

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.

Division of Criminal Justice Services

NOTICE OF ADOPTION

Central Registry of Police Officers and Peace Officers

I.D. No. CJS-09-16-00002-A
Filing No. 932
Filing Date: 2016-10-05
Effective Date: 2016-10-26

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

Action taken: Repeal of Part 6056; and addition of new Part 6056 to Title 9 NYCRR.

Statutory authority: Executive Law, sections 837(13), 845(1) and (3); L. 2010, ch. 491; General Municipal Law, section 209-q(1); Criminal Procedure Law, section 2.30(6)

Subject: Central Registry of Police Officers and Peace Officers.

Purpose: To consolidate the police officer and peace officer registries; and to clarify the reporting requirements.

Text or summary was published in the March 2, 2016 issue of the Register, I.D. No. CJS-09-16-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Natasha M. Harvin-Locklear Esq., NYS Division of Criminal Justice Services, 80 South Swan St., Albany, New York 12210, (518) 457-8420, email: dcjslegalrulemaking@dcjs.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 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Department of Environmental Conservation

NOTICE OF ADOPTION

Management of Atlantic Menhaden

I.D. No. ENV-19-16-00002-A
Filing No. 937
Filing Date: 2016-10-07
Effective Date: 2016-10-26

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

Action taken: Amendment of Part 40 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, section 13-0333

Subject: Management of Atlantic menhaden.

Purpose: To add Atlantic menhaden and the menhaden trip limit to 6 NYCRR section 40.1(i)-Commercial Fishing Table B.

Text or summary was published in the May 11, 2016 issue of the Register, I.D. No. ENV-19-16-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Stephen Heins, NYSDEC Marine Resources, 205 North Belle Meade Road, Suite 1, East Setauket, New York 17733, (631) 444-0430, email: steve.heins@dec.ny.gov

Additional matter required by statute: The action is subject to SEQRA as an Unlisted action and a Short EAF was completed. The Department has determined that an EIS need not be prepared and has issued a negative declaration. The EAF and negative declaration are available upon request.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Department of Financial Services

EMERGENCY RULE MAKING

Standard Financial Aid Award Information Sheet for Institutions of Higher Education

I.D. No. DFS-03-16-00003-E

Filing No. 935

Filing Date: 2016-10-07

Effective Date: 2016-10-07

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

Action taken: Addition of Part 421 to Title 3 NYCRR.

Statutory authority: Banking Law, section 9-w

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

Specific reasons underlying the finding of necessity: I, Maria T. Vullo, Superintendent of Financial Services, do hereby certify that the foregoing Part 421 of Title 3 of the Official Compilation of Codes, Rules and Regulations of the State of New York, entitled "Financial Aid Award Information Sheet" was duly adopted on an emergency basis on August 12, 2016 pursuant to the authority granted by Section 9-w of the New York Banking Law.

I determined that it is necessary for the preservation of the general welfare that this regulation be adopted on an emergency basis as authorized by section 202(6) of the State Administrative Procedure Act, effective immediately upon filing with the Department of State.

This regulation is adopted as an emergency measure because time is of the essence. Banking Law Section 9-w requires schools to use a standard financial aid information letter in responding to all financial aid applicants for the 2016-2017 academic year and thereafter. Schools are currently sending award packages and the regulations provide important clarity for schools using the model financial aid information letter. An April 2016 amendment to Banking Law Section 9-w, which took effect immediately, required amended emergency regulations. In order for schools to comply with Banking Law Section 9-w, these rules are being re-adopted on an emergency basis.

No other publication or prior notice is required by statute.

Subject: Standard financial aid award information sheet for institutions of higher education.

Purpose: Provides guidance to institutions of higher education for the implementation of a financial aid award information sheet.

Text of emergency rule: PART 421

FINANCIAL AID AWARD INFORMATION SHEET

§ 421.1 Scope and application of this Part

Section 9-w of the Banking Law authorizes the superintendent to adopt rules and regulations for the implementation of a standard financial aid award letter.

§ 421.2 Definitions

For purposes of this Part, unless otherwise stated herein, terms shall have the same meaning as set forth in section 601 of New York State Education Law.

§ 421.3 Content and Delivery of Financial Aid Award Information Sheet On or After May 15, 2016

(a) In responding to an incoming or prospective undergraduate student's financial aid application on or after May 15, 2016, a college, vocational institution or other institution that offers an approved program as defined in section 601 of the Education Law shall provide the letter required in section 9-w of the Banking Law, hereby referred to as the "Financial Aid Award Information Sheet", in the form available at www.dfs.ny.gov/studentprotection.

(b) For purposes of the Financial Aid Award Information Sheet, the term "Campus" shall mean an institution affiliated with a single U.S. Department of Education Office of Postsecondary Education Identification code.

§ 421.4 Content and Delivery of Financial Aid Award Information Sheet Prior to May 15, 2016

(a) In responding to an incoming or prospective undergraduate student's financial aid application prior to May 15, 2016, a college, vocational institution or other institution that offers an approved program as defined in section 601 of the Education Law shall provide the Financial

Aid Award Information Sheet in accordance with section 421.3 of this Part or satisfy the requirements in subsections 421.4(b) and 421.4(c) of this Part.

(b) Beginning on or before February 1, 2016, and ending on or after September 1, 2016, a college, vocational institution or other institution that offers an approved program as defined in section 601 of the Education Law that offers financial aid to undergraduate students shall publish online an "Interim Period Financial Aid Award Information Sheet" in the form available at www.dfs.ny.gov/studentprotection.

(c) In responding to an incoming or prospective undergraduate student's financial aid application before May 15, 2016, a college, vocational institution or other institution that offers an approved program as defined in section 601 of the Education Law shall include in, or accompany with, the response a clear and conspicuous disclosure stating "Additional Information Including Estimated Cost of Attendance Can be Found On the Web Page Below" and setting forth the URL address of the webpage that includes a completed Interim Period Financial Aid Award Information Sheet. For responses to an incoming or prospective undergraduate student's financial aid application between January 1, 2016 and February 1, 2016, this disclosure shall be provided by February 1, 2016.

