

RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice.
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

State Commission of Correction

NOTICE OF ADOPTION

Classification of Minor and Adult Inmates

I.D. No. CMC-36-14-00013-A
Filing No. 963
Filing Date: 2014-11-19
Effective Date: 2014-12-10

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 7013.4 and 7013.6 of Title 9 NYCRR.

Statutory authority: Correction Law, sections 45(6), 45(15) and 500-b(6)

Subject: Classification of minor and adult inmates.

Purpose: To conform Commission of Correction inmate classification regulations to the recently amended provisions of Correction Law.

Text or summary was published in the September 10, 2014 issue of the Register, I.D. No. CMC-36-14-00013-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Brian M. Callahan, General Counsel, New York State Commission of Correction, Alfred E. Smith State Office Building, 80 S. Swan Street, 12th Floor, Albany, New York 12210, (518) 485-2346, email: Brian.Callahan@scoc.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Department of Environmental Conservation

NOTICE OF ADOPTION

Regulations for Commercial and Recreational Harvest of American Eel

I.D. No. ENV-28-14-00001-A
Filing No. 972
Filing Date: 2014-11-25
Effective Date: 2014-12-10

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 10, 11, 19, 36, 37 and 40 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 3-0301, 11-0303, 11-0305, 11-0306, 11-0317, 11-0319, 11-1301, 11-1303, 11-1305, 11-1319, 11-1501, 11-1503, 11-1505 and 13-0105, 13-0339-a and 13-0371

Subject: Regulations for commercial and recreational harvest of American eel.

Purpose: Reduce fishing mortality of American eel in order to promote stable fish populations, and to remain in compliance with ASMFC.

Text or summary was published in the July 16, 2014 issue of the Register, I.D. No. ENV-28-14-00001-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Carol Hoffman, NYSDEC, 205 N Belle Mead Road - Suite 1, East Setauket, NY 11733, (631) 444-0476, email: carol.hoffman@dec.ny.gov

Additional matter required by statute: Pursuant to the State Environmental Quality Review act, a negative declaration is on file with the department.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2017, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Department of Financial Services

EMERGENCY RULE MAKING

Registration and Financial Responsibility Requirements for Mortgage Loan Servicers

I.D. No. DFS-49-14-00004-E

Filing No. 973

Filing Date: 2014-11-25

Effective Date: 2014-11-25

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 418 and Supervisory Procedures MB 109 and 110 of Title 3 NYCRR.

Statutory authority: Banking Law, art. 12-D

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: Chapter 472 of the Laws of 2008, which requires mortgage loan servicers to be registered with the Superintendent of Financial Services (formerly the Superintendent of Banks), went into effect on July 1, 2009. These regulations implement the registration requirement and inform servicers of the details of the registration process so as to permit applicants to prepare, submit and review applications for registrations on a timely basis.

Excluding persons servicing loans made under the Power New York Act from the mortgage loan servicer rules is necessary to facilitate the immediate implementation of such loan program so that the anticipated energy efficiency benefits can be realized without delay.

Subject: Registration and Financial Responsibility Requirements for Mortgage Loan Servicers.

Purpose: The rule implements provisions of the Subprime Lending Reform Law (Ch. 472, Laws of 2008) amending Article 12-D of the Banking Law to require that persons or entities which service mortgage loans on residential real property on or after July 1, 2009 be registered with the Superintendent of Financial Services (formerly the Superintendent of Banks). Part 418 sets forth application, exemption and approval procedures for registration as a mortgage loan servicer (MLS) and financial responsibility requirements for applicants, registrants and exempted persons. Supervisory Procedure MB 109 sets forth the details of the application procedure. Supervisory Procedure MB 110 sets forth the procedure for approval of a change of control of a registered MLS.

Substance of emergency rule: Section 418.1 summarizes the scope and application of Part 418. It notes that Sections 418.2 to 418.11 implement the requirement in Article 12-D of the Banking Law that certain mortgage loan servicers ("servicers") be registered with the Superintendent of Financial Services (formerly the Superintendent of Banks), while Sections 418.12 and 418.13 set forth financial responsibility requirements that are applicable to both registered and exempt servicers. [Section 418.14 sets forth the transitional rules.]

Section 418.2 implements the provisions in Section 590(2)(b-1) of the Banking Law requiring registration of servicers and exempting mortgage bankers, mortgage brokers, and most banking and insurance companies, as well as their employees. Servicing loans made pursuant to the Power New York Act of 2011 is excluded. The Superintendent is authorized to approve other exemptions.

Section 418.3 contains a number of definitions of terms that are used in Part 418, including "Mortgage Loan", "Mortgage Loan Servicer", "Third Party Servicer" and "Exempted Person".

Section 418.4 describes the requirements for applying for registration as a servicer.

Section 418.5 describes the requirements for a servicer applying to open a branch office.

Section 418.6 covers the fees for application for registration as a servicer, including processing fees for applications and fingerprint processing fees.

Section 418.7 sets forth the findings that the Superintendent must make to register a servicer and the procedures to be followed upon approval of an application for registration. It also sets forth the grounds upon which the Superintendent may refuse to register an applicant and the procedure for giving notice of a denial.

Section 418.8 defines what constitutes a "change of control" of a

servicer, sets forth the requirements for prior approval of a change of control, the application procedure for such approval and the standards for approval. The section also requires servicers to notify the Superintendent of changes in their directors or executive officers.

Section 418.9 sets forth the grounds for revocation of a servicer registration and authorizes the Superintendent, for good cause or where there is substantial risk of public harm, to suspend a registration for 30 days without a hearing. The section also provides for suspension of a servicer registration without notice or hearing upon non-payment of the required assessment. The Superintendent can also suspend a registration when a servicer fails to file a required report, when its surety bond is cancelled, or when it is the subject of a bankruptcy filing. If the registrant cures the deficiencies its registration can be reinstated. The section further provides that in all other cases, suspension or revocation of a registration requires notice and a hearing.

The section also covers the right of a registrant to surrender its registration, as well as the effect of revocation, termination, suspension or surrender of a registration on the obligations of the registrant. It provides that registrations will remain in effect until surrendered, revoked, terminated or suspended.

Section 418.10 describes the power of the Superintendent to impose fines and penalties on registered servicers.

Section 418.11 sets forth the requirement that applicants demonstrate five years of servicing experience as well as suitable character and fitness.

Section 418.12 covers the financial responsibility and other requirements that apply to applicants for servicer registration, registered servicers and exempted persons (other than insured depository institutions to which Section 418.13 applies). The financial responsibility requirements include a required net worth (as defined in the section) of at least \$250,000 plus 1/4 % of total loans serviced or, for a Third Party Servicer, 1/4 of 1% of New York loans serviced; (2) a corporate surety bond of at least \$250,000 and (3) a Fidelity and E&O bond in an amount that is based on the volume of New York mortgage loans serviced, with a minimum of \$300,000.

The Superintendent is empowered to waive, reduce or modify the financial responsibility requirements for certain servicers who service an aggregate amount of loans not exceeding \$4,000,000.

Section 418.13 exempts from the otherwise applicable net worth and surety bond requirements, but not the Fidelity and E&O bond requirements, entities that are subject to the capital requirements applicable to insured depository institutions and that are considered at least adequately capitalized.

