

## Appendix: Summary of Revisions

The following is a summary of the revisions made to the proposed regulations from those submitted to the Legislative Regulation Review Committee on December 7, 2010 by section:

### Section 1:

- No changes.

### Section 2:

- The following definitions were added:
  - adequate margin of safety; and
  - outlet works.
- The following definitions were modified:
  - best management practices;
  - commissioner;
  - department;
  - maximum extent practicable;
  - release;
  - river or stream segment; and
  - river or stream system.

### Section 3:

- Language was clarified to make clear that a dam owner or operator regulated under the existing stream flow regulations must continue to comply with such regulations until such time as they come into compliance with the new release requirements under the amended regulations.
- The exemptions for owners or operators of dams which divert water for golf courses was modified to specify membership in an advisory committee for any changes to the guidance document and reporting requirements were simplified.
- The exemption for operation of a dam that is not constructed on a river, stream or brook was simplified.
- Exemptions were added for the following:
  - Operation of a public water supply dam immediately upstream of a stream or river segment having a rearing and growth bioperiod Q80 of .1 cubic feet per second or less.
  - Operation of a public water supply dam immediately upstream of a stream or river segment having a rearing and growth bioperiod Q80 between .1 and .2 cubic feet per second subject to commissioner approval.
  - Operation of a public water supply dam that releases to a man-made conveyance structure or channel that discharge to an impoundment provided the downstream dams complies with the regulations, subject to commissioner approval.
  - Diversion of water authorized by a special act, and identified in a flow management plan for a wild and scenic river.

#### Section 4:

- The narrative standards for Class 4 were clarified.

#### Section 5:

- Revisions were made to provide certainty that the following river or stream segments would not be class 1 or 2:
  - segments immediately downstream of an existing public water supply dam;
  - segments that intersect a Level A aquifer protection area; and
  - segments immediately downstream of a dam that impounds a registered or permitted water supply source;
  - segments identified as a potential source of water supply where significant investment has been made.
- Consideration of river or stream systems that are identified pursuant to section 59 of Public Act 11-242 was added.
- Potential topics for public comment were enumerated.
- Revisions were made to require initial classifications to be finalized by the Commissioner in consultant with the Commissioner of Public Health and with technical assistance from the Office of Policy and Management, Department of Economic and Community Development, and the Department of Agriculture, as appropriate.
- Revisions were made to the requirements of a petition to reclassify from more altered to less altered to include either:
  - identification of a substantive change or mischaracterization as part of the original classification; or
  - segment meets narrative standard of proposed class and proposed classification will not cause a community water system to have less than an adequate margin of safety.
- Revisions were made to requirements of a petition to reclassify from less altered to more altered to include either:
  - identification of a substantive change or mischaracterization as part of the original classification; or
  - change is necessary to accommodate reasonable need provided alteration of stream flow has been minimized by coordinating uses, using available sources and developing new sources.
- The demonstration necessary to reclassify to a Class 4 was clarified.
- Clarification that the commissioner can reject a petition for insufficiency and the rejection shall include reasons.
- Clarification that a petition will be reviewed if complete unless it is submitted less than 3 years from the initial classification date as published in the Connecticut Law Journal.
- Added consideration of a segment's status on the current list developed pursuant to section 59 of Public Act 11-242 when acting on a petition.

