The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner

2016 Drought Guidance for Municipalities and Public Water Systems

On July 22, 2016, a meeting of the New Hampshire Drought Management Team (DMT) was initiated due to persistent drought conditions. The DMT is comprised of over thirty officials representing specific activities and interested that can be impacted by the drought and is tasked with assessing the severity of the drought and coordinating response activities. At the time of **the meeting, all counties south of Grafton and Carroll were considered to be in severe drought and climate experts were predicting the drought conditions to continue into the fall. Drought regions and the updates to drought status may be found at:** http://des.nh.gov/organization/divisions/water/dam/drought/documents/droughtstatus.pdf).

In response, NHDES is requesting that outdoor water use be limited. While lack of precipitation is the root cause of a drought, the conditions are greatly exasperated by an increase in outdoor water use to keep lawns green and to stay cool. Please reach out to your customers and/or communities to promote limiting water use based on the recommendations below and local knowledge of water supplies.

Please note that municipalities have a quick and easy way to impose residential lawn watering restrictions for public supplies and private wells. This tool is effective in ensuring residential private well owners and residential public users both limit water use. Municipalities should work with the community and public water suppliers to determine if this tool is needed (See 3(a)(i)).

Below are recommendations and resources available to you:

1) **Check the Drought Management Program webpage for updates on drought conditions and water utility restrictions reported to NHDES:** http://des.nh.gov/organization/divisions/water/dam/drought/index.htm**. Also, stay up to date on local conditions through speaking with your local water utilities/systems, residents, and businesses, as well as paying attention to drought-related media.**

2) **Promote limiting water use to essential uses through available communication methods such as websites, social media, local cable channels, and newsletters. NHDES endorses the following recommendations: (Local conditions should be considered when promoting recommendations.)**

    a) In areas of severe drought:

        i) No outdoor water use except for hand watering of vegetable gardens and newly planted vegetation between 7pm and 8am; or

        ii) Lawn watering by odd numbered addresses is allowed on Mondays and Thursdays. Lawn watering by even number addresses is allowed on Tuesdays and Fridays.

Watering limited to between 7pm and 8am. No hosing down, driveways, walkways, patios, decks, cars or outdoor structures.

b) In abnormally dry areas:

i) Even and odd day watering based on street address and limiting watering to between 7pm and 8am. No hosing down, driveways, walkways, patios, decks, cars or outdoor structures.; or

ii) Limiting outdoor watering to between 7pm and 8am and requesting discretion when using water.

3) Implement voluntary or mandatory restrictions.

a) Municipalities:

i) Restrict watering of residential lawns. RSA 41:11-d, "Restricting the Watering of Lawns", establishes a process that the local governing body can take to form regulations to restrict the use of water from private wells or public water systems for residential lawn watering. The local governing body must give notice at least three calendar days by publication in two public places and posting in two public places before the regulations are implemented. A model regulation may be found here: http://des.nh.gov/organization/divisions/water/dwgb/water_conservation/documents/mo-lawn-watering-rstrctn.pdf.

b) Public Water Systems:

i) Implement mandatory restrictions on non-essential use if it is determined demand will exceed supply. (See Env-Dw 503.18-503.20 and Env-Dw 503.09): http://des.nh.gov/organization/commissioner/legal/rules/index.htm

ii) Implement voluntary restrictions or implement mandatory restrictions through the adoption of ordinances and bylaws using the model regulation and restriction options found here: http://des.nh.gov/organization/divisions/water/dwgb/water_conservation/documents/water_use_restrictions.pdf.

Additional NHDES Resources

Drought Management Program
http://des.nh.gov/organization/divisions/water/dam/drought/index.htm

Emergency Water for Public Water Systems
http://des.nh.gov/organization/divisions/water/dwgb/wseps/bulk_water.htm

Guidance for Private Well Owners during Drought
http://des.nh.gov/organization/commissioner/pip/factsheets/dwgb/documents/dwgb-1-16.pdf

Licensing well and pump contractors and well construction records:
http://des.nh.gov/organization/divisions/water/dwgb/wwb/index.htm

Water efficiency tips and information:
http://des.nh.gov/organization/divisions/water/dwgb/water_conservation/categories/education.htm.

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RESTRICTING RESIDENTIAL LAWN WATERING DURING STATE OR FEDERALLY DECLARED DROUGHTS

2016

Municipal and privately-owned public water systems have had the authority to implement water use restrictions for water system customers under RSA 38:26. Water systems with potential water supply shortages have often restricted or banned residential lawn watering to ensure an adequate water supply is maintained.