(d) For purposes of the Interim Period Financial Aid Award Information Sheet, the term "Campus" shall mean an institution affiliated with a single U.S. Department of Education Office of Postsecondary Education Identification code.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. DFS-03-16-00003-EP, Issue of January 20, 2016. The emergency rule will expire December 5, 2016.

Text of rule and any required statements and analyses may be obtained from: Max Dubin, Department of Financial Services, One State Street, New York, NY 10004, (212) 480-7232, email: max.dubin@dfs.ny.gov

Regulatory Impact Statement

1. Statutory Authority: The Superintendent of Financial Services' ("Superintendent") authority for the promulgation of this rule derives from New York Banking Law § 9-w, which calls on the Superintendent to promulgate regulations implementing that section.

2. Legislative Objectives: The Legislature called on the Superintendent to issue this rule to implement New York Banking Law § 9-w, which requires all New York schools to use a uniform financial aid award letter. The Legislature mandated a uniform financial aid letter to give students a better understanding of the costs of a particular school and the options to pay for the education. The uniform letter will also help students to easily compare costs and financial aid options between schools.

3. Needs and Benefits: DFS consulted the New York State Higher Education Services Corporation for thoughts and challenges associated with implementing the form required in Banking Law § 9-w. The rule is required by New York Banking Law § 9-w. The rule provides needed guidance to institutions of higher education, including when and to whom schools must provide the financial aid award letter.

4. Costs: This rule does not create any additional costs to regulated parties or state and local governments. Any costs incurred by higher education institutions in implementing a standard financial aid award information sheet, including building any information technology infrastructure to generate and send the award sheets, were imposed by the Legislature by statute. No new costs are created by this rule, which simply implements New York Banking Law § 9-w.

5. Local Government Mandates: The rule does not create any new local government mandates.

6. Paperwork: There are no new paperwork requirements created by the rule.

7. Duplication: Some institutions of higher education have volunteered to, and in some cases are required, to use a standard student shopping sheet developed by the U.S. Department of Education when responding to financial aid applications. DFS consulted with U.S. Department of Education and designed a model shopping sheet that would meet federal and state requirements. New York schools already committed to using the federal form can add a supplement to their existing form to meet both requirements and avoid duplicative financial aid award information sheets.

8. Alternatives: No significant alternatives to the rule were considered.

9. Federal Standards: The rule does not exceed any federal standards.

10. Compliance Schedule: The rule should not take any time to implement. It has been previously proposed as a permanent rule and adopted on an emergency basis.

Regulatory Flexibility Analysis

The rule will not impose any new adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses and local governments. The rule implements Banking Law § 9-w. Some of the covered educational institutions may be small businesses. Any costs or

compliance requirements were created statutorily by the Legislature and this rule does not create any additional costs or requirements.

Rural Area Flexibility Analysis

The rule will not impose any new adverse economic impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The rule implements Banking Law § 9-w. Some of the covered educational institutions are located in rural areas. However, the rule does not impose any new costs or compliance requirements. Any costs or compliance requirements were created statutorily by the Legislature.

Job Impact Statement

The rule should have no adverse impact on jobs and employment opportunities in New York. The rule implements Banking Law § 9-w. It does not create any new burden or costs to businesses that are not already required by statute.

Assessment of Public Comment

The agency received no public comment.

Higher Education Services Corporation

EMERGENCY RULE MAKING

New York State Achievement and Investment in Merit Scholarship (NY-AIMS)

I.D. No. ESC-43-16-00001-E

Filing No. 933

Filing Date: 2016-10-06

Effective Date: 2016-10-06

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

Action taken: Addition of section 2201.16 to Title 8 NYCRR.

Statutory authority: Education Law, sections 653, 655 and 669-g

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

Specific reasons underlying the finding of necessity: This statement is being submitted pursuant to subdivision (6) of section 202 of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation’s (“HESC”) Emergency Rule Making seeking to add a new section 2201.16 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This regulation implements a statutory student financial aid program providing for awards to be made to students beginning with the fall 2015 term, which generally starts in August. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible scholarship applicants. The statute provides New York high school graduates who excel academically with merit-based scholarships to support their cost of attendance at any college or university located in New York State. Five thousand awards, of \$500 each, will be granted annually in 2015-16 and 2016-17. Decisions on applications for this Program are made prior to the beginning of the term. Therefore, it is critical that the terms of this program as provided in the regulation be effective immediately so that students can make informed choices and in order for HESC to process scholarship applications in a timely manner. To accomplish this mandate, the statute further provides for HESC to promulgate emergency regulations to implement the program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: New York State Achievement and Investment in Merit Scholarship (NY-AIMS).

Purpose: To implement The New York State Achievement and Investment in Merit Scholarship (NY-AIMS).

Text of emergency rule: New section 2201.16 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.16 The New York State Achievement and Investment in Merit Scholarship (NY-AIMS).

(a) Definitions. As used in section 669-g of the Education Law and this section, the following terms shall have the following meanings:

(1) “Good academic standing” shall have the same meaning as set forth in section 665(6) of the education law.

(2) “Grade point average” shall mean the student’s numeric grade calculated on the standard 4.0 scale.

(3) “Program” shall mean The New York State Achievement and Investment in Merit Scholarship codified in section 669-g of the education law.

(4) “Unmet need” for the purpose of determining priority shall mean the cost of attendance, as determined for federal Title IV student financial aid purposes, less all federal, State, and institutional higher education aid and the expected family contribution based on the federal formula.

(b) Eligibility. An applicant must:

(1) have graduated from a New York State high school in the 2014-15 academic year or thereafter; and

(2) enroll in an approved undergraduate program of study in a public or private not-for-profit degree granting post-secondary institution located in New York State beginning in the two thousand fifteen-sixteen academic year or thereafter; and

(3) have achieved at least two of the following during high school:

(i) Graduated with a grade point average of 3.3 or above;

(ii) Graduated with a “with honors” distinction on a New York State regents diploma or receive a score of 3 or higher on two or more advanced placement examinations; or

(iii) Graduated within the top fifteen percent of their high school class, provided that actual class rank may be taken into consideration; and

(4) satisfy all other requirements pursuant to section 669-g of the education law; and

(5) satisfy all general eligibility requirements provided in section 661 of the education law including, but not limited to, full-time attendance, good academic standing, residency and citizenship.

