

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.

Department of Corrections and Community Supervision

NOTICE OF ADOPTION

Taconic Correctional Facility

I.D. No. CCS-15-15-00002-A

Filing No. 775

Filing Date: 2015-09-04

Effective Date: 2015-09-23

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

Action taken: Repeal of section 100.82(d) and (e) of Title 7 NYCRR.

Statutory authority: Correction Law, section 70

Subject: Taconic Correctional Facility.

Purpose: Remove reference to functions that are no longer operational at this correctional facility.

Text or summary was published in the April 15, 2015 issue of the Register, I.D. No. CCS-15-15-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Kevin P. Bruen, Deputy Commissioner and Counsel, NYS Department of Corrections and Community Supervision, 1220 Washington Avenue - Harriman State Campus - Building 2, (518) 457-4951, email: Rules@Doccs.ny.gov

Assessment of Public Comment

The agency received no public comment.

State Board of Elections

NOTICE OF ADOPTION

Independent Expenditure Disclosure

I.D. No. SBE-16-15-00019-A

Filing No. 771

Filing Date: 2015-09-03

Effective Date: 2015-09-23

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

Action taken: Repeal of section 6200.10; and addition of new section 6200.10 to Title 9 NYCRR.

Statutory authority: Election Law, section 14-107(7); L. 2014, ch. 55

Subject: Independent Expenditure Disclosure.

Purpose: To set forth the requirements for disclosing independent campaign expenditures.

Text or summary was published in the April 22, 2015 issue of the Register, I.D. No. SBE-16-15-00019-EP.

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

Text of rule and any required statements and analyses may be obtained from: Kathleen O'Keefe, New York State Board of Elections, 40 N. Pearl Street, Suite 5, Albany, NY 12207, (518) 474-2063, email: kathleen.okeefe@elections.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2018, 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.

NOTICE OF ADOPTION

Political Campaign Contribution Limits

I.D. No. SBE-24-15-00007-A

Filing No. 770

Filing Date: 2015-09-03

Effective Date: 2015-09-23

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

Action taken: Repeal of section 6214.0; and addition of new section 6214.0 to Title 9 NYCRR.

Statutory authority: Election Law, section 14-114(1)(c)

Subject: Political campaign contribution limits.

Purpose: Adjust contribution limits to reflect the consumer price index.

Text or summary was published in the June 17, 2015 issue of the Register, I.D. No. SBE-24-15-00007-P.

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

Text of rule and any required statements and analyses may be obtained from: Kathleen O'Keefe, New York State Board of Elections, 40 N. Pearl Street, Suite 5, Albany, NY 12207, (518) 474-2063, email: kathleen.okeefe@elections.ny.gov

Assessment of Public Comment

The agency received no public comment.

Department of Financial Services

NOTICE OF ADOPTION**Reports to Central Organization**

I.D. No. DFS-46-14-00013-A

Filing No. 747

Filing Date: 2015-09-01

Effective Date: 2015-09-23

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

Action taken: Amendment of Subpart 62-2 (Regulation 96) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202 and 302; Insurance Law, sections 201, 301, 318, 319, 403, 2601, 3403, 3413 and 3432

Subject: Reports to Central Organization.

Purpose: To remove an outdated reference to “PILR” in the title of section 62-2.2.

Text or summary was published in the November 19, 2014 issue of the Register, I.D. No. DFS-46-14-00013-P.

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

Text of rule and any required statements and analyses may be obtained from: Kathleen Grogan, NYS Department of Financial Services, One State Street, New York, NY 10004, (212) 480-5776, email: kathleen.grogan@dfs.ny.gov

Revised Job Impact Statement

This amendment merely updates the rule by removing an obsolete reference to PILR from the title of section 62-2.2 of title 11 of the New York Compilation of Codes Rules and Regulations (Insurance Regulation 96). This amendment will not adversely impact job or employment opportunities in New York, or have any adverse impact on self-employment opportunities, because the revision imposes no new or additional requirements on any insurer subject to the rule.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION**Financial Statement Filings and Accounting Practices and Procedures**

I.D. No. DFS-20-15-00005-A

Filing No. 749

Filing Date: 2015-09-02

Effective Date: 2015-09-16

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

Action taken: Amendment of Part 83 (Regulation 172) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202 and 302; Insurance Law, sections 107(a)(2), 301, 307, 308, 1109, 1301, 1302, 1308, 1404, 1405, 1407, 1411, 1414, 1501, 1505, 3233, 4117, 4233, 4239, 4301, 4310, 4321-a, 4322-a, 4327 and 6404; Public Health Law, sections 4403, 4403-a, 4403-(c)(12) and 4408-a; L. 2002, ch. 599; L. 2008, ch. 311

Subject: Financial Statement Filings and Accounting Practices and Procedures.

Purpose: To update citations in Part 83 to the Accounting Practices and Procedures Manual as of March 2015.

Text or summary was published in the May 20, 2015 issue of the Register, I.D. No. DFS-20-15-00005-P.

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

Text of rule and any required statements and analyses may be obtained from: Sally Geisel, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 480-5287, email: sally.geisel@dfs.ny.gov

Revised Job Impact Statement

The Department does not believe that this rule will have any impact on jobs and employment opportunities, including self-employment opportunities. The amendment merely adopts the most recent edition published by the National Association of Insurance Commissioners (“NAIC”) of the Accounting Practices and Procedures Manual As of March 2015 (“2015 Accounting Manual”), replacing the rule’s current reference to the Accounting Practices and Procedures Manual As of March 2014. All states require insurers to comply with the 2015 Accounting Manual, which establishes uniform practices and procedures for U.S.-licensed insurers. Adoption of the rule is necessary for the Department to maintain its accreditation status with the NAIC. The NAIC accreditation standards require that state insurance regulators have adequate statutory and administrative authority to regulate insurers’ corporate and financial affairs, and that they have the necessary resources to carry out that authority.

Assessment of Public Comment

The agency received no public comment.

Office of General Services

NOTICE OF ADOPTION**Federal Surplus Property Program**

I.D. No. GNS-18-15-00001-A

Filing No. 772

Filing Date: 2015-09-04

Effective Date: 2015-09-23

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

Action taken: Amendment of section 298.6 of Title 9 NYCRR.

Statutory authority: Executive Law, section 200; Education Law, section 3712; 40 U.S.C., section 549; and 41 CFR 102-37

Subject: Federal Surplus Property Program.

Purpose: To conform the State Plan of Operation with requirements of Federal Management Regulations (FMR) 102-37.465.

Text or summary was published in the May 6, 2015 issue of the Register, I.D. No. GNS-18-15-00001-P.

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

Text of rule and any required statements and analyses may be obtained from: Paula B. Hanlon, NYS Office of General Services, 41st Floor Corning Tower, The Governor Nelson A. Rockefeller ESP, Albany, NY 12242, (518) 474-5607, email: regsreceipt@ogs.ny.gov

Assessment of Public Comment

The agency received no public comment.

Department of Health

**EMERGENCY
RULE MAKING****Personal Care Services Program (PCSP) and Consumer Directed Personal Assistance Program (CDPAP)**

I.D. No. HLT-38-15-00001-E

Filing No. 748

Filing Date: 2015-09-02

Effective Date: 2015-09-02

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

Action taken: Amendment of sections 505.14 and 505.28 of Title 18 NYCRR.

Statutory authority: Public Health Law, section 201(1)(v); and Social Services Law, sections 363-a(2), 365-a(2)(e) and 365-f

Finding of necessity for emergency rule: Preservation of public health.

Specific reasons underlying the finding of necessity: Pursuant to the authority vested in the Commissioner of Health by Social Services Law § 365-a(2)(e), the Commissioner is authorized to adopt standards, pursuant to emergency regulation, for the provision and management of services for individuals whose need for such services exceeds a specified level to be determined by the Commissioner.

Subject: Personal Care Services Program (PCSP) and Consumer Directed Personal Assistance Program (CDPAP).

Purpose: To establish definitions, criteria and requirements associated with the provision of continuous PC and continuous CDPAP services.

Text of emergency rule: Paragraph (3) of subdivision (a) of section 505.14 is repealed and a new paragraph (3) is added to read as follows:

(3) *Continuous personal care services means the provision of uninterrupted care, by more than one person, for more than 16 hours per day for a patient who, because of the patient's medical condition and disabilities, requires total assistance with toileting, walking, transferring or feeding at times that cannot be predicted.*

Paragraph (4) of subdivision (a) of section 505.14 is amended by adding new subparagraph (iii) to read as follows:

(iii) *Personal care services shall not be authorized if the patient's need for assistance can be met by either or both of the following:*

(a) *voluntary assistance available from informal caregivers including, but not limited to, the patient's family, friends or other responsible adult; or formal services provided by an entity or agency; or*

(b) *adaptive or specialized equipment or supplies including, but not limited to, bedside commodes, urinals, walkers and wheelchairs, when such equipment or supplies can be provided safely and cost-effectively.*

Paragraph (5) of subdivision (a) of section 505.14 is repealed and a new paragraph (5) is added to read as follows:

(5) *Live-in 24-hour personal care services means the provision of care by one person for a patient who, because of the patient's medical condition and disabilities, requires some or total assistance with one or more personal care functions during the day and night and whose need for assistance during the night is infrequent or can be predicted.*

Clause (b) of subparagraph (i) of paragraph (6) of subdivision (a) of section 505.14 is amended to read as follows:

(b) The [initial] authorization for Level I services shall not exceed eight hours per week. [An exception to this requirement may be made under the following conditions:

(1) The patient requires some or total assistance with meal preparation, including simple modified diets, as a result of the following conditions:

(i) informal caregivers such as family and friends are unavailable, unable or unwilling to provide such assistance or are unacceptable to the patient; and

(ii) community resources to provide meals are unavailable or inaccessible, or inappropriate because of the patient's dietary needs.

(2) In such a situation, the local social services department may authorize up to four additional hours of service per week.]

Clause (b) of subparagraph (ii) of paragraph (6) of subdivision (a) of section 505.14 is amended to read as follows:

(b) When continuous [24-hour care] *personal care services* is indicated, additional requirements for the provision of services, as specified in clause (b)(4)(i)(c) of this section, must be met.

Clause (c) of subparagraph (ii) of paragraph (3) of subdivision (b) of section 505.14 is relettered as clause (d) and a new clause (c) is added to read as follows:

(c) *When live-in 24-hour personal care services is indicated, the social assessment shall evaluate whether the patient's home has adequate sleeping accommodations for a personal care aide.*

Subclauses (5) and (6) of clause (b) of subparagraph (iii) of paragraph (3) of subdivision (b) of section 505.14 are renumbered as subclauses (6) and (7), and new subclause (5) is added to read as follows:

(5) *an evaluation whether adaptive or specialized equipment or supplies including, but not limited to, bedside commodes, urinals, walkers and wheelchairs, can meet the patient's need for assistance with personal care functions, and whether such equipment or supplies can be provided safely and cost-effectively;*

Subclause (7) of clause (a) of subparagraph (iv) of paragraph (3) of subdivision (b) of section 505.14 is amended to read as follows:

(7) whether the patient can be served appropriately and more cost-effectively by using *adaptive or specialized medical equipment or supplies* covered by the MA program including, but not limited to, *bedside commodes, urinals, walkers, wheelchairs and insulin pens*; and

Clause (c) of subparagraph (iv) of paragraph (3) of subdivision (b) of section 505.14 is amended to read as follows:

(c) A social services district may determine that the assessments required by subclauses (a)(1) through (6) and (8) of this subparagraph may be included in the social assessment or the nursing assessment.

Clause (c) of subparagraph (i) of paragraph (4) of subdivision (b) of section 505.14 is amended to read as follows:

(c) the case involves the provision of continuous [24-hour] personal care services as defined in paragraph (a)(3) of this section. Documentation for such cases shall be subject to the following requirements:

Subclause (2) of clause (c) of subparagraph (i) of paragraph (4) of subdivision (b) of section 505.14 is amended to read as follows:

(2) The nursing assessment shall document that: the functions required by the patient[.]; the degree of assistance required for each function, *including that the patient requires total assistance with toileting, walking, transferring or feeding*; and the time of this assistance require the provision of continuous [24-hour care] *personal care services*.

