

April 28, 2015

Hon. Maura Healey, Attorney General  
Commonwealth of Massachusetts  
One Ashburton Place  
Boston, MA 02108

Re: Executive Order # 562

Dear Attorney General Healey:

We write to express grave concern pertaining to Governor Baker's recently released Executive Order #562 ("EO"), requiring review and sunseting of all state regulations. We do so 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. Please note 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.

However, we are deeply concerned with the significant differences in language between this EO and all previous regulatory reviews. No prior review mandated that all state regulation "...does not exceed federal requirements." The Commonwealth has benefitted greatly by determining its 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 that are often intended as a minimum floor, not a ceiling. In fact the economy of the Commonwealth has flourished due to our national leadership and innovation, and our citizens have been better protected in terms of civil rights, consumer protection and our public health.

Furthermore, we are deeply concerned the language of this EO is vague, overly broad and subjective resulting in unenforceable standards and unlimited discretion. For example, the EO requires that regulations result in "...no adverse affect on MA citizens or customers or on the competitive environment of the Commonwealth." Query, who is a "customer" of the Massachusetts? And, almost by definition, do not virtually all regulations affect someone or some industry'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.

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 later and issue similar national standards.

The Commonwealth's wetland protection regulations do a better job of protecting natural habitat and providing buffers against rising tides and flooding than federal regulations.

And the highly regarded Regional Greenhouse Gas Initiative ("RGGI"), supported by nine Northeast 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 for our most vulnerable citizens, our public health and our environment.

Therefore, in view of our concerns about the vagueness and over breadth of EO # 562, we urge your office to monitor its implementation carefully. And we further urge you to use your good offices to speak on behalf of the protection of our most vulnerable citizens, our civil rights, our public health and our consumer and environmental protection regulations which make the Commonwealth a special place.

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 Tscharnher	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.

Mike Firestone  
Melissa Hoffer