

Chapter 587-A In-stream Flow Standards for Class AA Waters.

Summary: Establishes water flows to protect aquatic life and other designated uses in Maine's Class AA waters.

Standards are based on natural flows that occur in Maine waters, and the uses and characteristics assigned by the water quality classification (38 M.R.S.A. Sections 464-468) with attention given to protecting the outstanding natural resources associated with Class AA waters. Flow shall be managed to provide natural variation of flow that shall be described by seasonal aquatic base flows, or other seasonally variable flows, shown to protect aquatic life resources and water quality standards.

1. Applicability. Flows established in this chapter apply to Class AA surface waters statewide. Flows established in this chapter do not apply to the following circumstances:

- A. Public emergency. Any alteration of flow for the purpose of protecting life and property due to a sudden catastrophic event, such as for fire control.
- B. Non-consumptive use. Water withdrawal from a single waterbody by any individual in quantities less than the amounts that are defined for a consumptive withdrawal in Section 2 of this rule.
- C. Alteration of flow in Class AA waters caused by withdrawal, or storage and release of these waters, where the Commissioner has approved an alternative flow through an approved water use plan, Water Quality Certificate issued pursuant to Section 401 of the United States Clean Water Act, or other license or permit issued by the Department, the Land Use Regulation Commission or the Department of Health and Human Services, prior to the adoption of this regulation, may continue for the effective period of that approval decision. Standards in this rule shall apply to any subsequent reissuance of a license, permit, or certificate by the Department. The Department may assign a schedule in any reissuance of a license, permit, or certificate that will provide reasonable time for compliance with the new flow standard.
- D. Community Public Water Supplies (PWS) operating in compliance with their Legislative Charters, Public Utilities Commission and Drinking Water Program regulations are exempt from stream flow regulation for the waterbodies referenced in their charter. PWS withdrawals shall not exceed the safe yield (long term sustainable withdrawal) or maximum expected withdrawal, whichever is less, of the waterbody. A PWS must document their safe yield and maximum expected withdrawal with the Drinking Water Program, Bureau of Health, Department of Health and Human Services. Maximum expected withdrawal is the maximum amount

of water that is documented to have been taken during the 10 year period prior to the effective date of this rule.

- E. Aroostook Water and Soil Management Board Low Flow Policy. Facilities operating under the Policy, prior to the effective date of this rule, shall continue to operate in accordance with the Policy.

2. Definitions.

A. Consumptive withdrawal. “Consumptive withdrawal” is water withdrawal from a surface waterbody by an individual, without immediate return flow to the same waterbody in the vicinity of the place of withdrawal, in excess of the threshold volumes for reporting as defined in 38 M.R.S.A. Section 470-B.1.

B. Natural variation of flow – “Natural variation of flow” is the expected dynamic fluctuation in flow that naturally occurs daily, seasonally and inter-annually that provides for physical characteristics of depth, volume, and velocity necessary to (1) provide habitat conditions for all life stages of indigenous organisms, (2) provide water exchange and aeration including the interstitial water, substrate scouring and sorting, temperature moderation, wetland replenishment, sediment erosion and deposition, and channel formation, and (3) maintain biological processes of ingress and egress to habitats, migration, drift, insect emergence, organic matter and nutrient cycling, and wetlands maintenance. In establishing alternative flows, flow variation of a magnitude, seasonal timing, and annual occurrence, including provision for infrequent passage or release of flood flows, shall be provided to sufficiently provide for the conditions and processes identified above.

C. Seasonal aquatic base flow. “Seasonal aquatic base flow” is defined as a median flow value for the following seasons: winter (January 1 to March 15), spring (March 16 to May 15), early summer (May 16 to June 30), summer (July 1 to September 15), fall (September 16 to November 15), and early winter (November 16 to December 31). Seasonal aquatic base flows are established as:

- (1) For the period January 1 to March 15: a flow equal to the unregulated February median monthly flow as determined according to section 3 of this rule;
- (2) For the period March 16 to May 15: a flow equal to the unregulated April median monthly flow as determined according to section 3 of this rule;
- (3) For the period May 16 to June 30: a flow equal to the unregulated June median monthly flow as determined according to section 3 of this rule;
- (4) For the period July 1 to September 15: a flow equal to the unregulated August median monthly flow as determined according to section 3 of this rule;

(5) For the period September 16 to November 15: a flow equal to the unregulated October median monthly flow as determined according to section 3 of this rule;

(6) For the period November 16 to December 31: a flow equal to the unregulated December median monthly flow as determined according to section 3 of this rule;

3. Calculation of seasonal aquatic base flow values.

A. Using flow records. Seasonal aquatic base flow may be determined where adequate flow records are available for a specific waterbody. "Adequate flow records" means a minimum of 10 years of U.S. Geological Survey gauging records, or other equivalent flow records, except as follows or as approved by the department.