(c) Distribution and priorities. In each year, new awards made shall be proportionate to the total new applications received from eligible students enrolled in undergraduate study at public and private not-for-profit degree granting institutions. Distribution of awards shall be made in accordance with the provisions contained in section 669-g(3)(a) of the education law within each sector. In the event that there are more applicants who have the same priority than there are remaining scholarships or available funding, awards shall be made in descending order based on unmet need established at the time of application. In the event of a tie, distribution shall be made by means of a lottery or other form of random selection.

(d) Administration.

(1) Applicants for an award shall apply for program eligibility at such times, on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility.

(2) Recipients of an award shall:

(i) request payment annually at such times, on forms and in a manner specified by the corporation;

(ii) receive such awards for not more than four academic years of undergraduate study, or five academic years if the program of study normally requires five years as defined by the commissioner pursuant to Article 13 of the education law; and

(iii) provide any information necessary for the corporation to determine compliance with the program’s requirements.

(e) Awards.

(1) The amount of the award shall be determined in accordance with section 669-g of the education law.

(2) Disbursements shall be made annually to institutions on behalf of recipients.

(3) Awards may be used to offset the recipient’s total cost of attendance determined for federal Title IV student financial aid purposes or may be used in addition to such cost of attendance.

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 January 3, 2017.

Text of rule and any required statements and analyses may be obtained from: Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1325, Albany, New York 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

Regulatory Impact Statement

Statutory authority:

The New York State Higher Education Services Corporation’s (“HESC”) statutory authority to promulgate regulations and administer The New York State Achievement and Investment in Merit Scholarship (NY-AIMS), hereinafter referred to as “Program”, is codified within Article 14 of the Education Law. In particular, Part Z of Chapter 56 of the Laws of 2015 created the Program by adding a new section 669-g to the

Education Law. Subdivision 6 of section 669-g of the Education Law authorizes HESC to promulgate emergency regulations for the purpose of administering this Program.

Pursuant to Education Law § 652(2), HESC was established for the purpose of improving the post-secondary educational opportunities of eligible students through the centralized administration of New York State financial aid programs and coordinating the State's administrative effort in student financial aid programs with those of other levels of government.

In addition, Education Law § 653(9) empowers HESC's Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation including the promulgation of rules and regulations.

HESC's President is authorized, under Education Law § 655(4), to propose rules and regulations, subject to approval by the Board of Trustees, governing, among other things, the application for and the granting and administration of student aid and loan programs, the repayment of loans or the guarantee of loans made by HESC; and administrative functions in support of state student aid programs. Also, consistent with Education Law § 655(9), HESC's President is authorized to receive assistance from any Division, Department or Agency of the State in order to properly carry out his or her powers, duties and functions. Finally, Education Law § 655(12) provides HESC's President with the authority to perform such other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of HESC.

Legislative objectives:

The Education Law was amended to add a new section 669-g to create The New York State Achievement and Investment in Merit Scholarship (NY-AIMS). The objective of this Program is to grant merit-based scholarship awards to New York State high school graduates who achieve academic excellence.

Needs and benefits:

The cost to attain a postsecondary degree has increased significantly over the years; alongside this growth, the financing of that degree has become increasingly challenging. According to a June 9, 2014 Presidential Memorandum issued by President Obama, over the past three decades, the average tuition at a public four-year college has more than tripled, while a typical family's income has increased only modestly. All federal student financial aid and a majority of state student financial aid programs are conditioned on economic need. Despite stagnant growth in household incomes, there continues to be far fewer academically-based financial aid programs, which are awarded to students regardless of assets or income. This has resulted in more limited financial aid options for those who are ineligible for need-based aid. Concurrently, greater numbers of students are relying on loans to pay for college. Today, 71 percent of those earning a bachelor's degree graduate with student loan debt averaging \$29,400. Many of these students feel burdened by their college loan debt, especially as they seek to start a family, buy a home, launch a business, or save for retirement.

This Program cushions the disparate growth in the cost of a postsecondary education by providing New York State high school graduates who excel academically with merit-based scholarships to support their cost of attendance at any college or university located in the State for up to four years of undergraduate study (or five years if enrolled in a five-year program). Five thousand awards, of \$500 each, will be granted annually in 2015-16 and 2016-17.

Costs:

a. It is anticipated that there will be no new costs to the agency for the implementation of, or continuing compliance with this rule.

b. The maximum cost of the program to the State is \$2.5 million in the first year based upon budget estimates.

c. It is anticipated that there will be no costs to local governments for the implementation of, or continuing compliance with, this rule.

d. The source of the cost data in (b) above is derived from the New York State Division of the Budget.

Local government mandates:

No program, service, duty or responsibility will be imposed by this rule upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

This proposal will require applicants to file an electronic application for eligibility and payment together with supporting documentation.

Duplication:

No relevant rules or other relevant requirements duplicating, overlapping, or conflicting with this rule were identified.

Alternatives:

The proposed regulation is the result of HESC's outreach efforts to financial aid professionals with regard to this Program. Several alternatives were considered in the drafting of this regulation. For example, several alternatives were considered in defining terms used in the regulation as well as the administration of the Program. Given the statutory language

as set forth in section 669-g of the Education Law, a "no action" alternative was not an option.

Federal standards:

This proposal does not exceed any minimum standards of the Federal Government and efforts were made to align it with similar federal subject areas as evidenced by the adoption of the federal definitions/methodology concerning unmet need, expected family contribution, and cost of attendance.

Compliance schedule:

The agency will be able to comply with the regulation immediately upon its adoption.

Regulatory Flexibility Analysis

This statement is being submitted pursuant to subdivision (3) of section 202-b of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making, seeking to add a new section 2201.16 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse economic impact on small businesses or local governments. HESC finds that this rule will not impose any compliance requirement or adverse economic impact on small businesses or local governments. Rather, it has potential positive economic impacts inasmuch as it implements a statutory student financial aid program that provides merit-based scholarships to students who pursue their undergraduate degree at any college or university located in New York State. Providing students with direct financial assistance will encourage them to attend college in New York State, which will provide an economic benefit to the State's small businesses and local governments as well.

