



Massachusetts Department  
of Environmental Protection

Massachusetts Department of  
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617-626-1282

## A DRINKING WATER PROGRAM FACT SHEET

### Conservation Restrictions for Public Drinking Water Supply Purposes

#### What is a Conservation Restriction?

A conservation restriction (CR) is a voluntary permanent deed restriction that prevents development of a property to protect its natural resources for public benefit. A CR must meet the requirements of Massachusetts General Laws (G.L.) Chapter 184, Sections 31-33<sup>1</sup> and be approved by the Secretary of Energy and Environmental Affairs (EEA). Compared to purchasing land, a CR can be a very cost-effective way to protect a public drinking water supply.

#### Who can hold a CR for drinking water supply purposes?

A CR for *drinking water supply purposes* may be held by a municipality or water district through its Board of Water Commissioners, G.L. c. 40, s. 39B, 39E and 41. If a CR is proposed to be jointly held, the Board of Water Commissioners must be identified in the CR as the designated 'Primary Grantee'.

#### Is MassDEP approval required for a drinking water supply CR?

Land acquisitions for the purpose of public drinking water supply must have the *consent and approval* of MassDEP. This approval ensures the land will benefit a public water supply and that proposed public uses of the land will not negatively impact drinking water quality (G.L. c.40, s. 38, 39B and 41).

#### Does a drinking water supply CR permanently protect the land?

Land acquired for water supply purposes must be protected for as long as the source is 'active' (meaning the source is maintained to meet Drinking Water Regulations 310 CMR 22.00<sup>2</sup> and is the primary or backup source for consumer demands). If MassDEP approves abandonment of the source, they can approve the release of the CR from water supply purposes. To fully extinguish or transfer a CR, approval from EEA is required. Municipal approvals may also be required.

#### What is involved in the MassDEP approval process?

To initiate the approval process, the water supplier submits permit application WS26 ([WS 26: Disposition or Acquisition of Land for Water Supply Purposes | Mass.gov](https://www.mass.gov/info-details/ws-26-disposition-or-acquisition-of-land-for-water-supply-purposes)). The application instructions detail the information that must be submitted. Upon receiving a complete permit application, MassDEP will schedule a public hearing. Alternatively, the water supplier may choose to schedule and hold the public hearing at a location of their choosing. The purpose of the public hearing is to provide for public notification and public comment.

<sup>1</sup> <https://malegislature.gov/Laws/GeneralLaws/PartII/TitleI/Chapter184>

<sup>2</sup> <https://www.mass.gov/regulations/310-CMR-22-the-massachusetts-drinking-water-regulations>

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Water suppliers anticipating a grant award should begin drafting a CR early in the process to ensure a timely review by MassDEP. MassDEP Model Conservation Restrictions are available online at: [Groundwater, Wellhead Protection, and Surface Water Supplies | Mass.gov](https://www.mass.gov/info-details/groundwater-wellhead-protection-and-surface-water-supplies).

A draft CR can be submitted to MassDEP at any time, including prior to submitting permit application BRP WS26. If the CR is to protect the Zone I of a new well, the water supplier should contact MassDEP prior to submitting a permit application.

## What happens after the public hearing?

(1). After all public comments have been addressed, MassDEP will issue an approval letter for the water supplier to acquire property rights for water supply purposes. The CR document review is a separate process and may occur prior to or even after the public hearing.

(2). After MassDEP pre-approves the draft CR for water supply, the draft CR is submitted to the Division of Conservation Services for their review; <https://www.mass.gov/orgs/division-of-conservation-services>.

(3). After all reviews are completed, the CR must be signed locally and submitted to EEA for final approval. The water supplier records the CR at the Registry of Deeds and provides the recording information to their MassDEP Regional Office.

## How does the Community Preservation Act (CPA) impact land purchases for public water supply?

Under G.L Chapter 44B, municipalities using CPA funds to purchase land must also place a permanent deed restriction over the land. These are usually CRs held by a land trust. Placing a CR over land purchased for water supply purposes, creates a 'change in land use' that must be approved by MassDEP (310 CMR 22.24). This review ensures the land is sufficiently protected for drinking water supplies and fully accessible to the public water supplier.

### For more information and assistance

Please contact MassDEP's Drinking Water Program at the numbers below or email [program.director-dwp@state.ma.us](mailto:program.director-dwp@state.ma.us); Subject: Conservation Restrictions.

MassDEP Boston 617-292-5770		
Western Office	Statehouse West - 5 <sup>th</sup> floor 436 Dwight St., Springfield, MA 01103	413-784-1100
Central Office	8 New Bond St., Worcester, MA 01606	508-792-7650
Northeast Office	150 Presidential Way, Woburn, MA 01801	978-694-3200
Southeast Office	20 Riverside Dr., Lakeville, MA 02347	508-946-2700