(1) Where the period of flow record is at least 1 year, the available flow record may be extended by means of flow records from a nearby watershed with similar hydraulic characteristics and a minimum of 10 years of U.S. Geological Survey gauging records or other equivalent flow records.

(2) Where flow records are unavailable, flow records may be established by using a drainage area adjustment ratio for records from other gauged sites within the same drainage and where the drainage areas of the gauged and ungauged sites differ by no more than 50%.

B. Without using flow records. Estimates of seasonal aquatic base flow may be calculated using the most appropriate of the following publications, or by use of a regional flow study to establish seasonal median flows for rivers and streams within a region. An adequate regional flow study should be based on a minimum of 20 stations where at least 10 independent base flow measurements have been made for each site. Where conditions, such as watershed area, fall outside of the conditions by which these estimates were calculated, estimates of seasonal aquatic base flow will be considered as interim estimates and may be refined as new site-specific data is obtained.

"Estimating Monthly, Annual, and Low 7-Day, 10-Year Streamflows for Ungauged Rivers in Maine", USGS Scientific Investigations Report 2004-5026,

"August Median Streamflow on Ungauged Streams in Eastern Aroostook County, Maine" USGS Water Resources Investigations Report 2003-4225,

4. Flow standards for Class AA waters.

Flows in Class AA waters shall be maintained as they naturally occur, except:

A. Consumptive withdrawal of water by direct or indirect removal, diversion, or other practices from Class AA may alter the natural flow according to the following limits, or as provided by a water use plan in subparagraph B, below :

- (1) When natural flow exceeds the spring aquatic base flow, withdrawal not to exceed 10% of that total natural flow may occur. This withdrawal may occur at any time within the year that a flow equal to the spring aquatic base flow is exceeded.
- (2) When natural flow during the early winter season exceeds the early winter aquatic base flow, withdrawal not to exceed 10% of that total natural flow may occur. Water withdrawal may exceed these amounts whenever conditions in subparagraph A(1), above, exist.
- (3) When natural flow in any other season exceeds 1.1 times the seasonal aquatic base flow, water withdrawal not to exceed 10% of that seasonal aquatic base flow amount may occur. However, if seasonal aquatic base flow was calculated from methods in paragraph 3-C, water withdrawal not to exceed 10% of that seasonal aquatic base flow may only occur when natural flow exceeds 1.5 times the calculated seasonal aquatic base flow. Water withdrawal may exceed these amounts whenever conditions in subparagraph A(1), above, exist.

B. Alternative flows may be established in a water use plan that allows for water withdrawal based on the results of an in-stream flow incremental methodology or other site-specific flow study that is found by the Commissioner to be protective of the outstanding natural resources of that waterbody, taking into account the need for natural variation of flow by representative indigenous aquatic organisms and the processes needed to maintain those resources. The plan shall be made available for review by other state and federal natural resource agencies and approved by the Commissioner.

5. Interim flow standards for Class AA waters.

Interim flow limits may be established for a period of up to five years for agricultural water users who voluntarily participate with the Maine Department of Agriculture to develop a water use plan through a cooperative program

established by a multi-agency agreement between the Department of Agriculture and the Department of Environmental Protection, including but not limited to the “Aroostook Water and Soil Management Board Low Flow Policy”. Such interim flows shall be based on the limits in paragraph 4-A of this rule or based on the results of a site-specific assessment by staff of the Department of Environmental Protection and other interested agencies, and shall be expected to protect designated uses of that waterbody for the five year period.

6. Water use plan.

A water use plan will include:

1. an assessment of water use needs of all existing consumptive and non-consumptive users of the waterbody,
2. identification of flow requirements necessary to protect aquatic life and other designated uses of the waterbody, taking into account the need to protect natural variation of flow,
3. identification and incorporation of feasible water conservation practices and best management practices,
4. an implementation plan, including technical and financial support, to implement alternative flow requirements for the waterbody and provide for water use needs, and
5. a monitoring plan sufficient to assess water use.

