

Testimony
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Wallingford Public Utilities
Before the Commerce Committee
March 15, 2012

Re: HB-5465, AN ACT CONCERNING THE STATE'S REGULATORY AND PERMITTING PROCESS.

The Town of Wallingford strongly supports the intent of HB-5465, which directs the state Department of Economic and Community Development (DECD) to prepare a cost-benefit analysis of state agency regulations and policies to determine whether changes are needed to ease regulatory burdens.

The Town of Wallingford is deeply concerned about the regulatory burden imposed on our town, our citizens and our businesses by the state Department of Energy and Environmental Protection's (DEEP) efforts to implement requirements relative to the discharge of phosphorous.

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. We understand that these requirements are driven by U.S. Environmental Agency ("EPA") initiatives but believe the EPA affords parties greater flexibility to pursue alternative compliance strategies.

Currently Wastewater Treatment Plants ("WWTP's") are not regulated for phosphorous levels in their effluent. The DEEP is in the process of developing draft permits, with new limits for phosphorous, for operators of WWTP's that discharge into certain rivers and streams. The DEEP has determined that these discharges result in phosphorous levels that promote the growth of certain organisms. The DEEP maintains that this is the primary cause for streams failing to meet their designated use classifications. It is important to note that elevated phosphorous levels in streams and rivers do not pose a direct hazard to public health.

As indicated by the enclosed listing from the DEEP, some 45 entities in Connecticut will be affected by the new discharge standards. Unlike the regulations reducing nitrogen discharge, the purpose of which is to reduce the cumulative effect of discharges on nitrogen levels in Long Island Sound, phosphorous limits are intended to improve water quality in river reaches. The new limits will not apply to discharges into tidal waters, or for entities that discharge directly into the Connecticut River.

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 cost would be \$19 million with a resulting 32% rate increase. The treatment facilities for phosphorous removal would also consume a significant amount of electrical energy. For the four Quinnipiac River towns this would amount to an additional electrical usage of approximately 1.7 million kWh per year, equivalent to the annual energy consumption of 142 homes.

The DEEP has indicated that all four towns can expect draft permits within the next two months with phosphorous limits varying by town from 0.1 ppm to 0.2 ppm. We note that, including the four Towns along the Quinnipiac, there are a total of twelve WWTP's in the state that would have discharge limits of 0.25 ppm or below. The current limit of removal technology is a concentration of 0.05 ppm. To put these removal limits in perspective we have listed below the cost for Wallingford to construct and operate treatment plant facilities to meet each proposed limit.

Discharge Limit (ppm)	Capital Cost	Annual Operating Cost	Rate Increase required
0.2	\$16 million	\$351,000	27%
0.1	\$19 million	\$423,000	32%
0.05	\$60 million	\$518,000	89%

In addition to the staggering costs for compliance with the proposed limits, the four towns have identified the following significant problems with the DEEP's approach:

1. In our opinion the DEEP has not clearly defined the expected improvement in water quality that would be achieved as a result of their proposed significant reductions in phosphorous discharge.
2. The DEEP has indicated that the phosphorous levels for all permits in this 5-year permit cycle are to be considered "interim" and that they may impose stricter limits in a subsequent permitting cycle. The DEEP has indicated that for this reason permitted entities "might be wise to build to the lower concentration limits".
3. The permit limits are also expressed in terms of pounds per day; these poundage limits are calculated using the proposed concentration levels multiplied by each plant's current flow rate. For Wallingford's WWTP the current average daily flow rate is 5.36 million gallons per day ("MGD"); the plant's design flow rate is 8.0 MGD. This means that, if Wallingford installed treatment technology that would achieve 0.2 ppm we would be locking in our plant capacity at less than design flows. This would be an untenable no-growth position. In other words, the stated permit limits can be misleading when it comes to their application in actual plant design.

Given the interim nature of the current limits and the need to build prudently for future demand, the general approach for the Quinnipiac River towns (and presumably for some of the other forty-one entities on the attached list) will be to design to a concentration that reflects full plant capacity. For Wallingford this would shift the project to the 0.1 ppm removal level.

4. The DEEP has acknowledged that non-point sources are contributors of phosphorous loading in CT rivers and streams. However, in its effort to reduce phosphorous loading, the DEEP is choosing to target only the NPDES permit holders and has not developed or promoted a comprehensive program to curtail non-point sources.

The four Quinnipiac River towns met with DEEP Commissioner Esty and other DEEP staff to discuss the DEEP's proposed phosphorous discharge limits for our WWTP's. During these discussions we expressed our concerns regarding the four issues listed above. We also proposed that the DEEP postpone until the next permit cycle their decision regarding the final permit limits to be imposed. We offered to make investments to achieve levels of phosphorous removal within the current permit cycle that, although not at the levels proposed by the DEEP, would still represent a significant reduction in the total phosphorous

discharge from our four facilities. For example, with an investment of approximately \$600,000 Wallingford could reduce its daily phosphorous discharge pounds by approximately 69%. We suggested that, with the proposed removal mechanisms in place, the DEEP could then gather additional water quality data to better calibrate its predictive model and to assess the impact of this "first-phase" phosphorous removal on the condition of the Quinnipiac.

To date the DEEP has indicated that, although they appreciate our concerns regarding the cost impact of their proposed permit limits, their hands are effectively tied in this matter by EPA's directives regarding phosphorous removal. In order to move forward with the development of a workable solution to this apparent impasse we would welcome the opportunity to engage in a meaningful dialog with the DEEP and the U.S. EPA 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.
- The beneficial impact on water quality that would be expected based upon the first-phase removal that we have proposed to the DEEP.

We raise this issue as an example of the sometimes staggering costs associated with the implementation of agency policies and regulations. The Town of Wallingford and other stakeholders are certainly willing to work together to arrive at a workable solution to this issue but, thus far, that has proven difficult. We would welcome any support your committee can provide us in developing reasonable compliance alternatives.

