



Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

Massachusetts Water Resources Management Program Summary of Amended Regulations 310 CMR 36.00

Background: The Water Management Act regulations, 310 CMR 36.00, establish enforceable standards, criteria and procedures to implement the Water Management Act (WMA), M.G.L. c. 21G, in order to comprehensively manage water withdrawals throughout the Commonwealth to ensure an appropriate balance among competing water needs and the preservation of water resources. The WMA regulates withdrawals through registrations and permits. The current regulations include two conditions on registrations, requiring metering and reporting of withdrawals. In *Water Dep't of Fairhaven v. Dep't of Env'tl. Prot.*, 455 Mass. 740 (2010), the Supreme Judicial Court held that the Department can only impose new conditions on registrations through the promulgation of regulations.

Proposed Revisions: The Department is proposing an amendment to the WMA regulations to include a new condition on registrations that would restrict nonessential outdoor water use by registrants during times of drought declared by the Secretary of Energy and Environmental Affairs. This proposed regulatory action will better align water use during times of drought with the Massachusetts Drought Management Plan, which was updated in 2019. The amendment will help ensure both an adequate volume and quality of water to assure public health and safety and continued economic stability during times when water supplies are stressed by drought, and an appropriate balance among competing water uses and protection of natural resources such as streamflow, wetlands, fisheries and wildlife habitat during drought.

Nonessential outdoor water use is primarily lawn watering, filling swimming pools, washing cars by means of a hose, and washing down buildings, parking lots, driveways and sidewalks. Essential water uses would be exempt from the restrictions. Essential uses would include uses 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.

There are 796 registered water users under the Water Management Act. Of these, approximately 63 registered public water suppliers and 87 registered golf courses will be affected by the new requirements. The approximately 350 registered cranberry growers and other agricultural water users will be exempt from the requirements because their water use is for production of food and livestock. Approximately 70 other registrants will be exempt because their registered water use is core to their business. The ultimate impact of the new requirements will be determined by drought frequency in Massachusetts moving forward. Massachusetts has experienced two significant droughts in 2016 and 2020, which have driven the review and update of the Massachusetts Drought Management Plan and this regulatory amendment.