ignore that we can help.

Under current regulations, 53% of public water supply (i.e., that of users who registered their water use in the early 1980s) is exempt from any water conservation requirements. Climate change was not a top concern forty years ago, when these registrations were grandfathered in. The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to the new climate reality.

In particular,

- Oppose the blanket exemption for irrigation of public parks and public recreation fields (Part (f) of the definition of Nonessential Outdoor Water Use). Propose instead that MassDEP impose a tiered drought response similar to that for golf courses. While maintaining functional greenspace for public use is indeed necessary, a significant portion of parks and fields are non-functional and ornamental, the irrigation of which is certainly not an "essential water use." These distinct uses require a graduated drought response. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought.
- Support the Multi-Year Drought Storage definition as-is; oppose any additional exemptions for PWS to use drought management plans (as proposed by MWWA and other members of the PWS community). Additional exemptions would limit water use reductions and perpetuate inconsistencies, directly conflicting with the stated purposes of the proposed regulations (i.e., to achieve greater consistency around water conservation).
- Support the tiered response to golf courses; encourage MassDEP to reconsider exemption for watering greens regardless of drought stage.
- Encourage MassDEP to revise language regarding an alternative drought management plan (36.07(2)(c)3) from "accept" to "approve," and request MassDEP establish a public process for the community to review and comment on proposed alternative plans.
- Affirm that MassDEP's responsibility is to uphold the Water Management Act's purpose, to "comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources." It is not within the agency's purview to ensure financial solvency of PWS. Encourage MassDEP to uphold this distinction, and recommend PWSs revise their rate structure with climate change in mind to lessen their reliance on selling water during a drought.

Thank you for your attention and your help in protecting the Ipswich River.

Paula Tucci



From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: Proposed change in water Conversation regulations (310 CMR 36.00)
Date: Thursday, November 10, 2022 10:50:42 AM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg,

My name is Katherine Weeks and I'm a resident of Harvard. I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality.

I live in the Assabet River watershed, and do volunteer sampling for OARS. This relatively heavily populated suburban watershed needs greater protection during significant droughts.

Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Please pass these regulations as swiftly as possible.

Thank you,

Katherine Weeks



(just enough east of the groundwater divide to be in the Assabet River watershed vs. the Nashua River watershed).

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Cc: [REDACTED] [Walter Timilty](#); [Paul Feeney](#)
Subject: WMA Regulations
Date: Tuesday, November 15, 2022 9:21:03 AM

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Dear Commissioner Suuberg,

IT'S CRUCIAL TO PROTECT OUR WATER SUPPLY IN ANY WAY WE CAN BY BRINGING REGULATIONS INTO THE CLIMATE REALITY ERA! I HAVE TO ASK THOUGH: HOW DO YOU GET THROUGH TO THOSE WHO IGNORE RESTRICTIONS?? THANK YOU. JW


I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality. Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Please pass these regulations as swiftly as possible.

Thank you.

A Coincidence: Small miracles on earth through Divine Intervention. Choose gratitude and joy

From: 
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Tuesday, November 15, 2022 6:40:08 PM

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Dear Commissioner Suuberg,

My name is Gillian White and I am a resident of Cambridge in the Charles River Watershed. This summer, our river experienced one of the worst droughts in recorded history. With climate change, droughts are becoming more frequent and severe—we need to be ready.

I urge you to prioritize the conservation of our water resources and swiftly pass the proposed new regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program to protect our rivers.

Sincerely,
Gillian

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations - Support for NEW Legislation!
Date: Monday, November 7, 2022 4:41:59 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

To Whom It May Concern:

I am writing in support of MassDEP's New Proposed Revisions to the Water Management Program Regulations (310CMR36.00).

We live in Topsfield and therefore are keenly aware of how drought can impact our primary water source, the Ipswich River. And even though our local water commission is very attuned to droughts, we know many neighboring towns and cities are not. I worked in neighboring Beverly for 30+ years and saw the discrepancy first hand! If we are to conserve water, everyone in a region has to be on an equal playing field.

Nonessential outdoor water use must be restricted for registered users during times of drought! Excessive water use during dry periods affects everyone in a given watershed! Water supply is crucial for humans as well as aquatic ecosystems. It seems absurd that regulations set in the 1980s are still in play, as our world has morphed so dramatically. No one can fairly explain how registrations have been grandfathered except due to political power and clout. That is not an equitable way for the state to distribute precious resources. Who, if not you, are responsible for the longevity of our precious resources?

Water management needs to be addressed with all the now known climate realities.

Please pass these new regulations!

Sincerely yours,

Bobbi Whiting
[REDACTED]

--

Bobbi Whiting
[REDACTED]
[REDACTED]
[REDACTED]

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From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA regulations
Date: Monday, November 7, 2022 11:40:23 AM

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Dear MassDEP

The purpose of this letter is to express my support for MassDEP's New Proposed Revisions to the Water Management Program Regulations (310 CMR 36.00). I fully support this regulation change to restrict nonessential outdoor water use by registered users during times of declared drought. This is just the right thing to do. In my mind non-necessary outdoor water use during dry periods exacerbates drought impacts on water supplies and aquatic ecosystems.