7. New activities in Class AA waters.

Any activity that requires a new or renewed license, permit, or water quality certificate from this Department, as of the effective date of this rule, shall be regulated according to the flow standards in this rule. A water use plan may be incorporated in any new or renewed license, permit or water quality certificate.

8. Certain activities prohibited in Class AA waters.

Any activity that causes an alteration from the naturally occurring flow must protect all water quality standards, including the free-flowing characteristic of Class AA waters. In-stream dams or other alterations of the natural stream channel are prohibited. Activities, including the construction of structures adjacent to a waterbody to provide water withdrawal, may be permitted according to provisions in the Natural Resources Protection Act (38 M.R.S.A. Section 480).

AUTHORITY: 38 M.R.S.A. § 470-E
EFFECTIVE DATE:

Chapter 587-B In-stream Flow Standards for Class A, B, and C Waters.

Summary: Establishes water flow standards to protect aquatic life and other designated uses in Maine's Class A, B, and C waters. Standards are based on the natural variation of flow that occurs in Maine waters, and the uses and characteristics assigned by their water quality classification (38 M.R.S.A. Sections 464-468). Flow shall be managed to provide natural variation of flow that shall be described by seasonal aquatic base flow, or other seasonally variable flows, shown to protect aquatic resources and water quality standards.

1. Applicability. Flows established in this chapter apply to Class A, B, and C surface waters statewide. Flows established in this chapter do not apply to the following circumstances:

- A. Public emergency. Any alteration of flow for the purpose of protecting life and property due to a sudden catastrophic event, such as for fire control.
- B. Non-consumptive use. Water withdrawal from a single waterbody by any individual in quantities less than the amounts that are defined for a consumptive withdrawal in Section 2 of this rule.
- C. Alterations of flow in Class A, B, or C waters caused by withdrawal, or storage and release of these waters, where the Commissioner has approved an alternative flow through an approved water use plan, Water Quality Certificate issued pursuant to Section 401 of the federal Clean Water Act, or other license or permit issued by the Department, the Land Use Regulation Commission, or the Department of Health and Human Services, prior to the adoption of this regulation, may continue for the effective period of that approval decision. Standards in this rule shall apply to any subsequent reissuance of a license, permit, or certificate by the Department. The Department may assign a schedule in any reissuance of a license, permit, or certificate that will provide reasonable time for compliance with the new flow standard.
- D. Community Public Water Supplies (PWS) operating in compliance with their Legislative Charters, Public Utilities Commission and Drinking Water Program regulations are exempt from stream flow regulation for the waterbodies referenced in their charter. PWS withdrawals shall not exceed the safe yield (long term sustainable withdrawal) or maximum expected withdrawal, whichever is less, of the waterbody. A PWS must document their safe yield and maximum expected withdrawal with the Drinking Water Program, Bureau of Health, Department of Health and

Human Services. Maximum expected withdrawal is the maximum amount of water that is documented to have been taken during the 10 year period prior to the effective date of this rule.

- E. Aroostook Water and Soil Management Board Low Flow Policy. Facilities operating under the Policy, prior to the effective date of this rule shall continue to operate in accordance with the Policy.

2. Definitions.

A. Consumptive withdrawal. “Consumptive withdrawal” is water withdrawal from a surface waterbody by an individual, without immediate return flow to the same waterbody in the vicinity of the place of withdrawal, in excess of the threshold volumes for reporting as defined in 38 M.R.S.A. Section 470-B.1.

B. Natural variation of flow – “Natural variation of flow” is the expected dynamic fluctuation in flow that naturally occurs daily, seasonally and inter-annually that provides for physical characteristics of depth, volume, and velocity necessary to (1) provide habitat conditions for all life stages of indigenous organisms, (2) provide water exchange and aeration including the interstitial water, substrate scouring and sorting, temperature moderation, wetland replenishment, sediment erosion and deposition, and channel formation, and (3) maintain biological processes of ingress and egress to habitats, migration, drift, insect emergence, organic matter and nutrient cycling, and wetlands maintenance. In establishing alternative flows, flow variation of a magnitude, seasonal timing, and annual occurrence, including provision for infrequent passage or release of flood flows, shall be provided to sufficiently provide for the conditions and processes identified above.

