



Charles D. Baker, Governor  
Karyn E. Polito, Lieutenant Governor  
Stephanie Pollack, Secretary & CEO  
Thomas J. Tinlin, Administrator



February 1, 2016

Martin Suuberg, Commissioner  
Massachusetts Department of Environmental Protection  
One Winter Street  
Boston, MA 02108

Re: Executive Order 562 – Reducing regulatory burden

Dear Commissioner Suuberg:

As you are likely aware, Massachusetts Governor Charles D. Baker issued Executive Order 562 directing each State agency to undertake a review of current regulations, with the objective of reducing unnecessary regulatory burdens and creating a clear, coherent, and consistent regulatory framework. As a sister agency whose activities are subject to a number of State and Federal regulations, MassDOT has a unique perspective on how certain regulations could be streamlined, thereby enhancing our ability to execute MassDOT's mission of providing a safe and efficient transportation infrastructure.

Because MassDOT works within a pre-determined constrained corridor, its projects differ significantly from private sector projects. The current regulations, specifically those authorized by the Wetlands Protection Act (WPA), do not account adequately for this difference, nor do they account for the constraints imposed by public funding processes (e.g., the budget and funding constraints of the Federal Highway Administration).

The Executive Order presents a great opportunity to improve and streamline the regulatory process relative to public projects by implementing a variety of changes and clarifications to the WPA regulations (and those related), without sacrificing resource protection. More than any other single entity, MassDOT files the most permit applications with MassDEP, and by implementing these suggestions, the MassDEP resources needed to process these applications will significantly be reduced.

Highlights of the recommended changes include the following:

- A. Clarify or revise certain wetlands regulations so that their application to public projects provides greater flexibility to properly maintain highways and enhance the safety of transportation infrastructure, as well as provide a greater incentive to improve the environment;
- B. Amend the regulations to provide for an in-lieu fee program for mitigation of resource area impacts for public projects, consistent with the US Army Corps of Engineers permitting of wetlands alterations under §401 of the Clean Water Act;
- C. Streamline the criteria and processes for projects requiring Variances from the WPA regulations; and
- D. Streamline the appeals process to minimize its impact on project cost and schedule.

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To effect the changes cited above, MassDOT is requesting the formation of a joint working group with MassDEP to deliberate on the most mutually beneficial approach to streamlining the project permitting process. And, as a starting point, I propose a meeting of MassDOT and MassDEP representatives sometime early February to discuss the scope of this effort, introduce the specific language of our recommendations, and to agree on the steps going forward. In addition, so as to better inform the meeting, I will direct my staff to send (next week) the detailed language of our suggested changes to MassDEP's General Counsel's Office.

In the meantime, please contact Kevin Walsh, Director of Environmental Services, at 857-368-8830, in order to schedule a meeting to discuss this matter further. Thank you for your assistance.

Sincerely,



Thomas J. Tinlin  
Administrator

cc: The Honorable Kristen Lepore, Secretary of Administration & Finance  
Office of the General Counsel, MassDEP