



Department of
Environmental
Conservation

Public Information Meeting

DEC Proposed Rule: Reclassification of Surface Waters in the Lake Champlain Drainage Basin 6 NYCRR Part 830

October 13, 2016

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Support Section, Division of Water, NYSDEC**

Agenda

- Purpose of proposed rule
- Background on classifications
- What's in the proposed rule
- Analysis of regulatory impact
- Rulemaking and public comment process
- Questions



Federal Clean Water Act

National Goal: “water quality which provides for the **protection and propagation** of fish, shellfish, and wildlife...”

Commonly referred to as the “fishable” goal

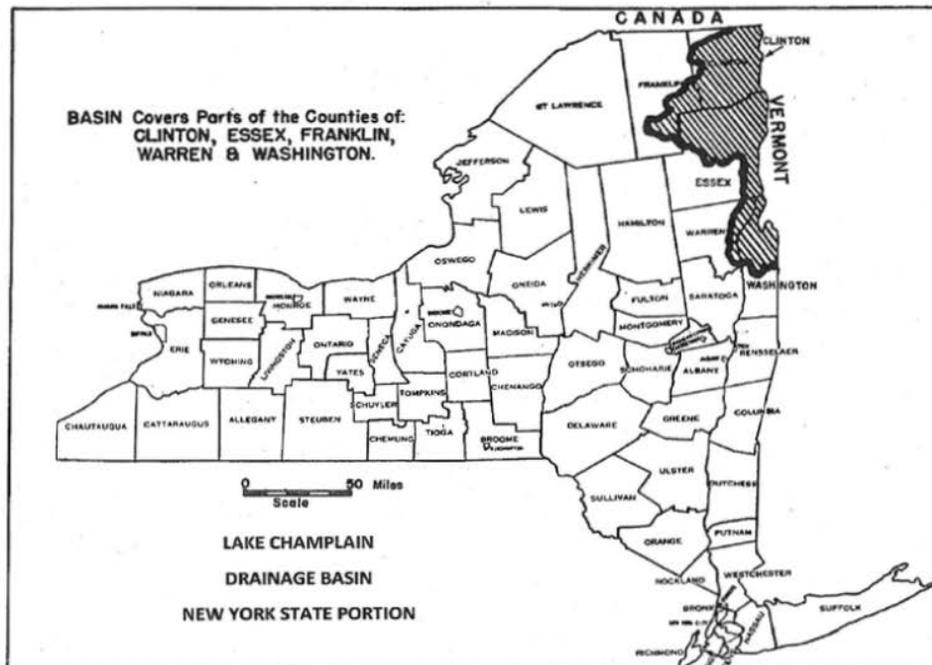


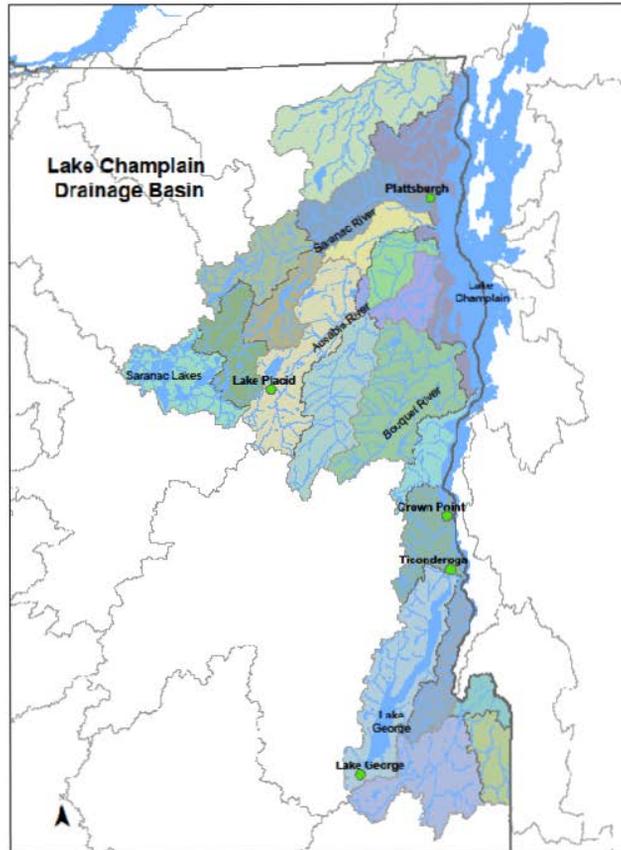
Purpose of Proposed Rule

- Upgrade classifications of waters to meet the “fishable” goal of the federal Clean Water Act, and to protect trout and trout spawning