Rural Area Flexibility Analysis

This statement is being submitted pursuant to subdivision (4) of section 202-bb of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's Emergency Rule Making, seeking to add a new section 2201.16 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse impact on rural areas. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides merit-based scholarships to students who pursue their undergraduate degree at any college or university located in New York State. Providing students with direct financial assistance will encourage them to attend college in New York State, which benefits rural areas around the State as well.

This agency finds that this rule will not impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

This statement is being submitted pursuant to subdivision (2) of section 201-a of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's Emergency Rule Making seeking to add a new section 2201.16 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not have any negative impact on jobs or employment opportunities. Rather, it has potential positive economic impacts inasmuch as it implements a statutory student financial aid program that provides merit-based scholarships to students who pursue their undergraduate degree at any college or university located in New York State. Providing students with direct financial assistance will encourage them to attend college in New York State and possibly seek employment opportunities in the State as well, which will benefit the State.

EMERGENCY RULE MAKING

New York State Get on Your Feet Loan Forgiveness Program

I.D. No. ESC-43-16-00002-E

Filing No. 934

Filing Date: 2016-10-06

Effective Date: 2016-10-06

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

Action taken: Addition of section 2201.15 to Title 8 NYCRR.

Statutory authority: Education Law, sections 653, 655 and 679-g

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

Specific reasons underlying the finding of necessity: This statement is being submitted pursuant to subdivision (6) of section 202 of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making seeking to add a new section 2201.15 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This regulation implements a statutory student financial aid program providing for awards to be made to students who receive their undergraduate degree from a college or university located in New York State in December 2014 and thereafter. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible applicants. The statute provides for student loan relief to such college graduates who continue to live in New York State upon graduation, earn less than \$50,000 per year, participate in either the federal Pay as You Earn (PAYE) or Income Based Repayment (IBR) program, which cap a federal student loan borrower's payments at 10 percent of discretionary income, and apply for this program within two years after graduating from college. Eligible applicants will have up to twenty-four payments made on their behalf towards their federal income-based repayment plan commitment. For those students who graduated in December 2014, their first student loan payment will become due upon the expiration of their grace period in June 2015. Therefore, it is critical that the terms of this program as provided in the regulation be effective immediately in order for HESC to process applications so that timely payments can be made on behalf of program recipients. To accomplish this mandate, the statute further provides for HESC to promulgate emergency regulations to implement the program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: New York State Get on Your Feet Loan Forgiveness Program.

Purpose: To implement the New York State Get on Your Feet Loan Forgiveness Program.

Text of emergency rule: New section 2201.15 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.15 New York State Get on Your Feet Loan Forgiveness Program.

(a) *Definitions. As used in section 679-g of the education law and this section, the following terms shall have the following meanings:*

(1) *"Adjusted gross income" shall mean the income used by the U.S. Department of Education to qualify the applicant for the federal income-driven repayment plan.*

(2) *"Award" shall mean a New York State Get on Your Feet Loan Forgiveness Program award pursuant to section 679-g of the education law.*

(3) *"Deferment" shall have the same meaning applicable to the William D. Ford Federal Direct Loan Program as set forth in 34 CFR Part 685.*

(4) *"Delinquent" shall mean the failure to pay a required scheduled payment on a federal student loan within thirty days of such payment's due date.*

(5) *"Forbearance" shall have the same meaning applicable to the William D. Ford Federal Direct Loan Program as set forth in 34 CFR Part 685.*

(6) *"Income" shall mean the total adjusted gross income of the applicant and the applicant's spouse, if applicable.*

(7) *"Program" shall mean the New York State Get on Your Feet Loan Forgiveness Program.*

(8) *"Undergraduate degree" shall mean an associate or baccalaureate degree.*

(b) *Eligibility. An applicant must satisfy the following requirements:*

(1) *have graduated from a high school located in the State or attended an approved State program for a State high school equivalency diploma and received such diploma. An applicant who received a high school diploma, or its equivalent, from another state is ineligible for a Program award;*

(2) *have graduated and obtained an undergraduate degree from a college or university located in the State in or after the two thousand fourteen-fifteen academic year;*

(3) *apply for this program within two years of obtaining such undergraduate degree;*

(4) *not have earned a degree higher than an undergraduate degree at the time of application;*

(5) *be a participant in a federal income-driven repayment plan whose payment amount is generally ten percent of discretionary income;*

(6) *have income of less than fifty thousand dollars;*

(7) *comply with subdivisions three and five of section 661 of the education law;*

(8) *work in the State, if employed. A member of the military who is on*

active duty and for whom New York is his or her legal state of residence shall be deemed to be employed in NYS;

(9) *not be delinquent on a federal student loan or in default on a student loan made under any statutory New York State or federal education loan program or repayment of any New York State award; and*

(10) *be in compliance with the terms of any service condition imposed by a New York State award.*

(c) *Administration.*

(1) *An applicant for an award shall apply for program eligibility at such times, on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility.*

(2) *A recipient of an award shall:*

(i) *request payment at such times, on such forms and in a manner as prescribed by the corporation;*

(ii) *confirm he or she has adjusted gross income of less than fifty thousand dollars, is a resident of New York State, is working in New York State, if employed, and any other information necessary for the corporation to determine eligibility at such times prescribed by the corporation. Said submissions shall be on forms or in a manner prescribed by the corporation;*

(iii) *notify the corporation of any change in his or her eligibility status including, but not limited to, a change in address, employment, or income, and provide the corporation with current information;*

(iv) *not receive more than twenty four payments under this program; and*

(v) *provide any other information or documentation necessary for the corporation to determine compliance with the program's requirements.*

(d) *Amounts and duration.*

(1) *The amount of the award shall be equal to one hundred percent of the recipient's established monthly federal income-driven repayment plan payment whose payment amount is generally ten percent of discretionary income and whose payment is based on income rather than loan debt.*

(2) *In the event the established monthly federal income-driven repayment plan payment is zero or the applicant is otherwise not obligated to make a payment, the applicant shall not qualify for a Program award.*

(3) *Disbursements shall be made to the entity that collects payments on the federal student loan or loans on behalf of the recipient on a monthly basis.*

