



Substitute Senate Bill No. 1294

Public Act No. 05-142

AN ACT CONCERNING THE MINIMUM WATER FLOW REGULATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 26-141a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

Whenever any dam or other structure is maintained in this state which impounds, or diverts, the waters of a river or stream [which is stocked with fish by the Commissioner of Environmental Protection,] or which dam or other structure affects the flow of water in such a [stocked] river or stream, the [commissioner] Commissioner of Environmental Protection may [promulgate] adopt regulations, in accordance with the provisions of chapter 54, setting forth standards concerning the flow of such water in accordance with section 26-141b, as amended by this act.

Sec. 2. Section 26-141b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

The Commissioner of Environmental Protection shall, on or before [July 1, 1973] December 31, 2006, and after consultation and cooperation with the Department of Public Health, the Department of Public Utility Control, an advisory group convened by the

Substitute Senate Bill No. 1294

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, [and] water supply, public safety, agriculture and other lawful uses of such waters and further recognizing and providing for stream and river ecology, the requirements of natural aquatic life, natural wildlife and public recreation, and after considering the natural flow of water into an impoundment or diversion, and being reasonably consistent therewith, [and also after thirty days' notice in the Connecticut Law Journal and after thirty days' notice sent by certified mail to all persons, firms and corporations known to have a direct interest, hold a public hearing and, not earlier than thirty days thereafter,] shall [promulgate] adopt regulations, in accordance with the provisions of chapter 54, establishing [instantaneous minimum] flow [standards and] regulations for all [stocked] river and stream systems. Such [instantaneous minimum] flow [standards and] regulations shall: (1) Apply to all river and stream systems within this state; [which the commissioner finds are reasonably necessary to keep a sufficient flow of water to protect and safely maintain the fish placed therein by him pursuant to his stocking program;] (2) preserve and protect the natural aquatic life, including anadromous fish, contained within such waters; (3) preserve and protect the natural and stocked wildlife dependent upon the flow of such water; (4) promote and protect the usage of such water for public recreation; (5) be [consistent with] based, to the maximum extent practicable, on natural variation of flows and water levels while 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 waters; and (6) be based on the best available science, including, but not limited to, natural aquatic habitat, biota, subregional basin boundaries, areas of stratified drift, stream gages and flow data, locations of registered, permitted, and proposed diversions and withdrawal data reported

Substitute Senate Bill No. 1294

pursuant to section 22a-368a, locations where any dams or other structures impound or divert the waters of a river or stream and any release made therefrom, and any other data for developing such regulations or individual management plans. Such flow regulations may provide special conditions or exemptions including, but not limited to, an extreme economic hardship or other circumstance, an agricultural diversion, a water quality certification related to a license issued by the Federal Energy Regulatory Commission or as necessary to allow a public water system, as defined in subsection (a) of section 25-33d, to comply with the obligations of such system as set forth in the regulations of Connecticut state agencies. Any flow management plan contained in a resolution, agreement or stipulated judgment to which the state, acting through the Commissioner of Environmental Protection, is a party, or the management plan developed pursuant to section 3 of public act 00-152, is exempt from any such flow regulations. Flow regulations that were adopted pursuant to this section and sections 26-141a and 26-141c, as amended by this act, prior to the effective date of this section, shall remain in effect until the Commissioner of Environmental Protection adopts new regulations pursuant to this section.

Sec. 3. Section 26-141c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

After the [promulgation of the aforesaid minimum flow standards,] adoption of regulations pursuant to section 26-141b, as amended by this act, no person [, firm or corporation] or municipality, as defined in section 22a-423, shall maintain any dam or structure impounding or diverting water within this state except in accordance with [such standards and] regulations as established by [said commissioner] the Commissioner of Environmental Protection. If the commissioner finds that any person [, firm or corporation] or municipality, as defined in section 22a-423, is violating such [minimum flow standards]

Substitute Senate Bill No. 1294

regulations, the commissioner shall issue an order to such person [, firm or corporation] or municipality to comply with [his] the regulations. The order shall include a time schedule for the accomplishment of the necessary steps leading to compliance. If such person, or municipality [firm or corporation] fails thereafter to comply with the [standards and] regulations concerning [minimum] flow of water, the commissioner [is empowered to] may request the Attorney General to bring an action in the Superior Court to enjoin such person [, firm or corporation] or municipality from restricting the flow of such water in accordance with such [standards and] regulations.

Approved June 24, 2005