



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION



PAUL R. LEPAGE
GOVERNOR

PATRICIA W. AHO
COMMISSIONER

August 31, 2015

Mr. Curt Spalding, Regional Administrator
EPA Region I
5 Post Office Square - Suite 100
Boston, MA 02109-3912

Dear Administrator Spalding:

This letter is in response to the publication on EPA's Action Initiation List of EPA's intent to publish new regulations related to Maine's water quality standards. In 2015, after Maine was forced to sue EPA, and only after being ordered by a court to render a decision, EPA inundated DEP with 22 separately listed disapprovals of Maine's water quality standards, set forth in 20 separate statutory provisions and 2 DEP rules. Many of the standards now disapproved by EPA have been established in Maine law for more than 15 years, and some disapproved standards have been established in Maine law for 30 years. EPA knowingly ignored its obligation to render an approval decision regarding Maine's water quality standards for 30 years, despite the fact that EPA's decision was required by law within 90 days of the State adoption of a standard.

Now, after EPA took up to 30 years to act, EPA is taking the untenable position that DEP is being too slow to act, and is requiring the immediate unraveling of decades of water quality standards which are the basis for hundreds of permit approvals throughout the state. The standards just disapproved by EPA require careful, thoughtful, scientific evaluation for the State to determine the appropriate course of action going forward. That takes time. One standard alone – human health criteria – requires the evaluation of 120 different chemicals. Given the decades-long refusal of EPA to render a decision, Maine should be afforded more than just 90 days to conduct an appropriate, science-based evaluation of EPA's disapprovals.

Given EPA's refusal to provide Maine reasonable time and conditions under which to consider EPA's long-delayed and untimely actions, we have now come to the conclusion that EPA has no interest in Maine's thoughtful and science-based implementation of water quality standards under the Clean Water Act. It is now clear to us that the only water quality standards that would be acceptable to EPA are those imposed by EPA. Under the current construct, Maine's two choices are to promulgate water quality standards that EPA says it will accept or allow EPA to promulgate the water quality standards, leaving Maine to administer the EPA-imposed program. The imposition of federal standards on the state is *de facto* federalization of the program. Therefore, we are currently evaluating our options,

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including returning the Clean Water Act delegated programs to EPA for its administration, if Maine is required to administer EPA's program.

Despite the fact that it is becoming increasingly difficult, we would like to continue to work with you on these issues. We intend to continue to dialog with EPA staff regarding the details of EPA's water quality standards disapprovals. It is my understanding that a meeting has been set for September 21 with EPA.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patricia W. Aho". The signature is fluid and cursive, with a large initial "P" and "W".

Patricia W. Aho
Commissioner

Cc: Heather Parent, Deputy Commissioner
Mick Kuhns, Director