In 2007, the legislature adopted RSA 41:11-d, authorizing municipalities to restrict all residential lawn watering for areas within their political boundaries if the state or federal government declares a drought condition for that region of the state. This authorizes a municipality to adopt regulations to restrict residential lawn watering during a drought for properties that obtain water from either public water systems or on-lot private domestic wells.

The legislation was adopted because of experiences during the 2001-2003 drought when municipalities and the state found there was no clear process to curtail residential lawn watering, even in neighborhoods where private residential wells were dewatered. During the drought, homeowners with dewatered or dry wells spent thousands of dollars to replace or deepen wells and experienced long waits due to the increased demand for water well contractor services. Many homeowners resorted to cross-connecting their home plumbing system via a garden hose to a neighbor's home or illegally dumping water hauled to their property into their dewatered well.

In order to adopt residential lawn watering regulations for drought conditions, the local governing body may establish the regulations after public notice that includes publishing them in a paper of general circulation in the municipality and posting them in at least two public places. The regulations may be implemented and enforced three calendar days following notification. The minimum notification requirements are provided in the regulation but towns are encouraged to find supplemental means of notification to residents. RSA 41:11-d allows for broad flexibility in developing residential lawn watering restrictions. The governing body of the municipality can specify how, where, when, and to what extent the lawn watering restrictions apply. The governing body may also enforce the lawn watering restrictions by imposing fines in accordance with RSA 625:9.

DES Web Site: www.des.nh.gov
P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095
Telephone: (603) 271-2513 Fax: (603) 271-5171 TDD Access: Relay NH 1-800-735-2964

MODEL REGULATION FOR LAWN WATERING RESTRICTIONS

ARTICLE __: LAWN WATERING RESTRICTIONS

I. PURPOSE

To protect public health and safety by restricting the use of water from private wells or public water systems for residential outdoor lawn watering during a state or federally declared drought.

II. AUTHORITY

The provisions of this regulation are adopted pursuant to RSA 41:11-d, Choice and Duties of Town Officers. (See Appendix A, Relevant Sections of State Law)

III. APPLICABILITY

The requirements of this section shall apply immediately after the public notice period described in Section VII to all residential outdoor lawn watering within *Insert name of town, city, village district* when administrative agencies of the state or federal government have designated the region as being under a declared state or condition of drought.

IV. DEFINITIONS

A. **Drought:** A sustained and regionally extensive occurrence of appreciably below average natural water availability in the form of precipitation, stream flow or groundwater. The following resources are used by *Insert name of town, city, village district* to determine the declaration of a drought condition.
   i. The New Hampshire Drought Management Team as designated by the New Hampshire Drought Management Plan
   ii. State of Emergency declaration by the Governor's Office
   iii. United States Drought Monitor

B. **Residential Lawn Watering:** The application of water to decorative grass at a property that's primary use is to provide living accommodations for people.

V. REQUIREMENTS UNDER DROUGHT CONDITIONS

The following limits to residential lawn watering will apply under drought conditions. The specified levels (Level 1 through 3) will be determined by the [local governing body] and will be included in the public notice required under Section VII of this regulation.

A. **If** *Insert name of town, city, village district* **issues a Level 1 restriction, then**
   i. Residential lawn watering by odd numbered addresses is allowed on odd numbered days.

ii. Residential lawn watering by even numbered addresses is allowed on even numbered days.
iii. Residential lawn watering shall not occur between the hours of 8AM and 7PM

B. If *Insert name of town, city, village district* **issues a Level 2 restriction, then**

i. Residential lawn watering by odd numbered addresses is allowed on Mondays and Thursdays.
ii. Residential lawn watering by even numbered addresses is allowed on Tuesdays and Fridays.
iii. Residential lawn watering shall not occur between the hours of 8AM and 7PM

C. If *Insert name of town, city, village district* **issues a Level 3 restriction, then**

i. Residential lawn watering is prohibited.

VII. PUBLIC NOTIFICATION OF WATER USE RESTRICTION

Notification of any intention to restrict water use and the requirements associated with Section V shall be given at least three calendar days before implementation. Notice of the regulations shall be posted in a paper of general circulation and shall be posted in at least two public places. Residents are specifically requested to takes notice of the marques at *Insert location(s)*

VIII. TERMINATION OF WATER USE RESTRICTION

Public notification and termination of water use restriction shall be given in accordance with Section VII.

IX. ENFORCEMENT

Any sworn officer of the *Insert Town/City Name* Police Department is hereby granted the authority to initiate any enforcement action against any violation of the provisions of this Regulation.

X. PENALTIES

Any person failing to comply with the restrictions imposed pursuant to this Regulation shall be deemed a violation and subject to penalties pursuant to RSA 651:2.