(4) *A maximum of twenty-four payments may be awarded, provided the recipient continues to satisfy the eligibility requirements set forth in section 679-g of the education law and the requirements set forth in this section.*

(e) *Disqualification. A recipient shall be disqualified from receiving further award payments under this program if he or she fails to satisfy any of the eligibility requirements, no longer qualifies for an award, or fails to respond to any request for information by the corporation.*

(f) *Renewed eligibility. A recipient who has been disqualified pursuant to subdivision (e) may reapply for this program and receive an award if he or she satisfies all of the eligibility requirements set forth in section 679-g of the education law and the requirements set forth in this section.*

(g) *Repayment. A recipient who is not a resident of New York State at the time a payment is made under this program shall be required to repay such payment or payments to the corporation. In addition, at the corporation's discretion, a recipient may be required to repay to the corporation any payment made under this program that, at the time payment was made, should have been disqualified pursuant to subdivision (e). If a recipient is required to repay any payment or payments to the corporation, the following provisions shall apply:*

(1) *Interest shall begin to accrue on the day such payment was made on behalf of the recipient. In the event the recipient notifies the corporation of a change in residence within 30 days of such change, interest shall begin to accrue on the day such recipient was no longer a New York State resident.*

(2) *The interest rate shall be fixed and equal to the rate established in section 18 of the New York State Finance Law.*

(3) *Repayment must be made within five years.*

(4) *Where a recipient has demonstrated extreme hardship as a result of a disability, labor market conditions, or other such circumstances, the corporation may, in its discretion, waive or defer payment, extend the repayment period, or take such other appropriate action.*

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 January 3, 2017.

Text of rule and any required statements and analyses may be obtained from: Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1325, Albany, New York 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

Regulatory Impact Statement**Statutory authority:**

The New York State Higher Education Services Corporation's ("HESC") statutory authority to promulgate regulations and administer the New York State Get on Your Feet Loan Forgiveness Program ("Program") is codified within Article 14 of the Education Law. In particular, Part C of Chapter 56 of the Laws of 2015 created the Program by adding a new section 679-g to the Education Law. Subdivision 4 of section 679-g of the Education Law authorizes HESC to promulgate emergency regulations for the purpose of administering this Program.

Pursuant to Education Law § 652(2), HESC was established for the purpose of improving the post-secondary educational opportunities of eligible students through the centralized administration of New York State financial aid programs and coordinating the State's administrative effort in student financial aid programs with those of other levels of government.

In addition, Education Law § 653(9) empowers HESC's Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation including the promulgation of rules and regulations.

HESC's President is authorized, under Education Law § 655(4), to propose rules and regulations, subject to approval by the Board of Trustees, governing, among other things, the application for and the granting and administration of student aid and loan programs, the repayment of loans or the guarantee of loans made by HESC; and administrative functions in support of state student aid programs. Also, consistent with Education Law § 655(9), HESC's President is authorized to receive assistance from any Division, Department or Agency of the State in order to properly carry out his or her powers, duties and functions. Finally, Education Law § 655(12) provides HESC's President with the authority to perform such other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of HESC.

Legislative objectives:

The Education Law was amended to add a new section 679-g to create the "New York State Get on Your Feet Loan Forgiveness Program" (Program). The objective of this Program is to ease the burden of federal student loan debt for recent New York State college graduates.

Needs and benefits:

More than any other time in history, a college degree provides greater opportunities for graduates than is available to those without a postsecondary degree. However, financing that degree has also become more challenging. According to a June 9, 2014 Presidential Memorandum issued by President Obama, over the past three decades, the average tuition at a public four-year college has more than tripled, while a typical family's income has increased only modestly. More students than ever are relying on loans to pay for college. Today, 71 percent of those earning a bachelor's degree graduate with debt, which averages \$29,400. Many of these students feel burdened by debt, especially as they seek to start a family, buy a home, launch a business, or save for retirement. To ensure that student debt is manageable, the federal government enacted income-driven repayment plans, such as the Pay as You Earn (PAYE) plan, which caps a federal student loan borrower's payments at 10 percent of income.

Although New York's public colleges and universities offer among the lowest tuition in the nation, currently the average New York student graduates from college with a four-year degree saddled with more than \$25,000 in student loans. Mounting student debt makes it difficult for recent graduates to deal with everyday costs of living, which often increases the amount of credit card and other debt they must take on in order to survive. To help mitigate the disparate growth in the cost of financing a postsecondary education, this Program offers financial aid relief to recent college graduates by providing up to twenty-four payments towards an eligible applicant's federal income-based student loan repayment plan commitment. Students who receive their undergraduate degree from a college or university located in New York State in December 2014 and thereafter, who continue to live in New York State upon graduation, earn less than \$50,000 per year, participate in either the federal Pay as You Earn (PAYE) or applicable federal Income Based Repayment (IBR) program, and apply for this Program within two years after graduating from college are eligible for this Program.

Costs:

a. It is anticipated that there will be no new costs to the agency for the implementation of, or continuing compliance with this rule.

b. The maximum cost of the program to the State is \$5.2 million in the first year based upon budget estimates.

c. It is anticipated that there will be no costs to local governments for the implementation of, or continuing compliance with, this rule.

d. The source of the cost data in (b) above is derived from the New York State Division of the Budget.

Local government mandates:

No program, service, duty or responsibility will be imposed by this rule upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

This proposal will require applicants to file an electronic application for eligibility and payment together with supporting documentation.

Duplication:

No relevant rules or other relevant requirements duplicating, overlapping, or conflicting with this rule were identified.

Alternatives:

The proposed regulation is the result of HESC's outreach efforts to the U.S. Department of Education with regard to this Program. Several alternatives were considered in the drafting of this regulation. For example, several alternatives were considered in defining terms used in the regulation as well as the administration of the Program. Given the statutory language as set forth in section 679-g of the Education Law, a "no action" alternative was not an option.

Federal standards:

This proposal does not exceed any minimum standards of the Federal Government. Since this Program is intended to supplement federal repayment programs, efforts were made to align the Program with the federal programs.

Compliance schedule:

The agency will be able to comply with the regulation immediately upon its adoption.

