



Martin Suuberg  
Commissioner

K Baskin began the meeting by thanking everyone, particularly newly appointed members –

Noted that the ability to meet virtually will lapse on July 15 – unless Legislature takes further action. Committee will take vote at the end of this meeting to allow a limited number of members to attend Committee meetings virtually after July 15, 2022.

D LeVangie (DEP WMA) introduced the Committee members.

K Crocker (DEP OGC) walked thru documents that will be sent to Committee members after this meeting:

- Open Meeting Law guidance and educational materials that will be forwarded to Committee members after this meeting. Notes that page 48 of the Guidance has a Certificate of Receipt that Committee members are asked to send back to [duane.levangie@mass.gov](mailto:duane.levangie@mass.gov) before July 13 meeting.
- DEQE Statement of Purpose for Advisory Committees
- 2 Conflict of Interest opinions concerning potential conflicts specific to the Committee - no receipt is needed for these documents
  - if a Committee member has specific questions, please contact the Massachusetts State Ethics Commission; MassDEP cannot advise you on questions
  - Note that an Ethics Certification was required as part of the Four Step process of being sworn onto the Committee, so no ethics certifications are needed now

Agenda Items 2: Water Management Act Program History, Purpose and Current Use and 3: Permit Renewals

- Registrations allow users to continue what they were doing during 1981-1985, the five years prior to passage of the Water Management Act in December 1985.
  - All registrations have 10-year terms. They were last renewed in 2008. Because of extensions by the Permit Extension Act in 2010 and 2012 and the Governor's Covid Orders, all registrations are now due for renewal on April 6, 2023.
  - All registrations have included minimal conditions (Annual reporting and metering).
  - Approximately 85% of water regulated by the WMA is registered.
- There were originally 850 registrations; number has fallen to 780.
- Permits are required of all others using over the threshold (100,000 gpd on ave. for 3 months or more)
  - Includes those who failed to register, have increased withdrawals since they registered or have started a new withdrawal
  - Permit terms cannot exceed 20 years
    - many administratively continued due to Permit Extension Act (2010 and 2012), SWMI process (2014)
    - Post-SWMI permit renewal is more complex and taking longer
  - Permits are subject to review and conditions
  - Total amount that can be permitted in a river basin is limited by Safe Yield
  - 15% of water is allocated by permit
  - If you have a permit and registration, your entire withdrawal is governed by your permit conditions and therefore roughly 50% of water regulated by the WMA is touched by permit conditions
- There are 345 permits, 70% of the water allocated statewide is to PWS, all other use types are much smaller percentages
- Covid impacts on water use – an assessment conducted by DEP and researchers at WPI –

- in 2020, residential water use = 338 mgd, 72% of all PWS use
- for 5 previous years, residential use average = 328 mgd, 68% of all PWS use
- RGPCD rose from 54 rgpcd in 2019 to 59 rgpcd in 2020
  - compliance with the 65 rgpcd performance standard fell from 88% in 2019 to 76% in 2020
- UAW performance standard is 10%, firefighting, pipe flushing maintenance, etc. is excluded as Confidently Estimated Municipal Use
  - Compliance with the standard hovers around 50%
  - Nearly 50 systems exceed 20% UAW and are scattered around state. These are are often in older cities, but these also include a significant number of small public systems; in really small system, one large leak can skew the statistics

#### **Committee Questions:**

- Are 50% of systems exceeding UAW standard?
  - Yes. The data summarized is for all systems, not just permitted systems. Many registered-only systems and systems that do not have a registration or permit, but receive water from a registered only system, are not required to meet the UAW standard.
- Could you clarify the difference between renewed allocation and renewed allowed?
  - There can be a difference between what can be permitted based on 20-year demand projections, and what the permittee has mitigation in place to withdraw. Some permittees will need to put additional mitigation in place during the life of the permit.
- Do they have to get a permit amendment as more mitigation is put into place?
  - Yes, in most cases, although a few early permits did not specify that an amendment is needed.

#### **Presentation of Drought Management and Planning in Massachusetts**

V Rao of the Executive Office of Energy and Environmental Affairs began the Registration Renewal Update by presenting background on recent droughts in Massachusetts and the 2019 update to the Massachusetts Drought Management Plan. The draft regulation's proposal for limiting outdoor water use by WMA registrants during droughts declared by the Secretary of Environmental Affairs is based on the 2019 Drought Management Plan.

- Massachusetts is currently in its 4<sup>th</sup> drought during the last 6 years.
  - 2016, 2017, 2020 were all drought years. Presently in 2022, there is a Level 2 Drought declared in the Northeast and Southeast Drought Regions, and a Level 1 Drought in the Islands, Connecticut River Valley and Central Drought Regions. Currently, the Western and Cape Cod Regions remain at Level 0-Normal conditions, but we have had very little rain this month.
- Drought policy is intended to help us all incrementally reduce our water use to meet demands (human and environmental) with increasing drought frequencies and severities. The drought levels and restrictions are intended to help maintain both water supplies and natural resources with common sense steps communities can take to blunt impact of drought.
- The recommendations in the 2019 Drought Plan for public water suppliers are what is included in the proposed regulations.
- How is a drought declared? The Massachusetts Drought Management Task Force meets monthly when conditions are dry to review trends for 6 indices over previous months and provides a recommendation on the drought level for each of the 7 Drought Regions to the Secretary of Environmental Affairs. The Secretary makes the final decision/declaration.

