

# 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 <i>State Register</i> 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 Civil Service

---

---

### NOTICE OF ADOPTION

#### Jurisdictional Classification

**I.D. No.** CVS-01-17-00016-A

**Filing No.** 213

**Filing Date:** 2017-03-23

**Effective Date:** 2017-04-12

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

**Action taken:** Amendment of Appendix 3 of Title 4 NYCRR.

**Statutory authority:** Civil Service Law, section 6(1)

**Subject:** Jurisdictional Classification.

**Purpose:** To classify positions in the labor class.

**Text or summary was published** in the January 4, 2017 issue of the Register, I.D. No. CVS-01-17-00016-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov

#### Assessment of Public Comment

The agency received no public comment.

---

---

## Department of Corrections and Community Supervision

---

---

### NOTICE OF ADOPTION

#### Inmate Grievance Program

**I.D. No.** CCS-02-17-00004-A

**Filing No.** 218

**Filing Date:** 2017-03-24

**Effective Date:** 2017-04-12

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

**Action taken:** Addition of sections 701.2(j) and 701.3(i); amendment of section 701.8 of Title 7 NYCRR.

**Statutory authority:** Correction Law, sections 112 and 139

**Subject:** Inmate Grievance Program.

**Purpose:** Use grievance program to report sexual abuse/harassment, ensuring failure to file timely will not be a bar to seek legal review.

**Text or summary was published** in the January 11, 2017 issue of the Register, I.D. No. CCS-02-17-00004-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, Albany, NY 12226-2050, (518) 457-4951, email: Rules@dccs.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 2020, 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.

---

---

## Division of Criminal Justice Services

---

---

### NOTICE OF ADOPTION

#### Central Registry of Police Officers and Peace Officers

**I.D. No.** CJS-06-17-00002-A

**Filing No.** 221

**Filing Date:** 2017-03-28

**Effective Date:** 2017-04-12

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

**Action taken:** Amendment of sections 6056.2(g), (h) and 6056.4(c)(5) of Title 9 NYCRR.

**Statutory authority:** Executive Law, section 837(13); 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 further define and clarify definitions.

**Text or summary was published** in the February 8, 2017 issue of the Register, I.D. No. CJS-06-17-00002-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 does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, 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.

---



---

## Education Department

---



---

### EMERGENCY RULE MAKING

#### Epinephrine Auto-Injector Devices

**I.D. No.** EDU-04-17-00012-E

**Filing No.** 219

**Filing Date:** 2017-03-28

**Effective Date:** 2017-03-28

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

**Action taken:** Amendment of section 136.6 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101(not subdivided), 207(not subdivided), 305(1), (2), 901(1), (2), 902(1), (2), 903(1), (2), (3), 904(1), 906(1), (2), (3), 921(1), (2), 3208(1), (2), (3), (4) and (5); L. 2016, ch. 373

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

**Specific reasons underlying the finding of necessity:** The proposed rule is necessary to implement Chapter 373 of the Laws of 2016, which amends section 3000-c of the Public Health Law, effective March 28, 2017, which permits school districts, boards of cooperative educational services (BOCES), county vocational education and extension boards, charter schools, and non-public elementary and secondary schools in the State to possess and use epinephrine auto-injector devices for emergency treatment of a person appearing to experience anaphylactic symptoms.

A Notice of Proposed Rulemaking was published in the State Register on January 25, 2017. However, since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the April 10-11, 2017 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the April meeting, would be April 26, 2017, the date a Notice of Adoption would be published in the State Register. However, the provisions of Chapter 373 become effective on March 28, 2017 and section 3 of the statute directs the Commissioner to promulgate necessary regulations for the timely implementation of the statute on its effective date.

Therefore, emergency action is necessary at the March 2017 Regents meeting for the preservation of the general welfare in order to immediately implement the provisions of Chapter 373 of the Laws of 2016, and thus ensure the timely implementation of the statute on its effective date.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the April 10-11, 2017 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act for State agency rule makings.

