



**HOME BUILDERS ASSOCIATION OF CONNECTICUT, INC.**  
1245 FARMINGTON AVENUE, 2<sup>nd</sup> Floor, WEST HARTFORD, CT 06107  
Tel: 860-521-1905 Fax: 860-521-3107 Web: [www.hbact.org](http://www.hbact.org)

*Your Home  
Is Our  
Business*

March 2, 2010

To: Senator Gary D. LeBeau and Representative Jeffrey J. Berger, Co-Chairs, and members of the Commerce Committee

From: Bill Ethier, CAE, Chief Executive Officer

Re: RB 5359, An Act Requiring Permits Issued by the Department of Environmental Protection be Adopted in Accordance with the Uniform Administrative Procedures Act.

**The HBA of Connecticut is a professional trade association with 1,100 member firms statewide, employing tens of thousands of Connecticut citizens. Our members are residential and commercial builders, land developers, home improvement contractors, trade contractors, suppliers and those businesses and professionals that provide services to our diverse industry. We estimate that our members build 70% to 80% of all new homes and apartments in the state.**

**We support RB 5359 as another step to bring outside oversight to DEP's regulatory work.** It falls in line with RB 174 (in this committee) which would require DEP's water quality standards to be adopted pursuant to the UAPA, and RB 120 (in the Environment Committee) which would establish a process to potentially require DEP's guidance manuals, documents and policy letters that have regulatory impact to be reviewed according to the UAPA. Thank you for raising this important bill.

**As we stated in our testimony before you last week on RB 5208 (expedited permitting), Connecticut's development and permitting environment is extremely difficult.** We cited to documents that outline the regulatory torture faced by developers of property in this state. We also refer you to our testimony submitted to the Regulations Review Committee on January 26, 2010, for some specific regulatory burdens faced by our industry (*also posted on our Housing & Economic Development page*).

**Included in this complex mix of regulatory hurdles are DEP's "general permits."** The requirements of general permits are, of course, mandatory yet they are adopted and revised entirely within the confines of DEP with no formal outside review, as are regulations applicable to individual permits (i.e., review by OPM, Governors Office, Attorney General's Office and the Regulations Review Committee).

**DEP's general permits that are affected by this bill have a direct and significant impact on the regulated community and economic development potential of the state.** General permits can serve a very useful function to help streamline the regulation of common, less complicated or minor activities. However, without outside vetting of a general permits' requirements, as well as the process to "obtain" a general permit, DEP has adopted general permits that can add months if not years to the overall permitting process.

Testimony, Home Builders Association of Connecticut, Inc.  
5359, An Act Requiring Permits Issued by the Department of Environmental Protection be Adopted  
in Accordance with the Uniform Administrative Procedures Act.  
March 2, 2010, page 2

**Moreover, in the case of DEP's stormwater general permits (and perhaps others), they are not true general permits.** A general permit typically means someone who wants to conduct a regulated activity designs the activity a required way, and files with the agency the necessary paperwork (a general permit application) to document the activity. Once filed, the applicant should be able to proceed (i.e., the permit to conduct the activity is granted by virtue of filing the required designs and paperwork with the agency). Failing automatic approval, there should at least be a quick, streamlined process for approving general permits. If a problem does develop with a project operating under a general permit, the agency has the documentation to conduct enforcement activities. **However, DEP has designed its stormwater general permit in a way that forces applicants into lengthy waits for approval.** The wait may not be as long as waiting for an individual permit, but again can take months to over a year – all tacked onto sequential approvals necessary from other state agencies and local officials.

**Regulations applicable to individual permits already follow UAPA rulemaking. It seems consistent to us that the requirements of and process to obtain a general permit should do the same.** RB 5359 merely requires that a general permit's requirements on the regulated community and the process required to apply for a general permit must be adopted through UAPA rulemaking.

**DEP's threat to force everyone into the individual permit process if this bill is adopted misses the point of the bill.** There is and should be a distinction between individual and general permits. They regulate different degrees, levels or intensity of activity. Requiring that both mechanisms (individual and general permits) be set up through UAPA rulemaking process does not destroy the distinction between the two or the necessity to continue both types of permits. Rather, requiring both mechanisms be adopted through the checks and balances of the UAPA ensures that DEP no longer works in the dark, without outside oversight by other government entities, and should produce better permitting systems for all.

We urge you to pass RB 5359, and to work with leadership so it and other measures this committee pursues to improve our regulatory environment survive the Environment Committee, perhaps other committees and the onslaught of advocates who want to keep the status quo.

Thank you for the opportunity to comment on this legislation.