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DEPARTMENT OF ENVIRONMENTAL PROTECTION  
OFFICE OF ADJUDICATIONS

January 29, 2010

Ms. Traci Iott  
Department of Environmental Protection  
Planning & Standards Division  
79 Elm Street  
Hartford, Connecticut 06106-5127

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Department of Environmental Protection  
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Hartford, Connecticut 06106-5127

**Re: Proposed revisions to the  
state Water Quality Standards**

To whom it may concern:

On behalf of the Connecticut Business & Industry Association (CBIA) and the thousands of member companies regulated under various programs administered by the Connecticut Department of Environmental Protection's (DEP) Bureau of Water Protection and Land Reuse, I am writing to request a withdrawal of the December 22, 2010 public notice concerning the DEP's proposed revisions to the state's Water Quality Standards and a scheduling of a separate hearing for the technical documentation supporting the proposed revisions to be followed by a hearing on the proposed Water Quality Standards.

The bases for our request are as follows:

a. Statutory insufficiency

Connecticut General Statutes (CGS) section 22a-426(b) requires that "the commissioner shall make available to any interested person any information he has as to . . . the standards under consideration . . ." The DEP has yet to make available detailed technical information used by the DEP to develop the Water Quality Standards, with the exception of a memorandum concerning dissolved oxygen made available on January 12, 2010.

b. Lack of consistency with the federal standards

CGS 22a-426 also mandates that the “[s]uch standards shall be consistent with the federal Water Pollution Control Act . . .” It appears that dozens or perhaps hundreds of DEP’s proposed standards are not consistent with those adopted under the federal program.

c. Lack of consistency with the federal adoption process

Under Title 33 of the United States Code (USC) section 1374, at least 180 days prior to issuing a notice of proposed revisions to federal water quality standards, the Environmental Protection Agency (EPA) is required to provide a technical advisory with up to 120 days to review and provide the EPA with technical and scientific analyses related to the need, if any, for revising the federal standards. CBIA believes that the consistency with the federal Water Pollution Control Act required by CGS 22a-426 extends to the process for evaluating proposed standards. DEP has not provided the opportunity for technical and scientific review and therefore is not acting in a manner consistent with the section 33USC1374 of the federal Water Pollution Control Act.

d. Insufficient record for public comment

In public meetings, the DEP has stated that it has been working on completing documents detailing the scientific and technical information and analyses used by the DEP to develop the proposed standards. By our count, over 550 new or revised standards are being proposed. As of the date of this letter, and with only 2 full business-days left before the hearing is scheduled to take place, the DEP has failed to make the technical/scientific support documentation available to the public. Accordingly, it is impossible for the public and the regulated community to understand how the proposed criteria were derived and to meaningfully comment on them before the hearing officer.

Accordingly, CBIA requests that the DEP do the following:

1. Withdraw the December 22, 2010 public notice and cancel the February 3, 2010 public hearing;

2. When the technical justification documentation is ready for public distribution, issue a 120-day public notice announcing a public hearing and comment period focused on those the technical documentation and the numeric criteria being proposed by the DEP that differ from the federal criteria;
3. After issuing a final set of numeric criteria taking account the comments received under #2, meet with the regulated community and other interested parties to discuss how the new standards will be implemented and their potential impacts on the state, municipalities and the regulated community; and
4. Issue a notice of public hearing and comment on the non-numeric aspects of the Water Quality Standards.

CBIA appreciates your consideration of this request and we look forward to your response.

Sincerely,



Eric J. Brown  
Associate Counsel

Cc: Ms. Betsey Wingfield

In accordance with the provisions of RCSA 22a-3a-6, I, Eric Brown, do hereby certify that a copy of this request was hand delivered to the offices of the addressees on Friday, January 29, 2010.