**Subject:** Epinephrine Auto-Injector Devices.

**Purpose:** To implement the provisions of ch. 373 of the Laws of 2016.

**Text of emergency rule:** 1. Section 136.6 of the Regulations of the Commissioner of Education is amended, effective March 28, 2017, as follows:

(a) Definitions. As used in this section:

(1) Epinephrine auto-injector *device* means [an automated injection delivery device, approved by the United States Food and Drug Administration, for injecting a measured dose of the drug epinephrine] *a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body for the purpose of emergency treatment of a person appearing to experience anaphylactic symptoms approved by the United States Food and Drug Administration.*

(2) Trained school personnel means any person employed by a school district, board of cooperative educational services, county vocational education and extension board, charter school or non-public elementary and secondary school, including but not limited to, health professionals who have successfully completed a training course in the use of epinephrine auto-injector devices approved by the Department of Health pursuant to Public Health Law section 3000-c.

(3) Collaborative agreement means a written agreement with an emergency health care provider pursuant to Public Health Law section 3000-c that incorporates written practice protocols, and policies and procedures that shall ensure compliance with the provisions of Public Health Law section 3000-c.

(4) Emergency health care provider means:

(i) a physician with knowledge and experience in the delivery of emergency care; or

(ii) a hospital licensed under Article 28 of the Public Health Law that provides emergency care.

(5) Regional Council means a regional emergency medical services council established pursuant to Public Health Law section 3003.

(6) (3) Instructional school facility means a building or other facility maintained by a school district, board of cooperative educational services, a county vocational education and extension board, charter school, or non-public elementary and secondary school where instruction is provided to students pursuant to its curriculum.

(b) Each school district, board of cooperative educational services, county vocational education and extension board, charter school, and non-public elementary and secondary school may provide and maintain on-site in each instructional school facility epinephrine auto-injectors for use during emergencies in accordance with Public Health Law section 3000-c. Each such facility shall have sufficient epinephrine auto-injectors available to ensure ready and appropriate access for use during emergencies to any student or staff having symptoms of anaphylaxis whether or not there is a previous history of severe allergic reaction. In determining the quantity and placement of epinephrine auto-injectors [in collaboration with the emergency health care provider,] consideration shall be given to:

(1) the number of students, staff and other individuals that are customarily or reasonably anticipated to be within such facility; and

(2) the physical layout of the facility, including but not limited to:

(i) location of stairways and elevators;

(ii) number of floors in the facility;

(iii) location of classrooms and other areas of the facility where large congregations of individuals may occur; and

(iv) any other unique design features of the facility.

[(c) The school district, board of cooperative educational services, county vocational education and extension board, charter school, or non-public elementary and secondary school shall file a copy of the collaborative agreement with the appropriate Regional Council. Trained school personnel shall not administer an epinephrine auto-injector in accordance with Public Health Law 3000-c prior to the filing of the collaborative agreement with the Regional Council.

(d) [(c) In the event of an emergency, trained school personnel or school personnel directed in a specific instance to use an epinephrine auto-injector device by a health care practitioner as defined in Public Health Law section 3000-c, may administer an epinephrine auto-injector to any student or school personnel having symptoms of anaphylaxis in an instructional school facility, whether or not there is a previous history of severe allergic reaction pursuant to Public Health Law section 3000-c.

[(e) Every use of an epinephrine auto-injector device pursuant to this section and Public Health Law section 3000-c shall immediately be reported to the emergency health care provider.]

**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. EDU-04-17-00012-P, Issue of January 25, 2017. The emergency rule will expire June 25, 2017.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, New York State Education Department, 89 Washington Avenue, Albany, NY 12234, (518) 474-4817, email: legal@nysed.gov

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY:

Ed.L. § 101 charges SED with the general management and supervision of public schools and the educational work of the State.

Ed.L. § 207 empowers the Board of Regents (Regents) and the Commissioner to adopt rules and regulations to carry out the laws of the State regarding education and the functions and duties conferred on the Department by law.

