

Connecticut General Assembly



OFFICE OF FISCAL ANALYSIS

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June 20, 2011

TO: Senator Andrew Roraback
Representative Tim O'Brien
Co-Chairs, Regulations Review Committee

FROM: Alan Calandro, Director *RSW Gov AC*

SUBJECT: Review of Agenda Items for the June 28, 2011 Meeting

OFA has reviewed the state and municipal fiscal impact of the four items on the agenda (items 2011-018, 2010-035b, 2011-009a and 2011-010a) for the above meeting.¹ The following table summarizes our review.

Reg. #	Agency	Is Agency Estimate of State Impact Reasonable?	Is Agency Estimate of Municipal Impact Reasonable?	Did Agency Submit a Small Business Impact Statement? ²	Did Agency Submit a Regulatory Flexibility Analysis? ³
2011-018	DCP	Yes	Yes	Yes	No
2010-035b	DSS	Yes	Yes	No	No
2011-009a	DSS	Yes	Yes	Yes	No

¹ CGS Section 2-71c(c)(7) requires OFA to prepare "short analyses of the costs and long range projections of ... proposed agency regulations."

² PA 09-19 requires agencies to prepare a small business impact statement on all regulation submittals, effective October 1, 2009.

³ CGS 4-168(a) requires agencies to prepare a regulatory flexibility analysis statement on all regulation submittals when there is an impact on small businesses.

Reg. #	Agency	Is Agency Estimate of State Impact Reasonable?	Is Agency Estimate of Municipal Impact Reasonable?	Did Agency Submit a Small Business Impact Statement?²	Did Agency Submit a Regulatory Flexibility Analysis?³
2011-010a	DEP	Yes	Yes	Yes	No

Please contact me if you have any questions or would like additional information.

AC: lmk

Regs-June28,11-concur

Office of Fiscal Analysis

AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Consumer Protection

Date: 01-28-2011

Subject Matter of Regulation: Sterile Compounding

Regulation Section No.: 20-576-64 to 20-576-68

Statutory Authority: 4-168; 20-576(a)

Other Agencies Affected: n/a

Effective Date Used In Cost Estimate: Upon Passage (Filing with the Secretary of the State).

Estimate Prepared By: Jerry P. Padula, Esq. - DCP Legal Telephone No.: 860-713-6087

SUMMARY OF COST AND REVENUE IMPACT OF PROPOSED REGULATION

Agency: Department of Consumer Protection Fund Affected: n/a

	First Year	Second Year	Full Operation
Number of Positions	n/a	n/a	n/a
Personal Services	\$0	\$0	\$0
Other Expenses	\$0	\$0	\$0
Equipment	\$0	\$0	\$0
Grants	\$0	\$0	\$0
Total State Cost or (Savings)	\$0	\$0	\$0
Estimated Revenue Gain or (Loss)	\$0	\$0	\$0
Total Net State Cost or (Savings)	\$0	\$0	\$0

Explanation of State Impact of Regulation:

No fiscal impact is anticipated. The Department of Consumer Protection's Drug Control Division currently regulates the activities of all pharmacies in Connecticut.

Explanation of Municipal Impact of Regulation:

No impact on municipalities is anticipated. The Department has jurisdiction over these regulations.

Explanation of Small Business Impact of Regulation:

Please see the Department's Small Business Impact Statement for more details.

SMALL BUSINESS IMPACT STATEMENT

Prior to adopting a new section or amendment, Section 4-168a of the Connecticut General Statutes (C.G.S.) requires that each state agency consider the affect of such action on small businesses as defined in C.G.S. Section 4-168a. When such a regulatory action may have an adverse affect on small businesses, C.G.S. 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 regulations: **Department of Consumer Protection**

Subject matter of Regulation: **Sterile Compounding**

Date of Agency analysis: **01-28-2011**

Check the appropriate box:

- ☐ The regulatory action will not have an affect on small businesses.
- ☐ The regulatory action will have an affect on small businesses, but will not have an adverse affect on such small businesses.
- ☒ The regulatory action may have an adverse affect 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 affect on small businesses that cannot be minimized in a manner that is consistent with public health, safety and welfare.

The Department of Consumer Protection **notified** / (did not notify) the Department of Economic and Community Development of its intent to take the proposed action, and **completed** / (did not complete) the Agency Fiscal Estimate of Proposed Regulations.

Explanation of Small Business Impact of Proposed Regulation:

This proposed regulation should not alter the business practices of existing sterile compounding pharmacies in Connecticut, since they already comply with industry-wide standards. For any pharmacies not meeting industry standards, insurers would not undertake business with the wayward companies. The potential costs associated with this proposed regulation would apply to new pharmacies who wish to engage in sterile compounding. Pharmacy trade associations were specifically consulted in the drafting of these five new pharmacy regulation sections related to sterile compounding.

Small business exemptions from these new provisions are not consistent with the objective of protecting the health and safety of Connecticut residents who may be administered or prescribed drugs prepared through the process of sterile compounding. The Department specifically considered the alternatives listed in Conn. Gen. Stat. Section 4-168a.

Additional costs are expected only for new pharmacy locations that engage in sterile compounding. The costs associated with this regulation would mainly be one-time costs, while a small percentage would be ongoing, as they relate to everyday practices and record keeping functions.

