

Testimony

Subcommittee on Environment and the Economy

House Committee on Energy and Commerce

Wednesday, July 23, 2014

By

David W. Cash, Commissioner

Massachusetts Department of Environmental Protection

**Main Points**

1. Massachusetts Department of Environmental Protection (MassDEP) is executing a multi pronged approach to improve the agency's ability to fulfill its critical mission of protecting the environment, the public health of Massachusetts citizens, and the Commonwealth's natural resources through regulatory reform and enhanced information management system design.
2. MassDEP has pursued these activities to reduce regulatory burden, maximize efficiencies, and increase agency responsiveness to the Commonwealth's regulated community, while maintaining or increasing environmental protection.

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Thank you for inviting me here today to talk about how the Massachusetts Department of Environmental Protection has been able to reach its two complementary goals of protecting public health and the environment and helping drive economic development. The agency, catalyzed by both significant reductions in resources and an evolving new economic development mission, devised a path forward that not only ensured the agency fulfilled its critical mission of protecting the environment, ensuring public health, and preserving the Commonwealth's natural resources, but also supported the needs of the Commonwealth's regulated community to facilitate growth and economic development.

Between 2002 and 2011, MassDEP's budget and staffing were reduced by more than 30%, with no corresponding reduction in the agency's statutory environmental mission. In response, MassDEP undertook initiatives to restore alignment between available agency resources and work requirements. Those initiatives included: 1) identification and implementation of alternative regulatory approaches to streamline MassDEP's processes and procedures and 2) pursuing major information management initiatives to increase automation and effectiveness of agency activities.

MassDEP's Regulatory Reform Initiative provided a mechanism for reviewing existing regulations to identify efficiency improvements which were required of all state agencies under Governor Deval Patrick's Economic Development Reorganization Act of 2010. MassDEP solicited regulatory reform ideas from a wide array of external stakeholders, as well as from agency staff. This solicitation effort included establishing an external Regulatory Reform Working Group to serve as key advisors in addition to hosting discussion forums with a number of other external stakeholders (which represented diverse interest groups, such as the Massachusetts Health Officers Association, the Boston Bar Association, MassDEP's Superfund Advisory Committee, the Associated Industries of Massachusetts, the Massachusetts Municipal Association and a group of prominent environmental advocacy organizations). Successful alternative approaches being used by other states across the nation were also evaluated for application by MassDEP on behalf of the Commonwealth.

As a result of its Regulatory Reform Initiative, MassDEP recommended changes that 1) streamlined environmental permitting requirements, 2) eliminated certain state permits that either were of low environmental protection value or duplicated local approvals, and 3) encouraged better environmental outcomes by reducing barriers to environmentally beneficial projects such as renewable energy. The resulting programmatic changes, which are now being codified into final regulations, will achieve substantial agency efficiencies without sacrificing environmental protection, by allowing MassDEP to disinvest from low-value regulatory activities, rely upon local regulatory entities where redundant oversight currently exists, and utilize authorized and accredited third parties for selective environmental inspection and regulatory implementation services. These regulatory changes include improvements to the following MassDEP programs: the cleanup of oil and hazardous materials waste sites; public waterfront protection; wetlands protection; wastewater permitting; septic systems; solid waste transfer stations and landfills; asbestos abatement; and clean energy projects. Promulgation of

these regulations is complete, with the exception of wetlands and waterfront protection which are expected to be promulgated before the end of 2014.

One significant example of how MassDEP's streamlining of the regulatory permitting process resulted in reducing barriers to environmentally beneficial projects is the use of closed and capped landfills to support renewable energy facilities, such as solar panels or wind turbines. Previously, MassDEP regulations prohibited the utilization of closed and capped landfills for any other purpose. By understanding the opportunity that renewable energy facilities could provide for closed landfills, MassDEP revised its regulations to allow renewable energy projects while maintaining environmental protection. MassDEP has approved to date: 52 projects rated at 99.9 megawatts of renewable energy projects on closed landfills, and of those projects, there are 23 projects currently operating generating 43.8 megawatts.