Ed.L. § 305(1) and (2) provide that the Commissioner, as chief executive officer of the State system of education and of the Regents, shall have general supervision over all schools and institutions subject to the provisions of the Education Law, or of any statute relating to education.

Ed.L. § 901(1) and (2), as amended by Ch. 58 of the Laws of 2006, requires school health services to be provided by each school district for all students attending the public schools in this State, except in the city school district of the city of New York.

Ed.L. § 902(1) and (2) provide for the employment of health professionals by school districts, and requires districts to employ a director of school health services to perform and coordinate the provision of health services in the public schools and to provide health appraisals of students attending its schools.

Ed.L. § 903(1) requires that health certificates be furnished by each student in the public schools upon entrance into school and in the grades prescribed by the Commissioner in regulations. Section 903(2), as amended by Ch. 57 of the Laws of 2013, requires schools to request that students furnish dental health certificates at the same time a health certificate is required. Section 903(3) provides that failure to furnish health certificates within 30 days of entrance will result in notice to the person in parental relationship to such student that if the certificate is not provided within 30 days of notice, a health appraisal will be made pursuant to the provisions of Article 19.

Ed.L. § 904(1) provides that the principal or principal's designee shall report to the director of school health services the names of all students who have not furnished health certificates or who are children with disabilities and the director shall cause such students to be examined.

Ed.L. § 905(1) requires screening examinations for vision, hearing and scoliosis at such times and as defined in the regulations of the Commissioner.

Ed.L. § 906(1), (2) and (3), provides for the exclusion and examination, and examination upon readmittance of students showing symptoms of communicable or infectious disease reportable under the Public Health Law, and for the evaluation of teachers and other school employees and school buildings and premises as deemed necessary to protect the health of students and staff.

Ed.L. § 911(1) provides that it be the duty of the Commissioner to enforce the provisions of Ed.L. Article 19, and the Commissioner may adopt rules and regulations not inconsistent herewith, after consultation with the Commissioner of Health, for the purpose of carrying into full force and effect the objects and intent of such Article.

Ed.L. § 914(1) provides that each school shall require every child entering or attending school to submit proof of immunization against certain specified diseases.

Ed.L. § 921(1) and (2), as amended by Ch. 57 of the Laws of 2016 authorizes school districts, BOCES, CVEEBs, charter schools, and non-public elementary and secondary schools, or any person employed by any such entity, to administer epinephrine auto-injectors in the event of an emergency pursuant to the requirements of Public Health Law § 3000-c.

Ed.L. § 3208(1-5) provides for attendance and student mental/physical examination requirements.

Public Health Law 2164(7) prescribes the required immunizations for attendance in school.

**2. LEGISLATIVE OBJECTIVES:**

The proposed amendment is consistent with the authority conferred by the above statutes and is necessary to implement and otherwise conform Commissioner's Regulations to Ch. 373 of the Laws of 2016.

**3. NEEDS AND BENEFITS:**

**On-site epinephrine auto-injectors**

On September 29, 2016, the Governor signed Ch. 373 of the Laws of 2016, which made certain changes to the use of emergency epinephrine auto-injectors. The proposed amendment makes the following conforming changes to § 136.6:

- Amends the definition of epinephrine auto-injector device to conform to the new definition in law (a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body for the purpose of emergency treatment of a person appearing to experience anaphylactic symptoms approved by the FDA).
- Eliminates the requirement for a school district to enter into a collaborative agreement with an emergency health care provider in order to purchase, acquire, possess and use epinephrine auto-injector devices.
- School districts are no longer required to report every use of an epinephrine auto-injector to the emergency health care provider (with whom they would have had the collaborative agreement prior to the statutory amendments).

**4. COSTS:**

- (a) Costs to State government: none.
- (b) Costs to local government: In general, the proposed rule does not impose any costs beyond those required by Education Law Article 19 and those inherent in Ch. 373 of the Laws of 2016.
- (c) Costs to private regulated parties: none.
- (d) Costs to the regulating agency for implementation and administration of this rule: none.

