



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – February 27, 2014
Environment Committee

Testimony Submitted by Commissioner Robert J. Klee

Committee House Bill No. 5709 – AAC THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION'S AUTHORITY TO DESIGNATE ADDITIONAL STORMWATER SEWER SYSTEMS OUTSIDE OF URBAN AREAS.

Thank you for the opportunity to present testimony regarding **Committee House Bill No. 5709 – AAC The Department of Energy and Environmental Protection's Authority to Designate Additional Stormwater Sewer Systems Outside of Urban Areas.**

The Department of Energy and Environmental Protection (DEEP) has concerns about the proposal and welcomes the opportunity to offer the following testimony.

To provide some background, the U.S. Environmental Protection Agency (EPA) has stated that contaminated stormwater is a significant source of pollution to our nation's waterways ([Federal Regulations 40 CFR 122.30\(c\)](#)). In 1990, EPA mandated a permitting program aimed at reducing pollutants that are carried by stormwater runoff to ponds, rivers, and streams and set some minimum regulatory requirements for municipalities with "urbanized areas", as defined by the EPA and the Census Bureau. DEEP has been delegated the authority by EPA to implement this stormwater permitting program. As required by EPA and pursuant to Sections 22a-430 and 430b of the Connecticut General Statutes, DEEP has issued permits to reduce pollutants in stormwater runoff from construction and industrial activities, and from municipal storm sewer systems.

The first General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems, also known as a MS4 general permit, was issued by our agency in 2004 and has been in place for over 10 years without modification. On July 7, 2014, DEEP publicly noticed a revision to the MS4 general permit with the overarching objective of improving the quality of stormwater runoff so as to reduce pollutant load and to protect high quality waters from degradation. The 2004 version regulated 113 municipalities with urbanized areas. The 2014 proposal and 2015 version (to address comments) seek to regulate all Connecticut municipalities by including the original 113 plus eight new municipalities that contain urbanized areas based on the 2010 census (collectively identified as Tier 1 municipalities), as well as 49 municipalities without urbanized areas (Tier 2 municipalities).

All rivers and streams in Connecticut lead to Long Island Sound and the state long ago accepted the responsibility to return Long Island Sound to a condition that provides complete recreational use and abundant shell fishing. The MS4 general permit is integral to meeting that goal as it contains a list of actions the municipality must follow towards that end, but allows maximum flexibility within the municipalities' budget and time constraints.

Regulating all Connecticut municipalities is a fairer and more holistic way of dealing with water pollution issues since streams and rivers do not follow municipal boundaries. DEEP's data shows that Connecticut's impaired waterbodies receive drainage from watersheds located in Tier 1 and Tier 2 towns. Monitoring and reporting of water quality across the state by DEEP ([2014 State of Connecticut Integrated Water Quality Report](#)) has shown that water quality impairments (such as nitrogen, bacteria, and phosphorus) caused by storm sewer system discharges exist in waterways that are well outside of urbanized areas. Rural/suburban areas have development features (roads, residential roofs, driveways, and commercial/industrial parcels) that

generate runoff with pollution. All municipalities must, therefore, share the responsibilities and costs of reducing pollutants so that we do not unfairly put the entire responsibility on Tier 1 municipalities.

That said, DEEP recognizes that more developed Tier 1 areas have a more significant impact on water quality, and have therefore proposed less stringent requirements for Tier 2 municipalities in the 2015 proposed MS4 General Permit. These basic requirements include:

- In three months - Develop a town wide leaf management program to prohibit the deposition of leaves on streets, parking lots, and other paved surfaces.
- In three years –
 - Inspect all streets (except for rural uncurbed streets with no catch basins) to determine an appropriate sweeping program;
 - Establish legal authority to update land use regulations to maintain consistency with 2002 Guidelines for Erosion and Sediment Control, the 2004 Connecticut Stormwater Quality Manual, and DEEP stormwater discharge permits; and
 - Establish legal authority to require/allow the use of low impact development/smart growth practices.
- In five years –
 - Implement a public education program and a public involvement/participation program on stormwater pollution;
 - Establish legal authority to prohibit illicit non-stormwater discharges, develop a means by which citizens can report illegal discharges, and investigate/respond, as appropriate, to citizen complaints; and
 - Inspect all catch basins to develop an appropriate cleaning frequency and clean those that are more than 50% full.

These measures are the most streamlined, cost effective way to improve and protect waters to meet the state's water quality standards. They also reflect DEEP's consideration of municipal concerns and comments received subsequent to the public notice on the 2014 proposed MS4 General Permit. DEEP significantly revised the 2014 proposed MS4 general permit to reduce program costs, extend compliance timelines, and allow flexibility while maintaining the environmental objective.

We invite committee members and the public to visit DEEP's [Municipal Stormwater](#) webpage to view the revised permit and some comparison documents that highlight the changes between the 2014 and 2015 versions of the MS4 general permit. Currently, DEEP continues to meet and work with municipal organizations (Connecticut Conference of Municipalities and Connecticut Conference of Small Towns) to address concerns. A meeting to further resolve issues is scheduled for March 5, 2015.

In closing, DEEP opposes **Committee House Bill No. 5709 – An Act Concerning the Department of Energy and Environmental Protection's Authority to Designate Additional Stormwater Sewer Systems Outside of Urban Areas**. We believe that Tier 2, in addition to Tier 1, municipalities must shoulder the responsibility of improving and protecting the water resources of the state. The discharge of excess levels of pollutants such as bacteria, nutrients and sediment has resulted in Connecticut citizens' loss of water resource use (for activities such as recreation, shellfish harvesting, and fish habitat/consumption). Connecticut still has many clean waterways that will only remain so if we take sensible, statewide steps now to prevent their deterioration.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact Robert LaFrance, DEEP's Director of Governmental Affairs, at 860.424.3401 or Robert.LaFrance@ct.gov or, Elizabeth McAuliffe, DEEP Legislative Liaison, at 860.424.3458 or Elizabeth.McAuliffe@ct.gov.