



General Assembly

Substitute Bill No. 1294

January Session, 2005

* SB01294PH 042605 *

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 Section 26-141a of the general statutes is repealed and the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 October 1, 2005*):

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,]
6 or which dam or other structure affects the flow of water in such a
7 [stocked] river or stream, the [commissioner] Commissioner of
8 Environmental Protection may promulgate regulations [setting forth
9 standards] concerning the flow of such water in accordance with
10 section 26-141b, as amended by this act.

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 Section 26-141b of the general statutes is repealed and the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

13 The Commissioner of Environmental Protection shall, on or before
14 [July 1, 1973] December 31, 2006, and after consultation and
15 cooperation with the Department of Public Health, the Department of
16 Public Utility Control and any other agency, board or commission of
17 the state with which said commissioner shall deem it advisable to
18 consult and after recognizing and providing for the needs and
19 requirements of public health, flood control, industry, public utilities

20 and water supply, and further recognizing and providing for stream
21 and river ecology, the requirements of aquatic life, natural wildlife and
22 public recreation, and after considering the natural flow of water into
23 an impoundment or diversion, and being reasonably consistent
24 therewith, [and also after thirty days' notice in the Connecticut Law
25 Journal and after thirty days' notice sent by certified mail to all
26 persons, firms and corporations known to have a direct interest, hold a
27 public hearing and, not earlier than thirty days thereafter,] shall
28 [promulgate] adopt regulations, in accordance with the provisions of
29 chapter 54, establishing instantaneous minimum flow [standards and]
30 regulations for all [stocked] river and stream systems. Such
31 [instantaneous minimum flow standards and] flow regulations shall:
32 (1) Apply to all river and stream systems within this state; [which the
33 commissioner finds are reasonably necessary to keep a sufficient flow
34 of water to protect and safely maintain the fish placed therein by him
35 pursuant to his stocking program;] (2) preserve and protect the natural
36 aquatic life, including anadromous fish, contained within such waters;
37 (3) preserve and protect the natural and stocked wildlife dependent
38 upon the flow of such water; (4) promote and protect the usage of such
39 water for public recreation; (5) [be consistent with] provide for the
40 needs and requirements of public health, flood control, industry,
41 public utilities, water supply, public safety, agriculture and other
42 lawful uses of such waters; and (6) be based on the best available
43 science and on natural variation of flows and water levels. Such flow
44 regulations may provide special conditions or exemptions for a
45 hardship including, but not limited to, an economic hardship, an
46 extreme circumstance, an agricultural diversion, a river or stream
47 subject to a flow-management plan approved by the Commissioner of
48 Environmental Protection, a water quality certification related to a
49 license by the Federal Energy Regulatory Commissioner or a diversion
50 that is necessary for a person to comply with the Public Health Code.
51 Flow regulations adopted pursuant to this section, prior to the effective
52 date of this section, shall remain in effect until the Commissioner of
53 Environmental Protection adopts new regulations pursuant to this
54 section.

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	26-141a
Sec. 2	<i>October 1, 2005</i>	26-141b
Sec. 3	<i>October 1, 2005</i>	26-141c

ENV Joint Favorable Subst.

PH Joint Favorable