



**OFFICE OF THE MAYOR**  
**TOWN OF WALLINGFORD**  
**CONNECTICUT**

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January 11, 2013

Macky McCleary, Deputy Commissioner  
Department of Energy and Environmental Protection  
State of Connecticut  
79 Elm Street  
Hartford, CT 06106-5127

RE: Public Act 12-155 – Statewide Strategy to Reduce  
Phosphorous Loading

Dear Deputy Commissioner McCleary:

Thank you for the opportunity to comment on the State Department of Energy and Environmental Protection's (DEEP) efforts to implement Public Act 12-155, which requires DEEP and the chief elected officials or their representatives of Cheshire, Danbury, Meriden, Southington, Wallingford, Waterbury and any other impacted municipality, to collaboratively evaluate and make recommendations on a statewide strategy to reduce phosphorus loading in inland nontidal waters to comply with EPA standards.

This process was adopted by the Connecticut General Assembly to help ensure that DEEP and the affected municipalities work together to explore cost-effective approaches for reducing phosphorus levels based on updated water quality data and proper scientific methods. We are hopeful that this may assist municipalities in exploring opportunities to utilize less expensive treatment methods and determine whether such methods are successful in reducing phosphorus to minimize the need for costly plant upgrades.

The Town of Wallingford and a number of other municipalities are currently faced with enormous compliance burdens associated with DEEP's proposed permit requirements relative to phosphorous discharge limits. According to DEEP's data, some 45 entities in Connecticut will be affected by the new discharge standards. For Wallingford, Cheshire, Southington and Meriden, the four towns along the Quinnipiac River, compliance with the proposed permit

limits would require a total capital investment of approximately \$58 million, a total increase in plant operating costs of \$1.9 million per year and resultant rate increases that would range from 23% to 40% by town. For Wallingford alone the initial capital investment is estimated at \$19 million with a resulting 32% rate increase.

We are currently in the process of negotiating permits with DEEP and understand that the process outlined under Public Act 12-155 does not impact these negotiations. We appreciate DEEP's efforts to work with us to address concerns as part of the permit negotiations.

However, some issues warrant further discussion to ensure that efforts to move forward with a statewide phosphorous reduction plan meet the requirements outlined under Public Act 12-155. This Act requires the development of a statewide plan to: 1) Address phosphorous nonpoint source pollution; 2) Identify approaches for municipalities to use to comply with EPA standards for phosphorous reduction, including guidance for treatment and potential plant upgrades; and 3) Utilize proper scientific methods for measuring current phosphorous levels in inland nontidal waters and making future projections of phosphorous levels.

To achieve the goals outlined in Public Act 12-155, the Town of Wallingford supports the use of a collaborative mode as outlined in the attached document.

As participants in the stream flow negotiations, the Town of Wallingford recognized that a collaborative model was extremely useful in negotiating complex regulations in a respectful, thoughtful manner. We believe that a collaborative model such as this is necessary to fully achieve the goals of Public Act 12-155.

In addition, the Town of Wallingford fully supports and encourages DEEP to consider the comments submitted on behalf of the Connecticut Municipal Nutrient Group.

In order to move forward with the development of a workable solution to these issues, we would welcome the opportunity to engage in a meaningful dialogue with the DEEP regarding the following topics that relate to both the Quinnipiac River basin and to the basins in which the other regulated cities and towns are located:

- The linkage or lack thereof between in-stream levels of phosphorous and water quality impairment;
- The impact on water quality that might be achieved through a significant reduction in non-point sources of phosphorous;
- Whether significant reductions in point source discharges of phosphorous are the most cost-effective means of improving stream quality;
- Whether other scientific methods used in other states would provide the regulated communities with more flexibility in achieving water quality standards in a more cost-effective manner (to reduce burdens on municipalities and residential and business customers);
- The timeframe for achieving compliance should provide the regulated communities with sufficient time to develop and implement compliance plans; and
- Effects should be made to ensure that the regulated communities are not subjected to piecemeal approaches to implement water quality standards that will necessitate ongoing additional plant upgrades.