Section 418.14 provides a transitional period for registration of mortgage loan servicers. A servicer doing business in this state on June 30, 2009 which files an application for MLS registration by July 31, 2009 will be deemed in compliance with the registration requirement until notified that its application has been denied. A person who is required to register as a servicer solely because of the changes in the provisions of the rule regarding use of third party servicers which became effective on August 23, 2011 and who files an application for registration within 30 days thereafter will not be required to register until six months from the effective date of the amendment or until the application is denied, whichever is earlier.

Section 109.1 defines a number of terms that are used in the Supervisory Procedure.

Section 109.2 contains a general description of the process for registering as a mortgage loan servicer ("servicer") and contains information about where the necessary forms and instructions may be found.

Section 109.3 lists the documents to be included in an application for servicer registration, including the required fees. It also sets forth the execution and attestation requirements for applications. The section makes clear that the Superintendent of Financial Services (formerly the Superintendent of Banks) can require additional information or an in person conference, and that the applicant can submit additional pertinent information.

Section 109.4 describes the information and documents required to be submitted as part of an application for registration as a servicer. This includes various items of information about the applicant and its regulatory history, if any, information demonstrating compliance with the applicable financial responsibility and experience requirements, information about the organizational structure of the applicant, and other documents, such as fingerprint cards and background reports.

Section 110.1 defines a number of terms that are used in the Supervisory Procedure.

Section 110.2 contains a general description of the process for applying for approval of a change of control of a mortgage loan servicer ("servicer") and contains information about where the necessary forms and instructions may be found.

Section 110.3 lists the documents to be included in an application for approval of a change of control of a servicer, including the required fees. It sets forth the time within which the Superintendent of Financial Ser-

vices (formerly the Superintendent of Banks) must approve or disapprove an application. It also sets forth the execution and attestation requirements for applications. The section makes clear that the Superintendent can require additional information or an in person conference, and that the applicant can submit additional pertinent information. Last, the section lists the types of changes in a servicer's operations resulting from a change of control which should be notified to the Department of Financial Services (formerly the Banking Department).

Section 110.4 describes the information and documents required to be submitted as part of an application for approval of a change of control of servicer. This includes various items of information about the applicant and its regulatory history, if any, information demonstrating continuing compliance with the applicable financial responsibility and experience requirements, information about the organizational structure of the applicant, a description of the acquisition and other documents regarding the applicant, such as fingerprint cards and background reports.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires February 22, 2015.

Text of rule and any required statements and analyses may be obtained from: Hadas A. Jacobi, New York State Department of Financial Services, One State Street, New York, NY 10004-1417, (212) 480-5890, email: hadas.jacobi@dfs.ny.gov

Regulatory Impact Statement

1. Statutory authority.

Article 12-D of the Banking Law, as amended by the Legislature in the Subprime Lending Reform Law (Ch. 472, Laws of 2008, hereinafter, the "Subprime Law"), creates a framework for the regulation of mortgage loan servicers. Mortgage loan servicers (MLS) are individuals or entities which engage in the business of servicing mortgage loans for residential real property located in New York. That legislation also authorizes the adoption of regulations implementing its provisions. (See, e.g., Banking Law Sections 590(2) (b-1) and 595-b.)

Subsection (1) of Section 590 of the Banking Law was amended by the Subprime Law to add the definitions of "mortgage loan servicer" and "servicing mortgage loans". (Section 590(1)(h) and Section 590(1)(i).)

A new paragraph (b-1) was added to Subdivision (2) of Section 590 of the Banking Law. This new paragraph prohibits a person or entity from engaging in the business of servicing mortgage loans without first being registered with the Superintendent of Financial Services (formerly the Superintendent of Banks). The registration requirements do not apply to an "exempt organization," licensed mortgage banker or registered mortgage broker.

This new paragraph also authorizes the Superintendent to refuse to register an MLS on the same grounds as he or she may refuse to register a mortgage broker under Banking Law Section 592-a(2).

Subsection (3) of Section 590 was amended by the Subprime Law to clarify the power of the banking board to promulgate rules and regulations and to extend the rulemaking authority regarding regulations for the protection of consumers and regulations to define improper or fraudulent business practices to cover mortgage loan servicers, as well as mortgage bankers, mortgage brokers and exempt organizations. (Note that under Section 89 of Part A of Chapter 62 of the Laws of 2011, the functions and powers of the banking board have been transferred to the Superintendent.)

New Paragraph (d) was added to Subsection (5) of Section 590 by the Subprime Law and requires mortgage loan servicers to engage in the servicing business in conformity with the Banking Law, such rules and regulations as may be prescribed by the Superintendent, and all applicable federal laws, rules and regulations.

New Subsection (1) of Section 595-b was added by the Subprime Law and requires the Superintendent to promulgate regulations and policies governing the grounds to impose a fine or penalty with respect to the activities of a mortgage loan servicer. Also, the Subprime Law amends the penalty provision of Subdivision (1) of Section 598 to apply to mortgage loan servicers as well as to other entities.

New Subdivision (2) of Section 595-b was added by the Subprime Law and authorizes the Superintendent to prescribe regulations relating to disclosure to borrowers of interest rate resets, requirements for providing payoff statements, and governing the timing of crediting of payments made by the borrower.

Section 596 was amended by the Subprime Law to extend the Superintendent's examination authority over licensees and registrants to cover mortgage loan servicers. The provisions of Banking Law Section 36(10) making examination reports confidential are also extended to cover mortgage loan servicers.

Similarly, the books and records requirements in Section 597 covering licensees, registrants and exempt organizations were amended by the Subprime Law to cover servicers and a provision was added authorizing the Superintendent to require that servicers file annual reports or other regular or special reports.

The power of the Superintendent to require regulated entities to appear and explain apparent violations of law and regulations was extended by the Subprime Law to cover mortgage loan servicers (Subdivision (1) of Section 39), as was the power to order the discontinuance of unauthorized or unsafe practices (Subdivision (2) of Section 39) and to order that accounts be kept in a prescribed manner (Subdivision (5) of Section 39).

Finally, mortgage loan servicers were added to the list of entities subject to the Superintendent's power to impose monetary penalties for violations of a law, regulation or order. (Paragraph (a) of Subdivision (1) of Section 44).

The fee amounts for MLS registration applications and for MLS branch applications are established in accordance with Banking Law Section 18-a.

2. Legislative objectives.

The Subprime Law is intended to address various problems related to residential mortgage loans in this State. The Subprime Law reflects the view of the Legislature that consumers would be better protected by the supervision of mortgage loan servicing. Even though mortgage loan servicers perform a central function in the mortgage industry, there had previously been no general regulation of servicers by the state or the Federal government.

The Subprime Law requires that entities be registered with the Superintendent in order to engage in the business of servicing mortgage loans in this state. The law further requires mortgage loan servicers to engage in the business of servicing mortgage loans in conformity with the rules and regulations promulgated by the Superintendent.

The mortgage servicing statute has two main components: (i) the first component addresses the registration requirement for persons engaged in the business of servicing mortgage loans; and (ii) the second authorizes the Superintendent to promulgate appropriate rules and regulations for the regulation of servicers in this state.

The regulations implement the first component of the mortgage servicing statute – the registration of mortgage servicers. In doing so, the rule utilizes the authority provided to the Superintendent to set standards for the registration of such entities. For example, the rule requires that a potential loan servicer would have to provide, under Sections 418.11 to 418.13 of the proposed regulations, evidence of their character and fitness to engage in the servicing business and demonstrate to the Superintendent their financial responsibility. The rule also utilizes the authority provided by the Legislature to revoke, suspend or otherwise terminate a registration or to fine or penalize a registered mortgage loan servicer.

