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EXEMPTIONS FROM THE CONNECTICUT WATER DIVERSION POLICY ACT STATEMENT OF PURPOSE TO AMEND REGULATIONS

The Commissioner of the Department of Energy and Environmental Protection intends to amend section 22a-377(b)-1 of the Regulations of Connecticut State Agencies.

Statement of Purpose: The purpose of the amendment to the exemptions from the Connecticut Water Diversion Policy Act is to ensure that expanded use of registered diversions into new Exclusive Service Areas will not significantly impact other water users nor the environment by requiring a diversion permit for such expansion.

A. The problems, issues or circumstances that the regulation proposes to address.

The intent of the Water Diversion Policy Act (Sections 22a-365 to 22a-378 of the Connecticut General Statutes) was to allow water diversions in use when the Act was passed to continue the existing use without being subject to the permitting process and attendant impact evaluation (a grandfathering process for existing users). An exemption for use of registered water within an Exclusive Service Area was included in the regulations adopted under the Act in 1991 to allow for infilling of public water service. However, the extensive consolidation of water companies and the potential expansion of Exclusive Service Areas through the Water Utility Coordinating Committee process (under C.G.S. 25-33g) may allow significant expansion of the use of registered diversions and export of water out of basin without consideration of the impacts; due to the current exemption from the permit process. The permit process includes consideration of the effect of the expanded use of the authorized diversion on related needs for public water supply and on other water resource needs, in addition to providing a process for public involvement. Narrowing the existing exemption in the regulations will rectify this situation without affecting continued use of the registered diversions within the existing service areas, consistent with the original intent of the diversion registration provisions.

B. Summary of the main provision of the proposed amendment.

The proposed amendment to the regulations redefines "service area" as the area served by the water system as identified in an applicable diversion permit or registration document, on existing maps of ESAs as established during past WUCC proceedings, or in a Water Supply Plan submitted on or before October 1, 2016, in accordance with Section 25-32d of the Connecticut General Statutes as being served now or potentially in the future up to the five-year planning period. In addition, the proposed amendment clarifies that in areas taken over or otherwise acquired by a water company, the water company may continue to serve both areas with the existing sources registered or permitted to serve those areas.

C. The legal effects of the proposed amendment on existing regulations or other laws.

There is no impact on existing regulations or other laws.