1. **Estimated number of pharmacy locations in Connecticut that engage in sterile compounding: 10**

(Above estimate obtained from Departmental records, as of June 16, 2010)

2. **Estimated number of pharmacy locations in Connecticut that already meet the additional requirements set forth in the proposed regulation, and therefore would not have to incur additional costs for compliance: 10**

(Above estimate based upon Departmental records, as of June 16, 2010)

3. **Estimated number of pharmacy locations that would have to incur costs to comply with the proposed regulation: None that are currently operating, but pharmacies entering this area of practice in the future would have an outlay of between \$50,000 to \$100,000.**

(Above estimate results from subtracting the number of locations in #1 from that in #2)

4. **Estimated number of firms defined as “small businesses” per statute (with fewer than 75 full-time employees) to be affected by proposed regulation: 10 firms**

(Above estimate based upon Departmental records, as of June 16, 2010)

5. **Estimated cost of proposed regulation on small businesses: \$75,000.00.**

(The above figure was obtained by using an estimated cost of **\$75,000.00** for the installation of equipment and the implementation of practices meeting the standards within the proposed regulation in **one additional sterile compounding pharmacy** location in Connecticut. One additional sterile compounding pharmacy is a ten percent increase in the number of locations offering this type of pharmacy practice, and the existing ten businesses already have a compliant system in place.)

DSS ID #

AGENCY FISCAL ESTIMATE OF PROPOSED REGULATIONS

AGENCY SUBMITTING REGULATION Department of Social Services DATE 09/26/07

SUBJECT MATTER OF REGULATION Requirements for Payment of Hearing Aids and Supplies in the Medicaid Program REGULATION SECTION NO. 17b-262 STATUTORY AUTHORITY Sub-Sec (a) of Sec 4-168 CGS; 17b-262

OTHER AGENCIES AFFECTED _____

EFFECTIVE DATE USED IN COST ESTIMATE Fiscal Year 2008

ESTIMATE PREPARED BY Jennifer Pardus

QUESTIONS SHOULD BE ADDRESSED TO Lee Voghel TELEPHONE 424-5842

SUMMARY OF STATE COST AND REVENUE IMPACT OF PROPOSED REGULATION

Agency Department of Social Services Fund Affected _____

	First Year 2006	Second Year 2007	Full Operation 2007
Number of Positions	_____	_____	_____
Personal Services	_____	_____	_____
Other Expenses	_____	_____	_____
Equipment	_____	_____	_____
Grants (Medicaid)	_____	_____	_____
Total State Cost (Savings)	_____	_____	_____
Estimated Revenue Gain (Loss)	_____	_____	_____
Total Net State Cost (Savings)	<u>See Below</u>	<u>See Below</u>	<u>See Below</u>

EXPLANATION OF STATE IMPACT OF REGULATION:

The Department of Social Services, under section 17b-262 of the Connecticut General Statutes, intends to adopt regulations in accordance with the provisions of subsection 4-168 of the Connecticut General statutes. These regulations pertain to requirements for payment of Hearing Aids and Supplies in the Medicaid program.

These regulations establish the requirements under which Providers who are enrolled in the Connecticut Medical Assistance Program are to receive payment for Hearing Aids and Supplies. These regulations incorporate current policy and practice, include language corrections and updates, define covered services, establish requirements for prior authorization, outline billing and payment methods, and reference necessary documentation requirements.

Please refer to the attached regulations.

FINANCIAL IMPACT

Based upon analysis by the Medical Policy staff, these regulations have been determined to be technical in nature, and serve to convey to the Provider the policy for payment of Hearing Aids and Supplies in the Medicaid program. There is no anticipated financial impact associated with the adoption of these regulations.

MUNICIPAL IMPACT: None.

AGENCY FISCAL ESTIMATE OF PROPOSED REGULATIONS

AGENCY SUBMITTING REGULATION Department of Social Services DATE 5/11/2010
 SUBJECT MATTER OF REGULATION Supplemental Nutrition Assistance Program Categorical Eligibility Changes
 REGULATION SECTION NO. Section 17b-105c STATUTORY AUTHORITY Farm Bill 2002
 OTHER AGENCIES AFFECTED None
 EFFECTIVE DATE USED IN COST ESTIMATE July 2009
 ESTIMATE PREPARED BY Marsha Goldberg
 QUESTIONS SHOULD BE ADDRESSED TO Lee Voghel TELEPHONE 424-5842

SUMMARY OF STATE COST AND REVENUE IMPACT OF PROPOSED REGULATION

Agency Department of Social Services Fund Affected General

	SFY 2010	SFY 2010	SFY 2011
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants (Medicaid)			
Total State Cost (Savings)			
Estimated Revenue Gain (Loss)			
Total Net State Cost (Savings)		See Below	

EXPLANATION OF STATE IMPACT OF REGULATION:

This proposed regulation seeks to amend the Uniform Policy Manual to exclude interest earned on excluded assets as both income and assets for those households who are categorically eligible for the Supplemental Nutrition Assistance Program (SNAP).

In July 2009, the Department implemented a federal option to expand categorical eligibility for SNAP increasing gross income limits to 185% of the federal poverty limit (FPL) and eliminating the asset limit. This change made more families eligible for SNAP benefits. Households with a gross monthly income greater than 185% FPL are subject to an asset limit of \$3,000 and income earned on those assets are counted as income in the month they are earned and an asset in subsequent months.

FINANCIAL IMPACT:

The SNAP program is 100% federally funded therefore these changes have no fiscal impact on the State. These changes will save a small amount of staff time associated with administering the program, but no savings due to this change as it merely allows staff more time to process their caseloads.

However, there has been a modest impact on the State Funded SNAP (SFSNAP) program serving legal non-citizens. Caseloads in this program have seen a growth of 66% since July, 2009 from 188 cases to 312 cases in March, 2010. This program is 100% state funded. It is difficult to ascertain if the changes in policy, or changes in the economic climate, have contributed to this growth. SFSNAP clients receive 75% of the federal grant amount.

MUNICIPAL IMPACT: None.

Small Business Impact Statement

Prior to adopting a new section or amendment, Section 4-168a of the Connecticut General Statutes (C.G.S.) requires that each state agency consider the affect of such action on small businesses as defined in C.G.S. Section 4-168a. When such a regulatory action may have an adverse affect on small businesses, C.G.S. 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 regulations: Department of Social Services

Subject matter of Regulation: SNAP Program Categorical Eligibility

In accordance with C.G.S. Section 4-168a, staff analyzed the affect on small businesses of the proposed regulations and determined the following:

True False (Check all appropriate boxes):

- ☒ ☐ The regulatory action will not have an affect on small businesses.
- ☐ ☐ The regulatory action will have an affect on small businesses, but will not have an adverse affect on such small businesses.
- ☐ ☐ The regulatory action may have an adverse affect 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 affect on small businesses that cannot be minimized in a manner that is consistent with public health, safety and welfare.

