



Watershed Regulations Revisions

313 CMR 11.00

February 2017

In keeping with Governor Baker's executive order requiring a review of all state agency regulations, the Department of Conservation and Recreation has reviewed and revised its Watershed Protection regulations, including updating the title number from 350 to 313. Title number 350 related to regulations of the former Metropolitan District Commission.

Minor changes were proposed to the regulations, which were initially developed from the 1992 Watershed Protection Act (Chapter 36 of the Acts of 1992; MGL c. 92A½), primarily inserting language that reflects the Division of Water Supply Protection's more than 20 years of implementing the regulations. Public hearings were held in the fall of 2016 and final regulations were promulgated on February 24, 2017.

The following explains the changes made to 313 CMR 11.00 as compared to 350 CMR 11.00 (originally adopted on February 11, 1994). For more information, please go to www.mass.gov/dcr/wspa.

313 CMR 11.00

Title number changed to 313 from 350 to reflect DCR as regulating agency. Regulatory references are changed to appropriate new numbers as needed.

11.01 Introduction and Purpose

Most of this section was removed as extraneous/outdated information.

11.02: General Provisions

Removed *11.02 (3) Actions of the Division* as extraneous.

11.03: Definitions

Under *Alteration (f) the changing of run-off characteristics* added the phrase, "in a manner likely to degrade the quality of the water in the watersheds by increasing imperviousness, decreasing infiltration rates, or by introducing pollutants."

Under *Hazardous Material or Waste* added "including oil" as oil is not a substance listed under the definition of Hazardous Material in MGL c. 21E.

11.04: Jurisdiction

(3)(b)2p added "including its subsurface sewage absorption system" to density restriction.

11.05: Exemptions

(4) *Construction Sewer System* added clause that "the sewer pipe to which said connection shall be made is within the Lot or along the Lot's road frontage prior to July 1, 1992."

(7) *Conversion of Land for Agricultural Use* added clause at end, "or have an approved Forest Cutting Plan."

11.06: Procedures

3(e) *Variance Additional Materials* added "may include an analysis of alternatives (as described in 301 CMR 11.07(4)f)."

3(g) *Variance Decision* added "No activity may be conducted three years after the date the Variance Decision is issued without written approval by the Division."

(6) *Access to Property by Division*. This is a new sub-section under 11.06 that was formerly 350 CMR 11.11(4); 11.11 was completely removed so this sub-section was moved here with identical language.

11.07: Maps

No changes. Please note that the revision did not create any new Watershed Protection Act regulated areas. In order to adopt new maps, DWSP must follow the provisions of 313 CMR 11.07(4).

11.08: Relationship of Act with other State and Municipal Statutes, Ordinances and Regulations

No changes.

11.09: General Rules and Regulations for the Protection of Watersheds and the Watershed System

Several items added (shown in italics) to reflect current rules and enforcement protocols.

(2)(a) 2. No Person is allowed within any land of the Watershed System, except from one hour before sunrise to one hour after sunset, unless authorized by a written permit from the Commissioner; *or for the purposes of authorized night fishing along the Swift River downstream of the Y-pool below Winsor Dam, at Pepper's Mill Pond, or at South Spectacle Pond.*

(2)(a) 5. All acts which injure the property of the Commonwealth are prohibited. No Person shall injure, deface, destroy, remove or carry off any property, real or personal, under the care and control of DCR, including but not limited to, all historic artifacts and natural materials, *except that the collection of edible plants, such as blueberries and mushrooms in a non-disruptive manner and for non-commercial use, is allowed.*

(2)(c)3. Added *On Watershed System property outside of the Ware River Watershed Reservation, outboard motors on boats launched from DCR property shall be limited to 20-horsepower for 2-stroke engines and 25-horsepower for 4-stroke engines, except that larger motors may be allowed on the portion of Long Pond that is south of Route 122 in Rutland with a written permit from the Commissioner.*

(2)(e)(2) Added other Sudbury reservoirs to boating prohibition: Boating is prohibited on Sudbury Reservoir, *Foss Reservoir, Stearns Reservoir, and Brackett Reservoir* except in areas designated by the Commissioner.

11.10: Enforcement

No changes.

11.11: Severability.

No changes, except that the content was formerly 350 CMR 11.12.

Note that *350 CMR 11.11 - Miscellaneous* was removed. All contact information that was contained in this section is now posted on the agency website. References are made throughout the revised regulations stating that contact information is on the agency website (www.mass.gov/dcr/wspa).

11.12: Forms

No changes except to state that addresses are available on the agency website. The content was formerly 350 CMR 11.13.