Consistent with this requirement, the rule authorizes the Superintendent to refuse to register an applicant if he/she shall find that the applicant lacks the requisite character and fitness, or any person who is a director, officer, partner, agent, employee, substantial stockholder of the applicant has been convicted of certain felonies. These are the same standards as are applicable to mortgage bankers and mortgage brokers in New York. (See Section 418.7.)

Further, in carrying out the Legislature's mandate to regulate the mortgage servicing business, Section 418.8 sets out certain application requirements for prior approval of a change in control of a registered mortgage loan servicer and notification requirements for changes in the entity's executive officers and directors. Collectively, these various provisions implement the intent of the Legislature to register and supervise mortgage loan servicers.

The Department has separately adopted emergency regulations dealing with business conduct and consumer protection requirements for MLSs. (3 NYCRR Part 419).

3. Needs and benefits.

The Subprime Law adopted a multifaceted approach to the lack of supervision of the mortgage loan industry. It affected a variety of areas in the residential mortgage loan industry, including: i. loan originations; ii. loan foreclosures; and iii. the conduct of business by residential mortgage loan servicers.

Previously, the Department of Financial Services (formerly the Banking Department) regulated the brokering and making of mortgage loans, but not the servicing of these mortgage loans. Servicing is vital part of the residential mortgage loan industry; it involves the collection of mortgage payments from borrowers and remittance of the same to owners of mortgage loans; to governmental agencies for taxes; and to insurance companies for insurance premiums. Mortgage servicers also may act as agents for owners of mortgages in negotiations relating to modifications. As "middlemen," moreover, servicers also play an important role when a property is foreclosed upon. For example, the servicer may typically act on behalf of the owner of the loan in the foreclosure proceeding.

Further, unlike in the case of a mortgage broker or a mortgage lender, borrowers cannot "shop around" for loan servicers, and generally have no input in deciding what company services their loans. The absence of the ability to select a servicer obviously raises concerns over the character and viability of these entities given the central part of they play in the mortgage industry. There also is evidence that some servicers may have provided

poor customer service. Specific examples of these activities include: pyramiding late fees; misapplying escrow payments; imposing illegal prepayment penalties; not providing timely and clear information to borrowers; and erroneously force-placing insurance when borrowers already have insurance.

While minimum standards for the business conduct of servicers is the subject of another emergency regulation which has been promulgated by the Department. (3 NYCRR Part 419) Section 418.2 makes it clear that persons exempted by from the registration requirement must notify the Department that they are servicing mortgage loans and must otherwise comply with the regulations.

As noted above, these regulations relate to the first component of the mortgage servicing statute – the registration of mortgage loan servicers. It is intended to ensure that only those persons and entities with adequate financial support and sound character and general fitness will be permitted to register as mortgage loan servicers.

Further, consumers in this state will also benefit under these regulations because in the event there is an allegation that a mortgage servicer is involved in wrongdoing and the Superintendent finds that there is good cause, or that there is a substantial risk of public harm, he or she can suspend such mortgage servicer for 30 days without a hearing. And in other cases, he or she can suspend or revoke such mortgage servicer's registration after notice and a hearing. Also, the requirement that servicers meet minimum financial standards and have performance and other bonds will act to ensure that consumers are protected.

As noted above, the MLS regulations are divided into two parts. The Department had separately adopted emergency regulations dealing with business conduct and consumer protection requirements for MLSs (3 NYCRR Part 419).

All Exempt Organizations, mortgage bankers and mortgage brokers that perform mortgage loan servicing with respect to New York mortgages must notify the Superintendent that they do so, and will be required to comply with the conduct of business and consumer protection rules applicable to MLSs.

Under Section 418.2, a person servicing loans made under the Power New York Act of 2011 will not thereby be considered to be engaging in the business of servicing mortgage loans. Consequently, a person would not be subject to the rules applicable to MLSs by reason of servicing such loans.

4. Costs.

The mortgage business will experience some increased costs as a result of the fees associated with MLS registration. The amount of the application fee for MLS registration and for an MLS branch application is \$3,000.

The amount of the fingerprint fee is set by the State Division of Criminal Justice Services and the processing fees of the National Mortgage Licensing System are set by that body. MLSs will also incur administrative costs associated with preparing applications for registration.

The ability by the Department to regulate mortgage loan servicers is expected to reduce costs associated with responding to consumers' complaints, decrease unnecessary expenses borne by mortgagors, and, through the timely response to consumers' inquiries, should assist in decreasing the number of foreclosures in this state.

The regulations will not result in any fiscal implications to the State. The Department is funded by the regulated financial services industry. Fees charged to the industry will be adjusted periodically to cover Department expenses incurred in carrying out this regulatory responsibility.

5. Local government mandates.

None.

6. Paperwork.

An application process has been established for potential mortgage loan servicers to apply for registration electronically through the National Mortgage Licensing System and Registry (NMLSR) - a national system, which currently facilitates the application process for mortgage brokers, bankers and loan originators. Therefore, the application process is virtually paperless; however, a limited number of documents, including fingerprints where necessary, would have to be submitted to the Department in paper form.

The specific procedures that are to be followed in order to apply for registration as a mortgage loan servicer are detailed in Supervisory Procedure MB 109.

7. Duplication.

The regulation does not duplicate, overlap or conflict with any other regulations.

An exemption was created under Section 418.13, from the otherwise applicable net worth and surety bond requirements, for entities that are subject to the capital requirements applicable to insured depository institutions and are considered adequately capitalized.

8. Alternatives.

The purpose of the regulation is to carry out the statutory mandate to register mortgage loan servicers while at the same time avoiding overly

complex and restrictive rules that would have imposed unnecessary burdens on the industry. The Department is not aware of any alternative that is available to the instant regulations. The Department also has been cognizant of the possible burdens of this regulation, and it has accordingly concluded that an exemption from the registration requirement for persons or entities that are involved in a de minimis amount of servicing would address the intent of the statute without imposing undue burdens those persons or entities.

The procedure for suspending servicers that violate certain financial responsibility or customer protection requirements, which provides a 90-day period for corrective action, during which there can be an investigation and hearing on the existence of other violations, provides flexibility to the process of enforcing compliance with the statutory requirements.

9. Federal standards.

Currently, mortgage loan servicers are not required to be registered by any federal agencies. However, although not a registration process, in order for any mortgage loan servicer to service loans on behalf of certain federal instrumentalities such servicers have to demonstrate that they have specific amounts of net worth and have in place Fidelity and E&O bonds.

These regulations exceed those minimum standards, in that, a mortgage loan servicer will now have to demonstrate character and general fitness in order to be registered as a mortgage loan servicer. In light of the important role of a servicer – collecting consumers' money and acting as agents for mortgagees in foreclosure transactions – the Department believes that it is imperative that servicers be required to meet this heightened standard.

10. Compliance schedule.

The emergency regulations will become effective on September 17, 2012. Similar emergency regulations have been in effect since July 1, 2009.

The Department expects to approve or deny applications within 90 days of the Department's receipt (through NMLSR) of a completed application.

A transitional period is provided for mortgage loan servicers which were doing business in this state on June 30, 2009 and which filed an application for registration by July 31, 2009. Such servicers will be deemed in compliance with the registration requirement until notified by the Superintendent that their application has been denied.