**5. LOCAL GOVERNMENT MANDATES:**

The proposed amendment does not impose any new costs on the State, local governments, private regulated parties or the State Education Department, but merely implements and otherwise conforms Commissioner's Regulations to Ch. 373 of the Laws of 2016.

**6. PAPERWORK:**

This proposed amendment does not impose any additional paperwork requirements. The proposed amendment merely implements and otherwise conforms Commissioner's Regulations to Ch. 373 of the Laws of 2016.

**7. DUPLICATION:**

The proposed amendment does not duplicate existing State or federal regulations.

**8. ALTERNATIVES:**

The proposed amendment is necessary to implement and otherwise conform Commissioner's Regulations to Ch. 373 of the Laws of 2016. No significant alternatives were considered.

**9. FEDERAL STANDARDS:**

There are no related federal standards.

**10. COMPLIANCE SCHEDULE:**

It is anticipated regulated parties will be able to achieve compliance with the proposed rule by its effective date as required by the statute.

**Regulatory Flexibility Analysis**

**Small Businesses:**

The proposed amendment merely implements and otherwise conforms Commissioner's Regulations to Ch. 373 of the Laws of 2016. The proposed amendment does not impose any adverse economic impact, reporting, record keeping or any other compliance requirements on small businesses. Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

**Local Government:**

**1. EFFECT OF RULE:**

The proposed amendment applies to each of the 695 school districts within the State.

**2. COMPLIANCE REQUIREMENTS:**

**On-site epinephrine auto-injectors**

On September 29, 2016, the Governor signed Ch. 373 of the Laws of 2016, which made certain changes to the use of emergency epinephrine auto-injectors. The proposed amendment makes the following conforming changes to § 136.6:

- Amends the definition of epinephrine auto-injector device to conform to the new definition in law (a single-use device used for the automatic injection of a premeasured dose of epinephrine into the human body for the purpose of emergency treatment of a person appearing to experience anaphylactic symptoms approved by the FDA).
- Eliminates the requirement for a school district to enter into a collaborative agreement with an emergency health care provider in order to purchase, acquire, possess and use epinephrine auto-injector devices.
- School districts are no longer required to report every use of an epinephrine auto-injector to the emergency health care provider (with whom they would have had the collaborative agreement prior to the statutory amendments).

**3. PROFESSIONAL SERVICES:**

The proposed amendment imposes no additional professional service requirements.

**4. COMPLIANCE COSTS:**

In general, the proposed rule does not impose any costs beyond those required by Education Law Article 19 and those inherent in Ch. 373 of the Laws of 2016.

**5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:**

The proposed amendment does not impose any technological requirements or costs on school districts.

**6. MINIMIZING ADVERSE IMPACT:**

The proposed amendment is necessary to implement Ch. 373 of the Laws of 2016. No significant alternatives were considered. Because the statute upon which the proposed amendment is based applies to all school districts and BOCES in the State, except for the city school district of the City of New York where exempted by statute, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

**7. LOCAL GOVERNMENT PARTICIPATION:**

Copies of the proposed amendment have been provided to District Superintendents with the request that they distribute them to school districts within their supervisory districts for review and comment. Copies were also provided for review and comment to the chief school officers of the five big city school districts.

#### **Rural Area Flexibility Analysis**

##### **1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:**

The proposed rule applies to school districts, boards of cooperative educational services (BOCES), county vocational education and extension board, charter schools, and nonpublic elementary and secondary schools, including those located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

##### **2. REPORTING, RECORDKEEPING, AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:**

The proposed rule generally does not impose any additional compliance requirements upon local governments beyond those required by Education Law Article 19 and those imposed by Chapter 373 of the Laws of 2016. The proposed rule does not impose any additional professional services requirements on entities in rural areas.

##### **3. COMPLIANCE COSTS:**

In general, the proposed rule does not impose any costs beyond those required by Education Law Article 19 and those inherent in Ch. 373 of the Laws of 2016.

