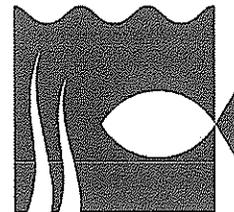


**Connecticut Fund
for the Environment**



Save the Sound®
A program of
Connecticut Fund for the Environment

**Testimony of Connecticut Fund for the Environment
Before the Public Health Committee**

**STRONGLY OPPOSING House Bill 5477 AN ACT CONCERNING THE CLEAN WATER ACT
AND STREAM FLOW REGULATIONS**

Eric Annes, Legal Fellow

March 12, 2010

Connecticut Fund for the Environment ("CFE") is a non-profit environmental organization with over 6,500 members statewide. For thirty years, CFE has used law, science, and education to protect and preserve Connecticut's natural resources.

Connecticut Fund for the Environment **STRONGLY OPPOSES Raised Bill 5477**. There is no way to describe this bill other than as anti-environment. This bill effectively repeals Public Act No. 05-142 and undermines the regulatory process that DEP has been following for the past five years at the direction of this legislature. This bill also removes the ability of DPH to enact reasonable pollution **prevention** regulations and establishes case by case after the fact **remediation** as the state's public health and environmental policy. This bill should be rejected.

Ten years ago the DEP had the unenviable position of testifying in court that its own regulations were insufficient to protect water quality. *See Waterbury v. Washington*, 260 Conn. 506 (2002). DEP was told by the Connecticut Supreme Court that the only way to correct this problem was to enact new regulations. *Id.* at 571. Because the underlying statute was flawed, this legislature enacted Public Act 05-142 with overwhelming support. Public Act 05-142 directed DEP "after consultation with [DPH, DPUC], and advisory group convened by the Commissioner of Environmental Protection, and any other agency, board or commission of the state with which said commissioner shall deem it advisable to consult and after recognizing and providing for the needs and requirements of public health, flood control, industry, public utilities, water supply, public safety, agriculture and other lawful uses of such water . . . adopt regulations in accordance with [the APA], establishing flow regulations for all rivers and stream systems."

The DEP did what it was directed to do. An advisory group met numerous times over the course of three and half years to provide DEP with a broad perspective on the potential impact of revised regulations on various stakeholders. DEP consulted with other state agencies, municipalities, water utilities, scientists, and environmental and recreational advocacy organizations. A science and technical working group was formed consisting of recognized experts from various disciplines to insure that the regulations would be based on the best

available science. A policy and implementation workgroup was convened to evaluate various policy options relating to implementing revised regulations.

In October 2009, nearly three years after the deadline established by the legislature, the DEP published a draft of the proposed regulations. DEP staff traveled throughout the state holding informational sessions concerning the proposed regulations. On January 21, 2010 DEP conducted a public hearing where a very large number of people had an opportunity to testify. Nearly 400 people, organizations, businesses and municipalities submitted written comments. DEP will review the comments it has received and will make necessary changes in response to the comments. The legislature will have an opportunity to review the proposed regulations through the Regulations Review Committee.

The process for updating the stream flow regulations has been and continues to be thorough. The opportunity for input has been ample. The effort and dedication by DEP staff has been exceptional. It is not time for the legislature to wipe that all away.

Our agencies are strapped for resources. This legislation requires DEP, DPH and DPUC to expend untold resources on studies, reviews and dockets to no end. There is no reasonable expectation that any new regulations will be produced within the next decade. This is on top of the fact that the proposed regulations do not make any substantive changes for at least 10 years from the time they are enacted which itself is at least a year away.

We know that the current streamflow regulations are inadequate. We should be encouraging the creation of new and effective regulations. We should not be putting up roadblocks. Accordingly, section two of House Bill 5477 should be rejected.

Section one of House Bill 5477 should also be rejected. This section prohibits DPH from requiring regular inspections or pumping of septic tanks. There is no reason for this prohibition. Regular maintenance of septic tanks is necessary; it is the best defense against backyard cesspools and human waste making its way into our drinking water. It is better to prevent pollution than to remediate it. A legislative prohibition against a certain method of regulation is not in the best interest of public health.

For the above reasons, we **STRONGLY OPPOSE House Bill 5477.**