

**COMMENTS OF CONNECTICUT MUNICIPAL NUTRIENT GROUP
REGARDING STAKEHOLDER PROCESS UNDER PUBLIC ACT 12-155**

- **GENERAL PROCESS:** We commend DEEP for starting the stakeholder process that was required by the General Assembly in enacting Public Act 12-155. The communities in the Connecticut Municipal Nutrient Group¹ look forward to playing an active role in that process.
- **COLLABORATION:** The process to be followed should be a collaborative one, following the model used in the stream flow discussions. We have provided DEEP with our ideas as to how that process should be structured. (A copy of those recommendations is attached to these comments.) Key elements of that process should include: use of a third-party neutral, an organizational meeting, agreement on the process, informative discussions, and regular meetings.
- **DEFINING THE PROBLEM:** In determining how best to address nutrient issues, the group should start by clearly defining the problem that needs to be addressed - adverse impacts on designated uses of Connecticut waters – and then focus on measures that will actually address the designated use impairments.
- **COSTS:** The group also needs to think carefully about the costs to communities and other regulated parties to implement controls, so that the ratepaying public is not hit with severe burdens and so that other critical municipal services are not impaired. We plan to present information about these issues, so they can be considered by the group.
- **SCIENCE:** It is critical that the process for addressing nutrient issues use the best available science. We are concerned that the methods that DEEP has been using to date have several critical problems, including that they rely on unproven scientific analyses, focus too much on phosphorus as the only causative factor in creating algae growth issues, and do not look at actual biological conditions in the streams. The result of using these methods could be large expenditures of public funds with little, if any, environmental benefit.
- **OTHER METHODS:** We believe that other scientific methods are available, and being used in other States, that are more science-based, more flexible, and more likely to achieve real water quality improvements in a cost-effective manner. We will bring forth information about these other methods, which will be important for the group to consider fully, along with any other options that other stakeholders bring forward.

¹ The members of the Connecticut Municipal Nutrient Group include the communities of Southington, Wallingford, Danbury, Torrington and Meriden. Other communities may join the group as well.

- **COMPLIANCE TIME:** Regardless of the scientific methods that are used, it will be important to ensure that parties who receive new requirements are provided with adequate time in which to comply with those requirements. Compliance schedules should be addressed in the permitting process, rather than becoming an enforcement matter.
- **STUDIES:** Regulated parties, and other stakeholders, need to be provided with an opportunity to conduct studies to demonstrate that particular requirements are either justified or not appropriate. The group should come to agreement on what options will be available for conducting those studies. The group should also determine a process for doing the studies and for DEEP to review the studies in a timely way and make prompt decisions as to how they should be used, subject to legal review.
- **PUBLIC EDUCATION/SUPPORT:** To obtain public support to construct nutrient reduction facilities that may require significant capital expenditures, it is essential that the public be educated as to the environmental need for such projects. By using a collaborative process to ensure that all stakeholders understand and agree with the fundamental approach and methodology used to set long-term nutrient limits, education of the public on the justification for these projects can be accomplished by DEEP and the communities affected by these limits.

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. The group may decide to create subgroups that will conduct focused discussions on specific issues. However, any decisions on those issues would be made by the group as a whole.
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.