



Massachusetts Society of Municipal
Conservation Professionals
PO Box 375
Lincoln, MA 01773

February 10, 2016

Honorable Charles D. Baker
Office of the Governor
Room 280, State House
Boston, MA 02133

Re: Executive Order #562

Dear Governor Baker,

The Massachusetts Society of Municipal Conservation Professionals (MSMCP) is a non-profit organization dedicated to serving and supporting conservation commission staff throughout Massachusetts. Formed in 1984, MSMCP was created in response to the expanding technical demands and growing number of professional employees, a trend still relevant today. Our main purposes include providing a forum for professional information exchange through our monthly brown bag lunches; sponsoring technical and scientific seminars and our annual conference; fostering cooperation among contiguous or regionally-related conservation commissions and their staff; and promoting the advancement of professional staffing. Currently MSMCP represents 75 communities across the state.

We are writing to express our concerns over Executive Order (EO) 562. We have submitted comments through the Portal. Summarized below are our comments and recommendations for change.

Regarding Massachusetts Wetland Protection Act Regulations (310 CMR 10.00):

- Retain the CMR in its current form and encourage DEP to continue to work with multi-disciplinary stakeholders to refine, improve and modify the existing regulations. Encourage more stakeholder input to identify uncertain areas of the CMR that could be refined (i.e. performance standards for Coastal Storm Flowage). Add a meeting process for explaining the proposed regulatory changes, where conservation professionals can ask questions and receive answers, rather than just the public hearing format, where there is only a presentation of the changes and then official public comments and testimony.
- Require DEP to work with stakeholders to adopt performance standards for three important areas (Land Subject to Coastal Storm Flowage, Vernal Pools, and the 100-foot Buffer Zone). We understand DEP's advisory committee of regulators and stakeholders has completed a draft of performance standards for Land Subject to Coastal Storm Flowage. This process should continue to public review and adoption. These new performance standards should be based on



the best scientific evidence available, particularly with regard to anticipated impacts from climate change and sea level rise. Performance standards for vernal pools and buffer zones should also be based upon the best scientific evidence available.

- DEP should revise all regulations to utilize the Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada¹ frequently referred to as the “Cornell data” or NOAA’s Atlas 14. We must begin using current, accurate rainfall data. Utilization of the accurate data will bring Massachusetts closer to its goals of climate change adaptation and mitigation through cumulative efforts at the local level. Accurate rainfall data used in storm water calculations will be pro-active rather than be grossly outdated and reactive to flooding issues.
- Stream crossing standards should remain intact, without changes. While proper preparation of engineered plans and designs that account for actual stream flows will cost more money than not preparing any plans, the cost savings to the town for complying with stream crossing standards has already been determined. MA observed this with recent storm events impacting Route 2 as well as storm events impacting VT a few years ago. Stream crossing standards should not be changed. They provide an essential function toward protecting roads, residents and businesses, as well as provide safer wildlife passage. If cost is the issue, not the concept of stream crossing standards, a funding mechanism should be created to assist municipalities who do not have in-house engineering staff to upgrade and improve their infrastructure.
- The buffer zone should be included as a resource area with a clear set of performance standards. This is already evident in 310 CMR 10.53(1) but should be specifically stated in greater detail to make this clearer to applicants. Performance standards should state that activities within the buffer zone should not:
 - Result in erosion and sedimentation into adjacent wetlands and water bodies;
 - Substantially reduce shading to adjacent wetlands and water bodies;
 - Substantially reduce the capacity of the buffer zone to detain, filter and infiltrate runoff;
 - Reduce the capacity of adjacent wetlands and water bodies to support wildlife (through the provision of essential upland habitat characteristics required by wildlife utilizing the adjacent wetlands or water bodies); or
 - Create barriers to movement of wildlife through the buffer zone or from one wetland to another.

Regarding Massachusetts Endangered Species Act:

- Natural Heritage and Endangered Species Program (NHESP) has worked hard to create Regulations with clear requirements and timeframes for project review. The regulations have taken the guess-work out of the permitting process. Further, the increased staff at NHESP has greatly improved response to questions, permit review and actual land protection and

¹ Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada. Daniel S. Wilks and Richard P. Cember. Cornell University, Publication No. RR 93-5. September 1993 and the beta website.



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management. Massachusetts has a responsibility to preserve our native wildlife and natural habitats, particularly those globally rare species that are only, or mostly, found in Massachusetts. There should not be any changes to MESA or its implementing Regulations.

- Reissue the Atlas! A lot has changed since the latest issue of 2008. NHESP should coordinate better with local building officials to ensure they have the map and know to refer people to NHESP if the project is within a Priority Habitat area prior to issuing a building permit.

Regarding Solar projects:

- Massachusetts has to stop allowing forests to be clearcut for solar projects. If there are subsidies and financial incentives to creating solar projects, they should only be granted to projects who utilize buildings and parking lots, not ones that cut down forests to install solar panels. It is contradictory to climate change adaptation goals.

Thank you for your consideration of this matter. Please feel free to contact me if you have any questions or would like clarification.

Sincerely,

Jennifer Carlino

President, MSMCP

CC: Kristen Lepore, Secretary, Executive Office of Administration and Finance

Lealdon Langley, MA DEP

Secretary Matthew Beaton, EOEEA

Martin Suuberg, Commissioner, EOEEA