The State agency listed above notified the Department of Economic and Community Development of its intent to take the proposed action and completed the Agency Fiscal Estimate of Proposed Regulations.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety – RCSA Section 15-121-A1 (Definitions)

Regulation Section No.: 15-121-A1 **Statutory Authority:** CGS Section 15-121(c)(1)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA

Telephone No.: 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
<u>Number of Positions</u>			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

There is no anticipated impact to the State.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

There is no anticipated impact to small business.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

Since there is no anticipated small business impact, a regulatory flexibility analysis is not required.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection Date: May 9, 2011

Subject Matter of Regulation: Boating Safety – RCSA Section 15-121-A11 (repealed)

Regulation Section No.: 15-121-A11 (repealed) Statutory Authority: CGS Section 15-121(b)(11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA

Telephone No.: 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

There is no anticipated impact to the State.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

There is no anticipated impact to small business.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

Since there is no anticipated small business impact, a regulatory flexibility analysis is not required.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety – RCSA Section 15-121-A12 (repealed)

Regulation Section No.: 15-121-A12 (repealed) **Statutory Authority:** CGS Section 15-121(b)(11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection **Fund Affected:** N/A

	First Year	Second Year	Full Operation
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

There is no anticipated impact to the State.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

There is no anticipated impact to small business.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

Since there is no anticipated small business impact, a regulatory flexibility analysis is not required.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety – Rules regarding the application for, issuance, and display of, marine dealer registration numbers.

Regulation Section No.: RCSA Section 15-121-B5 (together with the modifications proposed herein to RCSA Sections 15-121-B5(f) and 15-121-B5a)

Statutory Authority: CGS Section 15-121(c) and 15-145(b) as amended

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA

Telephone No.: 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: General

	First Year	Second Year	Full Operation
<u>Number of Positions</u>			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue GAIN	18,640	18,080	18,080
Total Net State Cost or (Savings)	0	0	0

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality

Explanation of State Impact of Regulation:

Public Act 09-105, An Act Concerning Marine Dealers, Marine Surveyors and Yacht Brokers, originated with the Boating Division of the DEP. The act makes changes to the rules regarding marine dealer registration numbers (MDRNs), commonly known as "boat dealer plates". It allows yacht brokers and marine surveyors access to MDRNs for the first time, and allows the Commissioner to set associated rules and fees via regulation.

There are two fees associated with these proposed regulation. The first is a general increase in the annual per-unit cost of a MDRN. Previously set at \$50 by law, PA 09-105 transferred the authority to set this fee from law to regulation. DEP is now proposing to set this fee at \$100 pursuant to the intention of PA 09-3, wherein all fees set by regulation were doubled. There are approximately 300 MDRNs in existence (distributed among 178 marine dealers), the number of which remains more or less steady from year to year.

The second fee proposed in this regulation is a fee for all *new* applicants for MDRNs; businesses that currently hold such numbers will not have to pay this fee retroactively. All applicants for MDRNs are currently examined by the state to verify that the applicant meets all conditions set forth by law. Under this proposed regulation, all *new* applicants, except for Marine Surveyors, will be similarly examined and subject to the *new* examination fee. This fee is proposed was originally proposed at \$280 as a means to recover expenses of time and transport incurred by the State when examining the qualifications of an applicant, or (in certain cases) when conducting a records inspection upon application for renewal. Based on comments received in the public hearing process, the fee is now proposed at \$140.

The State currently receives about 20 applications per year, but anticipates about 26 new applications from fee payers in the first year after promulgation of these regulations as yacht brokers act to take advantage of their new ability to obtain MDRNs, and 22 new applications from fee payers per year thereafter. Marine Surveyors are exempted from this fee (and are therefore not included in this tally) because they need only possess valid professional credentials as a prerequisite to receiving and renewing MDRNs, and do not receive a site visit or a records examination.

The examination fee will be collected at the time of application and prior to the requisite site inspection. A qualified marine dealer should have to pay the examination fee only once, however, some applicants will not qualify for MDRNs upon examination, and these persons will have to pay the fee again if they reapply. Also, marine dealers who fail to meet renewal requirements will lose their numbers and will have to reapply after a year if they want them back. These persons will also have to pay the examination fee upon reapplication.

Implementation of these regulations will result in an *estimated REVENUE GAIN* to the General Fund of \$18,640 in FY 1 and \$18,080 in FY 2 as a result of the new or raised fees. The projected revenue gain for FY 1 includes a one-time "flush" of new fee-paying applicants (estimated at 4 additional applicants above the expected 22 per year) paying the proposed \$140 examination, as yacht brokers, newly enabled to receive marine dealer registration numbers by PA 09-105 and currently waiting for these regulations to be promulgated, move to take advantage of the new rules.

The **REVENUE GAIN** referenced above is detailed in the table below:

Item	Anticipated Fee (Increase) (\$)	Anticipated # of Applicants FY 1	Anticipated # of Applicants FY 2	FY 1 (\$)*	FY 2 (\$)
Marine Dealer Exam Fee	140	26	22	3,640	3,080
Marine Dealer Registration Number (annual renewal fee)	50	300	300	15,000	15,000
Total	—	—	—	18,640	18,080

**following promulgation*

Explanation of Small Business Impact of Regulation:

This regulation introduces one new fee and reintroduces a fee by regulation that was previously set by law. Both originate in PA 09-105 but require separate analysis. They are summarized below.

