



October 30, 2015

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Matthew A. Beaton, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

**RE: Comments on Regulatory Review under EO 562
Via Electronic Mail with Hard Copy to Follow**

Dear Secretary Beaton:

On behalf of Massachusetts Water Works Association (MWWA), I would like to submit the following comments in response to the Executive Office of Energy and Environmental Affairs (EEA) request for suggestions of regulations that should be changed during the Executive Order 562 (EO 562) regulatory review process. MWWA represents over 1,100 water supply professionals throughout the Commonwealth. Our membership consists of water operators, water system managers, consulting engineers, equipment manufacturers and vendors. Our members are responsible for making sure that the Commonwealth's residents have an adequate and safe supply of drinking water. We appreciate that the Baker/Polito administration has commenced this review and we think it provides an excellent opportunity to streamline the regulatory process and reduce the burden on water suppliers and municipalities.

MWWA submitted comments directly to the Massachusetts Department of Environmental Protection (MassDEP) regarding regulations under their purview. We have included a copy of those comments with this letter for your review. We wish to offer additional comments specific to regulations under your secretariat.

MEPA Regulations should be streamlined: The Massachusetts Environmental Policy Act regulations should be streamlined. Specifically, we would like you to look at 301 CMR 11.03 (4)(a) and (b) and eliminate the requirements for an ENF and a mandatory EIR for an Interbasin Transfer or MEPA filing for a new withdrawal or expansion of a withdrawal. We feel that the MEPA requirements create a duplicative process for applicants under permitting programs such as Interbasin Transfer Act (IBTA) and the Water Management Act (WMA). The Department of Conservation and



Recreation's Office of Water Resources administers the Interbasin Transfer Act Program for the Massachusetts Water Resources Commission and MassDEP administers the Water Management Act Program. Both of these agencies have a very comprehensive process that looks at any impact that the proposed permit will have on the watershed, it allows the permits to be conditioned if it is determined that an impact could be detrimental on the environment and both programs allow multiple opportunities for the public to participate and comment. The MEPA process could be eliminated and we do not believe that you would be lessening environmental protection.

Interbasin Transfer Act Regulations should be streamlined: In December of 2014 the Massachusetts Water Resources Commission (WRC) reviewed proposed changes to the Interbasin Transfer Act Regulations (313 CMR 4.0). The proposed changes are intended to streamline the process of transferring water from one basin to another. This streamlining will be especially important if systems who have Water Management Act permits need to pursue alternative sources to comply with new permit requirements to offset or mitigate their impact on their watershed. MWWA appreciates that the WRC embarked on this effort and overall we believe there will be benefits to municipalities; however, the changes could go further.

The WRC is proposing a consolidated donor basin application, which will make it easier for regional water suppliers to seek approval to transfer a set amount of water and eliminate the need for a redundant donor basin review each time a new customer is added to the system (up to the preapproved volume). The WRC had discussed making this approval good for 20 years and we believe that is appropriate and consistent with long term planning horizons. They are suggesting that this approval would need to be reviewed at year 10 and MWWA does not feel that the 10 year review is necessary, unless conditions in the basin suggest it is warranted. We suggest you add that caveat to the regulations. MWWA also believes that there should be a simplified review process for the receiving basin. If it is determined that the donor basin will not be adversely impacted by the transfer, why does the receiving basin have to go through a process to prove they have no viable local sources? If the Interbasin Transfer Act requires the state to protect the donor basin, it seems unnecessarily burdensome to make the receiving basin go through an in-depth analysis.

The WRC is also proposing to quantify what will be considered an insignificant transfer under the IBTA and therefore not subject to the full review process. The WRC was proposing that this threshold be 10,000 gallons per day. MWWA believes that should be increased to 20,000 gallons per day. The WRC has authority to determine insignificance under the threshold of 1 million gallons per day, currently applicants must go through a process to prove they won't have an impact. These very small transfers are often small businesses and the impact is de-minimis so it makes sense to provide an avenue for the transfer to occur without the applicant having to go through an expensive review process.

The proposed draft of the regulations that we reviewed in December contained a provision that the WRC was considering breaking some of the 27 major river basins into smaller basins. MWWA does not agree with this proposal as it may have unintended consequences for water systems with Water Management Act permits or for water systems who need to increase the capacity of their system if they have sources which were previously in one basin and now might be in two. We would request that EEA eliminate this change in the regulations before you issue the draft for public comment.

MWWA agrees with the WRC's proposal to eliminate the requirement for an applicant to submit a Local Water Resources Management Plan. This was a requirement when municipalities and utilities did not regularly undertake planning. Most now do, so the requirement has become unnecessary.

Finally, MWWA fully supports the WRC's intent to incorporate their interim policy, "Guidelines for the Interpretation of 313 CMR 4.04(3) and 4.04(4); Request for Determination of Insignificance as Applied to Transfers Primarily Derived From Lakes, Ponds, Reservoirs or Other Impoundments" passed on December 11, 2014 into the regulations.

Water Conservation Standards should be reviewed under EO 562: While we understand that the administration's intent is to review regulations, there are many policies, standards and/or guidelines that have been adopted by the state which in essence serve as regulations, without having the benefit of going through the regulatory process. The Massachusetts Conservation Standards are one such example of this. The standards fall under the purview of the WRC as they are the body charged with developing water policy in the Commonwealth. In 2006, Massachusetts adopted among the strictest water conservation standards in the country. These standards become requirements in several of the Commonwealth's permitting programs, such as Water Management Act and Interbasin Transfer Act. The WRC is currently undertaking a review of the standards and making modifications based on new information. Since the standards have regulatory implications, we would ask you as Chair of the Commission, to consider performing the same review that EO 562 requires of regulations to these standards. We believe this review may highlight opportunities that would allow for appropriate distinctions between best management practices and standards.

Keep our source water protection regulations strong: The Department of Conservation and Recreation (DCR) is charged with protection of watershed lands for the Quabbin and Wachusett Reservoirs. These reservoirs are vitally important to providing clean, safe drinking water to so many communities in greater Boston. DCR has been a leader in watershed protection and because of the great job they have done in acquiring land around the Quabbin and protecting the watershed, the Massachusetts Water Resources Authority has been able to qualify for a filtration waiver from the US Environmental Protection Agency. We understand there is always a desire amongst

some to open this area to recreational activities, Public access to and recreational use of water supply lands are complex and sometimes controversial issues. Human activity on or near water supply source waters can introduce disease-causing and reservoir fouling agents to the water supply. Water supply managers must exercise caution when considering policies for public access and recreation on water supply lands. We urge you not to lessen any of the protections contained within 350 CMR 11.00.

Thank you for the opportunity to comment on the regulatory review process. We would be happy to meet with you and staff to discuss any of our suggestions in more detail.

Sincerely,

A handwritten signature in black ink that reads "Jennifer A. Pederson". The signature is written in a cursive, flowing style.

Jennifer A. Pederson
Executive Director

cc: Ned Bartlett, Undersecretary of Energy and Environmental Affairs
Daniel Sieger, Assistant Secretary of Energy and Environmental Affairs
Kristen Lepore, Secretary of Administration and Finance
Rachel Madden, Undersecretary of Administration and Finance