



Department of Environmental Protection

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DWP Policy 94-02
Determination of Public or Private Water System Type
For Establishments Serving Food
(Year 2020 Printing)

Effective Date: 9-21-95*

Supersedes Policy, SOP or Guidance #: N/A

Approved by: David Y. Terry

Policy, SOP or Guideline # 94-02

This policy is intended to provide guidance in determination of water system type for establishments serving food to the public, as either public water systems or private systems.

Background

Many small establishments serving food and local Boards of Health (BOH) have requested Massachusetts Department of Environmental Protection, Drinking Water Program's (MassDEP/DWP) interpretation concerning the effects of certain practices at food establishments on the status of the water system; whether these systems are classified as public or private, and therefore whether such systems are regulated by MassDEP/DWP or by local BOH and the Massachusetts Department of Public Health (MDPH).

Policy

It is the policy of MassDEP/DWP to not regulate an establishment serving food as a public water system when and if it is documented to MassDEP/DWP's satisfaction with the concurrence of the local BOH and MDPH that the facility (1) employs fewer than 25 persons and (2) does not use piped water on its premises for human consumption, including but not limited to, drinking, food preparation, beverage preparation, ice making, soda making, bathing, dishwashing, etc., and that (3) the general public does not have access to water from the water system, including the bathrooms (with associated faucets). The local BOH in cooperation with MassDEP/DWP will ensure that the facility does not change its practices in the future and become a public water system without MassDEP/DWP's review and approval.

Rationale and Discussion

A public water system is defined by the federal Safe Drinking Water Act (42 U.S.C. 300f et seq.) and the Massachusetts drinking water regulations at 310 CMR 22.02 as "a system for provision to the public of water for human consumption, through pipes or other constructed conveyances¹, if such a system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year." MassDEP/DWP regulates public water systems. Private water systems are those which do not meet the definition of a public water system and are regulated by local BOH and MDPH.

This policy is limited to the specific situation described. If a system with its own source of ground or surface water does not serve its piped water to the public, does not provide access to bathroom facilities or other access to its water to the public, does not use piped water for preparation of food served to the public or for any other use for human consumption, and does not employ more than 25 people, MassDEP/DWP considers the system to be a private water system under the jurisdiction of the local BOH and MDPH. This policy may apply to gas stations, convenience stores, mobile food establishments (food trucks), etc.

This is the policy of the Massachusetts Department of Environmental Protection's Drinking Water Program. Other State and/or municipal bodies (e.g. the State Plumbing Board and the Department of Public Health) may have other related requirements for food establishments which are not addressed by this policy.

Additional information is available at the following webpages:

MassDEP/DWP information for private wells including guidance, water quality and testing: <https://www.mass.gov/private-wells>

The U.S. EPA's **Be Well Informed** online tool allows you to determine if contaminants in your well exceed federal or MassDEP water quality standards or guidelines: <https://e-enterprise.gov/workbench>

MDPH guidance for mobile food establishments: <https://www.mass.gov/info-details/mobile-food-establishment-questions-and-answers#what-if-there-is-no-water-supply-to-the-mobile-food-establishment>

MDPH regulations governing the water supply of mobile food establishments are in the 2013 Massachusetts Food Code, Chapter 5: <https://www.mass.gov/lists/food-protection-program-regulations#retail-food->

* Corrections made 6-22-2020: program name changes, PWS definition correction for constructed conveyances and weblink references

¹ Constructed conveyance refers broadly to any manmade conduit such as ditches, culverts, waterways, flumes, mine drains or canals. The term constructed conveyance does not include water that is delivered by bottle, other package unit, vending machine or cooler, nor does it include water that is trucked or delivered by a similar vehicle. Federal Register /Vol. 63, No. 150/Wednesday, August 5, 1998/Notices.