##### **4. MINIMIZING ADVERSE IMPACT:**

The proposed amendment is necessary to implement and otherwise conform Commissioner's Regulations to Ch. 373 of the Laws of 2016. No significant alternatives were considered. Because the statute upon which the proposed amendment is based applies to all school districts and BOCES in the State, except for the city school district of the City of New York where exempted by statute, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

##### **5. RURAL AREA PARTICIPATION:**

The proposed rule was submitted for review and comment to the Department's Rural Education Advisory Committee, which includes representatives of school districts in rural areas.

#### **Job Impact Statement**

The purpose of the proposed rule is to statutes and is necessary to implement and otherwise conform Commissioner's Regulations to Ch. 373 of the Laws of 2016. Because it is evident from the nature of the proposed rule that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

**Purpose:** To allow qualified clinicians to provide antiretrovirals for treatment and prophylaxis.

**Text or summary was published** in the December 14, 2016 issue of the Register, I.D. No. HLT-50-16-00009-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: regsqna@health.ny.gov

#### **Assessment of Public Comment**

The New York State Department of Health (NYSDOH) received a total of 38 comments, which all expressed support for the proposed amendments to Sections 23.1 and 23.2 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Comments were received from health care providers that provide treatment to patients who are HIV-positive, community-based organizations and government agencies.

##### **Comment:**

The vast majority of the comments were similar in their content and support for the proposed regulation, but also suggested adding "care coordination services as needed" to the list of services that are required to be provided by clinics and local health departments.

##### **Response:**

The intent of this regulation was to add HIV to the existing group B in Section 23.1. NYSDOH did not propose to create any new local mandate for the diagnosis and treatment of patients in group B, and therefore the suggested new language will not be added at this time.

##### **Comment:**

One commenter supported the proposed regulation but suggested revisions to clarify the impact of the proposed regulations, if any, on conditions and procedures for State aid under 10 NYCRR Part 40.

##### **Response:**

No changes have been made to the regulations in response to these comments, but NYSDOH will clarify the impact of the regulations on State aid reimbursement in guidance as needed.

##### **Comment:**

One commenter supported the proposed regulation but also requested revisions to include more explicit language to ensure minors can access HIV prevention and treatment services, and this commenter suggested amendments to 10 NYCRR § 23.4.

##### **Response:**

The intent of this regulation was to add HIV to group B in Section 23.1, which will permit minors to consent to HIV treatment. NYSDOH did not propose to make any changes to the regulation regarding minor consent, generally. No changes have been made to the regulations in response to this comment, but NYSDOH will continue to provide guidance regarding situations in which minors may consent to care as permitted by law.

##### **Comment:**

Some commenters expressed concern that the proposed regulation could have the effect of making it a misdemeanor under PHL § 2307 for HIV-positive individuals to have sexual intercourse in some circumstances.

##### **Response:**

NYSDOH is not aware of any instance of an individual being charged with a misdemeanor under PHL § 2307. Notably, PHL § 2307 was added in 1943 to prevent the spread of diseases such as syphilis and gonorrhea to members of the military during World War II. According to the legislative history, the law was amended in 1946 to apply where someone "knowingly exposed [another] person to a venereal infection." Legislative Memorandum, 1946 New York State Legislative Annual, p. 191. Thus, to the extent that this section of law is enforceable, NYSDOH interprets it as inapplicable to individuals who have sexual intercourse where they either (1) do not know they are infected, or (2) do know they are infected and reveal that information to their consenting partners. Further, the Department interprets the law as only applying to individuals who knowingly expose another individual to an acute, bacterial venereal disease such as syphilis or gonorrhea. No changes have been made to the regulations in response to these comments.

---



---

## Department of Health

---



---

### ERRATUM

A Notice of Emergency Rule Making, I.D. No. HLT-41-16-00002-E, pertaining to Residential Health Care Facility Quality Pool, published in the March 8, 2017 issue of the *State Register* contained incorrect information regarding the Assessment of Public Comment. The correct information is as follows:

#### **Assessment of Public Comment:**

The agency received no public comment.