Description of Impact	No. of Affected Businesses	Impact to Existing Business	Impact to New Business
One Time Examination Fee	22/yr.*	N/A	\$140
\$50 increase in per-unit cost for Marine Dealer Registration Numbers	178** (current)	Generally \$50 to \$100 annually, but up to \$300***	\$50 to \$100 (typical)

* 26 expected in the first year, then 22 per year thereafter, based on the average number of applicants for the last three years. Source: Boating Division records

**Actual number of Marine Dealers currently receiving Marine Dealer Registration Numbers. Source: Boating Division records

***Generally marine dealers have one number (impact of additional \$50 annually), but some maintain up to six (impact of additional \$300 annually)

Marine Dealer Registration Number Fee Increase

A Marine Dealer Registration Number is similar to an automobile "dealer plate". It allows the marine dealer to operate an unregistered vessel on the waters of the state and confers certain additional privileges, but with limitations. Qualifying marine dealers must apply for such numbers, and if granted one or more numbers by the Commissioner, must pay an annual fee to acquire and renew each number. It is important to note that a marine dealer, marine manufacturer, marine surveyor or yacht broker is not required to have marine dealer registration numbers, and many operate without one.

Public Act 09-105 transferred the authority to set the fee for each marine dealer registration number from law to regulation. The fee set by law was \$50 per number, and DEP originally intended to increase this fee slightly through promulgation of this regulation. Meantime, prior to the setting of this fee by regulation, Public Act 09-3 was passed. Section 391 of this PA 09-3 required the doubling of *all fees* set by regulation. While no fee had yet been set in regulation at the time PA 09-3 was passed, the DEP believes the intent behind PA 09-3 obligates DEP to establish this fee at \$100 per number, double the current fee.

There are currently 178 marine dealers who receive marine dealer registration numbers. All are assumed to be small businesses. Some have five or six marine dealer registration numbers, but most have one or two. The impact to most existing marine dealers from the proposed increase in fees is expected to be \$50 to \$100 annually. Typically, about 20 new businesses apply for marine dealer registration numbers per year. Since most apply for one or two numbers, the impact from these regulations to these businesses is also expected to be \$50 to \$100 annually. The alternative to obtaining and maintaining a marine dealer registration number is to register a vessel and pay sales tax upon registration, or to forego waterborne activities altogether. Even with the subject fee increase, acquisition and maintenance of a marine dealer registration numbers is still the preferred alternative.

The subject fee does not carry with it any requirements beyond those that currently exist for a marine dealer who wishes to acquire and use marine dealer registration numbers. **The fee increase is expected to add no additional reporting, recordkeeping or administrative burden to small businesses.**

Marine Dealer Examination Fee

Pursuant to pre-existing law and regulation, the DEP currently performs a site visit of *all* businesses applying for marine dealer registration numbers to verify that the applicant meets all conditions set forth therein. Such inspections generally take from two to six hours, including administrative and

travel time, and have a collateral cost to the state in fuel and equipment use. There is currently no cost recovery attempted for this service. The DEP now proposes to recover the expense of labor and collateral costs incurred by the State when inspecting an applicant at the time of their first application or, for those businesses that are not required to have a fixed facility, inspecting the records of the applicant upon their application for renewal. The State expects to receive 22 new applications per year; the fee is proposed at \$140 and a business is expected to pay the fee only once in its lifetime.

The subject fee does not carry with it any additional burden beyond that which currently exists for a marine dealer who wishes to acquire and use marine dealer registration numbers. **The fee is expected to add no additional reporting, recordkeeping or administrative burden to small businesses.**

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

A regulatory flexibility analysis has been prepared and is included in the back of this section.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety – Rules for the issuance and renewal of marine dealer registration numbers for marine surveyors

Regulation Section No.: 15-121-B5(f) (NEW)

Statutory Authority: CGS Section 15-145(b) as amended, CGS Section 15-121(c)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

The proposed change to this section of regulation will not in and of itself have a fiscal impact on the state or any municipality. However, this proposed regulation is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to have a positive fiscal impact on the state. These impacts are assessed in the Agency Fiscal Estimate for the proposed change to RCSA Section 15-121-B5.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

The proposed change to this section of regulation will not in and of itself impact small business. However, this proposed change is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to impact small business. These impacts are assessed in the Small Business Impact statement for the proposed change to RCSA Section 15-121-B5.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

See the regulatory flexibility analysis for the proposed change to RCSA Section 15-121-B5.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety – Rules for the formatting of marine dealer registration numbers issued to yacht brokers and marine surveyors

Regulation Section No.: 15-121-B5a

Statutory Authority: CGS Section 15-145(b) as amended, CGS Section 15-121(c)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
<u>Number of Positions</u>			
<u>Personal Services</u>			
<u>Other Expenses</u>			
<u>Equipment</u>			
<u>Grants</u>			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

The proposed change to this section of regulation will not in and of itself have a fiscal impact on the state or any municipality. However, this proposed regulation is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to have a positive fiscal impact on the state. These impacts are assessed in the Agency Fiscal Estimate for the proposed change to RCSA Section 15-121-B5.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

The proposed change to this section of regulation will not in and of itself impact small business. However, this proposed change is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to impact small business. These impacts are assessed in the Small Business Impact statement for the proposed change to RCSA Section 15-121-B5.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

See the regulatory flexibility analysis for the proposed change to RCSA Section 15-121-B5.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety – Allows the Commissioner to implement a temporary Slow-No-Wake zone in associated with a permitted marine event.

Regulation Section No.: 15-121-B14

Statutory Authority: CGS Section 15-121(b)(11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA

Telephone No.: 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
<u>Number of Positions</u>			
<u>Personal Services</u>			
<u>Other Expenses</u>			
<u>Equipment</u>			
<u>Grants</u>			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

There is no anticipated impact to the State.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

There is no anticipated impact to small business.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

Since there is no anticipated small business impact, a regulatory flexibility analysis is not required.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety – Mystic River Speed Zone (NEW)

Regulation Section No.: RCSA Section 15-121-B15o (NEW)

Statutory Authority: CGS Section 15-121(b)(11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA

Telephone No.: 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

There is no anticipated impact to the State

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality

Explanation of Small Business Impact of Regulation:

The impact to small business is expected to be minor.