Regulatory Flexibility Analysis

This statement is being submitted pursuant to subdivision (3) of section 202-b of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making, seeking to add a new section 2201.15 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse economic impact on small businesses or local governments. HESC finds that this rule will not impose any compliance requirement or adverse economic impact on small businesses or local governments. Rather, it has potential positive economic impacts inasmuch as it implements a statutory student financial aid program that eases the burden of federal student loan debt for recent New York State college graduates who continue to live in the State. Providing students with direct financial assistance will encourage students to attend college in New York State and remain in the State following graduation, which will provide an economic benefit to the State's small businesses and local governments as well.

Rural Area Flexibility Analysis

This statement is being submitted pursuant to subdivision (4) of section 202-bb of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's Emergency Rule Making, seeking to add a new section 2201.15 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse impact on rural areas. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that eases the burden of federal student loan debt for recent New York State college graduates who continue to live in the State. Providing students with direct financial assistance will encourage students to attend college in New York State and remain in the State following graduation, which benefits rural areas around the State as well.

This agency finds that this rule will not impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

This statement is being submitted pursuant to subdivision (2) of section 201-a of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's Emergency Rule Making seeking to add a new section 2201.15 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not have any negative impact on jobs or employment opportunities. Rather, it has potential positive economic impacts inasmuch as it implements a statutory student financial aid program that eases the burden of federal student loan debt for recent New York State college graduates who continue to live in the State. Providing students with direct financial assistance will encourage students to attend college in New York State and remain in the State following graduation, which benefits the State as well.

**Office of Parks, Recreation and
Historic Preservation**

NOTICE OF ADOPTION

**An Updated List of Facilities Within the Jurisdiction of the NYS
Office of Parks, Recreation and Historic Preservation (OPRHP)**

I.D. No. PKR-30-16-00010-A

Filing No. 940

Filing Date: 2016-10-11

Effective Date: 2016-10-26

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

Action taken: Amendment of sections 384.1-384.4, 384.7, 384.10 and 384.11 of Title 9 NYCRR.

Statutory authority: Parks, Recreation and Historic Preservation Law, sections 3.09(8) and 13.03(1)

Subject: An updated list of facilities within the jurisdiction of the NYS Office of Parks, Recreation and Historic Preservation (OPRHP).

Purpose: To keep accurate and updated the list of facilities within OPRHP's jurisdiction.

Text or summary was published in the July 27, 2016 issue of the Register, I.D. No. PKR-30-16-00010-P.

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

Text of rule and any required statements and analyses may be obtained from: Shari Calnero, Associate Counsel, NYS OPRHP, 625 Broadway, Albany, NY 12238, (518) 486-2921, email: shari.calnero@parks.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

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

Notice of Intent to Submeter Electricity

I.D. No. PSC-43-16-00003-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 the Notice of Intent, filed by Haus LLC to submeter electricity at 152 Freeman Street, 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 Notice of Intent of Haus LLC to submeter electricity at 152 Freeman Street, Brooklyn, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by Haus LLC on September 19, 2016, to submeter electricity at 152 Freeman Street, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve 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.

(16-E-0539SP1)

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

Notice of Intent to Submeter Electricity

I.D. No. PSC-43-16-00004-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 the Notice of Intent, filed by 50 West Street Condominium to submeter electricity at 50 West Street, New York, 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 Notice of Intent of 50 West Street Condominium to submeter electricity at 50 West Street, New York, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by 50 West Street Condominium on September 19, 2016, to submeter electricity at 50 West Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve 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.

(16-E-0538SP1)

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

NYSRC's Revisions to Its Rules and Measurements

I.D. No. PSC-43-16-00005-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 revisions to the rules and measurements of the New York State Reliability Council (NYSRC) contained in Version 38 of the NYSRC's Reliability Rules.

Statutory authority: Public Service Law, sections 4(1), 5(2), 65(1), 66(1), (2), (4) and (5)

Subject: NYSRC's revisions to its rules and measurements.

Purpose: To consider revisions to various rules and measurements of the NYSRC.

Substance of proposed rule: The Public Service Commission (PSC) is considering revisions to the rules and measurements of the New York State Reliability Council (NYSRC) contained in Version 38 of the NYSRC's Reliability Rules, which were filed with the PSC on October 5, 2016. The Commission may adopt, reject, or modify, in whole or in part, the revised rules and measurements, and may resolve 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.

(05-E-1180SP17)

Rochester-Genesee Regional Transportation Authority

NOTICE OF ADOPTION

Identifies Prohibited Conduct, Consequences of Prohibited Conduct, and the Available Appeals Process

I.D. No. RGT-04-16-00002-A

Filing No. 938

Filing Date: 2016-10-11

Effective Date: 2016-10-26

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

Action taken: Addition of Part 2800 to Title 21 NYCRR.

Statutory authority: Public Authorities Law, art. 5, title 11-B, section 1299-hh, (4)

Subject: Identifies prohibited conduct, consequences of prohibited conduct, and the available appeals process.

Purpose: To provide rules governing prohibited conduct to enhance the safety of the public using RGRTA's transportation services.

Substance of final rule: Adds 21 NYCRR Part 2800. RGRTA Rules of Conduct for Transit Vehicles, Facilities, and Properties

§ 2800.1. Introduction.

(a) RGRTA transit vehicles, facilities, and properties are intended to provide public transportation services for the benefit of RGRTA, its subsidiaries, its employees, and the public.

(b) Public Authorities Law § 1299-hh allows RGRTA to make rules and regulations governing the conduct and safety of the public in the use and operation of its transit facilities. RGRTA establishes the Rules of Conduct for RGRTA Transit Vehicles, Facilities, and Properties ("Rules of Conduct") to promote safety, enable proper use of its transit facilities, protect those transit facilities and their customers, and assure payment of lawful charges for the use of their systems.

(c) The Rules of Conduct are intended to regulate conduct on RGRTA transit vehicles, within or upon RGRTA facilities and properties, including the RTS Transit Center, and in connection with RGRTA's public transportation services.

(d) Any one or more of the provision(s) declared by any court of competent jurisdiction to be contrary to law, shall be null, void and deemed separable from the remaining provisions in the Rules of Conduct and shall not affect the validity of its other provisions.