Lake Champlain Drainage Basin





Background: Classifications

- **Waters are grouped into classes with best uses for each class, such as**
 - **source of drinking water**
 - **swimming**
 - **boating**
 - **fishing**
- **Standards are adopted to protect best uses**



Background: Freshwater Classes

- **AA-Special, A-Special, AA, A, B, C, D**
- **Designations for trout (T) or trout spawning (TS) protection may also apply, e.g., C(T) or C(TS)**

Background: Water Classes

WATER CLASS

BEST USE

A, AA, A-S, AA-S

water supply, swimming,
boating, fishing

B

swimming, boating,
fishing

C

fishing

D

fishing (survival only)

Background: Existing Part 830 Regulations

- **Classification of waters of the Lake Champlain drainage basin**
- **Sections 1-3: Definitions, etc.**
- **Section 4 (Table I): Individual waters and their classifications**
- **Sections 5-8: Maps (drainage basin, classified waters)**



Purpose of Proposed Rule

- **Upgrade classifications of waters to meet the “fishable” goal of the federal Clean Water Act, and to protect trout and trout spawning**



Reclassification is Routine

- **Conducted basin-by-basin, across NY state's 17 drainage basins**
- **Average one basin every two years**
- **Lake Champlain was next for review**



Synopsis of Proposed Rule

- Upgrade 172 classifications to higher classes (mostly Class D to C)
- Add protection to certain waters for trout (T) or trout spawning (TS)
- Upgrades supported by DEC analysis and data
- No downgrades
- Revise text and maps



A Closer Look at Class D Waters

- Do not meet federal fishable goal
- 167 Class D's in the basin
- Upgrade (reclassify) 139 from D to C or higher
- 28 to remain Class D

Waters Remaining as Class D

- **28 to remain Class D**
 - **insufficient habitat to support or sustain fish propagation**
(e.g., spawning substrate, temperature, flow too high or intermittent, etc.)
 - **Use Attainability Analyses (UAAs)**

Reading the Proposed Rule

- Text of proposed rule is called the “Express Terms”
- Proposed deletions are in [brackets]; proposed new text is underlined
- Changes to text
- Changes to Classifications of individual waters in Table I



Example from Express Terms Table I

Item No.	Waters Index Number	Name	Description	Map Ref. No.	Class	Standards
123	C-15-56	Tributary of Saranac River	Enters Saranac River from southeast 1.2 miles upstream from trib. 55 and 0.4 mile south of Trudeau.	C-23	[D] <u>C</u>	[D] <u>C</u>

Example from Express Terms Table I

Item No.	Waters Index Number	Name	Description	Map Ref. No.	Class	Standards
39	C-3-27 portion as described	Witherspoon Brook	From trib. 1 to source.	A-25	C	C(T)

Regulatory Impact Assessment

- Higher classifications (with more stringent standards) for some waters
- All State Pollutant Discharge Elimination System (SPDES) permits were reviewed
 - would discharge limits need to change?
 - would there be related costs?
- **No cost impacts** for SPDES-permitted facilities



Next Steps

- **Public Hearing:**
November 2, 2016 at 11:00 AM
Town of Plattsburgh, Town Office Meeting Room, 151 Banker Road, Plattsburgh, NY
- **Close of Public Comment Period:**
November 7, 2016 - 5:00 PM
- **DEC reviews and considers all public comments and prepares a response**



Next Steps, cont.

- **Prepare final rule for adoption (unless DEC decides to make substantial changes; would require notice of revised rulemaking)**
- **File final rule with NYS Dept. of State and publish in NYS Register**
- **Obtain NYS Attorney General Certification and submit rulemaking to US EPA for approval**



How to Submit Comments

- At Public Hearing on **November 2, 2016** (oral/written), or
- Mail to: **NYSDEC, 625 Broadway, Albany NY 12233-3500, Attn: Robert Simson, or**
- E-mail to: Part.830Reclass@dec.ny.gov

Submit comments by 5:00 PM November 7, 2016



Available Documents

- **Express Terms (full text of proposed rule)**
- **Summary of Express Terms**
- **Regulatory Impact Statement**
- **Rural Area Flexibility Analysis**
- **Regulatory Flexibility Analysis**
- **Job Impact Statement**
- **Description of Proposed Action**



Further Information / Questions?

- **Proposed Rule and Supporting Documentation:**
<http://www.dec.ny.gov/regulations/propreulations.html>
- **E-Mail:** Part.830Reclass@dec.ny.gov



Questions on the Proposed Rule?



Thank You

Contact information:

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Division of Water

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