In addition to effectively revising its regulations, MassDEP is undertaking an agency-wide review of its business processes to achieve greater efficiency and consistency across the Agency. This effort was initiated in coordination with MassDEP's proposed information system development effort, known as EIPAS. Once developed, the Energy and Environmental Information and Public Access System (EIPAS) is intended to enable both MassDEP (and its sister state environmental and energy agencies) to perform timely, predictable and cost-effective permitting, implement data driven strategies and policies, and respond effectively to environmental threats. In particular, EIPAS will be designed to enhance the permitting process by enabling the submittal of data electronically in an easy-to-use manner, including the online provisioning of fact sheets and permit pre-application guidelines to facilitate the permitting process for the permittee. While MassDEP has existing data systems and an online reporting system, these systems are built on out-dated technology and cannot meet agency needs.

Overall, the goals of the new EIPAS system include:

- Reduced uncertainty and time to business
- Improved stewardship of Massachusetts environmental resources through quicker identification of problems/violations resulting in faster mitigation and resolution.
- Execute data driven strategies and policies
- Increased civic engagement
- Enhance collaboration and data sharing with other agencies (state, Federal and municipalities).

Through implementation of the new EIPAS system, MassDEP expects to provide information to regulated entities and constituents that will promote economic development by utilizing improved permitting guidelines and tools to facilitate access to data regarding all aspects of the permitting process. One important example of how online data will provide valuable benefits to constituents and supports economic development pertains to Brownfields properties. The Commonwealth of Massachusetts is committed to the cleanup and redevelopment of Brownfields properties as a way to stimulate the state economy while promoting environmental protection goals. Typically, Brownfields properties have certain characteristics in common: these sites are typically abandoned or for sale or lease; they typically were utilized previously for commercial or industrial purposes; and the properties may have been reported previously to MassDEP because contamination has been found.

Massachusetts has Brownfields program incentives that are available to buyers, and sometimes sellers, of contaminated property, provided there is a commitment to environmental cleanup and property redevelopment. Brownfields properties are often located in communities where there is a pre-existing infrastructure, workforce and other amenities. There are multiple state incentives can help parties identify risk, limit liability, and fund the cleanup of Brownfields sites, enabling their re-use for industry, housing and other purposes. Through the future implementation of the EIPAS system, it is

MassDEP's intent to utilize Geographic Information Systems (GIS) to display Brownfield sites, in a map format, that are available for redevelopment, and provide easy access to corresponding documents, to enable realtors and other investors to more easily find sites that are available for development.

Finally, by partnering with EPA on the E-Enterprise for the Environment Initiative, MassDEP and EPA can achieve additional governmental efficiencies while reducing administrative burden reduction. E-Enterprise for the Environment is an innovative 21st Century business strategy utilizing joint governance of States and EPA (and soon Tribes) to improve the performance of our shared environmental enterprise by closely coordinating program implementation and creating efficiencies for the regulated community and the public.

Joint governance of the E-enterprise effort means EPA and the States together are coordinating investments, implementing program improvements and modernization, and achieving economies of scale. A new state-EPA governance body, the E-Enterprise Leadership Council, coordinates priority setting and funding. Together, we believe that this effort will make permitting simpler and more efficient for the regulated community while enhancing our shared environmental protection goals. MassDEP participates on the leadership board for E-Enterprise for the Environment and believes strongly in its vision and the opportunities this effort will bring to our regulated entities and constituents.

Through continued support of the E-Enterprise for the Environmental Initiative, I believe that EPA, the states and regulated entities will all benefit from a more coordinated environmental enterprise. I also believe that the E-Enterprise Initiative will maximize governmental efficiencies and significantly reduce administrative burdens through streamlining regulations, optimizing processes and coordinating system development activities.

Thank you for providing me with this opportunity to provide testimony today. I am happy to take any questions.