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Town of Framingham
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Town of Jaffrey, NH
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City of Beverly
City of Chicopee
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City of Worcester
Town of Bellingham
Town of Danvers
Town of East Longmeadow
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Corporate

AECOM
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April 4, 2011

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RE: Comments on EPA's Plan for Retrospective Review under Executive Order 13563, Improving Regulations: Water Docket No. EPA-HQ-OA-2011-0154

To Whom It May Concern:

On behalf of the Massachusetts Coalition for Water Resources Stewardship (MCWRS) and its 37 member communities and companies, I am pleased to submit the following comments and suggested guiding principles for the United States Environmental Protection Agency's (EPA) Plan for Retrospective Review under Executive Order 13563, *Improving Regulation and Regulatory Review*.

While we represent the water sector, our comments are relevant to a number of issue or impact areas. For example, communities must bear the burden of increasingly onerous regulatory requirements, which amount to unfunded mandates, at a time when they are struggling to provide basic services to residents and businesses. The requirements are often based on questionable and outdated science, result in diminishing environmental returns despite considerable financial investment, and must be paid for by raising water and sewer rates. These basic problems with the current regulatory process negatively affect communities in a number of ways, including impacts to environmental justice and elderly populations, competitiveness in attracting businesses, public health and emergency response services, education, and economic viability.

Guiding Principles

1. New regulations should not be imposed upon utilities unless the federal government participates in funding implementation of the regulations. Utilities cannot continually ask ratepayers to fund projects with diminishing returns, particularly in the current economic climate when home foreclosures are at historic highs. If a regulation is important to EPA and has a national

goal, federal funding should be provided as was the case with the Clean Water Act of 1972.

2. A moratorium should be placed on new regulations unless they are intended to relieve current regulatory burdens. Utilities are currently buried in regulations and must have an opportunity to meet current regulations before being forced to comply with additional requirements. Many regulations have unintended negative consequences to other areas of the environment. For example, stricter discharge limits require processes that generate more chemical waste and use more energy.
3. Conduct sensible cost/benefit analyses and environmental impact analyses prior to implementing new regulations. Take a holistic, sustainable approach and consider the final environmental net impact to air, land and water. These exercises will help promulgate regulations or permit changes that are based on the need to differentiate between actions that truly help the environment versus those that merely sound or “feel good.”
4. Re-interpretation and revising regulations should require science-based support prior to implementing changes. Basically, updating a regulation is imposing a new regulation and should meet the same rigorous cost/benefit and environmental impact analyses as a newly established rule.
5. Do not allow the environmental regulations to continuously self-propagate in a never-ending bureaucracy of paperwork that utilizes valuable resources, such as staff time, and provides no environmental benefit.
6. When building a project, a utility takes into account the “triple bottom line” approach, which refers to consideration of economic, social and environmental concerns before the project is designed and constructed. This approach to sustainability should be applied to drafting and imposing regulations.
7. In poor economic climates as is currently being experienced, regulators should refrain from issuing new, more burdensome rules and initiatives. They should also give greater latitude for compliance by municipalities. Cities and towns that are cash-strapped and laying off employees should not be subject to fines and enforcement unless the offenses are a significant and immediate new threat to public health and the environment. A stormwater discharge that has been occurring for the past 100 years is not an event that absolutely has to be addressed today at a time when a community is cutting its workforce and curtailing other municipal programs.

General Issues

- Gaseous Chlorine Elimination: The continued ability for water and wastewater treatment plants to use chlorine gas should not be regulated or restricted by the Department of Homeland Security or any other agency specializing in security. Chlorine gas is considered a superior disinfectant by the water and wastewater industry and its use

should be allowed to continue unrestricted. All forms of chlorine must be handled properly and each form presents its own form of risk and potential problems. Contrary to what some may think there is no safe form of chlorine.

- **Sewage Sludge Incinerators Standards:** EPA has chosen to regulate wastewater treatment plant sewage sludge incinerators under section 129 of the Clean Air Act, which covers combustion of solid waste. Sewage sludge incineration should be covered under section 112 of the Act, which covers emissions from wastewater treatment plants. Further, EPA promulgated SSI regulations under section 503 of the Clean Water Act 20 years ago, which have been effective in regulating SSI emissions leading us to wonder why added regulation under the Clean Air Act is needed. As currently written, the regulations under section 129 include sampling, reporting and training requirements that are redundant with other regulations; conflict with other regulations; are far more rigorous than needed; and that are inconsistent with proper operation of SSIs.