§ 2800.2. Definitions.

(1) "Authority" and "RGRTA"—the Rochester Genesee Regional Transportation Authority and its wholly controlled subsidiaries (RTS, RTS Access, RTS Genesee, RTS Livingston, RTS Ontario, RTS Orleans, RTS Seneca, RTS Wayne, and RTS Wyoming).

(2) "Commercial activity or activities"—any enterprise for the purpose of promoting or selling products or services to RGRTA employees or the public, whether for profit or not.

(3) "Harassment"—when a person intentionally and repeatedly acts in a way that places another person in reasonable fear of physical injury; or when a person intends to harass/annoy/alarm another person by: threatening with, attempting to make, or subjecting such other person to

physical contact (striking, shoving, kicking); following such other person in a public place; or engaging in a course of conduct or repeated action which alarms or seriously annoys such other person and which serves no legitimate purpose.

(4) "Loitering"—remaining in any transportation facility, unless authorized, for the purpose of soliciting or engaging in any business, trade, or commercial transactions involving the sale of merchandise or services, or for the purpose of entertaining persons.

(5) "Public communication activity or public activities"—posting or distributing written material, collecting signatures, political campaigning, demonstrating, displaying signs, unscheduled performances, public speaking, conducting surveys, soliciting or receiving funds or contributions, attempting to communicate with the public.

(6) "Public transportation services"—fixed route and paratransit services operated by RGRTA or any governmental agency, private person, firm or corporation contracting with RGRTA.

(7) "RGRTA employee"—any part-time or full-time, temporary or regular, exempt or non-exempt, represented or non-represented person, including an intern, whom RGRTA compensates for services by wages, salary, or other remuneration.

(8) "RGRTA facilities and properties"—all facilities, amenities, lands, interest in lands, air rights over lands, and rights of way of all kinds that are owned, leased, held, or used by RGRTA.

(9) "Transit-related activities"—activities associated with providing or supporting RGRTA public transportation services, the use of those services by the public, or RGRTA sales, promotion and maintenance activities in support of RGRTA services.

(10) "Transit Vehicle"—every motor vehicle and device RGRTA owns or operates that can be moved within, upon, above, or below a public highway.

§ 2008.3 Prohibited Conduct.

Repealed and replaced with § 2008.4.

§ 2008.4 Prohibited Conduct.

(a) The following conduct is prohibited on transit vehicles, properties, and facilities and in connection with public transportation services, unless otherwise authorized in writing by RGRTA or its designee. The RTS Transit Center is exclusively for transit-related activities, including riding buses and aiding others, thus the following prohibitions apply.

(1) Engaging in non-transit-related activities.

(2) Violating an exclusion issued under § 2800.5, or any federal, state, or municipal civil and/or criminal law.

(3) Failing to pay the fare or possess the fare pass as required by RGRTA.

(4) Pretending to be an RGRTA employee/volunteer or eligible for a special or reduced fare, permit, or pass.

(5) Refusing to allow proper securement of a mobility device.

(6) Tampering with RGRTA, fire, or police equipment.

(7) Covering the face with clothing/equipment while in the RTS Transit Center concourse, except for religious or medical purposes.

(8) Using any nicotine/tobacco product or smoking device (chewing tobacco, e-cigarettes, vaping) or holding a lit pipe, cigar, or cigarette, except at a designated place.

(9) Littering or dumping materials, particularly hazardous substances and automotive fluids.

(10) Engaging in disorderly conduct or creating a breach of the peace by behavior including but not limited to producing unreasonable noise; fighting or running; disturbing others by engaging in boisterous, raucous, unruly, aggressive, violent, or harmful behavior; or using obscene language or language likely to provoke a violent reaction of fear, anger, or apprehension.

(11) Expelling bodily fluid or human waste except in the appropriate areas of restroom facilities.

(12) Carrying or storing any firearm, dangerous weapon, or hazardous material, article or liquid, especially flammable liquids, explosives, or corrosives.

(13) Obstructing transit vehicles or customers.

(14) Hindering the provision or use of public transportation services.

(15) Causing any false alarm or falsely reporting an incident.

(16) Destroying or damaging RGRTA property or any materials on transit property.

(17) Consuming an alcoholic beverage or possessing an open container containing an alcoholic beverage.

(18) Throwing any object anywhere, at any person, or out any door/window.

(19) Bringing in any uncaged animal, other than a service animal.

(20) Allowing any animal to occupy a seat unless required by applicable law, unreasonably disturb others, or interfere with transit-related activities.

(21) Roller-skating, using roller-shoes, rollerblading, or skateboarding.

- (22) Cycling except where public vehicle travel and access are permitted.
- (23) Parking except as authorized.
- (24) Operating a vehicle or standing in any location restricted to transit vehicles or otherwise.
- (25) Eating in prohibited areas unless required by applicable law.
- (26) Using an amplifier.
- (27) Sitting or reclining on floors, sidewalks, asphalt, or other ground covering; reclining on benches; or sleeping, camping, or storing materials on benches, floors, or in front of doors.
- (28) Entering nonpublic areas.
- (29) Not wearing shoes and/or clothing.
- (30) Engaging in commercial activities, public communication activities, public activities involving boxes, easels, or similar equipment, sports activities, or any other civic, cultural, or special event.
- (31) Distributing, selling, or offering for sale or donation any written or printed material.
- (32) Soliciting funds.
- (33) Engaging in any form of sexual activity, gambling, loitering, or harassment.
- (34) Entering while unable to care for oneself due to illness, intoxication, or medication(s).
- (35) Misusing any component in a manner that could injure oneself or others.
- (36) Remaining in front of the safety line on any moving RGRTA bus or after being asked to move behind the line by the Operator.

§ 2800.5. Enforcement

(a) Removal from RGRTA Transit Vehicles, Facilities, and Properties

(1) Any person engaging in prohibited conduct may be refused entrance or ordered to leave by law enforcement, RGRTA personnel, or designees. Failure to comply may be grounds for arrest and prosecution.

(b) Exclusion from Service

Except as provided in § 2008.5(b) (4), employees shall not continually refuse service to anyone not excluded through the Rules of Conduct or a court order.