Currently, the Mystic River is subject to various localized speed zones established under several different regulatory and statutory authorities, creating a patchwork of go-fast and go-slow zones that are difficult or impractical to enforce. This regulation seeks to make much of the Mystic River a Slow-No-Wake zone under one overarching and enforceable regulation. The proposed regulation consists of two Slow-No-Wake segments connected by a segment where the speed is unrestricted, save for state-wide near-shore restrictions.

A possible impact exists for those businesses located on the mainstem of the Mystic River that need to test or demonstrate a boat at speed. Currently, most such businesses must traverse one of the

numerous Slow-No-Wake zones before being able to go fast. The maximum time it takes to reach a go-fast zone is currently about 10 minutes. If this regulation is implemented, the maximum time to reach the go-fast zone will be about the same, but businesses who are located such that they were unaffected by speed zones before might now be affected. DEP provides the following estimates accordingly.

There are approximately 7 known boat dealers who may be affected by this regulation; there may be a few who are unknown to the DEP. The DEP is therefore estimating that this regulation may affect 7 to 10 small businesses. Based on 2007 census data, the impact to the businesses will be a maximum of about \$5.00 per trip, as shown below. There may be additional businesses, such as fishing guides, who may be similarly affected.

Description of Impact	No. of Affected Businesses	Impact to Existing Business	Impact to New Business
Additional time will be required to reach unrestricted speed area; maximum additional traverse time 20 minutes (roundtrip).	7-10	Up to 20 minutes labor per vessel trip (\$4.83 per trip)*	N/A

*Based on 2007 Census data for New London County, NAICS 441222 ("Boat Dealers"), 174 Boat Dealers, \$5,254,000 payroll, \$30,195 average annual salary, \$14.51 average hourly rate.

This regulation is expected to add no more than a maximum of twenty minutes of labor cost to each vessel trip that requires the vessel to reach a go-fast area. **The regulatory action may have a limited adverse effect on small businesses that cannot be minimized in a manner that is consistent with public health, safety and welfare. There is no additional reporting, recordkeeping or administrative burden to small businesses.**

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

A regulatory flexibility analysis has been prepared and is included in the back of this section.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety – adds two areas to an existing list of water-bodies on which vessels conducting law enforcement duties are exempted from local speed limits.

Regulation Section No.: 15-121-B18

Statutory Authority: CGS Section 15-121(b)(11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA

Telephone No.: 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
<u>Number of Positions</u>			
<u>Personal Services</u>			
<u>Other Expenses</u>			
<u>Equipment</u>			
<u>Grants</u>			
<u>Total State Cost or (Savings)</u>	0	0	0
<u>Estimated Revenue Gain or (Loss)</u>	0	0	0
<u>Total Net State Cost or (Savings)</u>	0	0	0

Explanation of State Impact of Regulation:

There is no anticipated impact to the State.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

There is no anticipated impact to small business.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

Since there is no anticipated small business impact, a regulatory flexibility analysis is not required.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety Education – Limits a person to one attempt to pass and equivalency examination as prerequisite to certification.

Regulation Section No.: 15-140f-2

Statutory Authority: CGS Section 15-121(b)(7) and (11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

The proposed change to this section of regulation will not in and of itself have a fiscal impact on the state. However, this proposed regulation is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to have a positive fiscal impact on the state. These impacts are assessed in the Agency Fiscal Estimate for the proposed change to RCSA Section 15-140f-4.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

The proposed change to this section of regulation will not in and of itself impact small business. However, this proposed change is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to impact small business. These impacts are assessed in the Small Business Impact statement for the proposed change to RCSA Section 15-140f-4.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

See the regulatory flexibility analysis for the proposed change to RCSA Section 15-140f-4.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety Education – Changes the validity of temporary certificates from six months to three pursuant to state law, and allows the Commissioner to waive certain proof-of-completion-of-training requirements in anticipation of use of the state's online sportsmen licensing system to track and issue certifications.

Regulation Section No.: 15-140f-3

Statutory Authority: CGS Section 15-121(b)(7) and (11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

The proposed change to this section of regulation will not in and of itself have a fiscal impact on the state. However, this proposed regulation is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to have a positive fiscal impact on the state. These impacts are assessed in the Agency Fiscal Estimate for the proposed change to RCSA Section 15-140f-4.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

The proposed change to this section of regulation will not in and of itself impact small business. However, this proposed change is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to impact small business. These impacts are assessed in the Small Business Impact statement for the proposed change to RCSA Section 15-140f-4.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

See the regulatory flexibility analysis for the proposed change to RCSA Section 15-140f-4.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Boating Safety Education – regarding educational requirements and fees for safe boating courses and the qualifications for, issuance of, and fees for safe boating certificates and certificates of personal watercraft operation (SBC/CPWO).

Regulation Section No.: 15-140f-4 (impacts from proposed changes to inter-related regulatory sections are also considered here, including RCSA Sections 15-140f-2, 15-140f-3, 15-140j-1, 15-140j-2, and 15-140j-3)

Statutory Authority: CGS Sections 15-121(b)(7) and (11), 15-140f(b), and 15-140j(d)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: General

	First Year	Second Year	Full Operation
Number of positions	0	0	0
Personal Services (savings)	0	(100,000)	(100,000)
Other Expenses (savings)	0	(11,000)	(11,000)
Equipment (savings)	0	(54,000)	(54,000)
Grants	0	0	0
Total State Cost	0	0	0
Total Cost Savings	0	165,000	165,000
Total Revenue Loss	0	0	0
Estimated Existing Revenue Gain from Fee Increases Pursuant to PA 09-3 (already realized)	401,250	401,250	401,250
Estimated New Revenue Gain (proposed fee increases)*	3,250	3,250	3,250
Total Benefit to the State (fees + savings)	404,500	569,500	569,500

*reflects a proposed fee increase for equivalency examinations above the doubling of the fee required by PA 09-3

Explanation of State Impact of Regulation:

These proposed regulatory changes accommodate long range plans to shift DEP's role from teaching boating safety to providing education oversight and to track and issue safe boating certificates and certificates of personal watercraft operation through the agency's online sportsmen licensing system. These changes are consistent with Boating Division's LEAN proposal; LEAN is a process management philosophy embraced by the DEP that results in dramatic waste-reduction through the streamlining of processes.