C. Seasonal aquatic base flow. “Seasonal aquatic base flow” is defined as a median flow value for the following seasons: winter (January 1 to March 15), spring (March 16 to May 15), early summer (May 16 to June 30), summer (July 1 to September 15), fall (September 16 to November 15), and early winter (November 16 to December 31). Seasonal aquatic base flows are established as:

- (1) For the period January 1 to March 15: a flow equal to the unregulated February median monthly flow as determined according to section 3 of this rule;
- (2) For the period March 16 to May 15: a flow equal to the unregulated April median monthly flow as determined according to section 3 of this rule;
- (3) For the period May 16 to June 30: a flow equal to the unregulated June median monthly flow as determined according to section 3 of this rule:

(4) For the period July 1 to September 15: a flow equal to the unregulated August median monthly flow as determined according to section 3 of this rule;

(5) For the period September 16 to November 15: a flow equal to the unregulated October median monthly flow as determined according to section 3 of this rule;

(6) For the period November 16 to December 31: a flow equal to the unregulated December median monthly flow as determined according to section 3 of this rule;

3. Calculation of seasonal aquatic base flow values.

A. Using flow records. Seasonal aquatic base flow may be determined where adequate flow records are available for a specific waterbody. "Adequate flow records" means a minimum of 10 years of U.S. Geological Survey gauging records, or other equivalent flow records, except as follows or as approved by the department.

(1) Where the period of flow records is at least 1 year, the available flow records may be extended by means of flow data from a nearby watershed with similar hydraulic characteristics and a minimum of 10 years of U.S. Geological Survey gauging records or other equivalent flow records.

(2) Where no flow records are available, flow records may be established by using a drainage area adjustment ratio for records from other gauged sites within the same drainage and where the drainage areas of the gauged and ungauged sites differ by no more than 50%.

B. Without using flow records. Estimates of seasonal aquatic base flow may be calculated using the most appropriate of the following publications, or by use of a regional flow study to establish seasonal median flows for rivers and streams within a region. An adequate regional flow study should be based on a minimum of 20 stations where at least 10 independent base flow measurements have been made for each site. Where conditions, such as watershed area, fall outside of the conditions by which these estimates were calculated, estimates of seasonal aquatic base flow will be considered as interim estimates and may be refined as new site-specific data is obtained.

"Estimating Monthly, Annual, and Low 7-Day, 10-Year Streamflows for Ungauged Rivers in Maine", USGS Scientific Investigations Report 2004-5026.

"August Median Streamflow on Ungaged Streams in Eastern Aroostook County, Maine" USGS Water Resources Investigations Report 2003-4225.

"August Median Streamflow on Ungaged Streams in Eastern Coastal Maine", USGS Scientific Investigations Report 2004-5157.

4. Flow standards for Class A, B, and C waters.

Water flow in Class A, B, or C waters shall be sufficient to protect all designated uses, characteristics, and associated water quality standards of the assigned class, and shall exhibit a natural variation of flow. Consumptive withdrawal, storage and release for production of hydropower, or other direct or indirect removal, diversion, or use of these waters that causes the natural flow to be altered shall occur as provided below:

A. Flow in Class A, B, and C waters shall not be less than the seasonal aquatic base flow as defined, except when natural conditions alone cause those flows to be less, or where the Commissioner has determined, per paragraphs B or C below, that alternative flows may be established that are protective of all designated uses and characteristics of those waters.

(1) Class A Waters at Risk. Whenever consumptive withdrawal for a Class A water is expected to take all available water to the limits of seasonal aquatic base flow for two or more consecutive seasons defined in subparagraph 2-C, a water use plan shall be implemented.

B. Alternative flows may be established in a water use plan that allows for consumptive withdrawal based on the results of an in-stream flow incremental methodology or other site-specific flow study that is found by the Commissioner to be fully protective of the designated uses of that waterbody, taking into account needs for natural variation of flow by indigenous aquatic organisms and the processes needed to maintain those resources. The plan shall be made available for review by other state and federal natural resource agencies and approved by the Commissioner.

C. Alternative flows for hydropower generation may be established through a Water Quality Certificate pursuant to Section 401 of the federal Clean Water Act, or through a permit issued by the Department under the Maine Waterway Development and Conservation Act, that provide protection for all designated uses of that waterbody, taking into account need for natural variation of flow by indigenous aquatic organisms and the processes needed to maintain those resources.

D. When consumptive withdrawal occurs in Class A, B, or C waters that drain to a downstream Class AA water, the cumulative effect of the withdrawals

shall not cause Class AA flow standards, found in Chapter 587-A, to be violated.