Subparagraph (ii) of paragraph (4) of subdivision (b) of section 505.14 is amended to read as follows:

(ii) The local professional director, or designee, must review the physician's order and the social, nursing and other required assessments in accordance with the standards for levels of services set forth in subdivision (a) of this section, and is responsible for the final determination of the level and amount of care to be provided. *The local professional director or designee may consult with the patient's treating physician and may conduct an additional assessment of the patient in the home.* The final determination must be made [within five working days of the request] *with reasonable promptness, generally not to exceed seven business days after receipt of the physician's order and the completed social and nursing assessments, except in unusual circumstances including, but not limited to, the need to resolve any outstanding questions regarding the level, amount or duration of services to be authorized.*

Paragraph (4) of subdivision (b) of section 505.28 is amended to read as follows:

(4) "continuous [24-hour] consumer directed personal assistance" means the provision of uninterrupted care, by more than one consumer directed personal assistant, *for more than 16 hours per day* for a consumer who, because of the consumer's medical condition [or] *and disabilities, requires total assistance with toileting, walking, transferring or feeding at [unscheduled times during the day and night] at times that cannot be predicted.*

Paragraphs (8) through (13) of subdivision (b) of section 505.28 are renumbered as paragraphs (9) through (14) and the renumbered paragraph (9) is amended to read as follows:

(9) "personal care services" means the nutritional and environmental support functions, personal care functions, or both such functions, that are specified in Section 505.14(a)(6) of this Part *except that, for individuals whose needs are limited to nutritional and environmental support functions, personal care services shall not exceed eight hours per week.*

A new paragraph (8) of subdivision (b) of section 505.28 is added to read as follows:

(8) "*live-in 24-hour consumer directed personal assistance*" means the provision of care by one consumer directed personal assistant for a consumer who, because of the consumer's medical condition and disabilities, requires some or total assistance with *personal care functions, home health aide services or skilled nursing tasks during the day and night and whose need for assistance during the night is infrequent or can be predicted.*

Subparagraph (iii) of paragraph (2) of subdivision (d) of section 505.28 is amended, and new subparagraphs (iv) and (v) of such paragraph are added, to read as follows:

(iii) an evaluation of the potential contribution of informal supports, such as family members or friends, to the individual's care, which must consider the number and kind of informal supports available to the individual; the ability and motivation of informal supports to assist in care; the extent of informal supports' potential involvement; the availability of informal supports for future assistance; and the acceptability to the individual of the informal supports' involvement in his or her care [.] *and;*

(iv) *for cases involving continuous consumer directed personal assistance, documentation that: all alternative arrangements for meeting the individual's medical needs have been explored or are infeasible including, but not limited to, the provision of consumer directed personal assistance in combination with other formal services or in combination with contributions of informal caregivers; and*

(v) *for cases involving live-in 24-hour consumer directed personal assistance, an evaluation whether the individual's home has adequate sleeping accommodations for a consumer directed personal assistant.*

Subparagraph (i) of paragraph (3) of subdivision (d) of section 505.28 is repealed and a new subparagraph (i) is added to read as follows:

(i) *The nursing assessment must be completed by a registered professional nurse who is employed by the social services district or by a licensed or certified home care services agency or voluntary or proprietary agency under contract with the district.*

Clauses (g) and (h) of subparagraph (ii) of paragraph (3) of subdivision (d) of section 505.28 are relettered as clauses (h) and (i) and a new clause (g) is added to read as follows:

(g) for continuous consumer directed personal assistance cases, documentation that: the functions the consumer requires; the degree of assistance required for each function, including that the consumer requires total assistance with toileting, walking, transferring or feeding; and the time of this assistance require the provision of continuous consumer directed personal assistance;

Paragraph (5) of subdivision (d) of section 505.28 is amended to read as follows:

(5) Local professional director review. If there is a disagreement among the physician's order, nursing and social assessments, or a question regarding the level, amount or duration of services to be authorized, or if the case involves continuous [24-hour] consumer directed personal assistance, an independent medical review of the case must be completed by the local professional director, a physician designated by the local professional director or a physician under contract with the social services district. The local professional director or designee must review the physician's order and the nursing and social assessments and is responsible for the final determination regarding the level and amount of services to be authorized. *The local professional director or designee may consult with the consumer's treating physician and may conduct an additional assessment of the consumer in the home.* The final determination must be made with reasonable promptness, generally not to exceed [five] seven business days after receipt of the physician's order and the completed social and nursing assessments, except in unusual circumstances including, but not limited to, the need to resolve any outstanding questions regarding the level, amount or duration of services to be authorized.

Paragraph (1) of subdivision (e) of section 505.28 is amended to read as follows:

(1) When the social services district determines pursuant to the assessment process that the individual is eligible to participate in the consumer directed personal assistance program, the district must authorize consumer directed personal assistance according to the consumer's plan of care. The district must not authorize consumer directed personal assistance unless it reasonably expects that such assistance can maintain the individual's health and safety in the home or other setting in which consumer directed personal assistance may be provided. *Consumer directed personal assistance shall not be authorized if the consumer's need for assistance can be met by either or both of the following:*

(i) voluntary assistance available from informal caregivers including, but not limited to, the consumer's family, friends or other responsible adult; or formal services provided by an entity or agency; or

(ii) adaptive or specialized equipment or supplies including, but not limited to, bedside commodes, urinals, walkers and wheelchairs, when such equipment or supplies can be provided safely and cost-effectively.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire November 30, 2015.

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Regulatory Impact Statement

Statutory Authority:

Social Services Law ("SSL") § 363-a(2) and Public Health Law § 201(1)(v) provide that the Department has general rulemaking authority to adopt regulations to implement the Medicaid program.

The Commissioner has specific rulemaking authority under SSL § 365-a(2)(e)(ii) to adopt standards, pursuant to emergency regulation, for the provision and management of personal care services for individuals whose need for such services exceeds a specified level to be determined by the Commissioner.

Under SSL § 365-a(2)(e)(iv), personal care services shall not exceed eight hours per week for individuals whose needs are limited to nutritional and environmental support functions.

Legislative Objectives:

The Legislature sought to reform the Medicaid personal care services program by controlling expenditure growth and promoting self-sufficiency.

The Legislature authorized the Commissioner of Health to adopt standards for the provision and management of personal care services for Medicaid recipients whose need for such services exceeds a specified level. The regulations adopt such standards for Medicaid recipients who seek continuous personal care services or continuous consumer directed personal assistance for more than 16 hours per day.

The Legislature additionally sought to promote the goal of self-

sufficiency among Medicaid recipients who do not need hands-on assistance with personal care functions such as bathing, toileting or transferring. It determined that recipients whose need for personal care services is limited to nutritional and environmental support functions, such as shopping, laundry and light housekeeping, could receive no more than eight hours per week of such assistance.

Needs and Benefits:

The regulations have two general purposes: to conform the Department's personal care services and consumer directed personal assistance program (CDPAP) regulations to State law limiting the amount of services that can be authorized for individuals who require assistance only with nutritional and environmental support functions; and, to implement State law authorizing the Department to adopt standards for the provision and management of personal care services for individuals whose need for such services exceeds a specified level that the Commissioner may determine.

The term "nutritional and environmental support functions" refers to housekeeping tasks including, but not limited to, laundry, shopping and meal preparation. Department regulations refer to these support functions as "Level I" personal care services. Department regulations have long provided that social services districts cannot initially authorize Level I services for more than eight hours per week; however, an exception permitted authorizations for Level I services to exceed eight hours per week under certain circumstances.

The Legislature has nullified this regulatory exception. The regulations conform the Department's personal care services regulations to the new State law. They repeal the regulatory exception that permitted social services districts to authorize up to 12 hours of Level I services per week, capping such authorizations at no more than eight hours per week.

The regulations similarly amend the Department's CDPAP regulations. Some CDPAP participants are authorized to receive only assistance with nutritional and environmental support functions. Since personal care services are included within the CDPAP, it is consistent with the Legislature's intent to extend the eight hour weekly cap on nutritional and environmental services to that program.

The regulations also implement the Department's specific statutory authority to adopt standards pursuant to emergency regulation for the provision and management of personal care services for individuals whose need for such services exceeds a specified level. The Commissioner has determined to adopt such standards for individuals whose need for continuous personal care services or continuous consumer directed personal assistance exceeds 16 hours per day.

The regulations repeal the definition of "continuous 24-hour personal care services," replacing it with a definition of "continuous personal care services." The prior definition applied to individuals who required total assistance with certain personal care functions for 24 hours at unscheduled times during the day and night. The new definition applies to individuals who require such assistance for more than 16 hours per day at times that cannot be predicted.

Cases in which continuous personal care services are indicated must be referred to the local professional director or designee. Such referrals would now be required in additional cases: those involving provision of continuous care for more than 16 hours per day.

The regulations permit the local professional director or designee to consult with the recipient's treating physician and conduct an additional assessment of the recipient in the home.

The regulations amend the documentation requirements for nursing assessments in continuous personal care services cases.

The regulations add a definition of live-in 24 hour personal care services. This level of service has long existed, primarily in New York City, but has never been explicitly set forth in the Department's regulations. The regulations also require that, for recipients who may be eligible for such services, the social assessment evaluate whether the recipient's home has adequate sleeping accommodations for the live-in aide.

The regulations provide that personal care services shall not be authorized when the recipient's need for assistance can be met by the voluntary assistance of informal caregivers or by formal services or by adaptive or specialized equipment or supplies that can be provided safely and cost-effectively. The regulations require that the nursing assessments that districts currently complete or obtain include an evaluation whether adaptive or specialized equipment or supplies can meet the recipient's need for assistance and whether such equipment or supplies can be provided safely and cost-effectively.

The regulations adopt conforming amendments to the Department's CDPAP regulations.

Costs to Regulated Parties:

Regulated parties include entities that voluntarily contract with social services districts to provide personal care services to, or to perform certain CDPAP functions for, Medicaid recipients. These entities include licensed home care services agencies, agencies that are exempt from licensure, and CDPAP fiscal intermediaries.

Social services districts may no longer authorize certain Medicaid recipients to receive more than eight hours per week of assistance with nutritional and environmental support functions. To the extent that regulated parties were formerly reimbursed for more than eight hours per week for these services, their Medicaid revenue will decrease. This is a consequence of State law, not the regulations. The regulations do not impose any additional costs on these regulated parties.

Costs to State Government:

The regulations impose no additional costs on State government.

The statutory cap on nutritional and environmental support functions will result in cost-savings to the State share of Medicaid expenditures. The estimated annual personal care services and CDPAP cost-savings for subsequent State fiscal years are approximately \$3.4 million.

This estimate is based on 2010 recipient and expenditure data for the personal care services program. According to such data, 2,377 New York City recipients received more than eight hours per week of Level I services, the average being 11 weekly hours of such service. The number of Level I hours that exceeded eight hours per week was thus approximately 370,800 hours (2,377 recipients x 3 hours per week x 52 weeks). Multiplying this hourly total by the 2010 average hourly New York City personal care aide cost (\$17.30) results in total annual savings of \$6.4, or \$3.2 million in State share savings. Application of this calculation to the Rest of State recipient and expenditure data yields an additional \$200,000 in State share savings, or \$3.4 million.

State Medicaid cost-savings are also projected to occur as a result of changes to continuous personal care services authorizations. It is not possible to accurately estimate such savings. However, the Department anticipates that most recipients currently authorized for continuous 24-hour personal care services will continue to receive that level of care. Others may be authorized for continuous services for 16 hours per day or live-in 24 hour personal care services. Still others may be authorized for services for more than 16 hours per day but fewer than 24 hours per day.

The estimated State share savings for this portion of the regulations are \$33.1 million. This comprises approximately \$17.1 million in personal care savings and \$15.9 million in CDPAP savings. This estimate is based on 2010 personal care services and CDPAP recipient and expenditure data. In 2010, 1,809 Medicaid recipients were authorized to receive more than 16 hours of services per day. The assumption is that these recipients were authorized for continuous 24-hour services, which has an average annual per person cost of approximately \$166,000. Assuming that 20 percent were authorized for live-in 24-hour services at an average annual per person cost of approximately \$83,000, and 15 percent were authorized for 16 hours per day at an average hourly cost of between approximately \$17.00 and \$22.00, depending on service and location, the annual State share savings per recipient would range from approximately \$28,000 to \$35,000.

Costs to Local Government:

The regulation will not require social services districts to incur new costs. State law limits the amount that districts must pay for Medicaid services provided to district recipients. Districts may claim State reimbursement for any costs they may incur when administering the Medicaid program.

Costs to the Department of Health:

There will be no additional costs to the Department.

Local Government Mandates:

The regulations require social services districts to refer additional cases to their local professional directors or designees. Currently, the regulations require that such referrals be made for continuous 24 hour care and certain other cases. Under the proposed regulations, such referrals must also be made for recipients who may require continuous services for more than 16 hours.

Paperwork:

The regulations specify additional documentation requirements for the social and nursing assessments that districts currently complete or obtain for personal care services and CDPAP applicants and recipients. For persons who may be eligible for live-in 24 hour services, the social assessment must evaluate whether the recipient's home has adequate sleeping accommodations for the live-in aide. The nursing assessments for all personal care services and CDPAP cases, including those not involving continuous services, must include an evaluation whether adaptive or specialized equipment or supplies can meet the recipient's need for assistance and whether such equipment or supplies can be used safely and cost-effectively. The amendments to the CDPAP regulations also specify additional documentation requirements for the social and nursing assessments for cases involving continuous consumer directed personal assistance. These requirements mirror long-standing documentation requirements in the personal care services regulations.

Duplication:

The regulations do not duplicate any existing federal, state or local regulations.

Alternatives:

With respect to the regulation that caps authorizations for nutritional and environmental support functions to eight hours per week, no alternatives exist. The regulation must conform to State law that imposes this weekly cap. With respect to the regulation that establishes new requirements for continuous services, alternatives existed but were not now pursued. One such alternative may be the repeal of the regulatory authorization for continuous 24-hour services. The Department determined to promulgate further regulatory controls regarding the provision and management of continuous services, rather than repeal such services in their entirety.

Federal Standards:

This rule does not exceed any minimum federal standards.

Compliance Schedule:

The Department has issued instructions to social services districts advising them of the new State law that limits nutritional and environmental support functions to no more than eight hours per week for certain recipients. Districts should not now be authorizing more than eight hours per week of such assistance and should thus be able to comply with the regulations when they become effective. With regard to the remaining regulations, social services districts should be able to comply with the regulations when they become effective. For applicants, social services districts would apply the regulations when assessing applicants' eligibility for personal care services and the CDPAP. For current recipients, districts would apply the regulations upon reassessing these recipients' continued eligibility for services.

Regulatory Flexibility Analysis

Effect of Rule:

The regulation limiting authorizations of nutritional and environmental support functions to no more than eight hours per week primarily affects licensed home care services agencies and exempt agencies that provide only such Level I services. These entities are the primary employers of individuals providing Level I services. Most recipients of Level I personal care services are located in New York City. There are currently eight Level I only personal care service providers in New York City, none of which employ fewer than 100 persons.

Fiscal intermediaries that are enrolled as Medicaid providers and that facilitate payments for the nutritional and environmental support functions provided to consumer directed personal assistance program (CDPAP) participants may also experience slight reductions in service hours reimbursed. There are approximately 46 fiscal intermediaries that contract with social services districts. Fiscal intermediaries are typically non-profit entities such as independent living centers but may also include home care services agencies.

With respect to continuous care, a significant majority of existing 24-hour a day continuous care cases are located in New York City. There are currently 60 Level II personal care service providers in New York City, none of which employ fewer than 100 persons.

The regulations also affect social services districts. There are 62 counties in New York State, but only 58 social services districts. The City of New York comprises five counties but is one social services district.

Compliance Requirements:

Social services districts currently assess whether Medicaid recipients are eligible for personal care services and the CDPAP. When 24 hour continuous care is indicated, districts are currently required to refer such cases to the local professional director or designee for final determination. The regulations would require districts to refer additional continuous care cases to the local professional director or designee; namely, those cases in which continuous care for more than 16 hours a day is indicated would also be referred to the local professional director or designee. The local professional director or designee would be required to consult with the recipient's treating physician before approving continuous care for more than 16 hours per day.