The shift of DEP's role from teaching boating safety courses that lead to certification to providing education oversight, made possible by implementation of these regulations, is expected to take up to a year and will eventually result in an estimated cost savings of \$165,000 in FY 2 and beyond. The

savings will be realized as a result of greatly reduced annual labor and equipment costs as DEP shifts its role from educator to overseer. Additional savings are expected as DEP begins using the online sportsmen licensing system to track and issue various certifications. The anticipated **COST SAVINGS** come from the elimination of the following annual costs to the state:

Item	Units	FY 2 (\$) * (estimated)	FY 3+ (\$) * (estimated annual)
Equipment Cost Savings	Diplomas, awards, textbooks, projectors, laptop computers, printed material, etc.	54,000	54,000
Vehicle Use Savings	3 vehicles +fuel and maintenance	11,000	11,000
Labor and Operating Cost Savings	7 seasonal employees plus administrative oversight & support	100,000	100,000
Total	—	165,000	165,000

*Source: Boating Division, Boating Education and Training Unit

In addition to the savings that the change in DEP's role from educator to overseer is expected to bring, these regulations update published fees to reflect fee increases already taken pursuant to the requirement of PA 09-3, except for the fee for equivalency examinations, where an additional fee increase is introduced to encourage marginally qualified persons to take a boating course rather than attempt the equivalency examination. The equivalency examination fee is proposed to increase from \$25 to \$75. This will result in a potential revenue gain. The estimated **REVENUE GAIN** is shown below:

Item	Fee Increase	Units per Year ** (based on 2008)	FY 1 (\$) (estimated)	FY 2+ (\$) (estimated annual)
SBC/CPWO* (already implemented)	+\$25	15,000	375,000	375,000
Duplicate Certificate (already implemented)	+\$10	2,300	23,000	23,000
Equivalency Exam (already partially implemented, originally \$25)	+\$50***	130	6,500	6,500
Total		—	404,500	404,500

*Safe Boating Certificate / Certificate of Personal Watercraft Operation

**Source: Boating Division

*** includes a fee raise above that required by PA 09-3 of an additional \$25, from \$25 to \$75. The additional proposed \$25 x 130 examinations = a \$3,250 annual revenue gain.

The Out Years

The annualized ongoing fiscal impact identified above would continue indefinitely into the future.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

There is no anticipated adverse impact to small business.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

Because there is no anticipated adverse impact to small business, no regulatory flexibility analysis is required.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Reciprocity of Boating Safety Certifications – Requires new residents of the state who hold safe boating certificates or certificates of personal watercraft operation (SBC/CPWO) from states with which Connecticut has certification reciprocity to obtain a Connecticut-issued SBC/CPWO within 90 days of attaining residency.

Regulation Section No.: 15-140f-5

Statutory Authority: CGS Section 15-121(b)(11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

There is no anticipated impact to the state.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

There may be a small positive impact to small business as regulated persons seek safe boating courses leading to certification.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

Since there is no anticipated adverse impact to small business, no regulatory flexibility analysis is required.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Personal Watercraft Safety Certification – Changes the validity of temporary certificates from six months to three pursuant to state law, allows the Commissioner to waive certain proof-of-completion-of-training requirements in anticipation of use of the state's online sportsmen licensing system to track and issue certifications, memorializes the passing of an equivalency exam as an acceptable prerequisite to certification, and specifies that the supplemental course that is prerequisite to upgrading a safe boating certificate to a certificate of personal watercraft operation must be a classroom course.

Regulation Section No.: 15-140j-1

Statutory Authority: CGS Section 15-121(b)(11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA

Telephone No.: 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
<u>Number of Positions</u>			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

The proposed change to this section of regulation will not in and of itself have a fiscal impact on the state. However, this proposed regulation is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to have a positive fiscal impact on the state. These impacts are assessed in the Agency Fiscal Estimate for the proposed change to RCSA Section 15-140f-4.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

The proposed change to this section of regulation will not in and of itself impact small business. However, this proposed change is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to impact small business. These impacts are assessed in the Small Business Impact statement for the proposed change to RCSA Section 15-140f-4.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

See the regulatory flexibility analysis for the proposed change to RCSA Section 15-140f-4.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Personal Watercraft Safety Certification – Sets forth the rules for the personal watercraft operation equivalency examination and allows a person to attempt this examination only once.

Regulation Section No.: 15-140j-2

Statutory Authority: CGS Section 15-121(b)(7) and (11)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
<u>Number of Positions</u>			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)	0	0	0
Estimated Revenue Gain or (Loss)	0	0	0
Total Net State Cost or (Savings)	0	0	0

Explanation of State Impact of Regulation:

The proposed change to this section of regulation will not in and of itself have a fiscal impact on the state. However, this proposed regulation is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to have a positive fiscal impact on the state. These impacts are assessed in the Agency Fiscal Estimate for the proposed change to RCSA Section 15-140f-4.

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

The proposed change to this section of regulation will not in and of itself impact small business. However, this proposed change is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to impact small business. These impacts are assessed in the Small Business Impact statement for the proposed change to RCSA Section 15-140f-4.