5. Interim flow standards for Class A, B, and C waters.

Interim flow limits may be established for a period of up to five years for agricultural water users who voluntarily participate with the Maine Department of Agriculture to develop a water use plan through a cooperative program established by a multi-agency agreement between the Department of Agriculture and the Department of Environmental Protection, including but not limited to the "Aroostook Water and Soil Management Board Low Flow Policy". Such interim flows shall be based on the limits in paragraph 4-A of this rule or based on the results of a site-specific assessment by staff of the Department of Environmental Protection and other interested agencies, and shall be expected to protect designated uses of that waterbody for the five year period.

6. Water use plan.

A water use plan will include:

1. an assessment of water use needs of all existing consumptive and non-consumptive users of the waterbody,
2. identification of flow requirements necessary to protect aquatic life and other designated uses of the waterbody, taking into account the need to preserve natural variation of flow,
3. identification and incorporation of feasible water conservation practices and best management practices,
4. an implementation plan, including technical and financial support, to implement alternative flow requirements for the waterbody and provide for water use needs, and
5. a monitoring plan sufficient to assess water use.

7. New activities in Class A, B, or C waters.

Any activity that requires a new or renewed license, permit or water quality certificate from this Department, as of the effective date of this rule, shall be regulated according to the flow standards in this rule. A water use plan may be incorporated in any new or renewed license, permit or water quality certificate.

AUTHORITY: 38 M.R.S.A. § 470-E

EFFECTIVE DATE:

Chapter 587-C Water Level Standards for Class GPA Waters.

Summary: Establishes water level standards to protect aquatic life and other designated uses in Maine's Class GPA lakes and ponds. These standards take into account natural variation of water level that occur in Maine lakes and ponds, and the uses and characteristics assigned by their water quality classification. Water level shall be managed to provide variation that shall take into account expected seasonal levels shown to protect aquatic resources, and water quality standards of Class GPA and downstream waters.

1. **Applicability.** Water levels established in this chapter apply to Class GPA surface waters statewide. Water levels established in this chapter do not apply to the following circumstances.
 - A. Public emergency. Any alteration of water level for the purpose of protecting life and property due to a sudden catastrophic event, such as for fire control.
 - B. Non-consumptive use. Water withdrawal from a single waterbody by any individual in quantities less than the amounts that are defined for a consumptive withdrawal in Section 2 of this rule.
 - C. Storage ponds. Ponds constructed outside of a natural stream channel for the purpose of storing water for later use, such as irrigation or snowmaking, or other ponds not classified GPA under 38 M.R.S.A. Section 465-A.
 - D. Alteration of water levels in Class GPA waters caused by withdrawal, or storage and release of these waters, where the Commissioner has approved an alternative water level and downstream flow through an approved water use plan, Water Quality Certificate issued pursuant to Section 401 of the federal Clean Water Act, water level established by an order of the Commissioner pursuant to 38 M.R.S.A. Section 840, or other license or permit issued by the Department, the Land Use Regulation Commission, or the Department of Health and Human Services, prior to the adoption of this regulation, may continue for the effective period of that approval decision. Standards in this rule shall apply to any subsequent reissuance of a license, permit, or certificate by the Department. The Department may assign a schedule in any reissuance of a license, permit, or certificate that will provide reasonable time for compliance with a new water level standard.
 - E. Community Public Water Supplies (PWS) operating in compliance with their Legislative Charters, Public Utilities Commission and Drinking Water

Program regulations are exempt from water level regulation for the waterbodies referenced in their charter. PWS withdrawals shall not exceed the safe yield (long term sustainable withdrawal) or maximum expected withdrawal, whichever is less, of the waterbody. A PWS must document their safe yield and maximum expected withdrawal with the Drinking Water Program, Bureau of Health, Department of Health and Human Services. Maximum expected withdrawal is the maximum amount of water that is documented to have been taken during the 10 year period prior to the effective date of this rule.

F. Aroostook Water and Soil Management Board Low Flow Policy. Facilities operating under the Policy, prior to the effective date of this rule, shall continue to operate in accordance with the Policy.

2. Definitions.

- A. Consumptive withdrawal. "Consumptive withdrawal" is water withdrawal from a surface waterbody by an individual, without immediate return flow to the same waterbody in the vicinity of the place of withdrawal, in excess of the threshold volumes for reporting as defined in 38 M.R.S.A. Section 470-B.2.
- B. Normal high water. "Normal high water" means that elevation determined from a naturally occurring line along the shore of a Class GPA waterbody which is apparent from visible markings, changes in the character of soils due to prolonged action of the water, or changes in vegetation which distinguishes between predominantly aquatic and predominantly terrestrial conditions, or as determined from a man-made structure, such as the crest of a dam.