In addition, the nursing assessments that districts currently complete or obtain for personal care services and CDPAP applicants and recipients would be required to include an evaluation of whether adaptive or specialized equipment or supplies would be appropriate and could be safely and cost-effectively provided. In cases involving the authorization of live-in 24 hour services, the social assessments that districts currently are required to complete would have to include an evaluation whether the recipient's home had sufficient sleeping accommodations for a live-in aide.

Professional Services:

No new or additional professional services are required in order to comply with the rule.

Compliance Costs:

No capital costs will be imposed as a result of this rule, nor are there any annual costs of compliance.

Economic and Technological Feasibility:

There are no additional economic costs or technology requirements associated with this rule.

Minimizing Adverse Impact:

The regulations should not have an adverse economic impact on social services districts. Districts currently assess Medicaid recipients to determine whether they are eligible for personal care services or the CDPAP. The regulations modify these assessment procedures. Should districts incur administrative costs to comply with the regulation, they may seek State reimbursement for such costs.

Small businesses providing Level I personal care services and consumer directed environmental and nutritional support functions may experience slight reductions in service hours provided. This is a consequence of State law limiting these services to no more than eight hours per week.

Small businesses currently providing continuous 24-hour services may experience some reductions in service hours provided.

Small Business and Local Government Participation:

The Department solicited comments on the regulations from the New York City Human Resources Administration, which administers the personal care services program and CDPAP for New York City Medicaid recipients who are not enrolled in managed care. Most of the State's personal care services and CDPAP recipients reside in New York City. Personal care services provided to New York City recipients comprises approximately 84 percent of Medicaid personal care services expenditures.

Small business and local governments also have the opportunity to provide input into the redesign of New York State's Medicaid program. The Medicaid Redesign Team (MRT) was tasked by Governor Cuomo to find ways to reduce costs and increase quality and efficiency in the Medicaid program for the 2011-12 Fiscal Year. As part of its work, the MRT sought and continues to seek ideas from the public at large, as well as experts in health care delivery and insurance, the health care workforce, economics, business, consumer rights and other relevant areas. The MRT conducted regional public hearings across the State to solicit ideas from the public on ways to reduce costs and improve the quality of the Medicaid program. Additionally, a web page was established, providing a vehicle for all individuals and organizations to provide ideas, comments and recommendations.

Cure Period:

Chapter 524 of the Laws of 2011 requires agencies to include a "cure period" or other opportunity for ameliorative action to prevent the imposition of penalties on the party or parties subject to enforcement when developing a regulation or explain in the Regulatory Flexibility Analysis why one was not included. This regulation creates no new penalty or sanction. Hence, a cure period is not necessary.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

Rural areas are defined as counties with populations less than 200,000 and, for counties with populations greater than 200,000, include towns with population densities of 150 persons or less per square mile. In 2010, only 6% of all continuous care cases resided in the counties listed below. Currently there are 34 organizations which maintain contracts with local districts to provide consumer directed environmental and nutritional support functions, and 50 individual licensed home care services agencies which maintain contracts with local districts to provide Level I personal care services, within the following 43 counties having populations of less than 200,000:

Allegany	Hamilton	Schenectady
Cattaraugus	Herkimer	Schoharie
Cayuga	Jefferson	Schuyler
Chautauqua	Lewis	Seneca
Chemung	Livingston	Steuben
Chenango	Madison	Sullivan
Clinton	Montgomery	Tioga
Columbia	Ontario	Tompkins
Cortland	Orleans	Ulster
Delaware	Oswego	Warren
Essex	Otsego	Washington
Franklin	Putnam	Wayne
Fulton	Rensselaer	Wyoming
Genesee	St. Lawrence	Yates
Greene		

Reporting, Recordkeeping and Other Compliance Requirements and Professional Services:

Social services districts would be required to refer additional cases to their local professional directors or designees. Currently, the personal care

services and CDPAP regulations require that such referrals be made for recipients seeking continuous 24-hour services and in certain other cases. Under the regulations, such referrals must also be made for recipients who require continuous care for more than 16 hours. The regulations also specify additional documentation requirements for the social and nursing assessments that districts currently complete or obtain for personal care services and CDPAP applicants and recipients.

Costs:

There are no new capital or additional operating costs associated with the rule.

Minimizing Adverse Impact:

It is anticipated the rule will have minimal impact on rural areas as the Department has determined that the preponderance of Level I services in excess of eight hours per week occur in downstate urban areas. Additionally, in 2010, only 6% of all individuals receiving continuous care services resided in those counties listed above. To the extent that social services districts incur administrative costs to comply with the regulations' requirements for referral of continuous care cases and social and nursing assessment documentation requirements, they may seek State reimbursement of such expenses.

Rural Area Participation:

Individuals and organizations from rural areas have the opportunity to provide input into the redesign of New York State's Medicaid program. The Medicaid Redesign Team (MRT) is tasked by Governor Cuomo to find ways to reduce costs and increase quality and efficiency in the Medicaid program for the 2011-12 Fiscal Year. As part of its work, the MRT sought and continues to seek ideas from the public at large, as well as experts in health care delivery and insurance, the health care workforce, economics, business, consumer rights and other relevant areas. The MRT conducted regional public hearings across the State to solicit ideas from the public on ways to reduce costs and improve the quality of the Medicaid program. Additionally, a web page was established, providing a vehicle for all individuals and organizations to provide ideas, comments and recommendations.

Job Impact Statement

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have a substantial adverse impact on jobs and employment opportunities.

NOTICE OF ADOPTION

Nursing Home (NH) Transfer and Discharge Rights

I.D. No. HLT-40-14-00017-A

Filing No. 768

Filing Date: 2015-09-02

Effective Date: 2015-09-23

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

Action taken: Amendment of section 415.3 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 2801, 2801-a and 2803(2)

Subject: Nursing Home (NH) Transfer and Discharge Rights.

Purpose: To clarify requirements governing NH transfers and discharges so that facilities will uniformly comply with Federal regulations.

Text or summary was published in the October 8, 2014 issue of the Register, I.D. No. HLT-40-14-00017-P.

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

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqa@health.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Managed Care Organizations

I.D. No. HLT-40-14-00018-A

Filing No. 769

Filing Date: 2015-09-03

Effective Date: 2015-09-23

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

Action taken: Amendment of sections 98-1.2 and 98-1.11 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 4403(2)

Subject: Managed Care Organizations.

Purpose: To lower the contingent reserve requirement applied to the Medicaid Managed Care, Family Health Plus and HIV SNP Programs.

Text of final rule: Section 98-1.2 is amended by adding a new subdivision (pp) to read as follows:

(pp) *HARP (Health and Recovery Plan) means a line of business operated by an MCO to administer the full continuum of mental health, substance use disorder, and physical health services covered under the Medicaid State Plan as well as the enhanced Home and Community Based Services benefits (1915 (i)) for adults with serious mental illness (SMI) and/or Substance Use Disorders (SUDs) who meet eligibility requirements.*

Subparagraph (ii) of paragraph (1) of subdivision (e) of section 98-1.11 is amended to read as follows:

(ii) Notwithstanding the provisions of subparagraph (i) above, the contingent reserve applicable to net premium income generated from the Medicaid managed care, Family Health Plus [and], HIV SNP, and HARP programs shall be:

- (a) 7.25 percent of net premium income for 2011;
- (b) 7.25 percent of net premium income for 2012;
- (c) [8.25] 7.25 percent of net premium income for 2013;
- (d) [9.25] 7.25 percent of net premium income for 2014;
- (e) [10.25] 7.25 percent of net premium income for 2015;
- (f) [11.25] 8.25 percent of net premium income for 2016;
- (g) [12.25] 9.25 percent of net premium income for 2017;
- (h) [12.5] 10.25 percent of net premium income for 2018;
- (i) 11.25 percent of net premium income for 2019;
- (j) 12.5 percent of net premium income for 2020;
- (k) 12.5 percent of net premium income for calendar years after 2020.

The provisions of this subparagraph shall not apply to HMOs and PHSPs beginning operations in 2011 or after.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 98-1.2 and 98-1.11.

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

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

Changes made to the last published rule do not necessitate revision to the previously published RIS, RFA, RAFA and JIS.

Assessment of Public Comment

The public comment period for this regulation ended on November 24, 2014. The Department received one comment.

The comment was from a law firm on behalf of a managed care organization that offers Medicaid Managed Care (MMC) and Family Health Plus (FHP) programs and supports the extension of the reduced contingent reserve requirement through 2015. However, it asked that the Department consider amending 10 NYCRR 98-1.11 (b)(1) and (2) relating to intercompany transactions. It recommended that, as the contingent reserve is being reduced, MCOs be permitted to undertake intercompany transactions that may result in the MCO's net worth falling below the percentages contained in 10 NYCRR 98-1.11 (b)(1) and (2), but remaining higher than the current contingent reserve requirement.

The Department will consider a subsequent amendment to the regulations to allow the Commissioner to waive the MCO minimum net worth requirements in appropriate circumstances. No changes were made to the proposed regulation as a result of this comment.

NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the Department of Health publishes a new notice of proposed rule making in the NYS Register.

Statewide Health Information Network for New York (SHIN-NY)

I.D. No.	Proposed	Expiration Date
HLT-35-14-00002-P	September 3, 2014	September 3, 2015

Office for People with Developmental Disabilities

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

Implementation of the Protection of People with Special Needs Act and Reforms to Incident Management

I.D. No. PDD-38-15-00006-EP

Filing No. 777

Filing Date: 2015-09-08

Effective Date: 2015-09-08

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

Proposed Action: Amendment of Parts 624, 633 and 687; and addition of Part 625 to Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00; L. 2012, ch. 501

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: The immediate adoption of these amendments is necessary for the preservation of the health, safety, and welfare of individuals receiving services.

In December 2012, the Governor signed the Protection of People with Special Needs Act (PPSNA). This new law created the Justice Center for the Protection of People with Special Needs (Justice Center) and established many new protections for vulnerable persons, including a new system for incident management in services operated or certified by OPWDD and new requirements for more comprehensive and coordinated pre-employment background checks.

OPWDD filed emergency regulations issued approximately every ninety days between June 30, 2013 and June 11, 2015. The June 11, 2015 emergency regulations are now expiring. New emergency regulations are necessary to continue implementing regulations that are in conformance with the PPSNA. If OPWDD did not file new emergency regulations effective September 8, 2015, regulatory requirements would revert to the regulations that were in effect prior to June 30, 2013.

The promulgation of these regulations is essential to preserve the health, safety, and welfare of individuals with developmental disabilities who receive services in the OPWDD system. If OPWDD did not promulgate regulations on an emergency basis, many of the protections established by the PPSNA vital to the health, safety, and welfare of individuals with developmental disabilities would not be implemented or would be implemented ineffectively. Further, protections for individuals receiving services would be threatened by the confusion resulting from inconsistent requirements. For example, the emergency regulations change the categories of incidents to conform to the categories established by the PPSNA. Without the promulgation of these amendments, agencies would be required to report incidents based on one set of definitions to the Justice Center and incidents based on a different set of definitions to OPWDD. Requirements for the management of incidents would also be inconsistent. Especially concerning regulatory requirements related to incident management and pre-employment background checks, it is crucial that OPWDD regulations are changed to support the requirements in the PPSNA so that this initiative is implemented in a coordinated fashion.

OPWDD was not able to use the regular rulemaking process established by the State Administrative Procedure Act because there was not sufficient time to develop and promulgate regulations within the necessary timeframes. OPWDD is making a small number of revisions compared with the June 11, 2015 regulations, based on experience with the new systems and requirements gained over the past two years. OPWDD is also proposing these regulations for permanent adoption effective December 2, 2015.

Subject: Implementation of the Protection of People with Special Needs Act and reforms to incident management.

Purpose: To enhance protections for people with developmental disabilities served in the OPWDD system.

Substance of emergency/proposed rule (Full text is posted at the following State website: <http://www.opwdd.ny.gov/regulations>):

The emergency/proposed regulations conform OPWDD regulations to

Chapter 501 of the Laws of 2012 (Protection of People with Special Needs Act or PPSNA) by making a number of revisions. The major changes to OPWDD regulations made to implement the PPSNA are:

- Amendments to Part 624 (now titled “Reportable incidents and notable occurrences”) to incorporate categories of “reportable incidents” established by the PPSNA and other revisions needed for the management of reportable incidents in conformance with various provisions of the PPSNA.

- Amendments to Part 624 to specify that programs and facilities certified or operated by OPWDD must report “reportable incidents” to the Vulnerable Persons’ Central Register (VPCR), a part of the Justice Center for the Protection of People with Special Needs (Justice Center). (Non-certified programs that are not state operated, and programs certified under paragraph 16.03(a)(4) of the Mental Hygiene Law that are not state operated, are not required to report to the VPCR, but must report “reportable incidents” to OPWDD.)

- Amendments to section 633.7 to incorporate the code of conduct adopted by the Justice Center in accordance with Section 554 of the Executive Law and impose requirements on programs certified or operated by OPWDD. The code of conduct must be read and signed by custodians who have regular and direct contact with individuals receiving services as specified in the regulations.

- Amendments to section 633.22 to reflect the consolidation of the criminal history record check function in the Justice Center. The Justice Center will receive requests for criminal history record checks and will process those requests, rather than OPWDD.

- Addition of a new section 633.24 that contains requirements for background checks (in addition to criminal history record checks).

- Amendments to Part 687 that incorporate changes to criminal history record check and background check requirements in family care homes.

The regulations also include other changes associated with incident management or the implementation of the PPSNA. These changes include:

- Amendments to Part 624 to replace existing categories and definitions of incidents that were considered reportable or serious reportable incidents or allegations of abuse prior to June 30, 2013 with definitions of “reportable incidents,” which comprise “abuse,” “neglect,” and “significant incidents,” in accordance with the PPSNA and “notable occurrences.”

- Amendments to Part 624 that limit the Part’s applicability to events and situations that occur under the auspices of an agency.

- Addition of a new Part 625 that contains requirements applicable to events and situations that are not under the auspices of an agency.

- Amendments to Part 624 to mandate the use of OPWDD’s Incident Report and Management Application (IRMA), a secure electronic statewide incident reporting system, for reporting information about specified events and situations, and remove the existing requirement to submit a paper based incident report to OPWDD in certain instances.