#### **Agenda Item 4: 2021 Registration Renewals Update**

- Registrations are issued for a term of 10 years, but due to extensions by the Permit Extension Act (2010 and 2012), and the Governor’s Covid Orders, they are now due to be renewed on April 6, 2023
  - now is the time to make a regulation change in order to condition the registrations
  - The renewed registrations will extend to April 6, 2033 (10 years)
- Who has applied for renewal
  - 294 (86.7%) of cranberry growers requested renewals; 45 no response
  - 420 (94.4%) of non-cranberry registrations requested renewal; 25 no response
  - Total 91.1% filed to renew
- Reviews the proposed restrictions at each drought level

State Drought Plan	Nonessential Outdoor Water-Use Restrictions
Level 1-Mild	1 day per week watering, before 9 a.m. or after 5 p.m.
Level 2-Significant	Hand-held hoses or watering cans only, before 9 a.m. or after 5 p.m.
Level 3-Critical	Ban on all nonessential outdoor water use
Level 4-Emergency	Ban on all nonessential outdoor water use

- There is a proposed alternative for any PWS system supplied entirely by surface water reservoirs –
  - storage (active reservoir storage) must be 3 times registered volume plus any required releases –
  - and the supplier must have a DEP-accepted drought management plan in place
- Golf registrants would now be required to implement restrictions - permitted golf courses have restrictions required, so the proposed changes would “level the playing field.” Note the exemption for golf courses with an event facility which is part of the core function of the business.
- The expiration date changes in the draft regulations (310 CMR 36.17) will not affect registration renewals now or in the future because there are no registration expiration dates included in the regulations. The 10-year term for registrations is set in the Water Management Act (M.G.L. c. 21G). Economic and pandemic issues have extended the end dates for all state issued permits. We are changing these dates in our regulations to make the extended dates align with the requirement to renew permits within a basin as a group in order to assess basin-wide impacts.
- Some expiration dates in 310 CMR 36.17 do not change because in river basins where permits had all been administratively continued due to the Permit Extension Act and SWMI implementation, and none have been renewed to date, the expiration date for all permits in the basin had passed, so there is no permit with an active expiration date that necessitates extending the basin expiration date.

#### Agenda Item 5: Next steps:

- The Powerpoint slides, SWMI Framework, and draft regulations will be posted on the MassDEP website
- An agenda for next meeting on July 13<sup>th</sup>; will focus on the draft regulations

#### **Committee Questions and Comments:**

- MWWA representative asked for a list of MWWA members who have not applied for registration renewal.
  - The information was forwarded after the meeting.

- Will comments submitted last year be considered with this draft regulation package?
- Will the comment requesting that a DEP approved-drought plan be the basis for exemption be incorporated into the draft regulations?
- Will DEP consider comments related to restrictions in severely depleted basins at all times, not just during drought?
  - MassDEP has prepared a response-to-comments document, and will accept and respond to both last year's comments and the next round of comments.
- Are the comments from last year available for review?
  - The comments can be posted after having personal information redacted.  
Note: Given a high number of comments from individual citizens received as part of an email campaign, redacting personal information from these comments will take some time.
- DEP should incorporate any changes based on the comments received in 2021 into the draft before the regulations go out for a second public comment period.
- Will this Committee vote on the proposed revisions to the regulations?
  - The Committee will not vote. Per M.G.L. c. 21G ss3, the water resources management advisory committee is to provide advice and consultation to the department and to review the development of standards, rules and regulations.
- What is the interaction between permit and registration conditions? Usually permitted conditions control, but in this case, the registration conditions may be more protective in some cases.
  - Section 310 CMR 36.07 of the draft regulations says the permit shall be controlling
  - During non-drought times, most PWS permits condition nonessential outdoor water use
    - when local streamflows fall to Aquatic Base Flow (ABF) levels that are protective of aquatic habitat for fish spawning during the spring bioperiod (May – June), and protective of flows for fish rearing and growth during the summer bioperiod (July – September), and
    - become more restricted (1 day per week) when flows fall to the 7-Day Low Flow.
  - Permit conditions on nonessential outdoor water use during droughts levels higher than Level 1 are less restrictive than the proposed conditions for registrations.
- The 7-day lowflow as a trigger for more stringent outdoor water use restrictions in permitting was negotiated during SWMI. If, in the future, the permit trigger is changed to a drought-based trigger, it should be given the same level of negotiated review.

#### **Other Questions:**

- Can 30% UAW be addressed during registration renewals?
- Can impacts of supply management be addressed?
  - The proposed regulations address nonessential outdoor water use during drought
- Is DEP considering flow depletion and the flow requirements of natural resources?
  - SWMI categories are based on impact of groundwater withdrawals in August on fisheries
  - DEP is not considering additional measures at this time
  - Flow depletion and seasonal constraints are considered in permitting, but not registrations

- Can the safe yield methodology be made available?
  - The SWMI Framework describing the Safe Yield methodology is already available at: [Sustainable Water Management Initiative | Mass.gov](#)
- How are natural lakes distinguished from reservoirs? When does the natural environment get consideration? Can there be consideration for Jones River which is now a Coldwater Fishery Resource?
  - Those are issues to be considered through the permit process
  - Registrations provide the right for existing water users to continue their water use at the level it was when the Water Management Act was passed

**Vote to allow remote participation in future meetings:** K Baskin asked for a motion, “To allow remote participation in all subsequent meetings of the Water Resources Management Committee in accordance with the requirements of 940 CMR 29.10.”

The motion was forwarded and seconded. The vote was taken by roll call.

D Condry - yes; A Rusiecki – yes; I Cooke – yes; B Wick – yes; W Castonguay – yes; P Gambarini – yes; J Blatt – yes; J Pederson – yes.

Bartha, Romero and Skillings were not present and did not vote.

As a result of this vote, and after July 15, 2022, **the Chair and a majority of the Committee will need to attend in person**, but if a member notifies the Chair in advance of circumstances necessitating that they need to attend remotely, that will be allowed.

K Baskin thanks everyone for their participation and adjourns the meeting.