

# AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

AGENCY SUBMITTING REGULATION: DEP

DATE: October 13, 2009

SUBJECT MATTER OF REGULATION: Stream Flow Standards and Regulations

REGULATION SECTION NO.: 22a-141b-1 through 22a-141b-9

STATUTORY AUTHORITY: Section 22a-6 and 22a-141b

OTHER AGENCIES AFFECTED: While involved in the regulation of water, the impact to the Department of Public Health, the Department of Public Utility Control, and the Office of Policy and Management is expected to be minimal during the first three years. In addition, state agencies that own and operate dams or other structures may need to comply.

EFFECTIVE DATE USED IN COST ESTIMATE: October 13, 2009

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## SUMMARY OF STATE COST AND REVENUE IMPACT OF PROPOSED REGULATION

Agency: Department of Environmental Protection

Fund Affected : None

	1st Year <u>2010</u>	2nd Year <u>2011</u>	3rd Year <u>2012</u>
Number of Positions	0	0	0
Personal Services	0	0	0
Other Expenses	0	0	0
Grants	0	0	0
Total State Cost (Savings)	-	-	-
Estimated Revenue Gain (Loss)	-	-	-
Total Net Cost (Savings)	0	0	0

EXPLANATION OF STATE IMPACT OF REGULATION: Persons who own or operate a dam or other structure that impounds or diverts the flow of water in a stream or river system may be required to comply with requirements to provide for in-stream water flows consistent with the flow standards established in the regulation. The Department of Environmental Protection will employ existing staff and other available resources currently dedicated to water management to implement these regulations. The regulations provide phased in requirements over a fifteen-year period that will allow DEP to implement these regulations including development of technical assistance documents, forms and web-based tools to assist with compliance.

Impact on State owned dams is expected to be small since most of those dams are operated in “run-of-river” mode which will not require substantive changes to comply with the new regulations. Impact on other state owned structures that impound or divert water is expected to be small since many may meet other regulatory exemptions and others will have flexible schedules to comply. Compliance verification and enforcement will be accomplished with current staff levels.

In response to the regulations, regulated entities may seek new or modified approvals or permits from the Department of Public Health and the Department of Public Utilities Control. It is anticipated that these requests will be spread out over the fifteen year compliance phase-in period.

**EXPLANATION OF MUNICIPAL IMPACT OF REGULATION:** The cost impact on municipalities is limited to those municipalities that provide potable water as a municipal service and who, like all other water utilities, may have to comply with the regulations. Flexibility in the regulations has been considered to reduce municipal impacts including: exemptions; less stringent requirements for certain small water users and other types of users; allowing for variances; providing for drought off-ramps; allowing for alternative flow management schemes to replace the presumptive flow standards; providing for public participation opportunities to ensure classifications of streams and rivers and the resulting standards will be reflective of current water use by municipalities; and rolling compliance across the state as stream classifications are established. Development of tools, guidance and assistance will include a web-based stream statistics mechanism and an on-line reporting system which will simplify compliance and reporting requirements. There is a five year period in the regulation before any compliance is required, although municipalities may need to invest in infrastructure improvements during the first five years. Then a flexible implementation schedule from five to fifteen years has been established in the regulation to reduce the impact of full compliance. Although affected municipalities are likely to be already providing some required water reporting and compliance information like all other water utilities, the implementation periods will allow time to assess existing water use, current water supplies, and other management measures in order to comply with the standards. The cost to any individual municipality will be highly variable dependent upon the adequacy of their current supplies, water conservation, resources that have been dedicated to maintenance of the system in the past, the condition of existing infrastructure and already planned upgrades and repairs. There is a potential for financial support in the form of low interest loans or grants through the Drinking Water State Revolving Fund to offset some costs to municipalities in the future. In addition, DEP is specifically seeking comment during the regulation public review process on the social, economic, ecological and technical feasibility of fully complying with certain longer term presumptive standards.