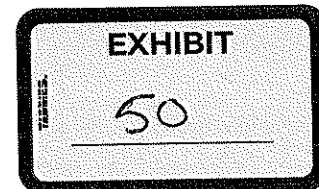


A P E RESEARCH COUNCIL

DEPARTMENT OF WATER PROTECTION AND STANDARDS
PLANNING & STANDARDS DIVISION

1250 CONNECTICUT AVENUE, NW, SUITE 700, WASHINGTON, DC 20036
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MAR 17 2010



March 16, 2010

Ms. Traci Iott
CT Department of Environmental Protection
Bureau of Water Protection and Land Reuse
Planning & Standards Division
79 Elm Street
Hartford, Connecticut 06106-5127

**SUBJECT: CONCERN WITH ADDITIONS UNDER SECTION 12A OF
PROPOSED CONNECTICUT WATER QUALITY
STANDARDS (DECEMBER 22, 2009)**

Dear Ms. Iott:

The Alkylphenols & Ethoxylates Research Council (APERC)¹ appreciates this opportunity to comment on the Connecticut Department of Environmental Quality (DEP) proposed revisions to the Connecticut Water Quality Standards (CT WQS).² We recognize that the CT WQS are an important element in Connecticut's clean water program, providing the overall policy for management of water quality in accordance with the directives of Section 22a-426 of the Connecticut General Statutes and the federal Clean Water Act (Title 40 Part 131.12).

APERC provided separate comments both in written form and as an oral statement supporting adoption of the federal Water Quality Criteria (WQC) for nonylphenol as the numeric criteria for this compound in the WQS.^{3 4} However, APERC has concerns regarding two additions under Section 12A of the Proposed CT WQS, which are emphasized by underlining in the excerpt below.

"12. The Commissioner, pursuant to Chapter 446k of the Connecticut General Statutes and regulations adopted there under, will regulate discharges to the

¹ Members of the Alkylphenols & Ethoxylates Research Council include: Dover Chemical Corporation, The Dow Chemical Company, SI Group, and TPC Group.

² Connecticut Department of Environmental Protection (CTDEP). (2009, December 22). Proposed Revisions to Connecticut Water Quality Standards.

http://www.ct.gov/dep/lib/dep/water/water_quality_standards/water_quality_standards_proposed_12_22_09.pdf.

³ Alkylphenols & Ethoxylates Research Council (2010, February 3) Statement Supporting Connecticut Department of Environmental Protection Adoption of US EPA Water Quality Criteria for Nonylphenol in Connecticut Water Quality Standards.

⁴ Alkylphenols & Ethoxylates Research Council (2010, March 16) Comments on Criteria for Nonylphenol in Proposed Revisions to Connecticut Water Quality Standards (December 22, 2009)

surface waters to assure that such discharges do not cause acute or chronic toxicity to freshwater and marine aquatic life and wildlife, do not impair the biological integrity of freshwater and marine ecosystems and do not create an unacceptable risk to human health.

(A) (i) In making a determination under Chapter 446k of the Connecticut General Statutes as to whether a discharge will or can reasonably be expected to cause pollution of surface waters, the Commissioner shall consider the numeric criteria for the toxic pollutants listed in Appendix D.;

(ii) benchmarks for substances not contained in Table 1 of Appendix D, shall be developed on a case by case basis, consistent with the protocols contained in Table 2 of Appendix D of the WQS provided the Commissioner determines such benchmarks are protective of human health and the environment; and

(iii) additional scientific and technical information may be used, as available, for exposures and effects not explicitly addressed through the application of the numeric criteria listed in or developed in accordance with Appendix D.

As written, these proposed additions to the WQS appear to give 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."⁵ 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." So,

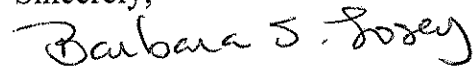
⁵ Connecticut Department of Environmental Protection (CTDEP). (2009, December 22). Proposed Revisions to Connecticut Water Quality Standards.
http://www.ct.gov/dep/lib/dep/water/water_quality_standards/water_quality_standards_proposed_12_22_09.pdf.

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development of "benchmark" criteria should likewise be subject to public notice and comment.

The use of consistent terminology to describe numeric criteria in the WQS along with the process of public notice and comment will ensure clarity and transparency in the development or amendment of WQS as required under the Connecticut General Statutes and the federal Clean Water Act.

Sincerely,

A handwritten signature in black ink that reads "Barbara S. Losey". The signature is written in a cursive style with a large initial 'B' and a distinct 'L'.

Barbara S. Losey
Deputy Director