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

See the regulatory flexibility analysis for the proposed change to RCSA Section 15-140f-4.

REVISED AGENCY FISCAL ESTIMATE OF PROPOSED REGULATION

Agency Submitting Regulation: Department of Environmental Protection **Date:** May 9, 2011

Subject Matter of Regulation: Personal Watercraft Safety Certification – Sets forth the rules and associated fees for the personal watercraft operation courses and the equivalency examination.

Regulation Section No.: 15-140j-3

Statutory Authority: CGS Section 15-121(b)(7) and (11)), 15-140f(b), and 15-140j(d)

Other Agencies Effected: None

Effective Date Used In Cost Estimate: May 9, 2011

Estimate Prepared By: Eleanor C. Mariani, SBLA **Telephone No.:** 860-434-8638

ESTIMATE OF COST OR REVENUE IMPACT OF PROPOSED REGULATION

Agency: Environmental Protection

Fund Affected: N/A

	First Year	Second Year	Full Operation
Number of Positions			
Personal Services			
Other Expenses			
Equipment			
Grants			
Total State Cost or (Savings)			
Estimated Revenue Gain or (Loss)	See the AFE for RCSA Section 15-140f-4, Section 12 of this document		
Total Net State Cost or (Savings)			

Explanation of State Impact of Regulation:

The proposed change to this section of regulation will impact the state. Because this proposed regulation is an integral part of a programmatic change these impacts are assessed in the Agency Fiscal Estimate for the proposed change to RCSA Section 15-140f-4 (Section 12 of this document)

Explanation of Municipal Impact of Regulation:

There is no anticipated impact to any municipality.

Explanation of Small Business Impact of Regulation:

The proposed change to this section of regulation will not in and of itself impact small business. However, this proposed change is an integral part of a programmatic change which, taken in aggregate with other proposed changes to the regulations, is expected to impact small business. These impacts are assessed in the Small Business Impact statement for the proposed change to RCSA Section 15-140f-4 (Section 12 of this document).

Is a regulatory flexibility analysis required pursuant to C.G.S. 4-168a?

See the regulatory flexibility analysis for the proposed change to RCSA Section 15-140f-4

REGULATORY FLEXIBILITY ANALYSIS

AGENCY SUBMITTING REGULATION: Environmental Protection

DATE: 05/09/11

SUBJECT MATTER OF REGULATION: Marine Dealer Registration Numbers

REGULATION SECTION NUMBERS: 15-121-B5, in aggregate with Sections 15-121-B5(f) and 15-121-B5a

STATUTORY AUTHORITY: CGS Section 15-145(b) as amended by Public Act 09-105, 15-121(c), and Section 391 of Public Act 09-3

OTHER AGENCIES AFFECTED: None

EFFECTIVE DATE USED IN REGULATORY FLEXIBILITY ANALYSIS: 05/09/11

ANALYSIS PREPARED BY: Eleanor C. Mariani, SBLA TELEPHONE: (860)-434-8638

SUMMARY OF SMALL BUSINESS IMPACT OF PROPOSED REGULATION

<i>Description of Impact</i>	<i>No. of Affected Businesses</i>	<i>Impact to Existing Business</i>	<i>Impact to New Business</i>
One Time Examination Fee	22/yr.*	N/A	\$140
\$50 increase in per-unit cost for Marine Dealer Registration Numbers	178** (current)	Generally \$50 to \$100 annually, but up to \$300***	\$50 to \$100 annually (typical)

* 26 expected in the first year, then 22 per year thereafter, based on the average number of applicants for the last three years. Source: Boating Division records

** Actual number of Marine Dealers currently receiving Marine Dealer Registration Numbers. Source: Boating Division records

*** Most marine dealers maintain one or two marine dealer registration numbers -- for these dealers, the impact will be \$50 to \$100 per year. Some dealers have up to six marine dealer registration numbers -- these dealers will experience an impact of \$300 per year.

REGULATORY FLEXIBILITY ANALYSIS

Connecticut General Statute Section 4-168a, as amended, states that for proposed regulations that impact small business, the "agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed regulations on small business:

- (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 proposed regulation; and
- (5) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation introduces a new marine dealer examination fee and raises an existing per-unit marine dealer registration number fee. The two referenced fees both originate in PA 09-105 but require separate analysis.

Marine dealer registration numbers are the equivalent of automobile "dealer plates". A marine dealer is not required to have such numbers, and many marine dealers operate without them, but such numbers are desirable because they allow a marine dealer to operate an unregistered vessel on Connecticut waters (within certain limitations). The alternative to obtaining and maintaining a marine dealer registration number is to register a vessel and pay sales tax upon registration, or to forego waterborne activities altogether. Even with the subject fee increases, acquisition and maintenance of a marine dealer registration numbers will still be the preferred alternative.

\$140 Examination Fee

With respect to the implementation of a one-time \$140 examination fee, the agency considered the methods listed in CGS Section 4-168a(b) to reduce the impact of the requirements contained in the proposed regulation related to small businesses including:

- a. Implementation of a fee to apply to all entities receiving marine dealer registration numbers;
- b. implementation of a lesser fee to apply to all entities receiving marine dealer registration numbers;
- c. implementation of a fee to apply to some entities receiving marine dealer registration numbers; and,
- d. non-implementation of a fee.

There are no reporting requirements, schedules, deadlines, or standards imposed by the subject regulations, therefore modification of such requirements (in consideration of CGS 4-168a(b)(2), (3), and (4); as identified in items 2-4, above) was not applicable.

The purpose of this regulation is to provide the agency with a method to recover costs incurred in processing applications for marine dealer registration numbers from the applicants. Such applicants are small businesses. Impact to small business is therefore unavoidable, and in order to achieve the goal of cost recovery, option (d) - non implementation of the fee (as identified in CGS 4-168a(b)(5); item 5, above) - was rejected.