### NOTICE OF ADOPTION

#### **Expansion of Minor Consent for HIV Treatment Access and Prevention**

**I.D. No.** HLT-50-16-00009-A

**Filing No.** 220

**Filing Date:** 2017-03-28

**Effective Date:** 2017-04-12

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

**Action taken:** Amendment of sections 23.1 and 23.2 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 225(4), 2304, 2305 and 2311

**Subject:** Expansion of Minor Consent for HIV Treatment Access and Prevention.

## Higher Education Services Corporation

### EMERGENCY RULE MAKING

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

**I.D. No.** ESC-15-17-00001-E

**Filing No.** 216

**Filing Date:** 2017-03-24

**Effective Date:** 2017-03-24

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 June 21, 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:**

- It is anticipated that there will be no new costs to the agency for the implementation of, or continuing compliance with this rule.
- The maximum cost of the program to the State is \$2.5 million in the first year based upon budget estimates.
- It is anticipated that there will be no costs to local governments for the implementation of, or continuing compliance with, this rule.
- 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-15-17-00002-E

**Filing No.** 217

**Filing Date:** 2017-03-24

**Effective Date:** 2017-03-24

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 June 21, 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:**

- It is anticipated that there will be no new costs to the agency for the implementation of, or continuing compliance with this rule.
- The maximum cost of the program to the State is \$5.2 million in the first year based upon budget estimates.
- It is anticipated that there will be no costs to local governments for the implementation of, or continuing compliance with, this rule.
- 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.

---



---

## New York State Joint Commission on Public Ethics

---



---

### EMERGENCY RULE MAKING

**Procedure for Requesting an Exemption from Publicly Disclosing Client Information on a Financial Disclosure Statement**

**I.D. No.** JPE-04-17-00001-E

**Filing No.** 214

**Filing Date:** 2017-03-23

**Effective Date:** 2017-03-23

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

**Action taken:** Addition of Part 942 to Title 19 NYCRR.

**Statutory authority:** Executive Law, section 94(9)(i-1); Public Officers Law, section 73-a(8)(b-1), (b-2) and (c)

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

**Specific reasons underlying the finding of necessity:** Chapter 56 of the

Laws of 2015 established new requirements to publicly disclose the identity of private clients and other information related to those clients in response to certain questions on the annual financial disclosure statement ("FDS") that must be filed pursuant to section 73-a of the Public Officers Law. The statute also mandates that the Joint Commission on Public Ethics ("Commission") receive and determine requests for an exemption from the duty to publicly disclose client information. The regulation sets forth procedures for seeking an exemption from the new disclosure requirement, as well as the standard for review of such requests received by the Commission. These new disclosure requirements will take initial effect with the 2017 FDS filings, and it is anticipated that FDS filers with clients, and their clients, will want notice of the proposed rule in order to make timely decisions regarding their business relationship.

**Subject:** Procedure for requesting an exemption from publicly disclosing client information on a financial disclosure statement.

**Purpose:** To provide a procedure to apply for exemption from publicly disclosing client information on a financial disclosure statement.

**Text of emergency rule:** PART 942

*Procedure for Requesting an Exemption from Publicly Disclosing Client Information Pursuant to Questions 8(b-1), 8(b-2) or 8(c) on a Financial Disclosure Statement*

#### 942.1 Preamble.

The purpose of this Part is to implement the legislative direction set forth in Chapter 56 of the Laws of 2015 that the Joint Commission on Public Ethics receive and determine requests for exemption from the duty to publicly disclose client information in response to certain questions on the financial disclosure statement that must be filed in accordance with section 73-a of the Public Officers Law. Specifically, the statute carves out a limited exception to the general rule mandating disclosure of client information and permits a filer to ask either the Office of Court Administration or the Joint Commission on Public Ethics for authority not to disclose client information in responding to questions 8(b-1), (b-2) and (c) of section 73-a(3). The statute also provides that disclosure of client information is not required in certain categories of cases delineated therein. With respect to clients represented in matters not otherwise exempt, this Part provides a procedure to request an exemption from publicly disclosing such clients and related information.

