



General Assembly

January Session, 2005

Raised Bill No. 1294

LCO No. 4429

04429_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING THE MINIMUM WATER FLOW REGULATIONS.

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

1 Section 1. Section 26-141a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2006*):

3 [Whenever any dam or other structure is maintained in this state
4 which impounds, or diverts, the waters of a river or stream which is
5 stocked with fish by the Commissioner of Environmental Protection, or
6 which dam or other structure affects the flow of water in such a
7 stocked river or stream, the commissioner may promulgate regulations
8 setting forth standards concerning the flow of such water in
9 accordance with section 26-141b.]

10 For purposes of this section and sections 26-141b, as amended by
11 this act, and 26-141c, as amended by this act, (1) "diversion" means any
12 activity that causes, allows or results in the withdrawal from or the
13 alteration, modification or diminution of the instantaneous flow of the
14 waters of the state, (2) "divert" means to engage in any act of diversion,
15 (3) "waters" means all rivers, streams, brooks, waterways, lakes, ponds,
16 marshes, swamps, bogs and all other bodies of water, natural or

17 artificial, vernal or intermittent, public or private, that are contained
18 within, flow through or border upon this state or any portion thereof.

19 Sec. 2. Section 26-141b of the general statutes is repealed and the
20 following is substituted in lieu thereof (*Effective January 1, 2006*):

21 The Commissioner of Environmental Protection shall, [on or before
22 July 1, 1973, and after consultation and cooperation with the
23 Department of Public Health, the Department of Public Utility Control
24 and any other agency, board or commission of the state with which
25 said commissioner shall deem it advisable to consult and after
26 recognizing and providing for the needs and requirements of public
27 health, flood control, industry, public utilities and water supply, and
28 further recognizing and providing for stream and river ecology, the
29 requirements of aquatic life, natural wildlife and public recreation, and
30 after considering the natural flow of water into an impoundment or
31 diversion, and being reasonably consistent therewith, and also after
32 thirty days' notice in the Connecticut Law Journal and after thirty days'
33 notice sent by certified mail to all persons, firms and corporations
34 known to have a direct interest, hold a public hearing and, not earlier
35 than thirty days thereafter, shall promulgate regulations establishing
36 instantaneous minimum flow standards and regulations for all stocked
37 river and stream systems. Such instantaneous minimum flow
38 standards and regulations shall: (1) Apply to all river and stream
39 systems within this state which the commissioner finds are reasonably
40 necessary to keep a sufficient flow of water to protect and safely
41 maintain the fish placed therein by him pursuant to his stocking
42 program; (2) preserve and protect the natural aquatic life, including
43 anadromous fish, contained within such waters; (3) preserve and
44 protect the natural and stocked wildlife dependent upon the flow of
45 such water; (4) promote and protect the usage of such water for public
46 recreation; (5) be consistent with the needs and requirements of public
47 health, flood control, industry, public utilities, water supply, public
48 safety, agriculture and other lawful uses of such waters] not later than
49 January 1, 2006, adopt regulations in accordance with the provisions of

50 chapter 54, for interim water flow regulations for a dam or other
51 structure that impounds or diverts the waters of the state, which
52 regulations provide for a sufficient flow of water to preserve and
53 protect natural aquatic life and that are based on natural variation of
54 flows and water levels, allowing variances if the subject use will still be
55 protective of water quality within that classification. Not later than __,
56 the commissioner shall adopt regulations, in accordance with the
57 provisions of chapter 54, for water flow regulations for a dam or other
58 structure that impounds or diverts the waters of the state, which
59 regulations provide for maximum sustainable use of the waters of the
60 state, provide a sufficient flow of water to preserve and protect natural
61 aquatic life and biological, chemical and physical integrity of the
62 waters of the state, are based on natural variation of flows and water
63 levels and are watershed-specific.

64 Sec. 3. Section 26-141c of the general statutes is repealed and the
65 following is substituted in lieu thereof (*Effective January 1, 2006*):

66 After the [promulgation of the aforesaid minimum flow standards]
67 adoption of the regulations pursuant to section 26-141b, as amended
68 by this act, no person, firm or corporation shall maintain any dam or
69 structure impounding or diverting water within this state except in
70 accordance with such [standards and] regulations as established by
71 [said commissioner] the Commissioner of Environmental Protection. If
72 the commissioner finds that any person, firm or corporation is
73 violating such [minimum] water flow [standards] regulations, the
74 commissioner shall issue an order to such person, firm or corporation
75 to comply with [his] the regulations. The order shall include a time
76 schedule for the accomplishment of the necessary steps leading to
77 compliance. If such person, firm or corporation fails thereafter to
78 comply with the [standards and] regulations concerning [minimum]
79 the flow of water, the commissioner is empowered to request the
80 Attorney General to bring an action in the Superior Court to enjoin
81 such person, firm or corporation from restricting the flow of such
82 water in accordance with such [standards and] regulations.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2006</i>	26-141a
Sec. 2	<i>January 1, 2006</i>	26-141b
Sec. 3	<i>January 1, 2006</i>	26-141c

Statement of Purpose:

To establish interim and long-term water flow regulations, which regulations will provide for a sufficient flow of water to preserve and protect natural aquatic life.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]