Additionally, the version of Part 418 adopted on an emergency basis effective August 5, 2011 requires holders of mortgage servicing rights to register as mortgage loans servicers even where they have sub-contracted servicing responsibilities to a third-party servicer. Such servicers were given until October 15, 2011 to file an application for registration.

Regulatory Flexibility Analysis

1. Effect of the Rule:

The emergency rule will not have any impact on local governments. It is estimated that there are approximately 120 mortgage loan servicers in the state which are not mortgage bankers, mortgage brokers or exempt organizations, and which are therefore required to register under the Subprime Lending Reform Law (Ch. 472, Laws of 2008) (the "Subprime Law") Of these, it is estimated that a very few of the remaining entities will be deemed to be small businesses.

2. Compliance Requirements:

The provisions of the Subprime Law relating to mortgage loan servicers has two main components: it requires the registration by the Department of Financial Services (formerly the Banking Department) of servicers who are not mortgage bankers, mortgage brokers or exempt organizations (the "MLS Registration Regulations"), and it authorizes the Department to promulgate rules and regulations that are necessary and appropriate for the protection of consumers, to define improper or fraudulent business practices, or otherwise appropriate for the effective administration of the provisions of the Subprime Law relating to mortgage loan servicers (the "MLS Business Conduct Regulations").

The provisions of the Subprime Law requiring registration of mortgage loan servicers which are not mortgage bankers, mortgage brokers or exempt organizations became effective on July 1, 2009. The emergency MLS Registration Regulations here adopted implement that statutory requirement by providing a procedure whereby MLSs can apply to be registered and standards and procedures for the Department to approve or deny such applications. The emergency regulations also set forth financial responsibility standards applicable to applicants for MLS registration, registered MLSs and servicers which are exempted from the registration requirement.

Additionally, the regulations set forth standards and procedures for Department action on applications for approval of change of control of an MLS. Finally, the emergency regulations set forth standards and procedures for, suspension, revocation, expiration, termination and surrender of MLS registrations, as well as for the imposition of fines and penalties on MLSs.

3. Professional Services:

None.

4. Compliance Costs:

Applicants for mortgage loan servicer registration will incur administrative costs associated with preparing applications for registration. Applicants, registered MLSs and mortgage loan servicers exempted from the registration requirement may incur costs in complying with the financial responsibility regulations. Registration fees of \$3000, plus fees for fingerprint processing and participation in the National Mortgage Licensing System and Registry (NMLS) will be required of non-exempt servicers.

5. Economic and Technological Feasibility:

The emergency rule-making should impose no adverse economic or technological burden on mortgage loan servicers who are small businesses. The NMLS is now available. This technology will benefit registrants by saving time and paperwork in submitting applications, and will assist the Department by enabling immediate tracking, monitoring and searching of registration information; thereby protecting consumers.

6. Minimizing Adverse Impacts:

The regulations minimize the costs and burdens of the registration process by utilizing the internet-based NMLS, developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. This system uses an on-line application form for servicer registration. A common form will be accepted by New York and the other participating states.

As noted above, most servicers are not small businesses. As regards servicers that are small businesses and not otherwise exempted, the regulations give the Superintendent of Financial Services (formerly the Superintendent of Banks) the authority to reduce, waive or modify the financial responsibility requirements for entities that do a de minimis amount of servicing.

7. Small Business and Local Government Participation:

Industry representatives have participated in outreach programs regarding regulation of servicers. The Department also maintains continuous contact with large segments of the servicing industry through its regulation of mortgage bankers and brokers. The Department likewise maintains close contact with a variety of consumer groups through its community outreach programs and foreclosure mitigation programs. In response to comments received regarding earlier versions of this regulation, the Department has modified the financial responsibility requirements. The revised requirements should generally be less burdensome for mortgage loan servicers, particularly smaller servicers and those located in rural areas.

Rural Area Flexibility Analysis

Types and Estimated Numbers: Approximately 70 mortgage loan servicers have been registered by the Department of Financial Services or have applied for registration. Very few of these entities operate in rural areas of New York State and of those, most are individuals that do a de minimis business. As discussed below, the Superintendent can modify the requirements of the regulation in such cases.

Compliance Requirements: Mortgage loan servicers in rural areas which are not mortgage bankers, mortgage brokers or exempt organizations must be registered with the Superintendent to engage in the business of mortgage loan servicing. An application process will be established requiring a MLS to apply for registration electronically and to submit additional background information and fingerprints to the Mortgage Banking unit of the Department.

MLSs are required to meet certain financial responsibility requirements based on their level of business. The regulations authorize the Superintendent of Financial Services (formerly the Superintendent of Banks) to reduce or waive the otherwise applicable financial responsibility requirements in the case of MLSs which service not more than \$4,000,000 in aggregate mortgage loans in New York and which do not collect tax or insurance payments. The Superintendent is also authorized to reduce or waive the financial responsibility requirements in other cases for good cause. The Department believes that this will ameliorate any burden which those requirements might otherwise impose on entities operating in rural areas.

Costs: The mortgage business will experience some increased costs as a result of the fees associated with MLS registration. The application fee for MLS registration will be \$3,000. The amount of the fingerprint fee is set by the State Division of Criminal Justice Services and the processing fees of the National Mortgage Licensing System and Registry ("NMLSR") are set by that body. Applicants for mortgage loan servicer registration will also incur administrative costs associated with preparing applications for registration.

Applicants, registered MLSs and mortgage loan servicers exempted from the registration requirement may incur costs in complying with the financial responsibility regulations.

Minimizing Adverse Impacts: The regulations minimize the costs and burdens of the registration process by utilizing the internet-based NMLSR, developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. This system uses an on-

line application form for servicer registration. A common form will be accepted by New York and the other participating states.

Of the servicers which operate in rural areas, it is believed that most are mortgage bankers, mortgage brokers or exempt organizations. Additionally, in the case of servicers that operate in rural areas and are not otherwise exempted, the Superintendent has the authority to reduce, waive or modify the financial responsibility requirements for individuals that do a de minimis amount of servicing.

Rural Area Participation: Industry representatives have participated in outreach programs regarding regulation of servicers. The Department also maintains continuous contact with large segments of the servicing industry through its regulation of mortgage bankers and brokers. The Department likewise maintains close contact with a variety of consumer groups through its community outreach programs and foreclosure mitigation programs. In response to comments received regarding earlier versions of this regulation, the Department has modified the financial responsibility requirements. The revised requirements should generally be less burdensome for mortgage loan servicers, particularly smaller servicers and those located in rural areas.

Job Impact Statement

Article 12-D of the Banking Law, as amended by the Subprime Lending Reform Law (Ch. 472, Laws of 2008), requires persons and entities which engage in the business of servicing mortgage loans to be registered with the Superintendent of Financial Services (formerly the Superintendent of Banks). This emergency regulation sets forth the application, exemption and approval procedures for registration as a Mortgage Loan servicer (MLS), as well as financial responsibility requirements for applicants, registrants and exempted persons. The regulation also establishes requirements with respect to changes of officers, directors and/or control of MLSs and provisions with respect to suspension, revocation, termination, expiration and surrender of MLS registrations.