#### 942.2 Definitions.

(a) Commission shall mean the New York State Joint Commission on Public Ethics.

(b) Covered Person shall mean any individual who is required to file a Financial Disclosure Statement pursuant to section 73-a of the Public Officers Law and is required to disclose Client Information pursuant to questions 8(b-1), 8(b-2) or 8(c) of the Financial Disclosure Statement.

(c) Exemption shall mean a waiver from publicly disclosing Client Information pursuant to questions 8(b-1), 8(b-2) or 8(c) of the Financial Disclosure Statement.

(d) Financial Disclosure Statement shall mean the annual statement that must be filed pursuant to section 73-a of the Public Officers Law.

(e) Client Information shall mean the identity of a Client, customer, person or entity, and other related information required to be publicly disclosed in response to questions 8(b-1), 8(b-2) and 8(c) on the Financial Disclosure Statement.

(f) Client shall mean the specific client, customer, person or entity referenced in Section 942.2(e).

(g) Ministerial Matter shall mean an administrative act carried out in a prescribed manner not allowing for substantial personal discretion.

(h) Title shall mean the name of the position or job in which a Covered Person serves or, in the case of a Covered Person who is a candidate for statewide office or a member of the legislature, the name of the office for which the Covered Person is a candidate.

(i) State Agency shall mean any State department, or division, board, commission, or bureau of any State department, any public benefit corporation, public authority, or commission at least one of whose members is appointed by the Governor. State Agency shall also include the State University of New York or the City University of New York, including all their constituent units except (1) community colleges of the State University of New York and (2) the independent institutions operating statutory or contract colleges on behalf of the State.

#### 942.3 Procedure.

(a) Pursuant to Executive Law § 94(9) and questions 8(b-1), 8(b-2) and 8(c) on the Financial Disclosure Statement set forth in Public Officers Law § 73-a, the Commission permits a Covered Person to make a confidential request, in accordance with this Section, for an Exemption from the requirement to publicly disclose Client Information. If requesting an Exemption from the Commission, such Covered Person shall file the

Exemption request with the Commission on or before the deadline to file a Financial Disclosure Statement that applies to said Covered Person pursuant to Public Officers Law section 73-a(2). A Covered Person may not file an Exemption request with the Commission for a Client matter which the Covered Person has previously addressed in an Exemption request filed with the Office of Court Administration.

(b) The filing of an Exemption request pursuant to this Part shall not toll a deadline to file a Financial Disclosure Statement. A Financial Disclosure Statement filed during the pendency of a request for Exemption shall include all required information except the Client Information.

(c) In response to questions 8(b-1), 8(b-2) and 8(c) of the Financial Disclosure Statement, a Covered Person need not report Clients or customers with respect to matters for which the Covered Person (or his or her firm) was retained before entering public office in accordance with § 73-a(3)(8) of the Public Officers Law.

(d) The Exemption request shall be made in writing, signed by the Covered Person requesting such Exemption, and sent to the Commission via email at [jcope@jcope.ny.gov](mailto:jcope@jcope.ny.gov). The Exemption request shall be deemed to be a part of his or her Financial Disclosure Statement and subject to all applicable enforcement and penalty provisions of Public Officers Law § 73-a, including without limitation subdivisions 4 and 6 of said section, and Executive Law § 94.