(1) Basis for Exclusion

(i) Prohibited conduct is cause for excluding a person from entering and using all or any part of transit vehicles, facilities, and properties including the RTS Transit Center for a period based on the number of violations in 5 years and/or the severity of the violation(s).

(2) Notice Procedure

(i) The RGRTA Chief Executive Officer or designee (“CEO/designee”), sends written notice, by personal delivery, certified mail, or regular U.S. mail, to the last known address of the person being excluded. The notice specifies the reason for the exclusion, identifies the place(s), duration, and effective date of exclusion, explains the appeal process, and provides an opportunity to respond within 5 business days of receipt (actual or constructive) of the notice.

(ii) Exclusion commences the 6th business day after receipt of the notice.

(iii) If the person timely requests an administrative review of the notice, the CEO/designee reviews the exclusion, renders a written decision within 5 business days from the date of the timely request, and sends the decision to the person’s last known address. If the CEO/designee deems the exclusion warranted, it is effective upon receipt of the written decision.

(3) Constructive Notice

Receipt of a notice is construed accomplished if the person can infer from the circumstances that he/she is excluded from transit vehicles, facilities, and properties. Receipt is also presumed accomplished 3 business days after the notice was sent.

(4) Immediate Refusal or Removal

(i) The notice provisions may be waived, if, in RGRTA’s discretion, the immediate conditions pose safety or security risks, impinge on the rights of others, or disrupt transit-related activities.

(ii) In such conditions, persons engaging in prohibited conduct may be reseated, refused transportation, or removed. The notice/administrative review provisions are only available to persons excluded for 31 calendar days or more.

(5) Refusal to Comply

Refusing to comply with an exclusion order shall be grounds for arrest and prosecution.

(6) Length of Exclusion

Suggested exclusion lengths are based on the provisions of § 2008.4 and/or the severity of the violation(s). The number of violations over 5 years determines the duration. RGRTA can impose a longer exclusion for any violation where the severity warrants it, even if it is the first violation.

- (i) First violation = 7 or 30 days exclusion
- (ii) Second violation = 30 or 60 days exclusion
- (iii) Third violation = 90 days exclusion

(iv) Each successive violation in a 5 year period = 180 days exclusion

(7) Appeal Procedure

The appeal process is provided to persons excluded for 31 days or more. Ten calendar days after exclusion starts, an excluded person may appeal in writing to the CEO/designee for de novo review. The exclusion start date is the date the exclusion became effective per RGRTA’s official records. The appellant may request a hearing or a review without a hearing through a written statement explaining why the exclusion is invalid. If the excluded person cannot respond in writing, RGRTA will make reasonable accommodation to allow due process. The CEO/designee shall convene a Hearing Panel comprised of 3 of the following persons or their designees:

- (i) Director of Transit Center and Field Operations;
- (ii) Manager of Field Operations;
- (iii) Director of RTS Bus Operations; or
- (iv) A staff person—other than the CEO—selected by the CEO/designee.

The majority decision is the decision of the Hearing Panel.

(8) Hearing

If a hearing is requested, it is held within 20 calendar days after receipt of the appeal. If a review without a hearing is requested, the Hearing Panel reviews the matter based upon the record within 20 calendar days after receipt of the appeal. The Hearing Panel renders a written decision 20 calendar days after the hearing or review. Exclusions are not stayed during the appeal process. If necessary, the appellant should contact the CEO/designee 5 business days prior to the hearing date to arrange for public transportation to attend the hearing.

(9) Other Laws Not Limited

The enforcement of § 2008.5 herein is not intended to limit, in any manner, the enforcement of any applicable federal, state or municipal laws, provided RGRTA is not authorized to assist a patron or employee in enforcing a court order prohibiting or restricting contact with any other person other than to notify appropriate law enforcement personnel via RGRTA’s Radio Control/Dispatch or Security.

(c) Liability

Nothing in § 2008.5 herein shall create a duty to any person on the part of RGRTA or form any basis for liability on the part of RGRTA, its officers, agents, or employees. The obligation to comply with § 2008.5 is solely that of any person entering and using transit vehicles, facilities, and properties and RGRTA’s enforcement of § 2008.5 is discretionary not mandatory.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 2800.1, 2800.2(a), 2800.3, 2800.4 and 2800.5.

Text of rule and any required statements and analyses may be obtained from: Daniel DeLaus, Chief Legal Counsel, Rochester Genesee Regional Transportation Authority “RGRTA”, 1372 East Main Street, Rochester NY 14609, (585) 654-0771, email: ddelaus@myrts.com

Revised Regulatory Impact Statement

Changes to the notice RGT-04-16-00002-P proposed rule to add Part 2800. RGRTA Rules of Conduct Title NYCRR do not necessitate revision to any of the following in the previously submitted Regulatory Impact Statement: statutory authority, legislative objectives, needs and benefits, costs, local government mandates, paperwork, duplication, alternatives, federal standards, and compliance schedule.

Revised Regulatory Flexibility Analysis

Changes to the notice RGT-04-16-00002-P proposed rule to add Part 2800. RGRTA Rules of Conduct Title NYCRR do not necessitate revision to the previously submitted Regulatory Flexibility Analysis as the rules still will not impose any fee or cost upon users, the Authority is not including a cure period in the rulemaking, and the purpose remains the same.

Revised Rural Area Flexibility Analysis

Changes to the notice RGT-04-16-00002-P proposed rule to add Part 2800. RGRTA Rules of Conduct Title NYCRR do not necessitate revision to the previously submitted Rural Area Flexibility Analysis. The size and urban location of RGRTA’s RTS Transit Center remains the same and RGRTA does not have any facility serving the general public that is larger than the RTS Transit Center. RGRTA’s facilities in surrounding Rochester counties are not for use by the general public and the rules will not result in any change to the fare structure for the routes served in rural areas.

Revised Job Impact Statement

Changes to the notice RGT-04-16-00002-P proposed rule to add Part 2800. RGRTA Rules of Conduct Title NYCRR do not necessitate revision to the previously submitted Job Impact Statement because the nature of the rule is unchanged and thus as the rule relates to a code of conduct for users of transit facilities it will continue to have no adverse effects on jobs or employment opportunities.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, 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.