My understanding is that the present regulatory structure permits over 50% of the public water supply (i.e., that of users who registered their water use in the early 1980s) to be exempt from **any** water conservation requirements. Climate change was not a top concern forty years ago, when these registrations were grandfathered in. The proposed restrictions will bring these regulations into the 21st century and is a first step toward ensuring the Commonwealth adapts its water management to the new climate reality.

While there are multiple issues of concern to me relative to water management, my primary concerns are as follows:

The blanket exemption for irrigation of public parks and public recreation fields is difficult to fathom (Part (f) of the definition of Nonessential Outdoor Water Use). My understanding is there is a proposal that MassDEP impose a tiered drought response similar to that for golf courses and I am supportive of efforts to revise the regulations. While maintaining functional greenspace for public use is necessary, a significant portion of parks and fields are non-functional and ornamental, the irrigation of which is certainly not an "essential water use." These distinct uses require a graduated drought response. State and public agencies must set an example for the rest of the Commonwealth of wise water use during drought.

Of particular interest to me is to affirm that MassDEP's responsibility is to uphold the Water Management Act's purpose, to "comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources." It is not within the agency's purview to ensure financial solvency of PWS. I encourage MassDEP to uphold this distinction and recommend public water suppliers to revise their rate structure with climate change in mind to lessen their reliance on selling water during a drought.

I appreciate your time and attention.

Sincerely,
Jack Whittier

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Monday, November 7, 2022 5:06:13 PM

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i'm writing in support of Mass DEP new proposed revisions to the water management program regulations (310 CMR 36.00). As you well know, excessive outdoor water use during dry periods exacerbates drought impacts on water supplies and on aquatic ecosystems. This regulation seems long overdue. thank you, Susan Winthrop

Sent from my iPhone

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Monday, November 21, 2022 3:27:46 PM

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Dear Commissioner Suuberg,

My name is Jonathan Aibel and I'm a resident of Concord, MA. I fully support the proposed regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program that restrict nonessential outdoor water use by registered users during times of declared drought.

The proposed restrictions will bring these regulations into the 21st century, and is a first step toward ensuring the Commonwealth adapts its water management to our new climate reality. Excessive water withdrawals have threatened stream health in our state for many years. Combined with severe droughts, our waterways have been struggling, with many drying up completely this past summer. Adopting the proposed regulations would protect streamflow, allowing our rivers and streams to be more resilient in the face of future droughts.

Please pass these regulations as swiftly as possible.

Thank you.
Jonathan

Jonathan Aibel

[REDACTED]

From: [REDACTED]
To: [DEP Talks \(DEP\)](#)
Subject: WMA Regulations
Date: Saturday, November 19, 2022 7:19:19 AM

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Dear Commissioner Suuberg,

My name is Rob St.Germain and I am a resident of Ashland in both the Charles River and Sudbury River Watersheds. This summer, our rivers experienced one of the worst droughts in recorded history. With climate change, droughts are becoming more frequent and severe—we need to be ready.

I urge you to prioritize the conservation of our water resources and swiftly pass the proposed new regulations to 310 CMR 36.00 Massachusetts Water Resources Management Program to protect our rivers.

Sincerely,
Rob St.Germain
[REDACTED]

From: [REDACTED]
To: [REDACTED]; [DEP Talks \(DEP\)](#)
Subject: Please Preserve Citizen Tree Watering Rights During Times of Drought
Date: Friday, November 18, 2022 1:52:13 PM

CAUTION: This email originated from a sender outside of the Commonwealth of Massachusetts mail system. Do not click on links or open attachments unless you recognize the sender and know the content is safe.

Dear Commissioner Suuberg:

This letter is in response to proposed regulatory changes regarding water use regulation in times of drought. Although I have no doubt that these changes are well-intentioned, I worry that these changes may have unintended consequences.

From the perspective of urban tree canopy advocates and protectors, one concern is that these regulations, as proposed, could make it illegal for citizens to water public street trees in times of drought.

The Massachusetts urban street tree canopy is an unequivocal public good. This is true all over the Commonwealth, but it is especially true in economically challenged environmental justice neighborhoods. Urban trees endure harsh conditions in the best of times, but they are particularly vulnerable during times of drought, and even more so when surrounded by urban heat islands. Droughts in New England come and go, but it takes decades for an urban street tree to become well-enough established to make a difference in a local microclimate. Established urban street trees can make the difference between a healthy environment and a harsh and unhealthy urban heat island. The death of any urban street tree has tragic consequences. This should be avoided whenever possible.

Citizen watering can mean the difference between life and death for a street tree during times of drought. People do this out of love for their trees, and they pay for the water themselves. It is difficult to recruit enough local citizens to water our urban street trees. Making that illegal would make the situation much worse.

Our urban tree canopies are shrinking rapidly, and we need to recruit and train a new, young generation of tree enthusiasts to cherish, preserve, and nurture the trees we have left.

I urge you to add citizen tree watering protections to your list of exemptions from these proposed new watering bans. Please consider this as an environmental justice issue. If you are willing to exempt private golf courses and wedding venues from these future water bans, I respectfully request that you exempt citizen-based tree watering in urban areas from the bans as well.

~ Bill Nigreen
[REDACTED]
[REDACTED]