There are four entities who are allowed to apply for marine dealer registration numbers: marine dealers, who are required to maintain a fixed facility; yacht brokers, a restricted subset of marine dealers who are not required to maintain a fixed facility; marine engine manufacturers who are required to maintain a fixed facility; and marine surveyors, who are not required to maintain a fixed facility.

Initially, the proposed fee was going to be applied to all applicants for marine dealer registration numbers without prejudice. However, of these four entities, only three receive site visits or detailed records review: the marine dealer (upon application), the yacht broker (upon renewal), and the marine engine manufacturer (upon application). The marine surveyor does not, having only to prove that he or she possesses current valid professional accreditation. Therefore the requirement for the marine surveyor to pay the subject fee was eliminated. In summary, option (a) - implementation of a fee to apply to all entities receiving marine dealer registration numbers - was considered and rejected, and option (c) - implementation of a fee to apply to some entities receiving marine dealer registration numbers - was accepted consistent with item 1 (CGS 4-168a(b)(1)), above.

Finally, the amount of the fee was considered. The fee was set based on the average of three different inspection scenarios (1, 2, and 5 hour round trips with estimated mileage costs, 1 hour for inspection and 1 hour of administrative time) and four possible loaded labor rates (see attached table). The DEP feels that the proposed fee accurately reflects the average use of state resources dedicated to applicants. However, comment received from the boating industry at public hearing indicated that fee was being set prohibitively high, particularly in light of current economic conditions. Therefore, the DEP changed the proposed regulation to state that the fee be set at \$140.

Per Unit Fee Increase (from \$50 to \$100) for Marine Dealer Registration Numbers

Public Act 09-105 transferred the authority to set the fee for each marine dealer registration number from law to regulation. The fee set by law was \$50 per number, and DEP originally intended to increase this fee slightly through promulgation of this regulation. Meantime, prior to the setting of this fee by regulation, Public Act 09-3 was passed. Section 391 of this PA 09-3 required the doubling of *all fees* set by regulation. While no fee had yet been set in regulation at the time PA 09-3 was passed, the DEP believes the intent behind PA 09-3 obligates DEP to establish this fee at \$100 per number, double the current fee.

REGULATORY FLEXIBILITY ANALYSIS

AGENCY SUBMITTING REGULATION: Environmental Protection

DATE: 05/09/11

SUBJECT MATTER OF REGULATION: Mystic River Speed Zone

REGULATION SECTION NUMBERS: 15-121-B15o (NEW)

STATUTORY AUTHORITY: CGS Section 15-121(b)

OTHER AGENCIES AFFECTED: None

EFFECTIVE DATE USED IN REGULATORY FLEXIBILITY ANALYSIS: 05/09/11

ANALYSIS PREPARED BY: Eleanor C. Mariani, SBLA TELEPHONE: (860)-434-8638

SUMMARY OF SMALL BUSINESS IMPACT OF PROPOSED REGULATION

Description of Impact	No. of Affected Businesses	Impact to Existing Business	Impact to New Business
Additional time will be required to reach unrestricted speed area; maximum additional traverse time 40 minutes (roundtrip).	7-10	Up to 20 minutes labor per vessel trip (\$4.83 per trip)*	N/A

*Based on 2007 Census data for New London County, NAICS 441222 ("Boat Dealers"), 174 Boat Dealers, \$5,254,000 payroll, \$30,195 average annual salary, \$14.51 average hourly rate.

REGULATORY FLEXIBILITY ANALYSIS

Connecticut General Statute Section 4-168a, as amended, states that for proposed regulations that impact small business, the "agency shall consider, without limitation, each of the following methods of reducing the impact of the proposed regulations on small business:

- (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 proposed regulation; and
- (5) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation seeks to make the majority of the Mystic River a Slow-No-Wake zone. The regulation is proposed at the request of, and in consultation with, the Mystic Harbor Management Commission who has noted an increase in boat traffic and the incidence of reckless boat operation on the river, and has stated "[t]he ever increasing boat traffic in the Mystic River requires action before an incident of life or limb occurs" (Letter to Eleanor C. Mariani, DEP, SBLA, from the Mystic Harbor Management Commission, February 23, 2008).

Currently, the Mystic River is subject to various localized speed zones established under several different regulatory and statutory authorities, creating a patchwork of go-fast and go-slow zones. Many zones are not well defined and are subject to the boater's ability to judge set-back distances on the water. This proposed regulation eliminates the current patchwork and any associated guesswork for the safety of the boating public and the benefit of law enforcement.

In the events leading up to this proposed change, DEP consulted with various stakeholders and considered various versions of the speed zone consistent with the requirements of regulatory flexibility. This included discussion of an exemption for business from the speed limit, and consideration of a short "go-fast" zone for everyone within the speed zone. With respect to an exemption from the speed limit for businesses (in consideration of CGS 4-168a (b)(1) and (5); see Item 1 and 5, above), DEP believes that having two sets of rules for two different classes of operator who are operating within the same area could cause confusion and invite conflict among the user groups, and that the concept in general is contrary to the Commissioner's duty to promote uniformity in boating laws and regulations. With respect to the idea of retaining a short go-fast zone within the Slow-No-Wake zone for all boaters, the Commissioner accepts that this idea fairly addresses concerns expressed by business, and modified the proposed regulations accordingly to accommodate a short go-fast zone, thereby reducing the maximum burden on small business from a maximum of 40 minutes of labor per vessel trip to 20 minutes of labor per vessel trip.

There are no reporting requirements, schedules, deadlines, or standards imposed by the subject regulations, therefore modification of such requirements to lessen the impact on small business is not applicable (in consideration of CGS 4-168a(b)(2), (3) and (4); as identified in items 2-4, above).

The regulatory action is proposed in the interest of maintaining public safety consistent with the Commissioner's duties as expressed in CGS Section 15-121(b)(11). It is expected to have a limited adverse effect on small businesses that cannot be minimized in a manner that is consistent with public health, safety and welfare.