

**Massachusetts Department of Environmental Protection**  
**Bureau of Resource Protection, Division of Watershed Management**  
**Drinking Water Program Policy 08-02**

**Actions to Protect Public Health in the Period Between Federal Rule Promulgation And State Promulgation**

Effective Date: 12-29-08

Amended Date: N/A

**POLICY# DWP/Policy 08-02**

Program Applicability: DWP

Supersedes Policy, SOP or Guidance #: N/A

Approved by:  \_\_\_\_\_

Glenn Haas

Acting Assistant Commissioner BRP

Date: 12-29-08

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The purpose of this policy is to document MassDEP's practice for ensuring public health protection during the period between the promulgation of a final U.S. Environmental Protection Agency ("EPA") National Primary Drinking Water Regulation and the promulgation of a corresponding MassDEP regulation.

**Background and Rationale**

EPA established the Public Water System Supervision ("PWSS") Program under the authority of section 1413 of the federal Safe Drinking Water Act ("the Act"). Under the Act, EPA sets national limits on contaminant levels in drinking water to ensure that the water is safe for human consumption. These limits are known as Maximum Contaminant Levels ("MCLs") and the Maximum Residual Disinfectant Levels ("MRDLs"). For some regulations, EPA establishes treatment techniques ("TTs") or action levels in lieu of an MCL to control unacceptable levels of contaminants in water. EPA also regulates how often public water systems monitor their water for contaminants and report the monitoring results to the states or EPA. In addition, EPA requires public water systems to monitor for unregulated contaminants to provide data for future regulatory development. Finally, EPA requires public water systems to notify their consumers when they have violated these regulations.

EPA has granted MassDEP primary enforcement responsibility (i.e., "primacy") for the PWSS Program in Massachusetts. The regulations in 40 CFR Part 142 set forth the requirements and process for States to obtain and retain primacy for the PWSS program. Under 40 CFR Part 142, MassDEP must promulgate regulations that are no less stringent than the National Primary Drinking Water Regulations promulgated by EPA in order to retain primacy. In general, there is an inherent time lag between EPA's promulgation of new national regulations and MassDEP's promulgation of corresponding state drinking water regulations. During this time, MassDEP may need to require public water suppliers to take action to protect public health and ensure the delivery of fit and pure water. This policy is intended to address such situations.

**Applicability**

This policy applies to all public water systems in Massachusetts that are identified by MassDEP as at risk due to a contaminant that is known to occur or where there is a substantial likelihood that the contaminant will occur in the public water system with a frequency and at levels of public health concern.

## **Policy**

M.G.L. c. 111, § 160 authorizes MassDEP to issue Orders to prevent the contamination of drinking water supplies and ensure the delivery of a fit and pure water supply to consumers. MassDEP has historically used this authority to direct public water suppliers to take measures, as necessary, to ensure the delivery of a fit and pure water supply to consumers. MassDEP will use the authority granted by M.G.L. c. 111, § 160 to issue Orders to public water suppliers to require public health protection measures and public notification following EPA's promulgation of new National Primary Drinking Water Regulations for public water systems at risk due to a contaminant that is known to occur or where there is a substantial likelihood that the contaminant will occur with a frequency and at levels of public health concern before MassDEP has promulgated a corresponding final state regulation.

This policy will be used in conjunction with MassDEP/BRP/DWP Policy 87-04, Procedures for use of EPA's Proposed Maximum Contaminant Levels ("PMCLS"), to ensure the delivery of a fit and pure water supply to all consumers.

BRP-DWP/Policy 08-02 Actions to Protect Public Health Between Federal Rule Effective Date And State Compliance Date 12-29-08