



Department of Environmental Protection

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

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

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Policy
Bureau of Resource Protection
Drinking Water Program
Solar and Wind Energy Projects Proposed in Zone I

Effective Date: September 1, 2011
Updated: March 26, 2012; April 18, 2018
Policy # BRP 2011-1
Applicability: Drinking Water Program staff
Approved by: Douglas Fine, Assistant Commissioner, Bureau of Water Resources

Signed _____

Supersedes Policy: none

Purpose and/or Summary

The purpose of this policy is to support the Massachusetts Drinking Water Regulations, specifically 310 CMR 22.21(1) and 22.21(3).

Applicability

This policy is to be used when MassDEP Regional and Boston staff are reviewing wind and solar energy projects proposed on land owned or controlled by a public water system within Zone I.

Note

The public water supplier may need to seek additional approvals from other entities and/or MassDEP, including, but not limited to, municipal approval, legislative approval pursuant to Article 97, and MEPA approval pursuant to 301 CMR 11.00.

Authority/Background

310 CMR 22.21(1) and 22.21(3)(b) require activities in the Zone I to be limited to those directly related to the provision of public drinking water or that will have no significant adverse impact on water quality.

310 CMR 22.24: Sale, Transfer of Property Interest, or Change in Use of Water Supply Land

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

(1) No supplier of water may sell, lease, assign, or otherwise dispose of, or change the use of, any lands used for water supply purposes without the prior written approval of the Department. The Department will not approve any such disposition or change in use unless the supplier of water demonstrates to the Department's satisfaction that such action will have no significant adverse impact upon the supplier of water's present and future ability to provide continuous adequate service to consumers under routine and emergency operating conditions, including emergencies concerning the contamination of sources of supply, failure of the distribution system and shortage of supply.

MassDEP approval for such projects is further supported by M.G.L. c. 40, § 15B: "[a] town, city, or district authorized to furnish water for domestic purposes, may, with the advice and approval of the state department of environmental protection ... in its discretion, by lease, license or other agreement, permit the construction and maintenance on any land under its control of towers, poles, wires, and other structures for the purpose of transmitting electric power over lands and water held for water supply purposes; provided, that such lease, license or agreement will not, in the opinion of the said department, affect or interfere with the water supply; and provided, further, that said city, town or district may, with the approval of said department, revoke said lease, license or agreement for cause to be determined by it."

Policy

All wind and solar energy projects shall be approved by MassDEP staff on lands within Zone I when the public water supplier demonstrates in writing, pursuant to 310 CMR 22.21(1), 22.21(3)(b) and/or 22.24(1), that 1) the wind and solar energy projects will have no significant adverse impact on the public water supplier's present and future ability to provide continuous adequate service to consumers under routine and emergency operating conditions, including emergencies concerning the contamination of sources of supply, failure of the distribution system and shortage of supply; 2) the wind and solar energy projects will have no significant adverse impact on water quality; 3) the energy generated by the facility will be used to benefit (either by direct consumption or by other means) the operation of the public water system; 4) solar batteries and solar battery storage housing (trailers, buildings, etc.) are prohibited within the Zone I; and 5) there shall be a minimum of a 200 ft. no disturbance area from the well within the Zone I for the installation of, or land clearing related to, solar installations. Site characteristics and conditions may require a larger no disturbance area at the discretion of the Department.

MassDEP supports wind and solar energy projects but also recognizes that lands that are under the control of public water systems have been identified as the most critical to protect public drinking water reservoirs and wells. MassDEP believes that wind and solar projects can be appropriately sited within Zone I if the above-listed conditions are met. The allowance for wind and solar within Zone I is consistent with other allowable uses within Zone I related to water supply protection. Although wind and solar projects can involve use of electrical equipment that may contain chemicals, these uses can be reviewed and, through proper planning for placement of equipment and operational contingencies, can be conditioned to be fully protective of water quality. In particular, there shall be no oil, hazardous materials, cleansers or other potential contaminants stored on-site in the Zone I, and emergency response procedures shall be developed by the public water system.

Applicants should refer to the BRP Guideline #2011-1: *Information to be Submitted to MassDEP for Proposed Solar and Wind Energy Projects on Lands Owned or Controlled By Public Water Systems for Drinking Water Purposes.*