

Pursuant to the authority vested in the Commissioner of Health by Public Health Law (PHL) §§ 201(1) (*l*) and 1100, section 114.20 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed, in its entirety.

Regulatory Impact Statement

Statutory Authority:

Public Health Law (PHL) § 201(1)(l) authorizes the Commissioner to regulate the sanitary aspects of water supplies and to control the pollution of waters within the State of New York. PHL § 1100 authorizes the Commissioner to promulgate regulations to protect from contamination the public water supplies of the State, the United States, and the institutions, parks, reservations and posts within the State of New York.

Legislative Objectives:

The statutes cited above are intended to empower the Department of Health (Department) to protect public water supplies from contamination.

Needs and Benefits:

10 NYCRR § 114.20 is no longer needed. The regulation was originally promulgated in 1932 to protect Horseshoe Pond, and all watercourses and drainage areas tributary to it, as the primary water supply for the Town of Schroon, in Essex County, New York. The year prior, a dam was constructed at the outlet of Horseshoe Pond, creating a 44-acre reservoir. The New York State Water Power and Control Commission granted the Town of Schroon permission to construct a water supply reservoir at Horseshoe Pond on State-owned lands in the Forest Preserve.

Since the dam was constructed, the New York State Department of Environmental Conservation (DEC), and its predecessor agencies, have been responsible for maintaining the dam in accordance with relevant standards. The Town of Schroon, as the owner and operator of the water system, is responsible for reimbursing DEC for the cost of any maintenance work, and for paying DEC a yearly fee as compensation for the use of Forest Preserve resources as the Town's water supply.

To comply with the federal Surface Water Treatment Rule, the Town of Schroon replaced the unfiltered Horseshoe Pond source with two drilled wells. These wells have supplied the Town's water needs since 2001, after which Horseshoe Pond was considered a backup water supply.

Recently, the Town determined that it no longer wishes to use Horseshoe Pond as a backup water supply, and in April of 2014 passed a resolution to that effect. The Department and DEC agree with the Town that this arrangement is no longer necessary because the Town has an adequate water supply.

Thus, the continued regulation of Horseshoe Pond as a public water supply source is no longer needed and represents an unnecessary cost to both State and local government. Additionally, removing Horseshoe Pond's designation as a public water supply would allow certain recreational activities to occur in the area that are currently prohibited.

Finally, DEC has indicated that after the repeal of this regulation the agency will move forward with removal of the dam, consistent with the desires of the Town, thereby resulting in savings to the State.

Costs:

Repealing this regulation would not result in any increased costs, but would result in cost savings to both State and local government.

Local Government Mandates:

Repealing this regulation would not create any local government mandates.

Paperwork:

Repealing this regulation would not create any increased paperwork.

Duplication:

No federal or State rules or legal requirements duplicate, overlap or conflict with this rule.

Alternatives:

The alternative would be to leave the regulation in place, continuing an unnecessary regulation that imposes costs on both State and local government.

Federal Standards:

Repealing this regulation would not result in exceedance of any minimum standards of the Federal government.

Compliance Schedule:

The repeal of this regulation will become effective upon the publication of the Notice of Adoption in the State Register.

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Statement in Lieu of Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

Statement in Lieu of Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for these amendments is not being submitted because the amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas.

There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

Statement in Lieu of Job Impact Statement

A Job Impact Statement for these amendments is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities.