

BERKSHIRE REGIONAL PLANNING COMMISSION
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Executive Director

December 5, 2011

Mr. Kenneth L. Kimmell, Commissioner
Department of Environmental Protection
One Winter Street, 2nd Floor
Boston, MA 02108

RE: Commissioner's Draft Action Plan for Regulatory Reform at MassDEP

Dear Commissioner Kimmell:

The Berkshire Regional Planning Commission commends many of the proposals made in the Draft Action Plan for Regulatory Reform at MassDEP. It appears that the large majority of proposals make sense and will reduce both the burden on those who have to comply with regulations and DEP staff. Specific areas where the plan appears to make appropriate reforms are:

- Chapter 91 licenses
- Many (but not all) of the Wetlands permit changes
- Many (but not all) of the Wastewater permitting changes
- Solid waste management changes
- Waste site cleanup changes
- and the proposals made for Other Areas

We do have concerns with a few specific proposals contained in the draft plan.

We oppose granting Renewable Energy Projects Limited Project Status under the Wetlands Protection Act. In the Berkshires, wind turbines are built on the ridgelines, at the headwaters of low-order, high-gradient streams. Construction in these environments requires enhanced erosion and sediment controls and the Wetlands Protection Act provides the only standard regulatory mechanism to review and permit these impacts. As we have stated in other contexts, we do not believe that it is appropriate to grant one type of development, even if it has laudable overall purposes, a "pass" on meeting other important public policy objectives, in this case, the protection of the state's waters and important wetlands resources.

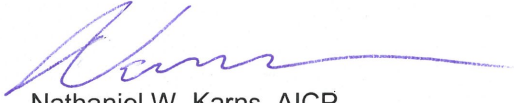
We also question the elimination of sewer extension and connection approvals by DEP, at least in their entirety. We realize that DEP still would have regulatory authority to ensure that the receiving wastewater treatment plants have overall adequate capacity and are not exceeding their permitted flows. However, the MEPA review which can be triggered by a sewer extension based on its needing a sewer extension permit is important in maintaining the Commonwealth's Sustainable Development principles. Sewer extensions are a primary tool in promoting further greenfield development outside of more urbanized areas which is something that the Commonwealth has been trying to carefully manage for several decades. We believe that relaxing the State's permitting of extensions will lead to further sprawl development, which then is working against the Commonwealth's greenhouse gas reduction strategies. While it may be appropriate to review thresholds for requiring a state sewer extension permit, we believe that at some level such permits should still be required.

We would like all of the proposed regulatory reforms to be further reviewed through the lens of their impacts on the scarce or non-existent resources at the municipal level. While it appears that many would probably not trigger an increased work-load or demands on local officials, knowing that almost all of our municipalities are struggling to maintain existing services, expecting them to pick up work that previously had been done by DEP is not justifiable.

Finally, we are concerned with the elimination of the DEP Wetlands Technical Assistance program. We believe this program has been invaluable over a long period of time in providing guidance to local Conservation Commissions. In Berkshire County, many of our conservation commissions have no professional staff and consist of volunteers who have relied on the DEP technical assistance to help them to carry out their responsibilities.

If you wish to discuss our comments further, please feel free to contact me at 413-442-1521, ext 26 or by email at nkarns@berkshireplanning.org.

Sincerely,



Nathaniel W. Karns, AICP
Executive Director

Cc: The Honorable Benjamin B. Downing, State Senator
The Honorable Gailanne Cariddi, State Representative, 1st Berkshire
The Honorable Paul Mark, State Representative, 2nd Berkshire
The Honorable Tricia Farley-Bouvier, State Representative, 3rd Berkshire
The Honorable Smitty Pignatelli, State Representative, 4th Berkshire
The Honorable Therese Murray, President, State Senate
The Honorable Robert DeLeo, Speaker, State House of Representatives
Secretary Richard K. Sullivan, Jr., Executive Office of Energy & Environmental Affairs
Mr. Jeffrey Beckwith, Massachusetts Municipal Association