

## **NOTICE OF INTENT TO ADOPT REGULATIONS AND TO HOLD A PUBLIC HEARING**

The Commissioner of Environmental Protection hereby gives notice of a public hearing as part of a rulemaking process. Pursuant to sections 4-168 and 22a-6 of the Connecticut General Statutes, and section 22a-3a-3 of Regulations of Connecticut State Agencies ("RCSA"), the Commissioner hereby gives notice of her intention to adopt RCSA sections 26-141b-1 to 26-141b-9, inclusive, to be known as the Stream Flow Standards and Regulations. These regulations are being proposed under the authority of sections 22a-6, 26-141a and 26-141b of the Connecticut General Statutes.

The proposed rules establish flow standards and other regulatory requirements for all river and stream systems in the state. These proposed rules expand the coverage of and eventually replace the existing requirements found in the Minimum Stream Flow Standards and Regulations of the Connecticut Department of Environmental Protection, RCSA sections 26-141a-1 to 26-141a-8, inclusive.

The Governor and General Assembly directed the Commissioner to develop such stream flow standards and regulations after consulting with an advisory group and "after recognizing and 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 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." More specifically, the statute directs the Commissioner to establish standards and regulations that: "(1) Apply to all river and stream systems within this state; (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 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 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."

The proposed rules develop standards and regulations that balance the needs of humans to use water for drinking and domestic purposes, fire and public safety, irrigation, manufacturing, and recreation, with the needs of fish, wildlife and other biota that also rely upon the availability of water to sustain healthy, natural communities. The regulations consider the best available science to provide a framework to balance the human and ecological needs for water, provide for public notice and input into the process, and provide a phased implementation of regulatory requirements to encourage and support water

planning and conservation efforts. The regulations provide for the protection of Connecticut's river and stream systems, and promote better, more efficient management of our water supplies, so that all needs, both human and ecological, can be met both today and in the future.

The proposed regulations include, but are not limited to, provisions regarding: (1) definitions; (2) applicability and exemptions, e.g., due to safety, limited or short term water use, permits, and other activities; (3) narrative standards establishing stream flow classifications based on the natural variation of water flows and levels, and human alterations and needs; (4) the adoption process for stream flow classifications including the physical, natural and human factors for classification, the public participation process, and the petition process for changes; (5) presumptive, numeric flow standards for each class based on seasonal flow criteria, maximum stream flow alteration, type of flow altering structure including specific release requirements for dams, implementation timeframes, and drought relief provisions; (6) rules for developing flow management compacts that identify alternative flow standards from the presumptive, numeric standards; and (7) record keeping and reporting requirements.

In addition, the Commissioner is specifically seeking comment from the public on the social, economic, ecological and technical feasibility of complying with the presumptive standards, as found in RCSA section 26-141b-6, ten years after the first effective date of classification of a river or stream system for owners or operators of other structures that divert water from such system.

Copies of the proposed regulations, small business impact and regulatory flexibility analysis, and other related material, are available for public inspection during normal business hours at the Department of Environmental Protection's Bureau of Water Protection and Land Reuse, Planning and Standards Division, 2<sup>nd</sup> Floor, 79 Elm Street, Hartford, CT. A link to the proposed regulations is available on the Department's web site at <http://www.ct.gov/dep/publicnotices>. These documents can also be obtained by contacting Terri Schnoor at the above address, or by phone at (860) 424-3707.

All interested parties are invited to express their views on the proposed regulations at a hearing to be held at the following place and times:

January 21, 2010  
9:00 a.m. – until all comments have been heard  
Phoenix Auditorium, 5<sup>th</sup> Floor  
Department of Environmental Protection  
79 Elm Street, Hartford, Connecticut

Speakers are requested, although not required, to submit a written copy of their comments.

Written comments on the proposed regulations may also be submitted to Paul E. Stacey, Department of Environmental Protection, Bureau of Water Protection and Land Reuse, Planning & Standards Division, 79 Elm Street, Hartford, Connecticut, 06106-5127 by February 4, 2010.

In addition, the Department provides notice that two informational sessions will be held:

November 9, 2009  
9:00 a.m. – 11:30 a.m.  
Phoenix Auditorium, 5<sup>th</sup> Floor  
Department of Environmental Protection  
79 Elm Street, Hartford, Connecticut

and

December 21, 2009  
1:30 p.m. - 4:00 p.m.  
Phoenix Auditorium, 5<sup>th</sup> Floor  
Department of Environmental Protection  
79 Elm Street, Hartford, Connecticut

Interested persons are advised, however, that these informational sessions are not a substitute for submitting comments in the manner described above in this notice and that the Department will not be receiving public comments during these informational sessions. Any person seeking to comment on the proposed regulations will need to submit a comment in writing or at the public hearing, even if the same matter is discussed during these informational sessions.

In conformance with the ADA, individuals with disabilities who need this information in an alternative format, to allow them to benefit and/or participate in the agency's programs and services, should call (860)-424-3051 or (860) 418-5937 or e-mail Marcia Z. Bonitto, ADA Coordinator, at: [Marcia.Bonitto@ct.gov](mailto:Marcia.Bonitto@ct.gov). Requests for accommodations must be made at least two weeks prior to the program date.



Amey W. Marrella  
Commissioner