We are hopeful that the DEEP will support this approach, which would allow the state to develop a comprehensive, workable framework for achieving phosphorous reduction.

Sincerely,

A handwritten signature in black ink, appearing to read "William W. Dickinson, Jr.", written in a cursive style.

William W. Dickinson, Jr.  
Mayor

jms  
Attachment

## Public Act 12-155 (SB-440)

### AN ACT CONCERNING PHOSPHOROUS REDUCTION IN STATE WATERS

#### Proposed Framework for Collaboration

Public Act 12-155 requires the Department of Energy and Environmental Protection (DEEP) and the chief elected officials or their representatives of Cheshire, Danbury, Meriden, Southington, Wallingford, Waterbury, and any other impacted municipality, to collaboratively evaluate and make recommendations on a statewide strategy to reduce phosphorus loading in inland nontidal waters to comply with EPA standards. The strategy must include:

1. A statewide response to address phosphorous nonpoint source pollution;
2. Approaches for municipalities to use to comply with EPA standards for phosphorous reduction, including guidance for treatment and potential plant upgrades; and
3. The proper scientific methods for measuring current phosphorous levels in inland nontidal waters and making future projections of phosphorous levels in these waters.

In order to achieve these goals, we recommend that the DEEP adopt a framework for collaboration comparable to the model used to successfully negotiate the state's stream flow regulations. This model enabled negotiations on a very complex and controversial subject to move forward in a productive, informative and respectful manner.

This model is also consistent with DEEP Commissioner Daniel Esty's vision for the agency – to promote environmentally sustainable policies that are compatible with economic development and job growth – which allowed stakeholders to find the necessary balance to negotiate stream flow regulations. This approach recognized that government and the regulated community must work together to develop policies that make sense from an environmental standpoint as well as an economic one. We urge DEEP to utilize a collaborative model that would include the following components:

1. **Use of Third Party Neutral:** Utilize a third party neutral to assist the participating parties in identifying areas of common ground, framing areas of agreement and contention and in helping the group reach consensus where possible. Each participating group should also be invited to share their concerns about the other groups' position, motivation and arguments and allow the group to discuss those concerns, providing participants with greater understanding and appreciation for the positions of each participant. This helps develop greater trust among participating groups that everyone at the table is committed to resolving these issues in a thoughtful manner.

2. **Organizational Meeting to Agree on Procedures and Topics:** Each participating group identifies a limited number of individuals to attend an organizational meeting to discuss and agree upon the ground rules for the discussions (number of participants, format for discussions, etc.) and to identify the topics for discussion. We believe that, in order to succeed in achieving the goals set forth in PA 12-155, these topics must include the following:
  - The range of available scientific approaches with which to evaluate the role of nutrients in stream impairment.
  - The methods to be used to measure the success of phosphorous reduction activities.
  - The establishment of reasonable expectations for determining what level of phosphorous reduction can be attained in a cost-effective manner.
  - The consideration of all contributing sources of phosphorous and the development of a comprehensive plan for addressing these sources in a cost effective and balanced manner.
3. **Agreement on Process:** Ultimately, the group would decide the number of core participants representing each perspective with some groups rotating in an expert participant or two as needed for specific discussions. “Observers” who do not otherwise have a role in the meeting would not be permitted.
4. **Informative Discussions:** Participants would be encouraged to circulate materials or proposals among the group and/or engage in any pre-meeting discussions to help in framing issues, developing options, and giving one another a chance to review and consider proposals before the meeting date.
5. **Regular Meetings:** The group would meet on a regular basis and work through specific issues on a case by case basis and create language that reflects the consensus of the group.

Clearly, a process in which state agencies, lawmakers and interested parties work together in partnership is a powerful tool for developing thoughtful, balanced policies that benefit the environment and make economic sense for our communities.

We believe that a collaborative model such as this is necessary to fully achieve the goals of Public Act 12-155.