The requirement to comply with the emergency regulations is not expected to have a significant adverse effect on jobs or employment activities within the mortgage loan servicing industry. Many of the larger entities engaged in the mortgage loan servicing business are already subject to oversight by the Department of Financial Services (formerly the Banking Department) and exempt from the new registration requirement. Additionally, the regulations give the Superintendent the authority to reduce, waive or modify the financial responsibility requirements for entities that do a de minimis amount of servicing.

The registration process itself should not have an adverse effect on employment. The regulations require the use of the internet-based National Mortgage Licensing System and Registry, developed by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. This system uses a common on-line application for servicer registration in New York and other participating states. It is believed that any remaining adverse impact would be due primarily to the nature and purpose of the statutory registration requirement rather than the provisions of the emergency regulations.

NOTICE OF ADOPTION

Life Insurance Reserves

I.D. No. DFS-17-14-00002-A

Filing No. 970

Filing Date: 2014-11-21

Effective Date: 2014-12-10

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 98 (Regulation 147) and 100 (Regulation 179) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202 and 302; and Insurance Law, sections 301, 1304, 1308, 4217, 4218, 4221, 4224, 4240 and 4517

Subject: Life insurance reserves.

Purpose: To modernize the current regulatory scheme with respect to term life insurance reserves.

Substance of final rule: Section 98.3 is amended by re-lettering existing definitions for technical purposes and adding two new definitions: "segmented method for varying premium term life insurance" and "varying premium term life insurance".

Section 98.4(b)(5)(ii) is amended by adding clause (c) to allow for mortality improvement to be used in the application of the X factors for varying premium term life insurance policies issued on or after January 1, 2015.

Section 98.4(b)(5)(iii) is deleted and new section 98.4(b)(5)(iii)(a) and (b) is added to separate the requirements for policies issued prior to January 1, 2015 and varying premium term life insurance policies issued on or after January 1, 2015. For varying premium term life insurance policies issued on or after January 1, 2015, mortality improvement may be recognized in the application of the X factors.

Section 98.4(b)(5)(vii)(b) is amended to separate the opinion requirements for policies issued prior to January 1, 2015 and varying premium term life insurance policies issued on or after January 1, 2015.

Section 98.6(a) is amended by dividing paragraph (1) into two subparagraphs, and adding new paragraphs (7) through (12), which provide the reserve methodology to be followed for varying premium term life insurance policies issued on or after January 1, 2015.

Section 98.6(b)(1) is amended by renumbering that section to 98.6(b)(1)(i) and adding a new subparagraph (ii) to address the deficiency reserve requirements for varying premium term life insurance policies issued on or after January 1, 2015.

Section 98.6(b)(2) is amended to specify reserve methodology requirements for the calculation of deficiency reserves for varying premium term life insurance policies issued on or after January 1, 2015.

Section 100.1 is amended by adding a new subdivision (c), which recognizes and permits the use of mortality improvement scale LT for varying premium term life insurance.

Section 100.2 is amended by changing the applicability section and clarifying that new section 100.11 applies only to varying premium term life insurance policies.

Section 100.3 is amended by re-lettering existing definitions for technical purposes and adding the new definitions: "mortality improvement scale LT" and "varying premium term life insurance".

Section 100.6(a)(2) is amended to recognize mortality improvement in the calculation of basic reserves for varying premium term life insurance policies issued on or after January 1, 2015.

Section 100.6(a)(3) is amended to recognize mortality improvement in the calculation of deficiency reserves for varying premium term life insurance policies issued on or after January 1, 2015.

Section 100.6(a)(7) is amended to recognize mortality improvement in the calculation of segmented basic reserves for varying premium term life insurance policies issued on or after January 1, 2015.

Section 100.6(b)(8) is amended to recognize mortality improvement in the calculation of segmented deficiency reserves for varying premium term life insurance policies issued on or after January 1, 2015.

Section 100.11 ("Severability") is re-numbered as section 100.12, and a new section 100.11 ("Varying Premium Term Life Insurance Mortality Improvement") is added to provide the mortality improvement factors and formulas for varying premium term life insurance and includes a numerical example for applying the mortality improvement factors and formulas.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 98.3(t), 98.6(a)(1)(ii) and 100.3(v).

Revised rule making(s) were previously published in the State Register on August 13, 2014.

Text of rule and any required statements and analyses may be obtained from: Amanda Fenwick, New York State Department of Financial Services, One Commerce Plaza, Albany, New York 12257, (518) 474-7929, email: amanda.fenwick@dfs.ny.gov

Revised Regulatory Impact Statement

The minor revisions made to the adopted rulemaking from the revised proposed version were made for the purpose of clarification and to correct typographical errors. Therefore, the changes made to the last published rulemaking do not necessitate revision to the previously published RIS.

Revised Regulatory Flexibility Analysis

The minor revisions made to the adopted rulemaking from the revised proposed version were made for the purpose of clarification and to correct typographical errors. Therefore, the changes made to the last published rulemaking do not necessitate revision to the previously published RFA.

Revised Rural Area Flexibility Analysis

The minor revisions made to the adopted rulemaking from the revised proposed version were made for the purpose of clarification and to correct typographical errors. Therefore, the changes made to the last published rulemaking do not necessitate revision to the previously published RAFA.

Revised Job Impact Statement

The minor revisions made to the adopted rulemaking from the revised proposed version were made for the purpose of clarification and to correct typographical errors. Therefore, the changes made to the last published rulemaking do not necessitate revision to the previously published JIS.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2017, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

Fifth Amendment to Insurance Regulation 147 (11 NYCRR 98)

The Department of Financial Services ("Department") received public comments on its revised proposed fifth amendment to 11 NYCRR 98 (Insurance Regulation 147). One commentator noted an inconsistency between the definitions of segmented method for varying premium term life insurance in section 98.3(m) and varying premium term life insurance in section 98.3(t). The Department agreed with this comment and amended the wording in section 98.3(t) to agree with the wording used in section 98.3(m).

A commentator recommended removing the text "followed by increasing varying premiums thereafter" from section 98.3(t). Insurance Law § 4217(c)(6)(C) specifically allows for reserves to be calculated based on a method consistent with the principles of section 4217 for life insurance policies that provide for a varying amount of insurance or the payment of varying premiums. Removing the text would be inconsistent with the requirements of section 4217(c)(6)(C); therefore the Department did not revise section 98.3(t) as recommended.

Another commentator noted that section 98.6(a)(1)(ii) contained a typographical error with respect to the referenced date of January 15, 2015. The Department agreed that the date included a typographical error, and amended the date to read January 1, 2015.

Third Amendment to Insurance Regulation 179 (11 NYCRR 100)

The Department received public comments on its revised proposed third amendment to 11 NYCRR 100 (Insurance Regulation 179). One commentator noted an inconsistency between the definitions of segmented method for varying premium term life insurance in section 98.3(m) and varying premium term life insurance in section 100.3(v). The Department agreed with this comment and amended the wording in section 100.3(v) to agree with the wording used in section 98.3(m).

Public Service Commission

NOTICE OF ADOPTION

Authorizing NYSERDA to Offer ReEnergy a Maintenance Resource Contract Under the Renewable Portfolio Standard Program

I.D. No. PSC-23-14-00006-A

Filing Date: 2014-11-19

Effective Date: 2014-11-19

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: On 11/13/14, the PSC adopted an order authorizing New York State Energy Research and Development Authority (NYSERDA) to enter into a three-year Maintenance Tier contract with ReEnergy Lyonsdale, LLC (ReEnergy).