First violation: Warning
Second violation: $*Insert amount* fine
Additional violations: $ *Insert amount* to $1,000 fine

APPENDIX A

RELEVANT SECTIONS OF STATE LAW

RSA 41:11-d Restricting the Watering of Lawns.

I. The local governing body may establish regulations restricting the use of water from private wells or public water systems for residential outdoor lawn watering when administrative agencies of the state or federal government have designated the region as being under a declared state or condition of drought.

II. The local governing body shall give notice prior to the implementation of the regulations in paragraph I. Notice shall be given at least 3 calendar days before the regulations are implemented. The notice required under this section shall not include the day notice is posted. Notice of the regulations shall be published in a paper of general circulation in the municipality and shall be posted in at least 2 public places.

III. The full text of the proposed regulations need not be included in the notice if an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection is stated in the notice.

RSA 625:9 Classification of Crimes.

V-a. The violation of any requirement created by statute or by municipal regulation enacted pursuant to an enabling statute, where the statute neither specifies the penalty or offense classification, shall be deemed a violation, and the penalties to be imposed by the court shall be those provided for a violation under RSA 651:2.

RSA 651:2 Sentences and Limitations.

III-a. A person convicted of a violation may be sentenced to conditional or unconditional discharge, or a fine.

IV. A fine may be imposed in addition to any sentence of imprisonment, probation, or conditional discharge. The limitations on amounts of fines authorized in subparagraphs (a) and (b) shall not include the amount of any civil penalty, the imposition of which is authorized by statute or by a properly adopted local ordinance, code, or regulation. The amount of any fine imposed on:

> (a) Any individual may not exceed $4,000 for a felony, $2,000 for a class A misdemeanor, $1,200 for a class B misdemeanor, and $1,000 for a violation.
>
> (b) A corporation or unincorporated association may not exceed $100,000 for a felony, $20,000 for a misdemeanor and $1,000 for a violation. A writ of execution may be

issued by the court against the corporation or unincorporated association to compel payment of the fine, together with costs and interest.

Brian McCarthy

From: Herbold, Stacey <Stacey.Herbold@des.nh.gov>
Sent: Tuesday, August 02, 2016 4:03 PM
Subject: 2016 Drought Guidance for Municipalities and Public Water Systems

Dear Municipalities and Public Water Systems:

Drought conditions are persisting. In response, the New Hampshire Drought Management Team has been activated and will continue to evaluate drought conditions and determine needed actions. Counties south of Grafton and Carroll have continued to experience severe drought conditions and Carol, Grafton, and Coos remain abnormally dry. Climate experts anticipate drought conditions to continue into the fall. For current conditions, water bans, technical resources, and guidance see the Drought Management Program webpage.

The actions taken now will determine the sustainability of water supplies. So far this summer over one hundred community water systems have reported implementing water use restrictions to protect sources. NHDES is requesting public water systems and municipalities work together to reach out to customers and communities to promote restrictions already in place and encourage/implement new voluntary or mandatory restrictions where no restrictions are yet in place. NHDES is recommending in regions of severe drought water use be limited to only indoor use except for hand watering of vegetable gardens and in abnormally dry regions outdoor water use be limited to watering every other day. Please see the 2016 Drought Guidance for Municipalities and Public Water Systems for more details, tools, and resources available to you. Of note is a model ordinance which municipalities may use to quickly implement restrictions on residential lawn irrigation for properties being served by public water systems and by private wells.

Please forward details of all new restrictions and bans to Stacey Herbold, NHDES Water Conservation Program, via email at stacey.herbold@des.nh.gov. Provide the name of the water system or municipality, the town, if the restriction/ban is mandatory or voluntary, and the details of the restriction/ban.

Contacts:
Large Public Water System Water Shortages – Rick Skarinka richard.skarinka@des.nh.gov (603) 271-2948
Small Public Water Systems Water Shortages – Shelley Frost shelley.frost@des.nh.gov (603) 271-2949
Homeowner Private Wells – Rick Schofield richard.schofield@des.nh.gov (603) 271-1974
Water Restrictions, Ordinances, Water Efficiency – Stacey Herbold stacey.herbold@des.nh.gov (603) 271-6685
Stream Flows– Ted Diers ted.diers@des.nh.gov (603) 271-3289
Lake Levels – Jim Gallagher james.gallagher@des.nh.gov (603) 271-1961

Thank you.

Stacey Herbold
Water Conservation Program
Water Use Registration and Reporting Program
NHDES Drinking Water and Groundwater Bureau
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Concord, NH 03302-0095
PH: (603) 271-6685
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