

October 13, 2009

NOTIFICATION FORM
DEPARTMENT OF ENVIRONMENTAL PROTECTION
SMALL BUSINESS REGULATORY IMPACT AND REGULATORY FLEXIBILITY
ANALYSIS

Title of Regulation Stream Flow Standards and Regulations, RCSA sections 26-141b-1 to 26-141b-9, inclusive

Statutory Authority Section 22a-141b

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The Regulation

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 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.

Expected Small Business Impact

Some small businesses that 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 of the regulations.

There is a five-year period in the regulation before any compliance is required, so there will be limited fiscal impact to small businesses from these regulations for the first five years. However, small businesses may need to invest in infrastructure improvements during the first few years. Then a flexible implementation schedule from five to fifteen years has been established in the regulation to reduce the impact of full compliance. These implementation periods will allow time for businesses to assess existing water use, current water supplies, and other management measures to comply. Also the implementation periods will allow the DEP to use existing staff and other available resources currently dedicated to management of stream flows to implement these regulations including develop of technical assistance documents, forms and web-based tools to assist small businesses with compliance, as they are phased in over this period.

Because of flexibility in the regulations including exemptions and less stringent requirements for certain small water users (see below for more information), many related small businesses will not be regulated. After the five-year period it is estimated that some of approximately 140 small businesses may start to be subject to requirements of the regulations, however this number is likely to be further reduce by other flexibility in the regulations. Then the cost to individual small business, if any, will be highly variable dependent upon the adequacy of their current water supplies, water conservation, resources that have been dedicated to maintenance of the system in the past, and the condition of existing infrastructure. In addition, the Agency 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, including comment from small businesses.

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 small water companies in the future, but this is not available to businesses.

Regulatory Flexibility Analysis

The agency considered the methods listed in section 4-168a(b) to reduce the impact of all or part of the requirements contained in the proposed regulation related to small businesses including: exemptions of all small water withdrawals (less than 50,000 gallons per day); conditional exemptions for other minor withdrawals; providing a five-year period before initial compliance and reporting requirements take effect; providing a ten to fifteen year implementation period before full compliance takes place; providing for rolling compliance across the state as stream classifications are established; allowing for variances; providing for drought off-ramps; allowing for alternative flow management schemes to replace the operational 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 business; and development of tools, guidance and assistance, including a web-based stream statistics mechanism and reporting system, to simplify compliance and reporting requirements.