



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Northeast Regional Office • 150 Presidential Way Woburn, MA 01801 • 978-694-3200

Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Rebecca L. Tepper
Secretary

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Commissioner

July 17, 2025

VIA EMAIL: Rmakiej@burlington.org

Mr. Russell Makiej
Town of Burlington
29 Center Street
Burlington MA, 01803

City/Town: Burlington

PWS Name: Burlington Water Dept
PWSID: 3048000
WMA Registration No.: 3-15-048.01
WMA Permit No.: 9P-3-15-048.01
Water Supply Emergency Declaration and
Unilateral Administrative Order (UAO) No.:
00020926

Dear Mr. Makiej:

The Massachusetts Department of Environmental Protection (“MassDEP”) received a petition (the “petition”) from the Burlington Water Department on July 16, 2025, requesting an Emergency Declaration under the provisions of the Water Management Act, M.G.L. c.21G (the “WMA”) and the Water Management Act regulations, 310 CMR 36.00. According to the petition, due to high temperatures increased water demand and dropping storage tank levels, the ability to maintain a continuous supply of safe water to meet its demand has been compromised. As a result, the Burlington Water Department is seeking permission to activate its emergency interconnection with the Town of Lexington (PWS ID# 3155000) to supplement its supply with water from the Massachusetts Water Resources Authority (MWRA) – (PWS ID# 6000000) through the Lexington interconnection.

In response to the petition, MassDEP has determined that a State of Water Supply Emergency is impending with the area served. Attached, please find a Water Supply Emergency Declaration and Unilateral Administrative Order (UAO) No. 00020926, which outlines the conditions under which Burlington Water Department may utilize its emergency interconnection with the Town of Lexington during the emergency. If you have any questions regarding this letter, please contact me at (617) 797-3757 or Eric.Worrall@mass.gov.

Sincerely,

Kristin L. Divis

for Eric S. Worrall 7/16/2025
Regional Director

Ecc (with attachment):
Brian White, Burlington DPW Director

Burlington Board of Health
Kathy Baskin, MassDEP-Boston-BWR
Yvette DePeiza, MassDEP-Boston-DWP
Duane LeVangie, MassDEP-Boston-BWR-WMA
Eric Worrall, MassDEP-NERO-RD
Heidi M. Zisch, MassDEP—NERO-OGC
Kristin L. Divris, MassDEP-NERODRD-BWR
Melissa T. Dwinell, MassDEP-NERO-DWP

File Name: SharePoint DWP Archive\NERO\Burlington -3048000-Enforce-UAO-00020926-EDec-2025-07-17

**COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**In the Matter of
Town of Burlington**

Enforcement No. 00020926

**UNILATERAL ADMINISTRATIVE ORDER
EMERGENCY DECLARATION**

The Parties

1. The Massachusetts Department of Environmental Protection (“MassDEP”) is a duly constituted agency of the Commonwealth of Massachusetts established pursuant to M.G.L. c. 21, § 7. MassDEP has its principal office located at 100 Cambridge Street, 9th Floor, Boston, Massachusetts 02115, and its Northeast Regional Office located at 150 Presidential Way, Woburn, MA 01810.
2. The Town of Burlington (the “Town” or “Respondent”) is a Municipality within the Commonwealth of Massachusetts having a principal place of business and a mailing address at 29 Center Street, Burlington, MA 01803.

Statement of Facts and Law

3. The Town operates a public water system with MassDEP Registration number 3-15-048.01 and Permit Number 9P-3-15-048.01. The Town, by and through its Water Department, currently operates and maintains one water treatment facility, which is the Mill Pond Treatment Facility (the “Facility”). The Facility treats surface water that is pumped from the Shawsheen River in Billerica to the Mill Pond Reservoir in Burlington and has a design capacity of 6.0 MGD. Due to recently installed Per- and Polyfluoroalkyl (“PFAS”) treatment limitations, capacity is now 4.0 MGD. (The Town previously operated and maintained the Vine Brook Treatment Facility, which treated groundwater from seven groundwater wells in the Vine Brook aquifer and had a full capacity of 3.2 MGD; however, due to contamination, the Vine Brook Treatment Facility was abandoned as approved by MassDEP on August 8, 2024 (Transmittal Number: 24-WS25-0001-APP).)
4. On July 16, 2025, at approximately 9:04 AM and 11:42 AM, MassDEP received telephone calls from the Town informing the Department that the Town intended on opening the interconnection with the Town of Lexington on the afternoon of July 16, 2025, to increase levels in the storage tanks due to the high heat causing increased demand.