- Amendments to Part 624 to make several changes to requirements for investigations. The amendments require that investigations of specified events and situations must be initiated immediately following occurrence or discovery (with limitations when it is anticipated that the Justice Center or the Central Office of OPWDD will conduct the investigation). Investigations conducted by agencies must be completed no later than thirty days after the initiation of an investigation, unless the agency documents an acceptable justification for an extension of the thirty-day time frame. The amendments also add new requirements to enhance the independence of investigators, and require agency investigators to use a standardized investigative report format.

- Amendments to Part 624 to make several changes regarding the composition and responsibilities of Incident Review Committees (IRCs). The amendments change requirements concerning membership of the IRC and include specific provisions concerning shared committees, using another agency’s committee, or making alternative arrangements for IRC review. The amendments also modify the responsibilities of a provider agency’s IRC when an incident is investigated by the Central Office of OPWDD or the Justice Center.

- Amendments to Part 624 to expand requirements on providing incident-related information to service coordinators.

- Amendment to Part 624 to impose an explicit requirement that providers must comply with OPWDD recommendations concerning a specific event or situation or must explain reasons for not complying one month’s time.

- Amendments to Part 624 to specify that when the Justice Center makes findings concerning matters referred to its attention and the Justice Center issues a report and recommendations to the agency regarding such matters, the agency is required to make a written response to OPWDD within sixty days of receipt of such report, of action taken regarding each of the recommendations in the report.

- Amendments to Part 624 to include record retention requirements, including requirements that agencies must retain records pertaining to incidents and allegations of abuse for a minimum time period of seven

years, and in cases when there is a pending audit or litigation, that the pertinent records must be retained throughout the pendency of the audit or litigation.

- Addition of requirements in the new section 633.24 concerning background checks for prospective employees and volunteers to determine if an applicant was involved in substantiated abuse or neglect in the OPWDD system before June 30, 2013. These requirements are added to implement section 16.34 on the Mental Hygiene Law as amended by the PPSNA.

- Addition of requirements in the new section 633.24 in accordance with changes in Section 424-a of the Social Services Law, to extend requirements for checks of the Statewide Central Register of Child Abuse and Maltreatment to employees and others that have the potential for regular and substantial contact with individuals receiving services in programs certified or operated by OPWDD.

- Amendment of glossary definitions in Parts 624 and 633 to conform to PPSNA definitions.

- Amendments to provisions in Parts 624 and 633 to reflect the restructuring of entities within OPWDD and OPWDD’s name change.

Finally, the emergency/proposed regulations include the following additional changes that were not included in previous emergency regulations issued by OPWDD approximately every ninety days between June 30, 2013 and June 11, 2015:

- Amendments to Part 624, effective January 1, 2016, to expand the definitions of events that constitute reportable “significant incidents” to include types of incidents that OPWDD had previously required providers to report to OPWDD as “serious notable occurrences.”

- Amendment to Part 624 to update the requirement for submission of final investigative reports to the Justice Center to reflect new procedures for electronic submission of these records.

- Amendment to Part 624, effective January 1, 2016, to require agencies to electronically submit investigative records on all deaths, and on any abuse or neglect incidents that are not under the jurisdiction of the Justice Center, to OPWDD.

- Amendment to Part 624 to add language to clarify that if an investigator recognizes a potential for conflict of interest based on information discovered while an investigation is underway, the investigator must report the potential conflict of interest to the provider agency, and the provider agency must relieve that person of duty to investigate an incident when a conflict of interest exists.

- Amendment to Part 624, effective January 1, 2016, to add a requirement for every agency providing services that are operated, certified, or funded by OPWDD, to establish a dedicated mailbox for incident notifications in order to act on issues, including requests from OPWDD, in a timely manner, effective 60 days after the effective date of the regulations.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire December 6, 2015.

Text of rule and any required statements and analyses may be obtained from: Regulatory Affairs Unit, Office for People with Developmental Disabilities, 44 Holland Avenue, 3rd Floor, Albany, NY 12229, (518) 474-7700, email: RAU.unit@opwdd.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.

Additional matter required by statute: Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described will have no effect on the environment, and an E.I.S. is not needed

Regulatory Impact Statement

1. Statutory Authority:

a. Chapter 501 of the Laws of 2012 (Protection of People with Special Needs Act), added Article 20 to the Executive Law and Article 11 to the Social Services Law and amended other laws including the Mental Hygiene Law. Chapter 501 incorporates requirements for implementing regulations by State oversight agencies, including OPWDD.

b. OPWDD has the statutory responsibility to provide and encourage the provision of appropriate programs and services in the area of care, treatment, rehabilitation, education, and training of persons with developmental disabilities, as stated in the New York State Mental Hygiene Law Section 13.07.

c. OPWDD has the statutory authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the New York State Mental Hygiene Law Section 13.09(b).

d. OPWDD has the statutory authority to adopt regulations concerning the operation of programs and facilities and provision of services pursuant to the New York State Mental Hygiene Law Section 16.00.

2. Legislative Objectives: The emergency/proposed regulations further the legislative objectives embodied in Chapter 501 of the Laws of 2012

(Protection of People with Special Needs Act) and sections 13.07, 13.09(b), and 16.00 of the Mental Hygiene Law. The regulations incorporate a number of reforms to OPWDD regulations in order to increase protections and improve the quality of services provided to people with developmental disabilities in the OPWDD system.

3. Needs and Benefits: The emergency/proposed regulations amend regulations in 14 NYCRR in accordance with the 2012 Protection of People with Special Needs Act (PPSNA) and include additional changes to update the regulations in accordance with other related statutory changes and with OPWDD policies and procedures. Most of these amendments were included previous emergency regulations issued by OPWDD approximately every ninety days between June 30, 2013 and June 11, 2015.

The PPSNA required the establishment of comprehensive protections for vulnerable persons, including people with developmental disabilities, against abuse, neglect, and other harmful conduct. The PPSNA created a Justice Center with responsibilities for effective incident reporting and investigation systems, fair disciplinary processes, informed and appropriate staff hiring procedures, and strengthened monitoring and oversight systems. The Justice Center operates a hotline for reporting abuse, neglect, and significant incidents in accordance with the PPSNA's provisions for uniform definitions, mandatory reporting, and minimum standards for incident management programs. In collaboration with OPWDD, the Justice Center is also charged with developing and delivering appropriate training for caregivers, their supervisors, and investigators. Additionally, the Justice Center is responsible for conducting criminal background checks for applicants in the OPWDD system.

The PPSNA creates a Vulnerable Persons' Central Register (VPCR). This register will contain the names of custodians found to have committed substantiated acts of abuse or neglect using a preponderance of evidence standard. All custodians found to have committed such acts have the right to a hearing before an administrative law judge to challenge those findings. Custodians who have committed egregious or repeated acts of abuse or neglect are prohibited from future employment in providing services for vulnerable persons, and may be subject to criminal prosecution. Less serious acts of misconduct are subject to progressive discipline and retraining. Applicants with criminal records who seek employment serving vulnerable persons will be individually evaluated regarding suitability for such positions.

Pursuant to the PPSNA, the Justice Center is charged with recommending policies and procedures to OPWDD for the protection of people with developmental disabilities; this effort involves the development of requirements and guidelines in areas including but not limited to incident management, rights of people receiving services, criminal background checks, and training of custodians. In accordance with the PPSNA, these requirements and guidelines must be reflected, wherever appropriate, in OPWDD's regulations. Consequently, these amendments incorporate the requirements in regulations and guidelines developed by the Justice Center.

The amendments also make numerous changes to OPWDD's incident management process to strengthen the process and to provide further protection to people receiving services from harm and abuse. For example, the amendments make changes related to definitions, reporting, investigation, notification, and committee review of events and situations both under and not under the auspices of OPWDD or a provider agency. It is OPWDD's expectation that implementation of the amendments will enhance safeguards for people with developmental disabilities, which will in turn allow individuals to focus on achieving maximum independence and living richer lives.

The amendments also include requirements addressing background checks for prospective employees and volunteers to determine if an applicant was involved in substantiated abuse or neglect in the OPWDD system before June 30, 2013, in accordance with section 16.34 on the Mental Hygiene Law. These requirements, applicable to all programs and services operated, certified, approved, and/or funded by OPWDD, will augment the protections provided to people receiving services by the PPSNA.

Finally, these emergency/proposed regulations include a small number of amendments that were not included in the emergency regulations issued between June 30, 2013 and June 11, 2015. These emergency/proposed amendments include changes in definitions of incidents constituting significant incidents that must be reported to the Justice Center; revised requirements on submission of final investigative reports to the Justice Center and OPWDD; a new requirement for agencies to establish a dedicated electronic mailbox for receipt of incident-related information from OPWDD; and clarification of a requirement on the independence of incident investigators.

4. Costs:

a. Costs to the Agency and to the State and its local governments: OPWDD will not incur significant additional costs as a provider of

services. Most of the requirements in the emergency/proposed regulations were previously imposed by emergency regulations issued approximated every ninety days between June 30, 2013 and June 11, 2015. There may be minimal one-time costs associated with training staff on new requirements in these emergency/proposed regulations, including changes in definitions of incidents that constitute significant incidents, which must be reported to the Justice Center, and electronic submission of final investigative reports. The changes in definitions generally make certain types of incidents that were previously reported only to OPWDD also reportable to the Justice Center and the process for electronic submission of final investigative reports was previously required by policy since December 2014.

The emergency/proposed regulations also require agencies, including OPWDD as a provider of services, to establish a dedicated mailbox for receipt of incident-related information from the central office of OPWDD. OPWDD expects that will also be some minimal staff training and staff deployment costs associated with the establishment and maintenance of this mailbox, but OPWDD finds it necessary to ensure that agencies, including OPWDD as a provider of services, receive information - including requests from the central office of OPWDD, and take appropriate actions in a timely manner.

Any costs or savings will have no impact on Medicaid rates, prices or fees. Therefore, there is no impact on New York State in its role paying for Medicaid services.

There are no costs to local governments as there are no changes to Medicaid reimbursement and even if there were, the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

b. Costs to private regulated parties: OPWDD expects that the costs to providers will be minimal. Most of the requirements in the emergency/proposed regulations were previously imposed by emergency regulations issued approximated every ninety days between June 30, 2013 and June 11, 2015. There may be minimal one-time costs associated with training staff on new requirements in these emergency/proposed regulations, including changes in definitions of incidents that constitute significant incidents, which must be reported to the Justice Center, and electronic submission of final investigative reports. The changes in definitions generally make certain types of incidents that were previously reported only to OPWDD also reportable to the Justice Center, and the process for electronic submission of final investigative reports was previously required by policy since December 2014. The emergency/proposed regulations also extend requirements on electronic submission of investigative reports to apply to OPWDD funded programs that are not required to report incidents to the Justice Center; the emergency/proposed regulations require these OPWDD funded programs to submit investigative reports to OPWDD.

The emergency/proposed regulations also require agencies to establish a dedicated mailbox for receipt of incident-related information from OPWDD. OPWDD expects that will also be some minimal staff training and staff deployment costs associated with the establishment and maintenance of this mailbox, but OPWDD finds it necessary to ensure that agencies receive information, including requests from OPWDD, and take appropriate actions in a timely manner.

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village, or school, fire, or other special district.

6. Paperwork: OPWDD expects that new requirements in the emergency/proposed regulations will result in some minor increase in paperwork for providers. Most of the requirements in the emergency/proposed regulations were previously imposed by emergency regulations issued approximated every ninety days between June 30, 2013 and June 11, 2015. The emergency/proposed regulations, however, include new requirements on electronic submission of investigative reports and on establishment of a dedicated electronic mailbox for receipt of incident-related information. These requirements will result in a minor increase in paperwork for providers.

7. Duplication: The amendments do not duplicate any existing State or Federal requirements that are applicable to services for persons with developmental disabilities. In some instances, the regulations reiterate requirements in NYS law.

8. Alternatives: OPWDD considered requiring non-State operated providers to report all incidents, including all of those incidents known as minor notable occurrences, to OPWDD. However, OPWDD determined that the additional reporting is not warranted at this time and that minor notable occurrences may continue to be monitored by the provider agencies and during survey and certification activities by OPWDD.

9. Federal Standards: The amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule: The regulations will be effective on Septem-

ber 8, 2015 to ensure continued compliance with Chapter 501 of the Laws of 2012. The emergency/proposed regulations replace previous emergency regulations that were effective June 11, 2015 and expire on September 8, 2015. These emergency/proposed regulations also include a small number of amendments that were not included in the emergency regulations issued between June 30, 2013 and June 11, 2015; the new provisions will be phased in and will be effective on January 1, 2016. OPWDD will issue information to providers on the new requirements in advance of implementation.

Regulatory Flexibility Analysis

1. Effect of rule: OPWDD has determined, through a review of the certified cost reports, that most OPWDD-funded services are provided by non-profit agencies that employ more than 100 people overall. However, some smaller agencies that employ fewer than 100 employees overall would be classified as small businesses. Currently, there are approximately 700 agencies providing services that are certified, authorized, or funded by OPWDD. OPWDD is unable to estimate the portion of these providers that may be considered to be small businesses.

The emergency/proposed regulations have been reviewed by OPWDD in light of their impact on small businesses. The regulations amend regulations in 14 NYCRR in accordance with the 2012 Protection of People with Special Needs Act (PPSNA) and include additional changes to update the regulations in accordance with other related statutory changes and with OPWDD policies and procedures. Most of these amendments were included in previous emergency regulations issued by OPWDD approximately every ninety days between June 30, 2013 and June 11, 2015.

These regulations include a small number of amendments that were not included in the previous emergency regulations, which may result in some minimal additional costs to service providers. However, OPWDD is unable to quantify the potential additional costs or savings to providers as a result of these amendments. In any event, OPWDD considers that the improvements in protections for people served in the OPWDD system will help safeguard individuals from harm and abuse and that the benefits more than outweigh any potential negative impacts on providers.

2. Compliance requirements: Most of the amendments in these emergency/proposed regulations were included in previous emergency regulations issued by OPWDD approximately every ninety days between June 30, 2013 and June 11, 2015. However, the regulations do include a small number of amendments that were not in the emergency regulations. These include changes in definitions of incidents that constitute significant incidents, which must be reported to the Justice Center. The emergency/proposed regulations also extend requirements on electronic submission of investigative reports, previously required by policy, to apply to OPWDD funded programs that are not required to report incidents to the Justice Center; the emergency/proposed regulations require these OPWDD funded programs to submit investigative reports to OPWDD. Finally, the regulations will require agencies to establish a dedicated mailbox for receipt of incident-related information from OPWDD. All of these new requirements will be phased in and effective on January 1, 2016. OPWDD will issue information to providers on the new requirements in advance of implementation.

