

SMALL BUSINESS IMPACT STATEMENT

Amendment of RCSA Sections 22a-409-1 and 22a-409-2 and adoption of Section 22a-411a-1 and 22a-411a-2

Prior to adopting a new section or amendment, section 4-168a of the Connecticut General Statutes (CGS) requires that each state agency consider the effect of such action on small businesses as defined in CGS section 4-168a. When such regulatory action may have an adverse effect on small businesses, CGS section 4-168a directs the agency to consider regulatory requirements that will minimize the adverse impacts on small businesses if the addition of such requirements (1) will not interfere with the intended objectives of the regulatory action and (2) will allow the new section or amendment to remain consistent with public health, safety and welfare.

State Agency Submitting Proposed Amendment: Energy and Environmental Protection (DEEP)

Date: October 1, 2015

Subject of Regulation: Inspection requirements for dam owners and required emergency action plans for high and significant hazard dams.

In accordance with CGS section 4-168a, staff analyzed the effect on small businesses of the proposed regulations and determined the following:

Check all appropriate boxes:

- The regulatory action will not have an effect on small businesses.
- The regulatory action will have an effect on small businesses, but will not have an adverse effect on such small businesses.
- The regulatory action may have an adverse effect on small businesses, and no alternative considered would be both as effective in achieving the purpose of the action and less burdensome to potentially affected small business. Alternatives considered include the following:
- (1) The establishment of less stringent compliance or reporting requirements for small businesses;
 - (2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
 - (3) The consolidation or simplification of compliance or reporting requirements for small businesses;
 - (4) The establishment of performance standards for small businesses to replace design or operational standards required in the new section or amendment; and
 - (5) The exemption of small businesses from all or any part of the requirements contained in the new section or amendment.

- The regulatory action will have an adverse effect on small businesses that cannot be minimized in a manner that is consistent with public health, safety and welfare.

Explanation: DEEP is proposing to amend Regulations of Connecticut State Agencies (RCSA) sections 22a-409-1 and 22a-409-2 to implement recent statutory changes that require dam owners to hire a professional engineer to inspect their dams according to a schedule prescribed by the Commissioner, and to adopt new sections 22a-411a-1 and 22a-411a-2, to implement recent statutory changes that require dam owners to prepare emergency action plans for high and significant hazard dams. The referenced statutory changes and new requirements were mandated by Public Act 13-197.

It is anticipated that the statutory changes that now require most dam owners to hire professional engineers to inspect their dams will increase demand for engineering services in the state and stimulate the economy for small engineering businesses. The proposed regulations will clarify the requirements for submittal of inspection materials and emergency action plans to DEEP.

The majority of dams regulated by the state are privately owned, and most are not owned by businesses.

All dam owners who must hire a professional engineer will incur a higher inspection cost than in the past when the state inspected dams and under charged for the dam inspection. Professional Engineers in the private sector will charge a fee that is more representative of the real cost of the inspection than the low fees previously charged by the state. The state will continue to conduct inspections of dams for a number of reasons, including when an owner fails to conduct a regulatory inspection. In this case, the state will charge a fee that is commensurate with fees charged by the private sector and representative of the real cost of the inspection.

Dam owners of high and significant hazard dams are now required by statute to prepare an Emergency Action Plan for their dams and one of the requirements for this plan is to prepare an inundation map which requires the skill of a professional engineer. This component of the emergency action plan will be an increased cost to those dam owners of high and significant hazard dams who have never prepared an emergency action plan. Many dam owners of high and significant hazard dams have already prepared emergency action plans. For example, many water companies who own high and significant hazard dams have been hiring professional engineers to conduct regular inspections and prepare emergency action plans for many years.

The state will conduct an inventory of low hazard dams in the state prior to implementing the notification process to low hazard dam owners to retain an engineer to inspect their dams. This will ensure the state has up to date information regarding these dams.

The proposed regulatory amendment and adoption of the new section implement the current statutory requirements brought about by the recent statutory changes. The proposal is not expected to impose significant increase in compliance costs on small businesses. Because the proposal is predicted to have little to no impact on small businesses, no further burden reducing measures are necessary.