Regulatory compliance (environmental and economic) is a significant challenge facing the water industry. Various federal, state and local regulations are put in place with objectives ranging from keeping the public and environment safe to protecting customers from unjustified rising tariffs. The necessity of water quality regulations is clearly demonstrated by the recent events gaining headline news coverage, when traces of lead are found in a community’s water supply, causing a serious health impact on the population. A regulatory balance must be struck that simultaneously avoids creating an unnecessary compliance burden, while also protecting consumers.
According to the WeiserMazars’ 2015 U.S. Water Industry Outlook, respondents ranked regulatory compliance as the second most significant challenge facing the industry, only behind aging infrastructure (67% of respondents rated compliance as a 4 or a 5 (most significant) on a 5-point scale, with an average rating of 4.1.) 47% of respondents further claimed that the regulatory environment had a negative impact on their operations – and the numbers reporting this have continuously increased since WeiserMazars’ initial survey launch in 2012.

Figure 10 – Study participants were asked to rate the impact on their operations as positive, neutral or negative.

Challenges associated with regulatory compliance are primarily related to a) costs, b) complexity of rate case filings, and c) the non-uniformity.

"ENVIRONMENTAL AND ECONOMIC REGULATORY COMPLIANCE IS THE TOP CONTRIBUTOR TO INCREASED OPERATING COSTS, AND IS INHERENT TO THE INDUSTRY."

**Costs**
Environmental and economic regulatory compliance is the top contributor to increased operating costs, and is inherent to the industry. Respondents expect compliance to remain a major driver of costs and therefore increased water tariffs in the next five years. Of particular importance are major regulatory programs such as the US Environmental Protection Agency’s (EPA) Safe Drinking Water Act and their Clean Water Act. While these programs were issued in the 1970's, the water industry has not recently faced significant shock reforms on a scale comparable to the effects of the Dodd-Frank Act on the banking industry or the Sarbanes Oxley Act on listed companies. It can be argued that in a post financial crisis environment, compliance has become a major concern for all entities.

**Complexity of rate case filings**
76% of respondents stated that the current overall process of obtaining approvals for a change in regulated rates from a state public utility commission is unnecessarily complex and should be reformed and simplified in the future. Although regulatory commissions have taken steps in order to ease the burden of regulations, more changes still need to be made.

For example, the implementation of the Distribution System Improvement Charge ("DISC"), allows for rate increases, outside of a general rate proceeding, for non-revenue producing investments to replace aging infrastructure. This enabled rate increases without the burden of filing a full rate case application.

Another beneficial program implemented by the regulatory commissions was the accounting for Contributions in Aid of Construction ("CIAC"). When required by the commissions of the states in which a company’s utility operates, outside parties,
generally customers and developers, make payments to the utility subsidiaries to fund certain utility capital expenditures to provide water or wastewater service to new customers. Contributions are permanent collections of plant assets or cash for a particular construction project. For ratemaking purposes, the amount of such contributions generally serves as a rate base reduction, since the contributions represent non-investor supplied funds. Amortization is based upon local state regulatory guidelines.

Another key takeaway from our survey was the ranking of a simplified, harmonized regulatory process as the second most important factor in helping to overcome the industry’s challenges, just behind local political support. These ranked much higher than financial factors.

**Figure 17** – What do you believe will be the most effective in helping the industry face its challenges in the next 3 to 5 years (rate each element with 1 being “least significant” and 5 being “most significant”)?

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**Non-uniformity**

Within the United States, in addition to federal regulations, the water industry is regulated by state and local commissions in the areas where it provides services to the public. A challenge facing the industry is that each of these jurisdictions set forth their own requirements, which can make it very difficult to be in compliance with the full range of unique rules. This uniformity is not just an issue on the regulatory front. For example, a similar observation can be made about operator and management certification programs. As such, it would be of great value to establish a uniform certification program that would be recognized on a national platform.

In 1972, the Association of Boards of Certification (ABC) was created, and currently includes almost 100 certifying authorities, representing more than 40 states and 10 Canadian provinces and territories, as well as several international and tribal programs. These programs have certified more than 240,000 water and wastewater operators, laboratory analysts, plant maintenance technologists, biosolids land appliers, and backflow prevention assembly testers.

The goal of this association is to promote integrity in environmental certification throughout the world and is dedicated to advancing the quality and integrity of environmental certification programs. This sort of uniformity facilitates mobility and consistency in processes and controls, which eventually would result in lower costs and tariffs.

Participants in the water industry continue to view the need for regulatory balance to be a major concern. Some progress has been made in reducing regulatory restriction at the state and local commission level, but respondents believe that compliance costs will continue to be the driving force in rising tariffs over the next five years. Creating standardization across the industry would create uniformity and cost saving synergies. Support for uniform certification programs is building and could be the future national and international standards for the industry, helping to contribute to an improved regulatory balance.

Click here to view the WeiserMazars 2015 U.S. Water Industry Survey

http://www.abccert.org/

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