3. Professional services: Most of the amendments in these emergency/proposed regulations were included in previous emergency regulations issued by OPWDD approximately every ninety days between June 30, 2013 and June 11, 2015. OPWDD does not expect that additional professional services will be required for small business providers as a result of new requirements in the emergency/proposed regulations. The amendments will not add to the professional service needs of local governments.

4. Compliance costs: There may be minimal costs for small business providers associated with new requirements in the emergency/proposed regulations. There may be minimal one-time costs associated with training staff on new requirements, including changes in definitions of incidents that constitute significant incidents, which must be reported to the Justice Center, and electronic submission of final investigative reports. The changes in definitions generally make certain types of incidents that were previously reported only to OPWDD also reportable to the Justice Center, and the process for electronic submission of final investigative reports was previously required by policy since December 2014. The emergency/proposed regulations also extend requirements on electronic submission of investigative reports to apply to OPWDD funded programs that are not required to report incidents to the Justice Center; the regulations require these OPWDD funded programs to submit investigative reports to OPWDD.

In addition, the emergency/proposed regulations require agencies to establish a dedicated mailbox for receipt of incident-related information from OPWDD. OPWDD expects that will also be some minimal staff training and staff deployment costs associated with the establishment and maintenance of this mailbox, but OPWDD finds it necessary to ensure that agencies receive information, including requests from OPWDD, and take appropriate actions in a timely manner.

5. Economic and technological feasibility: The emergency/proposed regulations impose a new requirement for establishment of a dedicated mailbox to receive incident related information; however, OPWDD expects that small business providers will be able to comply with this requirement by the January 1, 2016 effective date. Requirements for electronic submission of investigative reports were imposed on most providers by policy in December 2014; however, OPWDD expects that all providers, including those considered small businesses, will be able to comply with these requirements by the January 1, 2016 effective date.

6. Minimizing adverse impact: The new requirements are not expected to result in an adverse economic impact for small business providers due to additional compliance activities or associated compliance costs.

OPWDD has reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. OPWDD considered requiring providers, including those considered small businesses, to report all incidents, including all of those incidents known as minor notable occurrences, to OPWDD. However, OPWDD determined that the additional reporting is not warranted at this time and that minor notable occurrences may continue to be monitored by the provider agencies and during survey and certification activities by OPWDD.

7. Small business and local government participation: The PPSNA was originally a Governor's Program Bill which received extensive media attention. Providers had opportunities to become familiar with its provisions since it was made available on various government websites during June 2013. Related to the components of the regulations that are unrelated to implementation of the PPSNA, draft regulations containing these components were sent out for review and comment to representatives of providers, including the New York State Association of Community and Residential Agencies (NYSACRA), on March 12, 2012. Some of the members of NYSACRA have fewer than 100 employees.

OPWDD has issued emergency regulations approximately every ninety days between June 30, 2013 and June 11, 2015 and has responded to questions and comments from providers, including those considered small businesses, on those emergency regulations.

Finally, OPWDD has continued to post extensive information about the requirements on its website.

8. (IF APPLICABLE) For rules that either establish or modify a violation or penalties associated with a violation: The emergency amendments do not establish or modify a violation or penalties associated with a violation.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: OPWDD services are provided in every county in New York State. 43 counties have a population of less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. Additionally, 10 counties with certain townships have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga, Orange, and Saratoga.

The emergency/proposed regulations have been reviewed by OPWDD in light of their impact on rural areas. The regulations amend regulations in 14 NYCRR in accordance with the 2012 Protection of People with Special Needs Act (PPSNA) and include additional changes to update the regulations in accordance with other related statutory changes and with OPWDD policies and procedures. Most of these amendments were included in previous emergency regulations issued by OPWDD approximately every ninety days between June 30, 2013 and June 11, 2015.

These regulations include a small number of amendments that were not included in the previous emergency regulations, which may result in some minimal additional costs to service providers. However, OPWDD is unable to quantify the potential additional costs or savings to providers as a result of these amendments. In any event, OPWDD considers that the improvements in protections for people served in the OPWDD system will help safeguard individuals from harm and abuse and that the benefits more than outweigh any potential negative impacts on providers.

The geographic location of any given program (urban or rural) will not be a contributing factor to any additional costs to providers.

2. Compliance requirements: Most of the amendments in these emergency/proposed regulations were included in previous emergency regulations issued by OPWDD approximately every ninety days between June 30, 2013 and June 11, 2015. However, the regulations do include a small number of amendments that were not in the emergency regulations. These include changes in definitions of incidents that constitute significant incidents, which must be reported to the Justice Center. The emergency/proposed regulations also extend requirements on electronic

submission of investigative reports, previously required by policy, to apply to OPWDD funded programs that are not required to report incidents to the Justice Center; the emergency/proposed regulations require these OPWDD funded programs to submit investigative reports to OPWDD. Finally, the regulations will require agencies to establish a dedicated mailbox for receipt of incident-related information from OPWDD. All of these new requirements will be phased in and effective on January 1, 2016. OPWDD will issue information to providers on the new requirements in advance of implementation.

The amendments will have no effect on local governments.

3. Professional services: There may be additional professional services required for rural area providers as a result of these amendments. The definition of psychological abuse references specific impacts on an individual receiving services that must be supported by a clinical assessment. The amendments will not add to the professional service needs of local governments.

4. Compliance costs: There may be minimal costs for rural area providers associated with new requirements in the emergency/proposed regulations. There may be minimal one-time costs associated with training staff on new requirements, including changes in definitions of incidents that constitute significant incidents, which must be reported to the Justice Center, and electronic submission of final investigative reports. The changes in definitions generally make certain types of incidents that were previously reported only to OPWDD also reportable to the Justice Center, and the process for electronic submission of final investigative reports was previously required by policy since December 2014. The emergency/proposed regulations also extend requirements on electronic submission of investigative reports to apply to OPWDD funded programs that are not required to report incidents to the Justice Center; the regulations require these OPWDD funded programs to submit investigative reports to OPWDD.

In addition, the emergency/proposed regulations require agencies to establish a dedicated mailbox for receipt of incident-related information from OPWDD. OPWDD expects that will also be some minimal staff training and staff deployment costs associated with the establishment and maintenance of this mailbox, but OPWDD finds it necessary to ensure that agencies receive information, including requests from OPWDD, and take appropriate actions in a timely manner.

5. Minimizing adverse impact: The new requirements are not expected to result in an adverse economic impact for rural area providers due to additional compliance activities or associated compliance costs.

OPWDD has reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. OPWDD considered requiring providers, including those considered rural area providers, to report all incidents, including all of those incidents known as minor notable occurrences, to OPWDD. However, OPWDD determined that the additional reporting is not warranted at this time and that minor notable occurrences may continue to be monitored by the provider agencies and during survey and certification activities by OPWDD.

6. Rural area participation: The PPSNA was originally a Governor's Program Bill which received extensive media attention. Providers had opportunities to become familiar with its provisions since it was made available on various government websites during June 2013. Related to the components of the regulations that are unrelated to implementation of the PPSNA, draft regulations containing these components were sent out for review and comment to representatives of providers, including the New York State Association of Community and Residential Agencies (NYSACRA), on March 12, 2012. Some of the members of NYSACRA are rural area providers.

OPWDD has issued emergency regulations approximately every ninety days between June 30, 2013 and June 11, 2015 and has responded to questions and comments from providers, including rural area providers, on those emergency regulations.

Finally, OPWDD has continued to post extensive information about the requirements.

Job Impact Statement

OPWDD is not submitting a Job Impact Statement for these amendments because OPWDD does not anticipate a substantial adverse impact on jobs and employment opportunities.

The amendments incorporate a number of reforms to improve the quality and consistency of incident management activities throughout the OPWDD system. Most of these amendments were included previous emergency regulations issued by OPWDD approximately every ninety days between June 30, 2013 and June 11, 2015.

These regulations include a small number of amendments that were not included in the previous emergency regulations. These include changes in definitions of incidents that constitute significant incidents, which must be reported to the Justice Center. The emergency/proposed regulations also extend requirements on electronic submission of investigative reports,

previously required by policy, to apply to OPWDD funded programs that are not required to report incidents to the Justice Center; the emergency/proposed regulations require these OPWDD funded programs to submit investigative reports to OPWDD. Finally, the regulations will require agencies to establish a dedicated mailbox for receipt of incident-related information from OPWDD. All of these new requirements will be phased in and effective on January 1, 2016. OPWDD expects that these changes can be planned for and met with existing staff.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Report of Con Edison Regarding the Storm Hardening and Resiliency Collaborative, Phase 3

I.D. No. PSC-38-15-00007-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, reject or modify, in whole or in part the report and petition of Consolidated Edison Company of New York, Inc. regarding the Storm Hardening and Resiliency Collaborative, Phase 3.

Statutory authority: Public Service Law, sections 4(1), 5(1), 65(1), (14), 66(1), (1-a), (2), (4), (12), 79(1), 80(1), (2), (3), (4) and (10)

Subject: Report of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 3.

Purpose: To consider the report of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 3.

Substance of proposed rule: On September 1, 2015, Consolidated Edison Company of New York, Inc. (Con Edison or the Company) filed in accordance with Clause 9 of the Public Service Commission's February 21, 2013 Order in Cases 13-E-0030, 13-G-0031 and 13-S-0032 Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal its Storm Hardening and Resiliency Collaborative Phase Three Report (Phase Three Report). The Public Service Commission is considering whether to grant, approve, reject or modify, in whole or in part the Phase Three Report of Consolidated Edison Company of New York, Inc. regarding its proposed Storm Hardening and Resiliency plans for work to commence during the remainder of 2015 and for 2016 and to apprise the Commission of the status of related collaborative initiatives including methane emissions reduction efforts, climate change vulnerability study, and risk assessment and cost benefit modeling. The Phase Three report also responds to other requirements in the Commission's February 5, 2015 Order Adopting Storm Hardening and Resiliency Phase II Report Subject to Modifications. In addition, the Commission will address any accounting and ratemaking treatment for such work. The Commission may consider any related matters.

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: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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-0030SP10)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-38-15-00008-P

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

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent filed by Community Counseling and Mediation, to submeter electricity at 226 Linden Blvd., Brooklyn, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the request of Community Counseling and Mediation to submeter electricity at 226 Linden Blvd., Brooklyn, New York.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent filed by Community Counseling and Mediation, to submeter electricity at 226 Linden Blvd., Brooklyn, New York, located in the Territory of Consolidated Edison Company of New York, Inc., and to take other actions necessary to address the Notice of Intent.

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: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: Elaine.Agresta@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.

(15-E-0249SP1)

Department of State

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Rules Relating to Insurance and Bond Requirements

I.D. No. DOS-38-15-00003-EP

Filing No. 773

Filing Date: 2015-09-04

Effective Date: 2015-09-04

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

Proposed Action: Repeal of section 160.9; and addition of new section 160.9 to Title 19 NYCRR.

Statutory authority: Executive Law, section 91; General Business Law, sections 402(5) and 404

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: The Department of State ("Department") is charged, inter alia, with the enforcement of New York General Business Law ("NY GBL") Article 27, which relates to the appearance enhancement industry. A principal purpose behind the enactment of Article 27 was to provide a system of licensure of appearance enhancement businesses and operators that would both allow for the greatest possible flexibility in the establishment of regulated services and implement measures to protect those inextricably entwined in the industry. Consistent with this legislative intent of Article 27, the Department is empowered to issue regulations which protect the general welfare of the public, including workers employed by business owners. Notwithstanding existing laws and regulations, a number of businesses have taken unfair advantage of a significant number of licensed workers who contribute to the community and economy. The ease with which some establishments have been able to deprive workers of fair wages and other rights is due in part to inadequate protections. On July 15, 2015 Governor Cuomo signed into law new legislation (S.5966) which among other things established new penalties for operating an appearance enhancement business without

appropriate wage coverage. This rulemaking is re-adopted on an emergency basis to further the legislative intent of provide adequate protections to workers.

To help ensure that workers receive wages that are legally due, new bonding and insurance requirements are needed. The enhancement of public safety, health and general welfare necessitates the promulgation of this regulation on an emergency basis. The Department finds that by imposing new bonding and insurance provisions potential abuses by unscrupulous business owners will be reduced and hardworking employees will be protected. The original emergency rule on this matter, filed on May 18, 2015, was superseded by a similar but different emergency rulemaking on June 10, 2015, the text of which first appeared in the July 1, 2015 edition of the State Register. The current emergency rulemaking is the first re-adoption of the emergency rule that has been in effect since June 10th.

Subject: Rules relating to insurance and bond requirements.

Purpose: To enhance protections to workers by adding new provisions requiring wage coverage.

Text of emergency/proposed rule: 19 NYCRR § 160.9 Bond or liability insurance

(a) An owner must maintain proof of minimum financial security in the following amounts:

(1) for accident and professional liability, at least \$25,000 per individual occurrence and \$75,000 in the aggregate; and

(2) for payment of wages and remuneration legally due employees who provide nail specialty services pursuant to the following schedule:

(i) if owner employs the equivalent of two to five full time individuals who provide nail specialty services, at least \$25,000 or in such other amount as directed by the Secretary;

(ii) if owner employs the equivalent of six to ten full time individuals who provide nail specialty services, at least \$40,000 or in such other amount as directed by the Secretary;

(iii) if owner employs the equivalent of 11 to 25 full time individuals who provide nail specialty services, at least \$75,000 or in such other amount as directed by the Secretary; or

(iv) if owner employs the equivalent of 26 or more full time individuals who provide nail specialty services, at least \$125,000 or in such other amount as directed by the Secretary.

(b) Such proof may be satisfied by purchasing:

(1) accident and professional liability insurance, or general liability insurance; or

(2) a bond with a corporate surety, from a company authorized to do business in this state, payable in favor of the people of the state of New York; or

(3) any combination of (1) or (2) as provided in this Subdivision provided that the coverage amounts set forth in Subdivision (a) of this Section are satisfied.

