

## Guidance for De Minimus Demonstration

Referred to in RCSA §26-141b-3(c)(18), §26-141b-3(c)(19), and §26-141b-6(e)

Two exemptions from the stream flow release requirements under RCSA Sec. 26-141b-3(c) require a written demonstration be submitted to the Commissioner that making the stream flow releases in accordance with the regulations would provide de minimus environmental benefit due to “downstream conditions or other factors”, and therefore should be exempted from making releases. These exemptions are:

- (18) Operation of a public water supply dam immediately upstream of a stream or river segment having a rearing and growth bioperiod Q80 between 0.1 and 0.2 cubic feet per second; and
- (19) Operation of a public water supply dam having an outlet structure that releases to a man-made conveyance structure or channel that discharges into an impoundment

This document is intended to provide guidance on what the Department is looking for in a de minimus demonstration. In most cases, additional water downstream is going to be beneficial.

All rivers or streams downstream of a public water supply dam are classified as Class 3 streams. It is important to recognize that a Class 3 river or stream shall exhibit, at all times, the depth, volume, velocity and variation of stream flow and water levels necessary to support and maintain habitat conditions supportive of an aquatic, biological community moderately altered from that typically present in free-flowing river or stream systems of similar size and geomorphic characteristics under the prevailing climatic conditions. Therefore, if these narrative standards are not met, releases will likely be required. In addition, it is important to note that the Water Quality Standards (RCSA Sec. 22a-426-4(a)(1)(B)(3)) states that physical obstructions such as dams shall not be considered a valid reason for failure to achieve and maintain water quality conditions necessary to support all designated uses of a surface water.

In order for the Department to make a decision, the information outlined in the checklist below should be submitted as Attachment C for review:

- Name of water body behind dam
- Name of river or stream that exemption is requested
- Stream flow classification of river or stream below the dam
- Exemption that is being requested (§26-141b-3(c)(18) or §26-141b-3(c)(19))
- Is the water quality of the segment listed as impaired for aquatic life, as defined in the most recent Integrated Water Quality Report?
- Existing extent of channel modification
- Presence of rare or endangered species in the watershed
- Description of typical fish species that are found in the river or stream
- Map showing extent of cold water stream habitat in the watershed downstream of the public water supply dam (<https://portal.ct.gov/DEEP/Water/Inland-Water-Monitoring/Cold-Water-Stream-Habitat-Map>)
- Presence of tributaries that contribute stream flow to the segment
- Extent that leakage through the dam supports downstream flow
- Justification for requested exemption

- Map showing the location of the segment, the (presumed) release point, and watershed delineation
- Statistics calculated by StreamStats
- Distance downstream at which the predicted rearing and growth bioperiod Q80 reaches 0.2 cfs as estimated by StreamStats
- Photographs of the channel below the (presumed) release point
- Any relevant studies that have been done on the river or stream below the dam (such as macroinvertebrate, diatom, or fish studies)

In addition, the Water Quantity Unit will consult with DEEP Fisheries and Water Quality Monitoring programs before a decision is made.

Questions can be directed to [deep.streamflowclass@ct.gov](mailto:deep.streamflowclass@ct.gov).