5. On July 16, 2025, at approximately 1:04 PM MassDEP spoke with a Town representative, who informed the Department that the Town was about to open its emergency interconnection with the Town of Lexington to obtain water from MWRA. The Town representative was informed to refrain from activating the interconnection until a written petition was submitted to and granted approval by the Department.
6. On July 16, 2025, at approximately 1:27 PM, the Town represented to MassDEP staff during a telephone conversation that it was unable to maintain adequate water levels in its storage tanks. MassDEP granted verbal approval to activate the emergency interconnection with the Town of Lexington, due to the Town's inability to maintain adequate water levels in its storage tanks.
7. On July 16, 2025, at approximately 2:04 PM, MassDEP received an email from the Town petitioning for a declaration of a state of water emergency pursuant to M.G.L. c. 21G, § 15. In the emailed petition, the Town stated that "Burlington requests to open the connection at Muller Road in Burlington and North Street in Lexington to supplement our distribution system until such time we recover in our storage tanks." The email also indicated that "Per the verbal approval preceding this email from Amy LaPusata, the connection was opened at 1:36 PM today."
8. The Water Management Act, M.G.L. c. 21G, § 15, and the Water Management Act Regulations, specifically the provisions of 310 CMR 36.40 (1), authorize any water system to petition MassDEP for a Declaration of a State of Water Supply Emergency if it finds that there exists or impends a water supply shortage of a dimension which endangers the public health, safety or welfare.
9. Pursuant to M.G.L. c.21G, § 15, and the Water Management Act Regulations at 310 CMR 36.40(2), MassDEP may declare a state of water emergency if it finds that there exists or impends a water supply shortage of a dimension which endangers the public health, safety or welfare. Further, in response to a petition for a Declaration of a State of Water Supply Emergency and pursuant to this statutory section, MassDEP may require the water supplier to submit for its review an approval a plan for restraining the use of water by whatever means it deems appropriate and feasible. The statute limits any Declaration of a State of Water Supply Emergency to no more than six months in aggregate in any twelve-month period, unless MassDEP determines that a longer state of emergency is required to protect public health.
10. Furthermore, the Water Management Regulations at 310 CMR 36.40(2) provides:

Upon receiving a petition for a declaration of a state of water supply emergency, the Department may declare an emergency if it finds that there exists or impends a water supply shortage of a dimension which endangers the public health, safety or welfare, due to circumstances including, but not limited to:

 - (a) Demand for water exceeds the availability of water;

(b) Mechanical failure or similar type of emergency, including inability to maintain storage tanks,...

11. Pursuant to the Water Management Act, M.G.L. c.21G, § 17, MassDEP may issue orders during a state of emergency declared under M.G.L c.21G, § 15 to, among other things, establish priorities for the distribution of any water or quantity of water use, to permit any person engaged in the operation of the water supply system to cease the distribution of water, to distribute water to certain users as specified by MassDEP, and to require the implementation of specific water conservation measures.

Determination and Order

12. For the reasons set forth above and pursuant to the Water Management Act, M.G.L. c.21G, § 15, and the regulations set out at 310 CMR 36.40(2), MassDEP hereby determines that a water supply emergency is impending and that it endangers the public health, safety or welfare of the persons currently served by the Burlington Water Department. As such, MassDEP issues this Declaration of a State of Water Supply Emergency (“Emergency Declaration”) and Order.

13. Unless amended, terminated or extended by MassDEP, this Emergency Declaration shall remain in effect without interruption until **January 17, 2026**, or until such time as MassDEP determines that emergency conditions no longer exist, whichever is sooner.

14. By issuing this Emergency Declaration, MassDEP hereby grants the Town authority to use its emergency interconnection with the Town of Lexington (PWS ID #3155000) subject to the following specific conditions:

- A. The Town shall maintain daily records of all water purchased from the Town of Lexington as required under the Regulations during the duration of this Declaration and provide those records to the Department on request.
- B. The Town shall comply with the requirements of the Massachusetts Water Resources Authority (“MWRA”) governing emergency use of connections with an MWRA community.
- C. Changes in the use of water supply sources, such as the activation of a new interconnection, may result in disturbances in the distribution system due to changes in flow volumes, flow patterns, and mechanical disruption. Impacts to the distribution system may include colored water, changes in chlorine demand and residuals, and potential health risks, such as bacterial contamination. A new interconnection may also change hydraulic conditions in the system, impacting the operation of tanks. Additionally, the U.S. Environmental Protection Agency (“EPA”) has concluded that the distribution maintenance can lead to lead scale disruption, which could cause an increase in drinking water lead concentrations. MassDEP reserves the right to require

additional water quality monitoring within the distribution system depending on the duration of the water supply emergency.