(c) Proof of bond and liability insurance coverage, as applicable, must be filed with the Secretary and may be terminated only in accordance with the following provisions:

(1) A bond shall not be cancelled, revoked, or terminated by the owner, nor shall the owner take action that would result in the cancellation, revocation, or termination of such bond, except after notice to, and with the consent of, the Secretary at least forty-five days in advance of such cancellation, revocation, or termination. The bond shall include a provision requiring the surety to provide forty-five days' notice to the Secretary prior to cancelling the bond.

(2) A liability insurance policy obtained pursuant to this Section shall not be cancelled, revoked, or terminated by the owner, nor shall the owner take action that would result in the cancellation, revocation, or termination of such insurance policy, except after notice to the Secretary at least forty-five days in advance of such cancellation, revocation, or termination, in a form prescribed by the Secretary.

(d) Proof of such bond or liability insurance policy must be maintained on the business premises. Such proof shall be accessible by all employees at all times that the business is open.

(e) An owner will be permitted to maintain a bond or liability insurance policy as required by former Section 160.09 until June 30, 2015. All owners shall comply with the provisions of this Section on or after July 1, 2015.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire November 2, 2015.

Text of rule and any required statements and analyses may be obtained from: David Mossberg, NYS Dept. of State, 123 William St., 20th Fl., New York, NY 10038, (212) 417-2063, email: david.mossberg@dps.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.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. Statutory Authority:

New York Executive Law § 91 and New York General Business Law (“GBL”) §§ 402(5); 404 and 405(2). Section 91 of the Executive Law authorizes the Secretary of State to: “adopt and promulgate such rules which shall regulate and control the exercise of the powers of the department of state.” In addition, Sections 405(1) and 404 of the GBL authorize the Secretary of State to promulgate rules specifically relating to the appearance enhancement industry. Section 405(2) requires an appearance enhancement licensee to be bonded or insured.

2. Legislative Objectives:

Article 27 of the GBL was enacted, inter alia, to provide a system of licensure of appearance enhancement businesses and operators that would allow for the greatest possible flexibility in the establishment of regulated services, while establishing measures to protect members of the public, including those who work in the industry. Consistent with this legislative intent, the Department is empowered to issue regulations that accomplish these purposes.

3. Needs and Benefits:

It has come to the attention of the Department that a number of appearance enhancement businesses may be engaging in exploitive practices to deprive employees who provide nail specialty services of wages due. Individuals providing nail specialty services to the public have been particularly impacted. While the regulations of the Department, in accord with statutory mandate, have long required bonding or insurance for the protection of the public welfare, the Department finds that new and more particularized bonding and insurance requirements are needed to help ensure that employees that provide nail specialty services receive the wages and benefits they have earned. After consulting with the Department of Labor and advocacy groups, it was determined that this regulation is needed to help protect the wellbeing of employees who provide nail specialty services to the public.

4. Costs:

a. Costs to regulated parties:

Prior regulatory requirements were primarily concerned with liability coverage, whether by bond or insurance. The majority of appearance enhancement business owners satisfied their obligations by obtaining an insurance policy in the required amount of \$25,000 per occurrence and \$75,000 in the aggregate. This rulemaking maintains such liability requirement and adds a new requirement that the business’ payment of wages and remuneration legally due employees who provide nail specialty services be guaranteed in amounts keyed to the number of such individuals employed by the business owner and the amount of hours that these employees work on a weekly basis. Therefore, the cost to the regulated parties is the cost of acquiring the wage guarantee. The Department is informed that for purchasers in good credit standing, the cost of acquiring a “wage bond” is likely to be 2 - 4% of the amount of the bond. Thus, a surety bond in the amount of \$25,000 (2 - 5 employees) would range between \$500 and \$1,000. Businesses employing more individuals are required to maintain greater coverage. Bond amounts and cost of acquisition are as follows: \$40,000 for 6 -10 individuals, \$800-\$1,600; \$75,000 for 11 - 25 individuals, \$1,500 - \$3,000, and \$125,000 for 26 or more individuals, \$2,500 - \$5,000. The Department notes that specific costs will vary depending largely upon the credit worthiness of the owner applying for the necessary coverage, accordingly costs are not expected to be the same for every business.

b. Costs to the Department of State, the State, and Local Governments:

The Department does not anticipate any additional costs to implement the rule. Existing staff will manage new filing requirements.

5. Local Government Mandates:

The rule does not impose any program, service, duty or responsibility upon any county, city, town, village, school district or other special district.

6. Paperwork:

The rule requires a licensee to file proof of its bond and insurance coverage with the Secretary and to notify the Secretary of the bond or insurance policy’s impending cancellation.

7. Duplication:

This rule does not duplicate, overlap or conflict with any other state or federal requirement.

8. Alternatives:

The Department considered not proposing the instant rulemaking. It was determined, however, that this rule is immediately needed to protect the general welfare of a significant population of practitioners who have been deprived of legally due wages.

9. Federal Standards:

The proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule:

As this rule was previously adopted on an emergency basis and currently in effect, the Department is not providing for a compliance period and this second emergency adoption is to take effect immediately.

Regulatory Flexibility Analysis

1. Effect of rule:

In addition to continuing the requirement that appearance enhancement business owners acquire and maintain liability insurance, this rulemaking requires appearance enhancement business owners to acquire and maintain a guarantee by a surety or insurer for the business’ payment of wages and remuneration legally due employees. The rule will protect employees who provide nail specialty services from the exploitive and pernicious practice of wage theft. There are approximately 30,000 owners that may be subject to this rule. Compliance is required depending upon the numbers of persons employed who provide nail specialty services, and the number of hours per week that they work.

2. Compliance requirements:

Prior regulatory requirements provided that appearance enhancement business owners provide liability coverage, whether by bond or insurance, in the amount or \$25,000 per occurrence and \$75,000 in the aggregate. This rulemaking maintains such liability requirement, and adds a new requirement that the business’ payment of wages and remuneration legally due employees and providers of appearance enhancement services be guaranteed in amounts keyed to the number of individuals who provide nail specialty services that are employed by the business owner and the number of hours that they work on a weekly basis. The rule requires a licensee to file its bond and insurance, as applicable, with the Secretary and to notify the Secretary of any impending cancellation of the bond or insurance. Additionally, the rule continues the current requirement that owners maintain proof of such coverage at the licensed business premises.

3. Professional services:

The Department does not anticipate the need for professional services.

4. Compliance costs:

Prior regulatory requirements were primarily concerned with liability coverage, whether by bond or insurance. The majority of appearance enhancement business owners satisfied their obligations by obtaining an insurance policy in the required amount of \$25,000 per occurrence and \$75,000 in the aggregate. This rulemaking maintains such liability requirement and adds a new requirement that the business’ payment of wages and remuneration legally due employees who provide nail specialty services be guaranteed in amounts keyed to the number of such individuals employed by the business owner and the amount of hours that these employees work on a weekly basis. Therefore, the cost to the regulated parties is the cost of acquiring the wage guarantee. The Department is informed that for purchasers in good credit standing, the cost of acquiring a “wage bond” is likely to be 2 -4% of the amount of the bond. Thus, a surety bond in the amount of \$25,000 (2 - 5 employees) would range between \$500 and \$1,000. Businesses employing more individuals are required to maintain greater coverage. Bond amounts and cost of acquisition are as follows: \$40,000 for 6 -10 individuals, \$800 - \$1,600; \$75,000 for 11 - 25 individuals, \$1,500 - \$3,000, and \$125,000 for 26 or more individuals, \$2,500 - \$5,000. The Department notes that specific costs will vary depending largely upon the credit worthiness of the owner applying for the necessary coverage, accordingly costs are not expected to be the same for every business.

5. Economic and technological feasibility:

The amount of coverage required and thus, the cost of acquiring such coverage, have been keyed to the relative size of the business. The smallest business identified, one that employees 2-5 individuals, may expend as little as \$500 to comply with new “wage bond” requirement. Although additional collateral may be required to secure the bond, the Department believes it is both economically and technically feasible to comply with this rule.

6. Minimizing adverse impact:

The Department did not identify any alternatives that would achieve the results of the proposed rule and also be less restrictive and less burdensome in terms of compliance. The Department has consulted with Department of Labor and several advocacy groups and finds that this rule is necessary for the wellbeing of those who engage in appearance enhancement practices.

7. Small business and local government participation:

The Department, in conjunction with other state agencies, has consulted with small business interests, both businesses and organizations that may be affected by this rule. Although this particular proposal was not presented, businesses were, generally, supportive and amenable to the changes discussed.

8. Compliance:

As stated in the emergency rule, itself, compliance will be required by July 1, 2015.

9. Cure period:

As this rule was previously adopted on an emergency basis and currently in effect, this second emergency adoption is to take effect immediately. It is noted however that to provide effect to the legislative intent behind (S5966-2015) the Department will stay the imposition of penalties until the sixtieth day after the department of financial services has certified in writing to the secretary of state that any bonds or liability insurance that is required by the department of state is readily available to the businesses from the market place.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The rule will apply to appearance enhancement businesses that are licensed pursuant to Article 27 of the General Business Law. There are approximately 30,000 owners across New York State that may be subject to this rule. Licensed owners are responsible for complying with this rule.

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

Prior regulatory requirements provided that appearance enhancement business owners provide liability coverage, whether by bond or insurance, in the amount of \$25,000 per occurrence and \$75,000 in the aggregate. This rulemaking maintains such liability requirement, and adds a new requirement that the business' payment of wages and remuneration legally due individuals who practice nail specialty services be guaranteed in amounts keyed to the number of individuals who provide nail specialty services that are employed by the business owner and the number of hours that they work on a weekly basis. The rule requires a licensee to file its bond and insurance, as applicable, with the Secretary and to notify the Secretary of any impending cancellation of the bond or insurance. Additionally, the rule continues the current requirement that the owners maintain evidence of such coverage at the licensed business premises. No different or additional compliance requirements apply to businesses located in rural areas.

3. Costs:

Prior regulatory requirements were primarily concerned with liability coverage, whether by bond or insurance. The majority of appearance enhancement business owners satisfied their obligations by obtaining an insurance policy in the required amount of \$25,000 per occurrence and \$75,000 in the aggregate. This rulemaking maintains such liability requirement and adds a new requirement that the business' payment of wages and remuneration legally due employees who provide nail specialty services be guaranteed in amounts keyed to the number of such individuals employed by the business owner and the amount of hours that these employees work on a weekly basis. Therefore, the cost to the regulated parties is the cost of acquiring the wage guarantee. The Department is informed that for purchasers in good credit standing, the cost of acquiring a "wage bond" is likely to be 2-4% of the amount of the bond. Thus, a surety bond in the amount of \$25,000 (2-5 employees) would range between \$500 and \$1,000. Businesses employing more individuals are required to maintain greater coverage. Bond amounts and cost of acquisition are as follows: \$40,000 for 6-10 individuals, \$800-\$1,600; \$75,000 for 11-25 individuals, \$1,500-\$3,000, and \$125,000 for 26 or more individuals, \$2,500-\$5,000. The Department notes that specific costs will vary depending largely upon the credit worthiness of the owner applying for the necessary coverage, accordingly costs are not expected to be the same for every business.

4. Minimizing adverse impact:

The Department has consulted with Department of Labor and several advocacy groups, but did not identify any alternatives that would achieve the results of the proposed rules and at the same time be less restrictive and less burdensome in terms of compliance. Businesses in rural areas will not be impacted any more or less than businesses in other areas.

5. Rural area participation:

The Department, in conjunction with other state agencies, has consulted with business interests which may be affected by this rule. Publication of this rule in the New York State Register will provide notice to those in rural areas and afford everyone an opportunity to comment. The Department has posted a copy of this rule on the Department's website, which will provide additional opportunity for rural area participation.

Job Impact Statement

1. Nature of impact:

This rulemaking will help to insure the payment of wages lawfully due and owing to individuals who provide nail specialty services. Inasmuch as this rulemaking will help protect workers, the Department believes that it will have a positive impact on jobs and employment opportunities. Specifically, more workers may seek employment in this industry if they know that their wages will now be guaranteed.

2. Categories and numbers affected:

There are approximately 30,000 owners in New York State that may be subject to this rule.

3. Regions of adverse impact:

The proposed rulemaking will not have any disproportionate regional adverse impact on jobs or employment opportunities.

4. Minimizing adverse impact:

The Department considered not proposing the instant rulemaking. It was determined, however, that this rule is immediately needed to protect the general welfare of a significant population of individuals who have been deprived of legally due wages. The Department has consulted with Department of Labor and several advocacy groups, but did not identify any alternatives that would achieve the results of the proposed rules and at the same time be less restrictive and less burdensome in terms of compliance.

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Personal Protective Equipment

I.D. No. DOS-38-15-00004-EP

Filing No. 774

Filing Date: 2015-09-04

Effective Date: 2015-09-04

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

Proposed Action: Amendment of sections 160.11 and 160.20 of Title 19 NYCRR.

Statutory authority: Executive Law, section 91; General Business Law, sections 402(5) and 404

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: The Department of State ("Department") is charged, inter alia, with the enforcement of New York General Business Law ("NY GBL") Article 27, which relates to the appearance enhancement industry. A principal purpose behind the enactment of Article 27 was to provide a system of licensure of appearance enhancement businesses and operators that would both allow for the greatest possible flexibility in the establishment of regulated services and implement measures to protect those who practice in the industry. Consistent with the legislative intent of Article 27, the Department is empowered to issue regulations which protect the general welfare of the public, including those who provide nail care services. New information regarding the practice of nail specialty indicates that many practitioners are at risk for preventable disease and injury because of the lack of readily available protective gear.

To help ensure that workers are better protected, the Department is re-adopting these emergency health and safety regulations. The enhancement of public safety, health and general welfare necessitates the promulgation of these regulations on an emergency basis. The Department finds that imposing new requirements and clarifying existing regulations will protect the approximately 162,000 licensed cosmetologists and nail specialists in New York.

The original emergency rule on this matter, filed on May 18, 2015, was superseded by a similar but different emergency rulemaking on June 10, 2015, the text of which first appeared in the July 1, 2015 edition of the State Register. The current emergency rulemaking is the first re-adoption of the emergency rule that has been in effect since June 10th.

Subject: Personal protective equipment.

Purpose: To require the provision of personal protective equipment.