## Section 6:

- Clarified initial date of publication means publication in the Connecticut Law Journal.
- Minimum release goal for Class 4 was modified by requiring submittal of a site specific release request to the Commissioner that may include drought off ramps and a summer release preservation protocol.
- Clarified that the release of rearing and growth bioperiod Q80 shall be calculated and adjusted as necessary no less than the first and fifteenth day of the month.
- Added operational flexibility during dry spring to reduce release to 85% of full release in order to maintain water for supply and summer release, includes public announcement and resuming full release when storage increases.
- Clarified that most current water supply plan is used for drought triggers.
- Operational flexibility has been added if meeting a required release would cause a community water system's margin of safety to be less than adequate or further decrease a margin of safety that is inadequate in such. In such circumstances the water supplies may:
  - reduce release up to 50% of what is required provided the release is not less than the rearing and growth bioperiod Q80 and the owner complies with a work plan provided to the commissioner that demonstrates specific steps to be taken to provide the maximum release possible while preserving an adequate margin of safety and document progress toward making the full release
  - reduce release if no other way to maintain adequate margin of safety while complying with work plan submitted to the commissioner for review that demonstrates specific steps to be taken to provide the maximum release possible while preserving an adequate margin of safety and document progress toward making the full release including making infrastructure improvements and developing new sources
  - may also utilize operational flexibility during a dry spring and drought conditions
- Simplified request for an extension of time from the commissioner:
  - For compliance after initial classification; and
  - to continue to use flexibility if after ten years of utilizing operational flexibility the water supplier cannot maintain an adequate margin of safety while making the required release. Also identified the type of information that may accompany the request including actions taken, an updated work plan for approval, legal constraints, financial considerations, rates, and other factors that might impact the safety, dependability, or financial viability of the water supplier.
- Added ability to apply for an exemption for operation of public water supply dam immediately upstream of a stream or river segment having a rearing and growth bioperiod Q80 between .1 and .2 cubic feet per second subject to commissioner approval or that releases to a man-made conveyance structure or channel that

discharge to an impoundment provided the downstream dams complies with the regulations

- Expanded request for a variance for up to 180 days with a renewal and require public notice if request is for greater than 360 days. Specified that the commissioner's consideration shall include needs and requirement of public health and safety, flood control, industry, public utilities, water supply, agriculture and other lawful uses and further refined factors for consideration including unusual infrastructure and other circumstances.
- Added in site specific release subdivision that provides for an operator to submit a site specific release to the commissioner for written approval. Allows integration of other flexibility allowed in the regulation. Must be on a form provided but the commissioner and provide adequate information. Commissioner can grant approval if determines that meets narrative standard while considering other lawful uses. The process for approval of a site specific release is consistent with approval of a reclassification of a segment, including public notice and an opportunity for a public hearing.
- Clarified effective dates of new release requirements when a segment is reclassified as follows:
  - immediately if ten years or more after first classification and from less to more altered classification;
  - three year if ten years or more after first classification and from more to less alternated unless another date is approved; or
  - ten years after date of first classification if reclassification happens within the first ten years of classification unless another date is approved.

#### Section 7:

- Eliminated requirement that golf courses report under subsection (b).
- Simplified and clarified reporting requirements to demonstrate compliance with release requirements.
- Added opportunity for public to request operating records of releases in writing through the commissioner and those documents to then be made available to the public.

#### Section 8:

- No change.

#### Miscellaneous:

- The Statement of Purpose was modified to conform with the revisions that were made to the proposed Stream Flow Standards and Regulations.
- Other typographical and technical errors were corrected.

In addition, changes were made to address the 10 substantive concerns and the 45 technical corrections identified in the Legislative Commissioners' Office October 13, 2011 memorandum. The changes of note are summarized below:

Section 1:

- No changes of note.

Section 2:

- The following definitions were modified:
  - river or stream segment; and
  - useable storage

Section 3:

- No changes of note.

Section 4:

- No changes of note.

Section 5:

- Revisions were made to clarify that a change in classification applies to a river or stream segment
- Revisions were made to specify that the water supply plan in effect at the time the a petition to revise a classification is submitted is the one considered
- Revisions were made to clarify the demonstration necessary to reclassify to a Class 4
- The process by which the Commissioner can review if the current classification of a segment is appropriate was clarified

Section 6:

- Revisions were made to specify that the water supply plan in effect at the time of a reduction in a release is the one considered
- Clarified of how an owner or operator will address written comments submitted by the Commissioner on a work plan
- Clarified that a variance may be approved that modifies any required minimum release
- Clarified that comments on a variance are submitted to the Commissioner

Section 7:

- No changes of note

Section 8:

- No change of note.