15. **Effective immediately**, a Town-wide ban on all non-essential outside water use shall be put in place for the duration of this Emergency Declaration. For purposes of this Emergency Declaration, the term “nonessential outside water use” is defined to include those uses that do not have health or safety impacts, are not required by regulation, and are not needed to meet the core functions of a business or other organization. The Town shall have the authority to enforce these regulations through the assessment of penalties or the imposition of fines.
16. By no later than two (2) days from the date of issuance of this Emergency Declaration, the Town shall provide an updated public notice to its consumers through the Town’s Reverse-911 system of the issuance of this Emergency Declaration and the ban on all non-essential outdoor water use. The Town shall provide MassDEP with the written text of said notice **by July 21, 2025**. The Town shall notify customers by any additional means, including but not limited to sign boards, notices on web site and social media, as deemed necessary. If the Town has also published notice via appropriate broadcast media (i.e., radio, television), posting in conspicuous locations throughout area served by system, hand delivery, and any other delivery method approved in writing by the Department, then the Town shall also submit a copy of the public notice to MassDEP within ten (10) business days of publication of the notice.
17. **On or before January 17, 2026**, the Town shall submit to MassDEP a written report documenting all efforts that were taken by the Town to implement and enforce the ban on non-essential outside water use required herein, including all actions that were taken by the Town to inform the public of the ban and to enforce the ban, including the assessment of penalties or imposition of fines. The report shall describe water use trends over the period of the emergency that is declared by this Emergency Declaration and describe any progress and the status of all other conservation programs being implemented by the Town, including any efforts to limit the use of private wells. The Town shall submit copies of all materials and notices prepared to inform the public of the need to conserve water and comply with the ban on nonessential outside water use as part of the written report.
18. The Town shall submit to MassDEP a written progress report every two (2) weeks on the capacity and status of the Mill Pond Treatment Facility, all of its storage tanks, and all of its active interconnections. The first of these reports shall be due **by July 30, 2025**.
19. **On or before January 17, 2026**, the Town shall submit to MassDEP a written report that includes a comprehensive evaluation of source capacity, storage and demand including historical trends. The report shall include a professional opinion on the criteria for activating emergency interconnections, any efforts made by the Town to avoid use of the emergency interconnection, and any potential future utilization of the emergency interconnection with the Town of Lexington on a routine basis.

20. The Town shall comply with all the remaining terms and conditions of its Water Registration 3-15-048.01 and Permit Number 9P-3-15-048.01 that remain unchanged by this Emergency Declaration.
21. If the Town fails to comply with the provisions of this Emergency Declaration, MassDEP may assess a civil administrative penalty as provided in M.G.L. c.21A, § 16 and M.G.L. c.21G, § 14. MassDEP may also seek civil judicial penalties as provided in M.G.L. c.21G, § 14. Each day of continued violation shall constitute a separate offense. In addition, MassDEP may ask the Attorney General to bring an action in the superior court to compel compliance with this Declaration.

Appeal Rights

22. Respondent is hereby notified that it has a right to an adjudicatory hearing on this Order. Pursuant to M.G.L. c. 21G, § 12 and 310 CMR 36.40(1) and effective twenty-one days after the Order is received by the Respondent, Respondent shall be deemed to have waived its right to an adjudicatory hearing on this order unless Respondent files with MassDEP (i.e., MassDEP receives), a written notice of claim for an adjudicatory appeal that clearly and concisely states every point of fact and law Respondent intends to raise as grounds for the appeal, the relief sought, and any additional information required by applicable law. The request must be mailed to:

Commonwealth of Massachusetts
MassDEP-Office of Appeals and Dispute Resolution
100 Cambridge Street, 9th Floor
Boston, MA 02115

And a copy sent to:

Heidi M. Zisch, Counsel
MassDEP-Office of General Counsel
Northeast Regional Office
150 Presidential Way
Woburn, MA 01810

The appeal must be accompanied by a valid check made payable to Commonwealth of Massachusetts in the amount of \$100.00 for the required filing fee. The filing fee must be mailed to:

Commonwealth of Massachusetts
MassDEP-Office of Appeals and Dispute Resolution
P.O. Box 4062
Boston, MA 02211

The filing fee is not required if the appellant is a city, town, county, or district of the Commonwealth of Massachusetts or a municipal housing authority.

Failure to pay the filing fee as required is grounds for dismissal of the request for hearing.

Waiver of filing fee: Upon a showing of undue financial hardship, MassDEP may waive the adjudicatory hearing filing fee. A person who believes that payment of the \$100.00 filing fee would be an undue financial hardship must file, together with the request for adjudicatory hearing as provided above, an affidavit setting forth the facts the appellant believes constitute the undue financial hardship.

Issued by the Department of Environmental Protection this 17 day of July 2025.

By *Kristin L. Divris* for
Eric S. Worrall, Regional Director