CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

AGENCY: RI Water Resources Board

RULE IDENTIFIER: *490-RICR-00-00-9*

RULE TITLE: PART 9 – Rules of Procedure for Administrative Hearings

REASON FOR RULEMAKING: This Part prescribes procedures and requirements for the Water Resources Board ("Board") to review, and if required, issue decisions and orders from appeals related to the denial of water supply extensions by water suppliers pursuant to R.I. Gen. Laws §§ 46-15-2(b), 46-15-2.1, 42-35-9, and 42-35-15 ("administrative procedures").

TESTIMONY AND COMMENTS: No comments or objections were received.

CHANGE TO TEXT OF THE RULE: There is no change in the text of the final rule as compared to the proposed rule published in the public notice.

REGULATORY ANALYSIS: The Rhode Island Water Resources Coordinating Board was formed in 1964 to acquire and protect 8,400 acres in West Greenwich and Coventry for the proposed Big River Reservoir Water Supply Project. In 1967, the agency was renamed the RI Water Resources Board (WRB) and empowered with broad legislative authority over statewide water supply. Since 2011, the WRB has been located in and staffed by the RI Division of Statewide Planning. The mission of the Board is *to assure that Rhode Island has enough fresh, clean water, now and in the future.*

WRB is proposing these rules of procedure to implement requirements set forth in R.I. Gen. Laws §§ 46-15-2(b), 46-15-2.1. The statute establishes standards for the extensions of water supplies and authorizes appeals for any denial of extensions to *the state agency or commission having jurisdiction over the public water supply facility*. The new statutory requirements create a new role for the Water Resources Board (WRB) to adjudicate denials of public water extensions by water suppliers within the WRB jurisdictional authority (large suppliers, >50 million gallons per year). The rules adopt the

standard of review for contested cases as set forth in the Administrative Procedures Act (R.I. Gen. Laws §42-35-25).

WRB held multiple public meetings where the proposed rules were drafted and made publicly available through its Technical Committee and Board. The Technical Committee and Board personnel include water supply representatives and riparian experts.

R.I. Gen. Laws §42-35-2.9 requires administrative agencies to conduct a regulatory analysis of proposed rules. The regulatory analysis must include an assessment of the benefits and costs, possible alternate versions, and a determination that the rules as proposed represent the most effective and least burdensome method of fulfilling its purpose.

The WRB and Department of Administration (DOA) will now incur additional administrative costs and responsibilities that were previously vested only in the courts and other administrative and/or regulatory boards and commissions. This directly impacts the WRB, and its' support staff located within the DOA, Division of Statewide Planning. As noted, same will add responsibilities to existing staff, create a need for additional WRB training, and may lead to an increased State fiscal impact for such items as the retention of private legal counsel and additional administrative services. Other Parties (water suppliers, appellants) that appear before the WRB on appeal will incur increased legal and administrative costs directly related to defending and/or prosecuting appeals before the WRB. Further, parties may incur additional costs related to appeals of WRB decisions to Superior Court. The number of appeals is not known at this time. However, same are anticipated to be relatively small and localized. The largest suppliers, such as Providence Water, have low demand and adequate capacity for extensions.

The proposed rules offer maximum flexibility and are drafted to reduce costs to all parties and WRB. Matters may be resolved through a prehearing process (9.5 D); Records may be condensed (9.5E); A full hearing may be waived (9.6 H); And alternate methods for reaching agreement are provided for (9.6 I, J).