Statutory authority: Public Service Law, sections 4(1), 5(2) and 66(1)

Subject: Authorizing NYSERDA to offer ReEnergy a maintenance resource contract under the Renewable Portfolio Standard Program.

Purpose: To authorize NYSERDA to offer ReEnergy a maintenance resource contract under the Renewable Portfolio Standard Program.

Substance of final rule: The Commission, on November 13, 2014, adopted an order authorizing New York State Electric Research and Development Authority to enter into a three-year maintenance resource contract with ReEnergy Lyonsdale, LLC, to enable the continued operation of a 22MW biomass fueled electric generating facility in Lyonsdale, New York, subject to the terms and conditions set forth in the order.

Final rule as compared with last published rule: No changes.

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(03-E-0188SA49)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Whether to Make Revisions to Rider S — Commercial System Relief Program and Rider U — Distribution Load Relief Program

I.D. No. PSC-49-14-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering whether to approve, modify or deny, in whole or in part, the tariff revisions filed by Consolidated Edison Company of New York, Inc. concerning eligibility requirements for demand response aggregators.

Statutory authority: Public Service Law, sections 66(1), (12)(a) and (b)

Subject: Whether to make revisions to Rider S — Commercial System Relief Program and Rider U — Distribution Load Relief Program.

Purpose: Whether to make revisions to Rider S — Commercial System Relief Program and Rider U — Distribution Load Relief Program.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part demand response aggregator eligibility requirements filed by Consolidated Edison Company of New York, Inc. (Con Edison) pursuant to the Commission’s March 13, 2014 Order Adopting Tariff Revision with Modifications in Case 13-E-0573. Con Edison proposed certain requirements that aggregators must meet in order participate in the Rider S and Rider U programs. These requirements do not apply to customers of the Company who aggregate and enroll multiple locations that they own or operate.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: deborah.swatling@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(13-E-0573SP4)

**Office of Temporary and
Disability Assistance**

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Local Advisory Councils

I.D. No. TDA-49-14-00001-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Repeal of Part 341 and section 407.5(g)(2); and amendment of sections 401.3(c)(2)(ii), (iii), (iv), (3)(ii), 407.5(g)(3) and 407.10 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(2)(b), (3)(d) and 34(3)(f)

Subject: Local Advisory Councils.

Purpose: Repeal the regulatory requirement that social services districts establish and maintain local advisory councils.

Text of proposed rule: Repeal of Part 341 of Title 18 NYCRR.

Amend subparagraphs (ii) and (iii) of paragraph (2) of subdivision (c) of section 401.3 of Title 18 NYCRR to read as follows:

(ii) the location of site(s) where individuals may apply for services; *and*

(iii) an indication of the extent of use of volunteers, their functions and how their involvement will be coordinated [; and].

Repeal subparagraph (iv) of paragraph (2) of subdivision (c) of section 401.3 of Title 18 NYCRR.

Amend subparagraph (ii) of paragraph (3) of subdivision (c) of section 401.3 of Title 18 NYCRR to read as follows:

(ii) public and private organizations[, including the social services district local advisory council,] consulted or to be consulted; and

Repeal paragraph (2) of subdivision (g) of section 407.5 of Title 18 NYCRR.

Renumber paragraph (3) of subdivision (g) of section 407.5 of Title 18 NYCRR as paragraph (2) of that subdivision.

Amend section 407.10 of Title 18 NYCRR to read as follows:

§ 407.10 Amendments to the plan.

A social services district may propose amendments to the plan at any time. If a reduction in services, a change in eligibility, or a change in fees is proposed, the amendment must be published for public comment [and be presented to the local advisory council for review.] prior to submission to the department. If an amendment is approved by the department, it becomes effective on the date so designated by the commissioner.

Text of proposed rule and any required statements and analyses may be obtained from: Jeanine S. Behuniak, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, New York 12243-0001, (518) 474-9779, email: Jeanine.Behuniak@otda.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 20(2)(b) authorizes the Department of Family Assistance (DFA), comprised of the Office of Temporary and Disability Assistance (OTDA) and the Office of Children and Family Services (OCFS), to supervise all social services work, which may be administered by social services districts and the officials thereof within the State, and to advise the social services districts in the performance of their official duties.

SSL § 20(3)(d) authorizes the DFA to promulgate regulations to carry out its powers and duties.

SSL § 34(3)(f) requires the Commissioners of OTDA and OCFS to establish regulations for the administration of public assistance and care within the State, both by the State itself and by the social services districts.

2. Legislative objectives:

It was the intent of the Legislature in enacting the above statutes that the offices comprising the DFA establish rules to assist the social services districts in administering public assistance and care to those persons who are unable to provide for themselves. The proposed rule will reduce unnecessary administrative burdens on social services districts.

3. Needs and benefits:

Part 341 of Title 18 NYCRR establishes local advisory councils to be involved, in an advisory capacity only, in the policy development, the program planning and the program evaluation carried on by their social services districts with respect to public assistance, medical assistance and services. The current regulations require that each local advisory council consist of a minimum of 20 members and be composed of the following persons: recipients of public assistance, medical assistance and services – at least 25 percent; providers of social services, medical services and domiciliary care; and members of the general public. The commissioners of the social services districts have administrative responsibility for appointing the members of the local advisory council consistent with regulatory requirements, for organizing the meetings of the local advisory councils on a regular basis, and for activities associated with the local advisory councils including the preparation of agendas, minutes and reports. Furthermore, the commissioners of the social services districts are authorized to reimburse necessary expenses incurred by members of the local advisory council in the performance of their responsibilities including travel, meals, loss of wages and child care. Lastly, the social services districts are responsible for submitting any periodic reports on the activities of the local advisory councils required by the DFA.

This proposed rule is based on a recommendation of Governor Cuomo’s Mandate Relief Redesign Team, a group of representatives from private industry, education, labor and government tasked with identifying ways to ease local mandates. The goal of this regulatory amendment is to reduce the administrative burdens associated with appointing, organizing and reimbursing local advisory councils, conducting regular meetings and periodically reporting on the activities of the councils. Eliminating these burdens will enable social services districts to save time and effort and allow them to redirect their staff as local needs dictate.

This will not eliminate public input into policy development, program planning, and program evaluation, as other regulatory requirements continue to require public participation in these efforts. For instance, 18 NYCRR § 407.5 continues to require social services districts to provide a separate public participation and comment process for their proposed social services plans. Other regulatory requirements specify certain designated stakeholders that must participate in the development of certain portions of the plans.

4. Costs:

It is anticipated that these regulatory amendments would have a cost savings for the social services districts.

5. Local government mandates:

These amendments would ease local mandates by no longer requiring that social services districts establish and maintain local advisory councils. The proposed rule also would repeal reporting requirements related to the local advisory councils.

However, it is noted that although social services districts would no longer be mandated to organize and convene such advisory councils, nothing prohibits social services districts desiring such input from the community from organizing such meetings. This rule provides those social services districts with greater flexibility in the design and the organization of such groups.

6. Paperwork:

There would be no additional forms required due to this rule. The proposed amendments would eliminate some existing obligations including, but not limited to, local advisory council agendas, minutes and reports.

7. Duplication:

The proposed amendments would not duplicate, overlap or conflict with any existing State or federal requirements.

8. Alternatives:

The alternative is to leave the regulation as it is currently written. However, the DFA is pursuing these amendments in an effort to provide mandate relief to social services districts consistent with direction from the Governor's Mandate Relief Redesign Team.