3. Water Level Standards for Class GPA Waters

Water levels in Class GPA waters shall be maintained as they naturally occur, except as provided below;

- A. Class GPA waters without a natural surface water outlet. Water levels in these waters shall be maintained within the seasonal levels listed below, unless as a naturally occurring condition, or as determined through a water use plan approved by the Commissioner that is protective of the designated uses of the water.
- (1) 0.5 feet below the normal high water April 1 to June 30;
 - (2) 1.0 feet below the normal high water through the month of July;
 - (3) 1.5 feet below the normal high water through the month of August;
 - (4) 2.0 feet below the normal high water from September 1 to March 31;
or
 - (5) Alternative seasonal water levels determined by site-specific and representative measurements of natural annual variation of the lake or pond.

- B. Class GPA waters with a natural surface water outlet and not used for community public water supply. Water level shall be maintained within six (6) inches of normal high water, or as determined through a water use plan approved by the Commissioner that is protective of the designated uses of the water. Flow in the outlet stream shall be maintained at seasonal aquatic base flow, as defined in Chapter 587-A or Chapter 587-B and adjusted for evaporation from the Class GPA water, or the natural inflow minus evaporation, whichever is less.
- C. Class GPA waters where the water level is controlled by a dam structure and is not used as a community public water supply or for hydropower storage or generation. Water levels shall be maintained to protect water quality standards and designated uses of Class GPA, and flow shall be provided for downstream waters that will protect water quality standards and designated uses according to their assigned classification. Consumptive withdrawal will be limited to a volume of water that is no greater than the surface area of the waterbody to a depth of six (6) inches, or as provided in a water use plan. Alternative water levels and downstream flows may be established through a water use plan approved by the Commissioner, or by a water level order of the Commissioner pursuant to 38 M.R.S.A. Section 840, that is protective of the designated uses of the water.
- D. Class GPA waters where the water level is controlled by a dam structure used for hydropower storage or generation. Water levels will be established by the Department through issuance of a Water Quality Certificate pursuant to Section 401 of the federal Clean Water Act, or through a permit issued by the Department under the Maine Waterway Development and Conservation Act, that is protective of the designated uses of Class GPA waters. When Class GPA waters drain directly to a downstream Class AA, A, B, or C water, maintenance of flow in those downstream waters and applicable standards of the Department's regulations in Chapter 587-A or Chapter 587-B shall be maintained. Hydropower facilities, not subject to a Water Quality Certificate pursuant to Section 401 of the federal Clean Water Act, or through a permit issued by the Department under the Maine Waterway Development and Conservation Act, shall be managed to protect the designated uses and water quality standards of those GPA waters and affected downstream water according to their classification.
- E. Class GPA waters used as Community Public Water Supplies (PWS). Water levels shall be maintained as provided in Section 1-E of this rule. Water levels altered by a new or expanded PWS shall be determined through a water use plan, developed in cooperation with the Department of Health and Human Services, and approved by the Commissioner.

4. Interim water level standards for Class GPA waters.

Interim water level limits may be established for a period of up to five years for agricultural water users who voluntarily participate with the Maine Department of Agriculture to develop a water use plan through a cooperative program established by a multi-agency agreement between the Department of Agriculture and the Department of Environmental Protection, including but not limited to the “Aroostook Water and Soil Management Board Low Flow Policy”. Such interim water levels shall be based on the limits in paragraph 3 of this rule or based on the results of a site-specific assessment by staff of the Department of Environmental Protection and other interested agencies, and shall be expected to protect designated uses of that waterbody for the five year period.

5. Water use plan.

A water use plan will include:

1. an assessment of water use needs of all existing consumptive and non-consumptive users of the waterbody,
2. identification of water level requirements necessary to protect aquatic life and other designated uses of the waterbody, taking into account the need to preserve natural variation of water levels,
3. identification and incorporation of feasible water conservation practices and best management practices,
4. an implementation plan, including technical and financial support, to implement alternative water level requirements for the waterbody and provide for water use needs, and
5. a monitoring plan sufficient to assess water use.

6. New activities in Class GPA waters.

Activities that require any new or renewed license, permit or water quality certificate from this Department, as of the effective date of this rule, shall be regulated according to the flow standards in this rule. A water use plan may be incorporated in any new or renewed license, permit or water quality certificate.

AUTHORITY: 38 M.R.S.A. § 470-E
EFFECTIVE DATE: