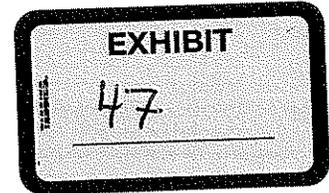


MAR 17 2010

March 17, 2010



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

Re: Proposed revisions to the  
State Water Quality Standards

Dear Ms. Iott:

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 supplement our comments from the public hearing on the DEP's proposed Water Quality Standards (WQS).

With respect to the content of the proposed WQS, we supplement our previous comments with the following:

- **SURFACE WATER QUALITY STANDARDS.** Item 10, Page 3, states the following in regard to establishing a zone of influence "...and, if established, shall provide a maximum 100:1 dilution ratio for any discharge." There is no technical basis for this requirement provided in the TSD and it should be removed. The requirement in the preceding sentence that the zone of influence not preclude attainment of the existing and designated uses of the receiving surface water body should be sufficient.

The Federal Clean Water Act (CWA) Section 316(a) allows for a thermal variance of existing effluent limitations if it can be demonstrated the balance indigenous population/community in the water body is maintained and protected. This provision should be explicitly added to this section of the WQS.

- **CLASS SB DESIGNATED USES AND CRITERIA.** Temperature, Page 20; numerous changes were made to the temperature criteria without providing adequate scientific justification for the changes in the TSD for Water Temperature. The current temperature WQS states "There shall be

no changes from natural conditions that would impair any existing or designated uses to this Class and, in no case exceed 83 degrees F, or in any case raise the temperature of the receiving water more than 4 degrees F. During the period including July, August, and September the temperature of the receiving water shall not be raised more than 1.5 degrees F unless it can be shown that spawning and growth of indigenous organisms will not be significantly affected.” We suggest that the proposed wording be removed and replaced with the current language provide in quotes above. Furthermore, if the temperature WQS are not attained there should be an allowance for a thermal variance demonstration by the permittee (see the bullet above).

The TSD for Water temperature (Page 9) infers that the proposed maximum daily mean of 82°F for marine waters is based on a review of the Quality Criteria for Water 1986 (Gold Book) EPA 440/5-86-001 (Table 7 of the TSD) and ambient temperature data for Long Island Sound (Table 8 of the TSD). However, no narrative discussion is provided to support the change. In fact, the current CTDEP Criteria of 83°F was accepted into the current CTDEP regulations in 2002, six years after the Gold Book was published.

The TSD for Water Temperature (Page 8, Table 9) proposes an hourly maximum of 83°F while it presents a short-term maximum of 87°F in the Gold Book (Page 7, Table 7). Again, no narrative discussion is provided to support the change. It appears DEP is choosing the lowest number available without consideration of the scientific basis or site-specific conditions. DEP states on Page 1 of the TSD “...EPA includes temperature criteria but does not provide numerical values. Instead, the table recommends the adoption of species dependent criteria for water temperature...” We suggest that this is the most scientifically justifiable approach and can be accomplished by performing a 316(a) demonstration where the WQS are exceeded.

DEP proposes that the temperature of the receiving water not be raised by more than 2°F. However, the TSD for Water Temperature (Page 7) contradicts the proposal and supports retaining the current criterion for incremental increases: “During the months of July, August, and September, the temperature increase to marine waters is 1.5°F. At all other times, the allowable increase in marine waters is 4°F.” We believe the current criterion should be maintained and only altered by a successful 316(a) demonstration.

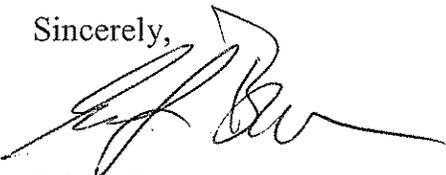
Appendix A provides no temperature criteria for marine species. We suggest that the Appendix be updated with information available in the scientific literature.

- **BENCHMARKS.** CBIA also has concerns regarding two additions under Section 12A of the Proposed CT WQS. Essentially, this section would further expand DEP and the Commissioner discretion outside of any requirement for rulemaking or public comment to create new numeric criteria - under the label of “benchmark” - for compounds and/or effects and exposures not addressed in Appendix D to the WQS. However, the meaning of “benchmark” is not clearly defined in this section or anywhere in the proposed WQS document; furthermore, the concept of “benchmark” is not recognized under the Clean Water Act. As stated in DEP’s introduction to the “Proposed Revisions to Connecticut Water Quality Standards”, the “purpose of these WQS is to provide clean (sic) and objective statements for existing and projected water quality and the general program to improve Connecticut’s water resources.”<sup>5</sup> However, since the meaning and purpose of the term “benchmark” in the proposed WQS is not defined, DEP should either remove this sentence from the WQS document or provide a clear definition.

Furthermore, the term “benchmark” is linked to Table 2 of Appendix D “Criteria for Chemical Constituents Not Included in Appendix D Table 1” of the WQS document and appears to be intended to serve as numeric criteria. Section 22a-426(b) of the Connecticut General Statutes mandates “prior to adopting, amending or repealing standards of water quality, the commissioner shall conduct a public hearing.” Development of “benchmark” criteria should likewise be subject to public notice and comment.

Thank you for this opportunity to supplement our earlier comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Eric J. Brown', with a large, stylized flourish extending upwards and to the right.

Eric J. Brown  
Associate Counsel