9. Federal standards:

The proposed amendments would not conflict with federal standards.

10. Compliance schedule:

The social services districts could be in compliance with the proposed amendments upon their effective date.

Regulatory Flexibility Analysis

1. Effect of rule:

The proposed amendments would have no effect on small businesses. The proposed amendments would ease mandates on the 58 social services districts in New York State.

2. Compliance requirements:

The commissioners of the social services districts would no longer have administrative responsibility for appointing the members of the local advisory councils consistent with regulatory requirements, for organizing the meetings of the local advisory councils on a regular basis, and for activities associated with the local advisory councils including the preparation of agendas, minutes and reports. Furthermore, the local commissioners would no longer reimburse necessary expenses incurred by members of the local advisory councils in the performance of their responsibilities including travel, meals, loss of wages and child care. Lastly, the social services districts would no longer be responsible for submitting any periodic reports on the activities of the local advisory councils required by the Department of Family Assistance, which is comprised of the Office of Temporary and Disability Assistance (OTDA) and the Office of Children and Family Services.

However, it is noted that although social services districts would no longer be mandated to organize and convene such advisory councils, nothing prohibits those social services districts desiring such input from the community from organizing such meetings. This rule provides those social services districts with greater flexibility in the design and the organization of such groups.

3. Professional services:

The proposed amendments would not require small businesses or local governments to hire additional professional services. The proposed rule would enable the social services districts to redirect their staff as local needs dictate.

4. Compliance costs:

It is anticipated that these regulatory amendments would have a cost savings for the social services districts.

5. Economic and technological feasibility:

All local governments have the economic and technological ability to comply with the proposed regulation.

6. Minimizing adverse impact:

There would not be an adverse economic impact on the social services districts.

7. Small business and local government participation:

Social services districts in the State had an opportunity to review and comment upon the proposed amendments. Seven social services districts provided comments. Four of the comments were in favor of the proposed rule.

A fifth comment supported the proposed rule, asserting that the manner in which social services districts choose to seek community input and guidance should be left to their own discretion. A sixth comment reiterated the concept that social service districts should have sole discretion for determining how to obtain community input. In response to these two comments, OTDA maintains that the proposed rule is consistent with their recommendations. This proposed rule would provide social services districts with greater flexibility in the design and the organization of their outreach; the social services districts would no longer be bound by the requirements of 18 NYCRR Part 341. Furthermore, the proposed rule does not request that social services districts submit plans for alternate community outreach to OTDA.

A final comment indicated that the repeal of 18 NYCRR Part 341 was inconsequential and that OTDA could take more significant steps to reduce mandates on the social services districts, but it did not expressly oppose the proposal. In response, OTDA maintains that 18 NYCRR Part 341 imposes unnecessary mandates on the social services districts, and its repeal would provide additional flexibility to the social services districts. Also OTDA notes that it will continue to take steps to reduce the impact of existing mandates on social services districts.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed amendments would ease local mandates on the forty-four social services districts in rural areas of the State. Social services districts in rural areas would no longer be required to establish and maintain local advisory councils. The commissioners of social services districts in rural areas would no longer have administrative responsibility for appointing the members of the local advisory councils consistent with regulatory requirements, for organizing the meetings of the local advisory councils on a regular basis, and for activities associated with the local advisory councils including the preparation of agendas, minutes and reports. Furthermore, the commissioners of social services districts in rural areas would no longer reimburse necessary expenses incurred by members of the local advisory councils in the performance of their responsibilities including travel, meals, loss of wages and child care. Lastly, the social services districts in rural areas would no longer be responsible for submitting any periodic reports on the activities of the local advisory councils required by the Department of Family Assistance (DFA), which is comprised of the Office of Temporary and Disability Assistance and the Office of Children and Family Services.

However, it is noted that although social services districts in rural areas would no longer be mandated to organize and convene such advisory councils, nothing prohibits those social services districts desiring such input from the community from organizing such meetings. This rule provides those social services districts with greater flexibility in the design and the organization of such groups.

2. Reporting, recordkeeping and other compliance requirements; and professional services:

No additional recordkeeping, reporting or compliance would be required by the social services districts in rural areas. The proposed amendments would eliminate some existing obligations including, but not limited to, local advisory council agendas, minutes and reports.

3. Costs:

It is anticipated that these regulatory amendments would have a cost savings for the social services districts in rural areas.

4. Minimizing adverse impact:

There would not be an adverse economic impact on the social services districts in rural areas.

5. Rural area participation:

Social services districts in rural counties of the State had an opportunity to review and comment upon the proposed amendments. Three of these social services districts provided comments. All three comments were in favor of the proposed rule, with one of the comments suggesting that other regulations should be repealed as well.

Job Impact Statement

A Job Impact Statement is not required for the proposed amendments. It is apparent from the nature and the purpose of the proposed amendments that they would not have a substantial adverse impact on jobs and employment opportunities in New York State. The proposed amendments would not affect private businesses. The proposed amendments would not affect in any real way the jobs of the workers in the social services districts or at the Office of Children and Family Services and the Office of Temporary and Disability Assistance, which comprise the Department of Family Assistance. Thus the changes would not have any adverse impact on jobs and employment opportunities in New York State.

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Public Assistance Schedules

I.D. No. TDA-49-14-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of sections 352.1 and 352.2 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 131(1), 131-a(2)(a-1)-(a-4) and 131-a(3)(a-1)-(a-4)

Subject: Public Assistance Schedules.

Purpose: To update certain public assistance schedules to comply with the schedules in Social Services Law, section 131-a.

Text of proposed rule: Schedule SA-1 of subdivision (a) of section 352.1 is amended to read as follows:

SCHEDULE SA-1
STATEWIDE STARNDARD OF NEED

EFFECTIVE through June 30, 2009

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$112	\$179	\$238	\$307	\$379	\$438	\$60

EFFECTIVE July 1, 2009 through June 30, 2010

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$126	\$201	\$268	\$345	\$426	\$492	\$67

EFFECTIVE July 1, 2010 through June 30, 2012

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$141	\$225	\$300	\$386	\$477	\$551	\$75

EFFECTIVE July 1, 2012 through September 30, 2012

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$150	\$239	\$317	\$409	\$505	\$583	\$80

EFFECTIVE beginning October 1, 2012

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$158	\$252	\$336	\$433	\$534	\$617	\$85

Schedule SA-2a of subdivision (d) of section 352.2 is amended to read as follows:

SCHEDULE SA-2a STATEWIDE MONTHLY GRANTS AND ALLOWANCES, EXCLUSIVE OF HOME ENERGY PAYMENTS AND SUPPLEMENTAL HOME ENERGY PAYMENTS FOR [HR-VA-ADC]
SNA-VA-FA

EFFECTIVE through June 30, 2009

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$112	\$179	\$238	\$307	\$379	\$438	\$60

EFFECTIVE July 1, 2009 through June 30, 2010

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$126	\$201	\$268	\$345	\$426	\$492	\$67

EFFECTIVE July 1, 2010 through June 30, 2012

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$141	\$225	\$300	\$386	\$477	\$551	\$75

EFFECTIVE July 1, 2012 through September 30, 2012

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$150	\$239	\$317	\$409	\$505	\$583	\$80

EFFECTIVE beginning October 1, 2012

Number of persons in household						
One	Two	Three	Four	Five	Six	Each additional person
\$158	\$252	\$336	\$433	\$534	\$617	\$85

Text of proposed rule and any required statements and analyses may be obtained from: Richard P. Rhodes, Jr., New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, New York 12243-0001, (518) 486-7503, email: Richard.Rhodesjr@otda.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority:
§ 20(3)(d) of the Social Services Law (SSL) authorizes the Office of Temporary and Disability Assistance (OTDA) to promulgate regulations to carry out its powers and duties.