Text of emergency/proposed rule: Section 160.11 of Title 19 of the NYCRR is amended as follows:

Section 160.11. Owner responsibilities

(a) An owner [, an area renter or both] shall be responsible for the proper conduct of the licensed business and for the proper provision of appearance enhancement services to the public by its employees or operators.

(b) An owner [, an area renter or both] shall be responsible for compliance with all applicable health and sanitary codes, and all statutory and regulatory requirements with respect to the practices of the occupation and business prescribed by this Part.

(c) An owner shall be responsible for maintaining the following equipment at each workstation, to be made available, upon request and without cost, to each person providing nail care services who uses such workstation:

(1) A properly fitting N-95 or N-100 respirator, approved by the National Institute for Occupational Safety and Health ("NIOSH"), for each individual who uses such workstation, to reduce inhalation of dust and particulate matter;

(2) Protective gloves made of nitrile, or other similar non-permeable material for workers with a sensitivity to nitrile gloves, in quantities sufficient to allow each individual providing nail care services to have a new pair of gloves for each customer served; and

(3) Eye protection sufficient to protect from splashes when pouring or transferring potentially hazardous chemicals from bulk containers or when preparing potentially hazardous chemicals for use in nail care services.

(d) The requirements of Subdivisions (a) and (b) were in effect prior to the filing of this emergency regulation, and remain in continuous full force and effect. Subdivision (c) of this Section shall take effect on June 15, 2015.

Section 160.20 of Title 19 of the NYCRR is amended as follows:

160.20 Hygienic practices.

(a) Cotton applicators may be used and must be stored in a closed container or sealed bag.

(b) A clean sheet of paper or a clean towel not previously used for any purpose shall be placed on the table or headrest before any client reclines on a table or chair.

(c) Cloth towels may be used once then bagged, machine washed and dried.

(d) A paper strip or clean towel shall be placed completely around the neck of each client before an apron or any other protective device is fastened around the neck.

(e) All practitioners and nail care clients must wash hands with soap and water before each client service.

(f) All sharp or pointed equipment shall be stored when not in use so as not to be accessible to consumers.

(g) All fluids, semifluids and powders must be dispensed with a shaker, dispenser pump or spray type container. All creams, lotions and other cosmetics used for clients must be kept in closed containers and dispensed with disposable applicators. When only a portion of a preparation is to be used on a client, it shall be removed from the container in such a way as not to contaminate the remaining portion.

(h) All practitioners shall have access to and may use a properly fitted N-95 or N-100 respirator, provided by the owner and approved by the National Institute for Occupational Safety and Health ("NIOSH"), in accordance with manufacturer's specifications when buffing or filing artificial nails or using acrylic powder.

(i) All practitioners shall have access to and may wear gloves, provided by the owner, when handling potentially hazardous chemicals or waste and during cleanup, or when performing any procedure that has a risk of breaking a customer's skin.

(j) All practitioners shall have access to and may wear eye protection, provided by the owner, when pouring or transferring potentially hazardous chemicals from bulk containers and when preparing potentially hazardous chemicals for use in nail care services.

(k) The requirements of Subdivisions (a) through (g) were in effect prior to the filing of this emergency regulation, and remain in continuous full force and effect. Subdivisions (h), (i), and (j) of this Section shall take effect on June 15, 2015.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire November 2, 2015.

Text of rule and any required statements and analyses may be obtained from: David Mossberg, Esq., NYS Dept. of State, 123 William Street, 20th Fl., New York, NY 10038, (212) 417-2063, email: david.mossberg@dos.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.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. Statutory Authority:

New York Executive Law § 91 and New York General Business Law ("GBL") §§ 402(5); 404; 404(b) and 405(2). Section 91 of the Executive Law authorizes the Secretary of State to: "adopt and promulgate such rules which shall regulate and control the exercise of the powers of the department of state." In addition, Sections 405(1) and 404 of the GBL authorize the Secretary of State to promulgate rules specifically relating to the appearance enhancement industry. Specifically, 404-b requires all owners and operators of appearance enhancement businesses that practice nail specialty to make available, upon request, gloves and facemasks for nail specialty licensees who work in such businesses.

2. Legislative Objectives:

Article 27 of the GBL was enacted, inter alia, to provide a system of licensure of appearance enhancement businesses and operators that would allow for the greatest possible flexibility in the establishment of regulated

services, while establishing protective measures. Consistent with this legislative intent, the Department is empowered to issue regulations that accomplish these purposes.

3. Needs and Benefits:

This rule is needed to implement provisions of the GBL, specifically sections 404 and 404-b. The Department finds that these regulations, which clarify existing requirements relating to availability of personal protective equipment will further the legislative intent of Section 404-b of the GBL.

4. Costs:

a. Costs to regulated parties:

Businesses which offer nail care services will be required pursuant to this rule to have available gloves, respirators and sufficient eye protection for individuals who practice nail specialty services. The Department estimates the following costs to businesses: 1) a box of 100 disposable nitrile gloves will cost approximately \$15.00; 2) a box of 20 approved respirators will cost approximately \$15.00; and 3) sufficient eye protection will cost approximately \$3.00 per employee.

b. Costs to the Department of State, the State, and Local Governments:

The Department does not anticipate any additional costs to implement the rule.

5. Local Government Mandates:

The rule does not impose any program, service, duty or responsibility upon any county, city, town, village, school district or other special district.

6. Paperwork:

This rule does not impose any new paperwork requirement.

7. Duplication:

This rule does not duplicate, overlap or conflict with any other state or federal requirement.

8. Alternatives:

The Department considered not proposing the instant rulemaking. It was determined, however, that this rule is needed to protect the general welfare of approximately 162,000 individuals who practice nail specialty services.

9. Federal Standards:

The proposed rulemaking is necessary to implement the provisions of existing law and standards.

10. Compliance Schedule:

As this rule was previously adopted on an emergency basis and currently in effect, the Department is not providing for a compliance period and this second emergency adoption is to take effect immediately.

Regulatory Flexibility Analysis

1. Effect of rule:

This rule requires the provision of personal protective equipment. Businesses that offer nail care services will be required to provide such equipment as provided for by this rule to individuals who practice nail specialty services without cost. There are approximately 30,000 owners that are potentially subject to this rule.

2. Compliance requirements:

The rule implements statutory requirements established under Section 404-b of Article 27 of the General Business Law. Owners subject to this rule will be required to provide gloves, respirators and sufficient eye protection to individuals who practice nail specialty services. The rule does not impose reporting or recordkeeping on owners.

3. Professional services:

The Department does not anticipate the need for professional services.

4. Compliance costs:

The Department estimates the following costs to businesses: 1) a box of 100 disposable nitrile gloves will cost approximately \$15.00; 2) a box of 20 approved respirators will cost approximately \$15.00; and 3) sufficient eye protection will cost approximately \$3.00 per employee.

5. Economic and technological feasibility:

This proposal is economically and technically feasible. Based on the Department's cost estimates and that the personal protective equipment provided for by this rule is readily available in retail stores and through online purchasing, businesses should have no difficulty complying with this rule.

6. Minimizing adverse economic impact:

The Department did not identify any feasible alternatives that would achieve the results of the proposed rule and also be less restrictive and less burdensome in terms of compliance. The Department has consulted with Department of Labor, Department of Health, and several advocacy and business groups and finds this rule is necessary to implement existing law relating to the provision and availability of personal protective equipment.

7. Small business and local government participation:

The Department, in conjunction with other state agencies, has consulted with small business interests that may be affected by this rule. In addition, the Department has conducted significant outreach to inform the public regarding this rule, including posting this rule on the Department's website

and participating in a multiple public forums detailing, inter alia, the purpose of this rule and compliance requirements. Publication of the rule in the State Register will provide further notice of the proposed rulemaking to all interested parties. Additional comments will be received and entertained during the public comment period associated with this rulemaking.

8. Compliance:

Owners subject to this rule are required to comply immediately.

9. Cure period:

As this rule was previously adopted on an emergency basis and currently in effect, the Department is not providing for a compliance period and this second emergency adoption is to take effect immediately.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The rule will apply to appearance enhancement businesses that are licensed pursuant to Article 27 of the General Business Law. There are approximately 30,000 owners across New York State that may be subject to this rule. Licensed owners throughout the state, including those in rural areas, are responsible for complying with this rule.

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

The rule implements statutory requirements established under Section 404-b of Article 27 of the General Business Law. The rule does not impose reporting or recordkeeping on owners. Further, there are no additional professional services required as a result of this regulation. No different or additional requirements are applicable exclusively to rural areas of the state.

3. Costs:

The Department estimates the following costs to businesses: 1) a box of 100 disposable nitrile gloves will cost approximately \$15.00; 2) a box of 20 approved respirators will cost approximately \$15.00; and 3) sufficient eye protection will cost approximately \$3.00 per employee.

4. Minimizing adverse impact:

The proposed rulemaking will implement existing law relating to provision and use of personal protective equipment for nail care providers throughout the state, including rural areas. The Department has consulted with Department of Labor, Department of Health as well as several advocacy groups, but did not identify any feasible alternatives that would achieve the results of the proposed rules and also be less restrictive and less burdensome in terms of compliance.

5. Rural area participation:

No significant comments have been received regarding this rulemaking. Publication of the Notice in the State Register will provide notice to all interested parties, including those in rural areas. Additional comments received on this rulemaking will be considered and assessed during imminent Proposed Rule Making process on this matter.

Job Impact Statement

1. Nature of impact:

This rulemaking applies to all appearance enhancement owners and individuals who offer nail specialty services. Pursuant to this rule, owners are required to provide at no cost, gloves, respirators and eye protection while offering certain services. Though the rule is intended to implement existing law, the Department finds that it will also improve the wellbeing of those working in the nail care industry, and as such the rule will have a positive impact on jobs and employment opportunities.

2. Categories and numbers affected:

There are approximately 30,000 owners which would potentially be subject to this rulemaking. Further, there are approximately 162,000 licensees who offer services specified by this rule.

3. Regions of adverse impact:

The proposed rulemaking will not have any disproportionate regional adverse impact on jobs or lawful employment opportunities.

4. Minimizing adverse impact:

The Department considered not proposing the instant rulemaking. It was determined, however, that this rule is immediately needed to implement existing law through rules regarding availability and use of personal protective equipment. The Department has consulted with Department of Labor, Department of Health and several advocacy groups, but did not identify any alternatives that would achieve the results of the proposed rules and at the same time be less restrictive and less burdensome in terms of compliance.

State University of New York

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Proposed Amendments to Traffic and Parking Regulations at State University of New York University at Buffalo

I.D. No. SUN-38-15-00002-P

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

Proposed Action: Amendment of Part 572 of Title 8 NYCRR.

Statutory authority: Education Law, section 360(1)

Subject: Proposed amendments to traffic and parking regulations at State University of New York University at Buffalo.

Purpose: Amend existing regulations to update traffic and parking regulations.

Substance of proposed rule (Full text is posted at the following State website: <http://www.suny.edu/sunypf>): The operation of a motor vehicle on the property of the State University of New York at Buffalo is covered under section 360 of the Education Law which authorizes the State University to adopt and make applicable to its campuses any and all provisions of the Vehicle and Traffic Law. The regulations have been developed and are enforced to provide for the safety and convenience of students, faculty, employees and visitors upon the State University of New York at Buffalo campus. The proposed rule makes certain technical changes and amends existing regulations in regard to registration, permits, penalties, parking lots, fines and appeals.

Text of proposed rule and any required statements and analyses may be obtained from: Angela F. Winn, State University of New York, System Administration, State University Plaza, S-332, Albany, NY 12246, (518) 320-1403, email: Angela.Winn@suny.edu

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: Education Law § 360(1) authorizes the State University Trustees to make rules and regulations relating to parking, vehicular and pedestrian traffic and safety on the State-operated campuses of the State University of New York.

2. Legislative objectives: The present measure makes technical amendments to the parking and traffic regulations applicable to the State University at Buffalo.

3. Needs and benefits: The amendments are necessary to update existing regulations as a result of changes.

4. Costs: None.

5. Local government mandates: None.

6. Paperwork: None.

7. Duplication: None.

8. Alternatives: There are no viable alternatives.

9. Federal standards: There are no related Federal standards.

10. Compliance schedule: The University at Buffalo will notify those affected as soon as the rule is effective. Compliance should be immediate.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is submitted with this notice because this proposal does not impose any requirements on small businesses and local governments. This proposed rule making will not impose any adverse economic impact on small businesses and local governments or impose any reporting, recordkeeping or other compliance requirements on small businesses and local governments. The proposal addresses internal parking and traffic regulations on the campus of the State University at Buffalo.

Rural Area Flexibility Analysis

No rural area flexibility analysis is submitted with this notice because this proposal will not impose any adverse economic impact on rural areas or impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas. The proposal addresses internal parking and traffic regulations on the campus of the State University at Buffalo.

Job Impact Statement

No job impact statement is submitted with this notice because this proposal does not impose any adverse economic impact on existing jobs or

employment opportunities. The proposal addresses internal parking and traffic regulations on the campus of the State University at Buffalo.

Office of Temporary and Disability Assistance

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP)

I.D. No. TDA-38-15-00005-EP

Filing No. 776

Filing Date: 2015-09-04

Effective Date: 2015-10-01

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

Proposed Action: Amendment of section 387.12 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d) and 95; 7 United States Code, section 2014(e)(6)(C); 7 Code of Federal Regulations, section 273.9(d)(6)(iii)

Finding of necessity for emergency rule: Preservation of public health and general welfare.

Specific reasons underlying the finding of necessity: It is of great importance that the federally mandated and most currently approved standard utility allowances for the Supplemental Nutrition Assistance Program (SNAP) are applied to SNAP benefit calculations effective October 1, 2015, and thereafter until new amounts eventually are approved by the United States Department of Agriculture (USDA). If past standard utility allowances were to be used, in the absence of federal authority, in calculating ongoing SNAP benefits, thousands of SNAP households would receive SNAP overpayments each month. Households receiving such overpayments could be subject to an extended period of SNAP recoupments at the rate of 10% of their monthly SNAP benefits to recover the resulting overpayments of SNAP benefits. Thousands of SNAP households throughout New York State could thus be adversely affected. Such recoupments would constitute hardships to these households and impact their ability to purchase needed food, for as long as the recoupments are in effect. These emergency amendments protect the public interest by setting forth the federally mandated and approved standard utility allowances effective as of October 1, 2015, and by helping to prevent future recoupments and hardship.