Clean Water Act-Wastewater, Stormwater and CSOs

- **Blending:** Pursuant to 40 CFR 122.41 (m) and the EPA Combined Sewer Overflow Control Policy as published in the Federal Register Vol. 59, No. 75, April 1994 any amendments to, or changes in interpretation of said regulations as they apply to the By-Pass Rule and Blending should be reconsidered. This specifically is applicable to facilities that have been designed and pre-authorized by NPDES permit to by-pass as is consistent with the blending policy. Furthermore, no changes to future NPDES permits or subsequent Consent Decrees will in effect eliminate or change these existing policies. This proposed policy change has the potential of wasting hundreds of millions of dollars with no measurable environmental benefit.
- **Sanitary Sewer Overflows (SSOs):** Implementation of CMOM regulations and SSO policies will not be subjectively implemented via Consent Decrees or renewal of existing NPDES permits. Any implementation that takes place shall be open to public comment and consideration and be universally applicable. Pass a regulation, do not implement on a case by case basis.
- **SSO Right to Know Requirements:** This is simply a bureaucratic paper shuffle wasting time and money with no public health or environmental benefit.
- **CWA-NPDES-Stormwater and CSO Annual Reports:** Far too much staff time is used to compile an annual report that is submitted to regulatory agencies that are unlikely to read it until years later when they start to consider re-issuance of a permit. Since the permit term is 5 years, make the report a summary of the 5-year permit and not an annual report. This would save on printing costs and staff time that most years could be spent on actual stormwater and CSO management rather than report writing.
- **Nutrients:** Nutrient control for discharges to waters needs to be based on sound science and understanding of the dynamics of the individual receiving waters, not a generic assumption that nutrients are bad. There are hundreds of millions of dollars at stake with

local ratepayers footing the bill to reduce nutrient loads that may have no bearing on the impairment of the water resource. EPA appears to be ignoring the gorilla in the room, which is the large amounts of nitrogen and phosphorus applied to lawns and farms which run off into brooks and rivers. There needs to be more site specific studies first followed by permit limits that are reasonable and actually designed to solve a water quality problem. We cannot afford a one size fits all approach, which does not take into account historical uses and ecosystem needs of a specific waterbody (e.g., natural nutrient levels and ecosystem needs of water bodies in Maine differs from those in Massachusetts). Watershed based planning, identification of problems and cost effective/cost beneficial solutions are necessary steps to assure that limited resources are used wisely.

Drinking Water

- **Perchlorate:** The National Science Advisory Board reviewed the health effects of perchlorate and determined an allowable MCL. Based upon the comments EPA received after that it appears that no two scientists agree on how much perchlorate should be allowed in drinking water. EPA should not regulate perchlorate until a scientifically based health effect MCL number can be agreed upon by the scientific and medical communities.
- **Stage 2 Disinfection By-Products:** The Stage 1 and 2 DBP Rules are a perfect example of new EPA regulations conflicting with current SDWA regulations. The fact that EPA had to produce a manual entitled “Simultaneous Compliance Guidance Manual for the LT2 and Stage 2 Rules” confirms that in order to meet one SDWA regulation it impacts a public water systems ability to meet other SDWA regulations. EPA should thoroughly review that impact before issuing new and conflicting regulations.
- **Chromium and other “new” contaminants:** The health implications of very low levels of hexavalent chromium are very unclear and the science is not overwhelmingly decisive. It is clear, however, that an MCL for hexavalent chromium will result in costly compliance for public water systems. More regulations, more money spent, with what benefit? Decisions to regulate additional contaminants like chromium and others should be science-based and not knee-jerk reactions to pressure from NGO’s and uninformed politicians. We cannot technically or economically sustain this drive to rid the world of everything that might have even the slightest perceived negative health impact on some small subset of the population.
- **Safe Drinking Water Act-Consumer Confidence Reports (CCR):** Give water suppliers options for distribution of CCRs. Those customers who demand to know what is in their water is a very small percentage of the total customer base. In fact, the majority of the complaints received are that the report is a waste of taxpayers’ money. Most don’t care and never read the reports. Communities should have the option to post the report on a website and make hard copies available upon request. Systems following this option should advertise the availability of the report through multiple media and at multiple times to assure that those who do want the report can obtain it. This could save thousands of dollars in printing and postage costs while generating much less waste.

We appreciate the opportunity to submit comments on EPA's Plan for Retrospective Review and look forward to reviewing the draft plan when it's released in late spring 2011. Please do not hesitate to contact me with any questions. I can be reached at 508-799-1430 or at moylanr@worcesterma.gov.

Sincerely,
MASSACHUSETTS COALITION FOR WATER RESOURCES STEWARDSHIP, INC.



Robert L. Moylan, Jr., P.E., President
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