

April 28, 2015

Rachel Madden, Undersecretary
Executive Office of Administration & Finance
State House # 373
Boston, MA 02133

Re: Executive Order # 562

Dear Undersecretary Madden:

We write on behalf of a large, broadly based coalition representing residents across the Commonwealth involved in business, labor, public health, environmental protection, human services and consumer protection. Pursuant to a recent meeting with you and the Governor's Chief of Staff, Steven Kadish pertaining to Governor Baker's Executive Order #562 ("EO"), we wish to reaffirm the following:

First, we fully support regular and objective regulatory reviews, as have been performed during the administrations of Governors Weld, Romney and Patrick.

Second, we agree that all regulations should be clear, concise, and effective in accomplishing the objective for which they were intended.

Third, it is reassuring to know this review is modeled after Governor Weld's thoughtful regulatory review in 1996, which both you and Chief of Staff Kadish were intimately involved with.

That said, we are deeply concerned with the significant differences in language between the Weld and Baker EOs. As you know, the Weld EO did not include the language "...does not exceed federal requirements." The Commonwealth has benefited greatly by determining our own standards that meet our needs in healthcare, biotech, energy efficiency, environmental protection, consumer protection, among others. It would be a grave mistake to rely upon "default" federal standards often intended as minimum floor, not a ceiling. Indeed, much of our economic success derives from our national leadership in healthcare, biotech and other innovative areas.

Nor did the Weld EO include the overly broad, vague and subjective language "...no adverse affect on MA citizens or customers or on the competitive environment of the Commonwealth." Many regulations, by definition, affect someone's competitive environment. As you also know, many regulations were written to protect the most vulnerable in our society and are not readily evaluated in terms of our "competitive environment" or any other "cost/benefit" analysis. Without greater clarification, they are all now at risk.

Finally, we are concerned about the "one year sunset" deadline. This will inevitably create a diversion of staff time, particularly at a time of budget cuts and incentives for early retirement for senior staff with the greatest institutional memory. Many regulations required extensive research, negotiation and compromise by multiple agencies and constituencies. A thoughtful and public review requires no less.

A few examples may be helpful, as follows:

Elder services: State Medicaid covers personal care attendants and is finalizing certification for community health workers. Federal Medicaid regulations do not require coverage. The result often allows seniors, disabled and chronically ill to delay transitioning to more costly hospitals or nursing facilities. These regulations would be at risk.

Public Health: The Commonwealth has much stricter regulations than the federal government on toxic chemicals and pollutants such as perchlorate, mercury, diesel, etc. which contaminate our water supply and air. These regulations would be at risk.

In the aftermath of the tragedy from the unsafe compounding of pharmaceuticals by the New England Compounding Center, state regulations will exceed federal requirements...and should.

Environment: Governor Romney's earlier anti-pollution regulations designed to curb emissions by the Commonwealth's "Filthy Five" power plants, exceeded federal requirements at the time. In fact, these regulations drove technology innovation, enabling the federal government to "catch up" years, issuing similar national standards.

The Commonwealth's wetland protection regulations, protecting natural habitat and providing buffers against rising tides and flooding, that better protects habitat and coastlines than federal regulations.

And the highly regarded Regional Greenhouse Gas Initiative ("RGGI"), supported by nine Northeastern states, including Massachusetts and Governor Baker, exceed US EPA requirements for clean power.

Business: All regulations since 2010 already require a small business impact review. Vague standards for the current review will create regulatory uncertainty for the next several years. Inevitably, uncertainty in the business community will limit investment. In addition, CEOs and businesses locate and expand in the Commonwealth, despite the cost of doing business, largely because of our superior healthcare and environment. And they attract and retain a skilled workforce because of our national leadership and values.

Labor: Occupational health and safety is also important and often exceeds federal standards. The Commonwealth's building codes, fire safety and toxic regulations will be at risk.

The business of government is not merely to protect business from regulations. It is also to protect the common good, including our most vulnerable citizens, our public health, and our environment.

Therefore, we urge you to immediately issue clarifying language for state agencies on these points, particularly pertaining to the critical language differences between the Weld and Baker EOs. We hope it underscores your commitment to promote Massachusetts as a national leader, your commitment to protect the most vulnerable in our society, as well as our environment and public health. This cannot be subject to a standard cost/benefit analysis. Rather we hope you will focus this review on making regulations clear, concise and effective for their intended purpose. If so, we stand ready to help.

Sincerely,

George Bachrach, Esq.	Environmental League of Massachusetts
Kenneth Kimmell, Esq.	Union of Concerned Scientists
Jack Clarke	Mass Audubon
Jesse Mermell	Alliance for Business Leadership
Monica Halas, Esq.	Greater Boston Legal Services
Marcy Goldstein-Gelb	Massachusetts Coalition For Occupational Safety And Health (MassCOSH)
Margaret Monsell, Esq.	Massachusetts Law Reform Institute
Rebekah Gewirtz	Massachusetts Public Health Association
Rebecca Davis	Metropolitan Area Planning Council
Bill Ravanesi	Health Care Without Harm
Charlie Harak	National Consumer Law Center
Tedd Saunders	Saunders Hotel Group
Dan Sosland, Esq.	Acadia Center
Heather Clish	Appalachian Mountain Club
Ed DeWitt	Association to Preserve Cape Cod
Craig Altemose	Better Future Project
Renata von Tscharnier	Charles River Conservancy
Robert L. Zimmerman, Jr.	Charles River Watershed Association
Elizabeth Saunders	Clean Water Action
Peter Shelley, Esq.	Conservation Law Foundation
Ben Hellerstein	Environment Massachusetts
Berl Hartman	Environmental Entrepreneurs (E2)
Eugene Benson, Esq.	Massachusetts Association of Conservation Commissions
Eugenia T. Gibbons	Mass Energy Consumers Alliance
Mary Griffin	Massachusetts Land Trust Coalition
Kathryn Eiseman	Massachusetts PipeLine Awareness Network
Julia Blatt	Massachusetts Rivers Alliance
Ken Hartlage	Nashoba Conservation Trust
Curtis Fisher	National Wildlife Federation
Emily Norton	Sierra Club, MA Chapter
Steve Long	The Nature Conservancy
Jennifer Ryan	The Trustees of Reservations
Sylvia Broude	Toxics Action Center

cc.

Steve Kadish
Kristen Lepore