§ 34(3)(f) of the SSL requires the Commissioner of OTDA to establish regulations for the administration of public assistance and care within the State.

§ 131(1) of the SSL requires social services districts (SSDs), insofar as funds are available, to provide adequately for those unable to maintain themselves, in accordance with the provisions of the SSL.

Amended § 131-a (2)(a-1) - (a-4) of the SSL sets forth schedules establishing standards of monthly need for determining eligibility for all categories of public assistance (PA) by all SSDs, effective from July 1, 2009 through June 30, 2010, from July 1, 2010 through June 30, 2012, from July 1, 2012 through September 30, 2012, and from October 1, 2012 and thereafter, respectively.

Amended § 131-a (3)(a-1) - (a-4) of the SSL sets forth schedules establishing the amounts of monthly allowances and grants for persons determined eligible to receive PA, effective from July 1, 2009 through June 30, 2010, from July 1, 2010 through June 30, 2012, from July 1, 2012 through September 30, 2012, and from October 1, 2012 and thereafter, respectively.

2. Legislative objectives:
It was the intent of the Legislature when enacting the above-referenced statutes that OTDA establish rules, regulations, and policies to adequately provide for those persons unable to provide for themselves so that, whenever possible, such persons could be restored to conditions of self-support and self-care.

3. Needs and benefits:
These proposed regulatory amendments are intended to update certain public assistance (PA) schedules set forth in 18 NYCRR §§ 352.1(a) and 352.2(d) to bring them into compliance with amended Social Services Law (SSL) § 131-a. The schedule for "Statewide Standard of Need" set forth in 18 NYCRR § 352.1 (a) provides the basic allowance component used in calculating the standard of monthly need, which is used by the SSDs to determine eligibility for PA. The schedule for "Statewide Monthly Grants and Allowances" set forth in 18 NYCRR § 352.2 (d) provides the maximum amounts of the basic allowance component of the standard of monthly need for individuals and families receiving PA in all SSDs. The schedules also appear in SSL §§ 131-a(2)(a) and (3)(a).

Amended SSL §§ 131-a (2)(a-1) - (a-4) and (3)(a-1) - (a-4) set forth revised schedules relative to the standard of monthly need for determining eligibility for PA, and to the allowances and grants for persons determined eligible to receive PA, respectively. The revised schedules were effective from July 1, 2009 through June 30, 2010, from July 1, 2010 through June 30, 2012, from July 1, 2012 through September 30, 2012, and from October 1, 2012 and thereafter, respectively. As a result, the corresponding regulatory schedules in 18 NYCRR §§ 352.1 (a) and 352.2 (d) must be updated to reflect these statutory provisions.

The provisions of amended SSL §§ 131-a(2) and (3) are non-

discretionary, and OTDA and the SSDs were required to comply with the PA schedules on July 1, 2009, July 1, 2010, July 1, 2012, and October 1, 2012, respectively. These proposed regulatory amendments are required in order to conform the current PA schedules set forth in 18 NYCRR §§ 352.1(a) and 352.2(d) to the non-discretionary provisions set forth in amended SSL § 131-a.

4. Costs:

The proposed regulatory amendments would have no fiscal impact. OTDA and the SSDs are already in compliance with the schedules set forth in amended SSL § 131-a.

5. Local government mandates:

These amendments would not impose any additional programs, services, duties, or responsibilities upon SSDs. SSDs are already required to comply with State law and determine eligibility for all categories of PA based on the standard of monthly need, less any available income or resources which are not required to be disregarded.

6. Paperwork:

There would be no additional forms required to support these proposed amendments.

7. Duplication:

These proposed amendments would not duplicate, overlap, or conflict with any existing State or federal regulations.

8. Alternatives:

There are no alternatives, as the proposed regulatory amendments are required in order to bring the current PA schedules set forth in State regulations into compliance with the schedules set forth in amended SSL § 131-a.

9. Federal standards:

The proposed regulatory amendments would not conflict with federal standards for PA.

10. Compliance schedule:

SSDs are currently in compliance with the schedules set forth in SSL § 131-a. Consequently, they would be in compliance with the proposed regulations on their effective date.

Regulatory Flexibility Analysis

1. Effect of rule:

The proposed regulatory amendments would have an effect on local governments, but not on small businesses. The regulatory amendments would assist social services districts (SSDs) by bringing the regulatory language of 18 NYCRR §§ 352.1 and 352.2 into compliance with the schedules set forth in Social Services Law (SSL) § 131-a.

2. Compliance requirements:

The SSDs are currently in compliance with SSL § 131-a. Consequently, they would be in compliance with the proposed regulations on their effective date.

3. Professional services:

The proposed regulatory amendments will not require small businesses or local governments to obtain additional professional services.

4. Compliance costs:

The proposed regulatory amendments would have no fiscal impact. The SSDs are already in compliance with the schedules set forth in SSL § 131-a.

5. Economic and technological feasibility:

All small businesses and local governments currently possess the economic and technological abilities to comply with these proposed regulatory amendments.

6. Minimizing adverse impact:

There will be no adverse economic impact on local governments and small businesses incidental to the proposed regulatory amendments.

7. Small business and local government participation:

There was no participation by small businesses or local governments in the development of the proposed regulatory amendments, insofar as the proposed regulatory amendments are intended to bring the State regulations into compliance with the revised PA schedules set forth in amended SSL § 131-a.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed regulatory amendments will affect the 44 rural social services districts (SSDs) in the State. The regulatory amendments would assist the SSDs in rural areas by bringing the regulatory language of 18 NYCRR §§ 352.1 and 352.2 into compliance with the schedules set forth in Social Services Law (SSL) § 131-a.

2. Reporting, recordkeeping and other compliance requirements; and professional services:

These amendments would not impose any additional programs, services, duties, or responsibilities upon the SSDs. The SSDs are already required to determine eligibility for all categories of public assistance (PA) consistent with SSL § 131-a.

3. Costs:

The proposed regulatory amendments would have no fiscal impact. The SSDs in rural areas are already in compliance with SSL § 131-a.

4. Minimizing adverse impact:

The proposed regulatory amendments will not adversely impact upon SSDs in rural areas.

5. Rural area participation:

The SSDs in rural areas did not participate in the development of the proposed regulatory amendments because the proposed regulatory amendments are required in order to bring the current PA schedules set forth in the State regulations into compliance with the schedules set forth in amended SSL § 131-a.

Job Impact Statement

A Job Impact Statement is not required for the proposed regulatory amendments. It is apparent from the nature and the purpose of the proposed regulatory amendments that they will not have a substantial adverse impact on jobs and employment opportunities in either the public or private sectors within the State. The proposed regulatory amendments are intended to bring State regulations into compliance with the public assistance (PA) schedules set forth in amended Social Services Law §§ 131-a (2)(a-1) - (a-4) and (3)(a-1) - (a-4), which impact eligibility for and calculation of the basic allowance component of PA grants.