



Connecticut Business & Industry Association

**TESTIMONY OF ERIC J. BROWN
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BEFORE THE
COMMERCE COMMITTEE**

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Good afternoon. My name is Eric Brown and I am associate counsel with the Connecticut Business and Industry Association (CBIA). CBIA represents thousands of businesses of all sizes throughout Connecticut that provide hundreds of thousands of Connecticut citizens with good jobs and good benefits.

CBIA is pleased to have this opportunity to voice our support for two bills on your public hearing agenda today:

S.B. No. 174 (RAISED) AN ACT CONCERNING STANDARDS OF WATER QUALITY.

S.B. No. 5208 (RAISED) AN ACT CONCERNING EXPEDITING PERMITTING FOR ECONOMIC DEVELOPMENT

The State Water Quality Standards (WQS) represent the technical foundation of a wide variety of regulations and programs administered by the Department of Environmental Protection.

The DEP is currently seeking to dramatically revise the WQS by instituting or revising over 500 hundred specific criteria. Notice of a public hearing and issuance of the draft proposal was issued on Dec. 22. DEP held a hearing on Feb. 4. The multi-hundred page document explaining the justification for the changes was made available to the public roughly 24 hours prior to the hearing.

Yet current law does not require the WQS to be adopted or revised in accordance with the Uniform Administrative Procedures Act as proscribed in Chapter 54 of the Connecticut General Statutes. Thus, DEP has complete control over the adoption of these standards with no opportunity for administrative appeal nor legislative review.

The UAPA defines “regulation” as follows:

"Regulation" means each agency statement of general applicability, without regard to its designation, that implements, interprets, or *prescribes law or policy*, or describes the organization, procedure, or practice requirements of any agency. . ."

Additionally, the 2009 version of the “State of Connecticut Manual for Drafting Regulations” prepared by the Legislative Commissioners’ Office states:

“According to the [statutory] definition, if an agency drafts any directive that has general applicability, whether or not it is designated a regulation, it is considered a regulation.”

According to the DEP’s website: “The WQS do not stand alone as a regulatory means of protecting public health and the environment. *These standards are integrally related to, and applied by DEP simultaneously with, other statutory and regulatory requirements governing water and waste management.* As an example of how these pieces fit together, the following may be of assistance.” (emphasis added).

The Water Quality Standards are applied generally throughout DEP’s water permitting and remediation regulations and permits. They also prescribe DEP policy. They also meet the definition under the UAPA of a “regulation” and therefore should be subject to the requirements of the Uniform Administrative Procedures Act as defined in Chapter 54 of the Connecticut General Statutes

Regarding HB-5208, CBIA supports this bill as a concept. It is regrettable that such a bill is necessary but until the permitting and other related processes are changed so they are no longer administered an unnecessarily cumbersome way, a bill such as this is necessary in the short-term.

Thank you for this opportunity to support SB-174 and HB-5208