As stated above, there is no federal authority to use past standard utility allowances after the October 1, 2015 effective date of the new federally approved allowance amounts. As such, the state option to use the standard utility allowance in lieu of the actual utility cost portion of their shelter expenses would not have the required approval of the USDA. Without federal approval of this state option, the State may be forced to use the actual utility cost portion of the shelter expenses of each SNAP household. This would necessitate all 58 social services districts in New York State to require all 1.66 million SNAP households to provide verification of the actual utility cost portions of their shelter expenses. This would create a tremendous burden on both social services districts as well as recipient households. In addition, as actual utility costs are generally significantly less than the standard utility allowances, SNAP households would have a much smaller shelter deduction resulting in a sizeable reduction in their SNAP benefits. This reduction in SNAP benefits for up to 1.66 million SNAP households would result in significant harm to the health and welfare of these households.

It is noted that the amendments are being promulgated pursuant to a combined "Notice of Emergency Adoption and Proposed Rule Making," instead of a "Notice of Proposed Rule Making," due to time constraints. On August 3, 2015, the USDA approved the Office of Temporary and Disability Assistance's (OTDA's) proposed federal fiscal year 2016 standard utility allowances, effective October 1, 2015. The approval was then provided to OTDA. This did not provide sufficient time for OTDA to publish a "Notice of Proposed Rule Making" and have the new standard utility allowances be effective on October 1, 2015. An emergency adoption is necessary to have the new standard utility allowances be effective on

October 1, 2015. Although these regulations are being promulgated on an emergency basis to protect the public interest, OTDA will receive public comments on its combined "Notice of Emergency Adoption and Proposed Rule Making" until 45 days after publication of this notice.

Subject: Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP).

Purpose: These regulatory amendments set forth the federally mandated and approved SUAs as of 10/1/15.

Text of emergency/proposed rule: Clauses (a) and (b) of subparagraph (v) of paragraph (3) of subdivision (f) of § 387.12 of Title 18 NYCRR are amended to read as follows:

(a) The standard allowance for heating/cooling consists of the costs for heating and/or cooling the residence, electricity not used to heat or cool the residence, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water and basic service for one telephone. The standard allowance for heating/cooling is available to households which incur heating and/or cooling costs separate and apart from rent and are billed separately from rent or mortgage on a regular basis for heating and/or cooling their residence, or to households entitled to a Home Energy Assistance Program (HEAP) payment or other Low Income Home Energy Assistance Act (LIHEEA) payment. A household living in public housing or other rental housing which has central utility meters and which charges the household for excess heating or cooling costs only is not entitled to the standard allowance for heating/cooling unless they are entitled to a HEAP or LIHEEA payment. Such a household may claim actual costs which are paid separately. Households which do not qualify for the standard allowance for heating/cooling may be allowed to use the standard allowance for utilities or the standard allowance for telephone. As of October 1, [2014] 2015, but subject to subsequent adjustments as required by the United States Department of Agriculture ("USDA"), the standard allowance for heating/cooling for SNAP applicant and recipient households residing in New York City is [\$785] \$768; for households residing in either Suffolk or Nassau Counties, it is [\$732] \$716; and for households residing in any other county of New York State, it is [\$650] \$636.

(b) The standard allowance for utilities consists of the costs for electricity not used to heat or cool the residence, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water and basic service for one telephone. It is available to households billed separately from rent or mortgage for one or more of these utilities other than telephone. The standard allowance for utilities is available to households which do not qualify for the standard allowance for heating/cooling. Households which do not qualify for the standard allowance for utilities may be allowed to use the standard allowance for telephone. As of October 1, [2014] 2015, but subject to subsequent adjustments as required by the USDA, the standard allowance for utilities for SNAP applicant and recipient households residing in New York City is [\$311] \$304; for households residing in either Suffolk or Nassau Counties, it is [\$287] \$281; and for households residing in any other county of New York State, it is [\$263] \$257.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire December 2, 2015.

Text of rule and any required statements and analyses may be obtained from: Matthew L. Tulio, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, NY 12243-0001, (518) 486-9568, email: matthew.tulio@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:

The United States Code (U.S.C.), at 7 U.S.C. § 2014(e)(6)(C), provides that in computing shelter expenses for budgeting under the federal Supplemental Nutrition Assistance Program (SNAP), a State agency may use a standard utility allowance as provided in federal regulations.

The Code of Federal Regulations (C.F.R.), at 7 C.F.R. § 273.9(d)(6)(iii), provides for standard utility allowances in accordance with SNAP. Clause (A) of this subparagraph states that with federal approval from the Food and Nutrition Services (FNS) of the United States Department of Agriculture, a State agency may develop standard utility allowances to be used in place of actual costs in calculating a household's excess shelter deduction. Federal regulations allow for the following types of standard utility allowances: a standard utility allowance for all utilities that includes heating or cooling costs; a limited utility allowance that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection; and an individual standard for each type of utility expense. Clause (B) of the subparagraph provides that a State agency must review the standard utility allowances annually and make adjustments to reflect

changes in costs. Also State agencies must provide the amounts of the standard utility allowances to the FNS when they are changed and submit methodologies used in developing and updating the standard utility allowances to the FNS for approval whenever the methodologies are developed or changed.

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

SSL § 95 authorizes OTDA to administer SNAP in New York State and to perform such functions as may be appropriate, permitted or required by or pursuant to federal law.

2. Legislative objectives:

It was the intent of the Legislature to implement the federal SNAP Act in New York State in order to provide SNAP benefits to eligible New York State residents.

3. Needs and benefits:

The regulatory amendments set forth the standard utility allowances within New York State as of October 1, 2015. OTDA is amending its standard utility allowances in 18 NYCRR § 387.12(f)(3)(v)(a) and (b) to reflect a decrease in fuel and utility costs, which is indicated in the Consumer Price Index (CPI) fuel and utilities values (which includes components for water, sewage and trash collection).

The following chart sets forth the standard utility allowance categories; the past standard utility allowances (“Past SUA”) that were in effect for federal fiscal year (FFY) 2015, from October 1, 2014 through September 31, 2015; and the new standard utility allowances (“New SUA”) that are in effect for FFY 2016, effective October 1, 2015:

	New York City		Nassau/Suffolk Counties		Rest of State	
	Past SUA	New SUA	Past SUA	New SUA	Past SUA	New SUA
Heating/ Air Condi- tioning SUA	\$785	\$768	\$732	\$716	\$650	\$636
Basic Utility SUA	\$311	\$304	\$287	\$281	\$263	\$257
Phone SUA	\$33 (Unchanged for all Counties)					

To determine the new standard utility allowance values for FFY 2016, the CPI Fuel and Utility value for June 2015 was compared to the CPI Fuel and Utility value for June 2014, the CPI value that was used to determine the adjustment for the FFY 2015 standard utility allowance values. The percentage change between June 2014 and June 2015 was then applied to the FFY 2015 standard utility allowance figures. The June 2015 CPI Fuel and Utility value was 2.188% lower than the June 2014 value. The June CPI values were used because they were the most recent month for which CPI values were available at the time when the programming of the new SUA values into the Welfare Management System (WMS) had to be done in order to comply with the October 1, 2015 effective date.

OTDA has all required approvals from the FNS pertaining to these changes and is required to apply the standard utility allowances for FFY 2016 in its SNAP budgeting effective October 1, 2015. As of October 1, 2015, OTDA does not have federal approval or authority to apply past standard utility allowances in its prospective SNAP budgeting.

It is of great importance that the federally mandated and most currently approved standard utility allowances for the Supplemental Nutrition Assistance Program (SNAP) are applied to SNAP benefit calculations effective October 1, 2015, and thereafter until new amounts eventually are approved by the United States Department of Agriculture (USDA). If past standard utility allowances were to be used, in the absence of federal authority, in calculating ongoing SNAP benefits, thousands of SNAP households would receive SNAP overpayments each month. Households receiving such overpayments could be subject to an extended period of SNAP recoupments at the rate of 10% of their monthly SNAP benefits to recover the resulting overpayments of SNAP benefits. Thousands of SNAP households throughout New York State could thus be adversely affected. Such recoupments would constitute hardships to these households and impact their ability to purchase needed food, for as long as the recoupments are in effect. These emergency amendments protect the public interest by setting forth the federally mandated and approved standard utility allowances effective as of October 1, 2015, and by helping to prevent future recoupments and hardship.

As stated above, there is no federal authority to use past standard utility allowances after the October 1, 2015 effective date of the new federally approved allowance amounts. As such, the state option to use the standard utility allowance in lieu of the actual utility cost portion of their shelter expenses would not have the required approval of the USDA. Without federal approval of this state option, the State may be forced to use the actual utility cost portion of the shelter expenses of each SNAP household. This would necessitate all 58 social services districts in New York State to require all 1.66 million SNAP households to provide verification of the actual utility cost portions of their shelter expenses. This would create a tremendous burden on both social services districts as well as recipient households. In addition, as actual utility costs are generally significantly less than the standard utility allowances, SNAP households would have a much smaller shelter deduction resulting in a sizeable reduction in their SNAP benefits. This reduction in SNAP benefits for up to 1.66 million SNAP households would result in significant harm to the health and welfare of these households.

4. Costs:

The amendments will not result in any impact to the State financial plan, and they will not impose costs upon the social services districts because SNAP benefits are 100 percent federally funded, and these amendments comply with federal statute and regulation to implement federally approved standard utility allowances.

5. Local government mandates:

The amendments do not impose any mandates upon social services districts since the amendments simply set forth the federally approved standard utility allowances, effective October 1, 2015. Also it is noted that the calculation of SNAP budgets, which incorporates the standard utility allowances, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA’s Welfare Management System. To the extent that the processes are not automated, the amendments do not impose any additional requirements upon the social services districts than already exist in terms of calculating SNAP budgets.

6. Paperwork:

The amendments do not impose any new forms, new reporting requirements or other paperwork upon the State or the social services districts.

7. Duplication:

The amendments do not duplicate, overlap or conflict with any existing State or federal statutes or regulations.

8. Alternatives:

One alternative is not to implement the revised standard utility allowances. However, this alternative is not a viable option because if New York State were to opt not to implement the new standard utility allowances or were otherwise judicially precluded from doing so, then New York State would be out of compliance with federal statutory and regulatory requirements.

9. Federal standards:

The amendments do not conflict with or exceed minimum standards of the federal government.

10. Compliance schedule:

Since the amendments set forth the federally approved standard utility allowances effective October 1, 2015, the State and all social services districts will be in compliance with the amendments.

Regulatory Flexibility Analysis

1. Effect of Rule:

The amendments will have no effect on small businesses. The amendments do not impose any mandates upon social services districts since the amendments simply set forth the federally approved standard utility allowance amounts, effective October 1, 2015. The calculation of Supplemental Nutrition Assistance Program (SNAP) budgets, which incorporates the standard utility allowances, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA’s Welfare Management System, and to the extent the processes are not automated, the amendments do not impose any additional requirements upon the social services districts than already exist in terms of calculating SNAP budgets.

2. Compliance Requirements:

The amendments do not impose any reporting, recordkeeping or other compliance requirements on social services districts.

3. Professional Services:

The amendments do not require social services districts to hire additional professional services to comply with the new regulations.

4. Compliance Costs:

The amendments do not impose initial costs or any annual costs upon social services districts because SNAP benefits are 100 percent federally funded, and these amendments comply with federal statute and regulation to implement federally approved standard utility allowances.

5. Economic and Technological Feasibility:

All social services districts have the economic and technological ability to comply with these regulations.

6. Minimizing Adverse Impact:

The amendments will not have an adverse impact on social services districts.

7. Small Business and Local Government Participation:

OTDA plans to provide a General Information System (GIS) release to social services districts in New York State setting forth, in part, the new standard utility allowances for SNAP effective October 1, 2015. In past years, social services districts have not raised any concerns or objections related to the implementation of the new standard utility allowances. After OTDA releases its GIS reflecting the standard utility allowances effective October 1, 2015, social services districts will have an opportunity to contact OTDA with any concerns, questions or other issues. The GIS release will be posted to OTDA's internet site.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The amendments will have no effect on small businesses in rural areas. The amendments do not impose any mandates upon the forty-four social services districts in rural areas of the State. Rather, the amendments simply set forth the federally approved standard utility allowance amounts, effective October 1, 2015. The calculation of Supplemental Nutrition Assistance Program (SNAP) budgets, which incorporates the standard utility allowances, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA's Welfare Management System. To the extent the processes are not automated, the amendments do not impose any additional requirements upon the social services districts than already exist in terms of calculating SNAP budgets.

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

The amendments do not impose any reporting, recordkeeping or other compliance requirements on the social services districts in rural areas. Also the social services districts in rural areas do not need to hire additional professional services to comply with the regulations.

3. Costs:

The amendments do not impose initial capital costs or any annual costs upon the social services districts in rural areas because SNAP benefits are 100 percent federally funded, and these amendments comply with federal statute and regulation to implement federally approved standard utility allowances.

4. Minimizing adverse impact:

The amendments will not have an adverse impact on the social services districts in rural areas.

5. Rural area participation:

OTDA plans to provide a General Information System (GIS) release to social services districts in New York State setting forth, in part, the new standard utility allowances for SNAP effective October 1, 2015. In past years, social services districts have not raised any concerns or objections related to the implementation of the new standard utility allowances. After OTDA releases its GIS reflecting the standard utility allowances effective October 1, 2015, social services districts will have an opportunity to contact OTDA with any concerns, questions or other issues. The GIS release will be posted to OTDA's internet site.

Job Impact Statement

A Job Impact Statement is not required for the amendments. It is apparent from the nature and the purpose of the amendments that they will not have a substantial adverse impact on jobs and employment opportunities in either the public or the private sectors. The amendments will have no effect on small businesses. The amendments will not affect in any significant way the jobs of the workers in the social services districts or the State. These regulatory amendments set forth the federally approved standard utility allowances for the Supplemental Nutrition Assistance Program (SNAP) as of October 1, 2015. The calculation of SNAP budgets, which incorporates the standard utility allowances, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA's Welfare Management System. To the extent the processes are not automated, the amendments do not impose any additional requirements upon the social services districts than already exist in terms of calculating SNAP budgets. Thus the changes will not have any adverse impact on jobs and employment opportunities in New York State.