(e) In the request for Exemption, the Covered Person shall state that:

"My Client is not currently receiving my services or seeking my services in connection with:

(1) A proposed bill or resolution in the senate or assembly during the reporting period;

(2) A contract in an amount totaling \$10,000 or more from the state or any state agency for services, materials, or property;

(3) A grant of \$10,000 or more from the state or any state agency during the reporting period;

(4) A grant obtained through a legislative initiative during the reporting period; or

(5) A case, proceeding, application or other matter that is not a Ministerial Matter before a state agency during the reporting period," and

(f) The request for Exemption should include but need not be limited to the following information:

(1) the name and work address of the Covered Person;

(2) the Title of the Covered Person;

(3) a description of the specific duties and responsibilities of the Covered Person;

(4) the Client Information for which the Covered Person seeks an Exemption, and with respect to each matter on which the Covered Person has provided or will provide services to the Client, a description of the services rendered or to be rendered, the actual or estimated fee amount, and the actual or estimated duration of such services;

(5) a general description of the business activities in which the Client engages;

(6) to the best of the Covered Person's knowledge, a description of any specific business the Client has before the state;

(7) to the best of the Covered Person's knowledge, a description of any particularized interest the Client has in any pending legislation;

(8) if applicable, a description of any action taken by the Covered Person relating to the Client and any interaction the Covered Person has had with the Client in the course of performing the Covered Person's official duties;

(9) a statement explaining why the Covered Person should receive the requested Exemption rather than be required to disclose the Client Information;

(10) a description of any public disclosure of the Client Information in any other public filing or public appearance including regulatory filings and litigation papers and appearances;

(11) a description of any prior applications submitted by the Covered Person to the Commission or the Office of Court Administration for an Exemption from public disclosure of Client Information for the Client on any matter (including pending applications) and the results of such applications; and

(12) any other relevant information which may support the Exemption request.

#### 942.4 Commission action.

(a) Upon receipt of a request for Exemption, the Commission shall review the material filed to determine whether the Exemption shall be granted. If no further information is required, the Commission shall render its decision on the material before it.

(b) In reviewing a request for an Exemption, the Commission shall conduct its own inquiry and, being mindful of the need to preserve the

confidentiality of Client Information prior to public disclosure, may consult with bar or other professional associations, or with the office of court administration or the legislative ethics commission in the case of individuals subject to its jurisdiction, and may consider rules of professional conduct.

(c) The factors the Commission shall consider in determining a request for Exemption shall include, but not be limited to:

- (1) the nature and the size of the Client;
- (2) whether the Client has any business before the state; and if so, how significant the business is; and whether the Client has any particularized interest in pending legislation and if so how significant the interest is;
- (3) whether disclosure may reveal trade secrets;
- (4) whether disclosure could reasonably result in retaliation against the Client;
- (5) whether disclosure may cause undue harm to the Client;
- (6) whether disclosure may result in undue harm to the attorney-client relationship;
- (7) whether disclosure may result in an unnecessary invasion of privacy to the Client; and
- (8) any other factors that the Commission deems relevant to the Exemption request.

(d) The Commission shall grant the Exemption request upon a finding that, under the totality of the circumstances, the interests in nondisclosure of the Client Information (including the general interests served by principles of Client confidentiality) outweigh the interests served by disclosure; otherwise it shall deny the Exemption request.

(e) The determination of the Commission shall be set forth in writing and provided to the Covered Person. Any denial shall include an explanation for the determination.

(f) If the Covered Person receives an exemption, no Client Information that was part of the request, nor the fact that an exemption has been sought and granted, need be included on the Financial Disclosure Statement.

(g) If the Commission or Office of Court Administration denies the request for Exemption, and the Covered Person agrees to represent the Client, such Covered Person must include the Client Information in his or her Financial Disclosure Statement when it is due, or, if his or her Financial Disclosure Statement was filed during the pendency of a request for Exemption, such Covered Person must file with the Commission an amended Financial Disclosure Statement that includes the Client Information within 15 days from receipt of the denial.

(h) Where the Commission or Office of Court Administration denies a request for Exemption, and thereafter there occurs a material change of facts or circumstances, including a change in the Covered Person's Title or duties, a change in the nature of the services provided to the Client, or a change in the nature of the Client's business, a Covered Person may seek reconsideration of that denial following the procedures set forth in section 942.3.

(i) An Exemption, once granted, shall remain in effect in each subsequent year in which such disclosure would otherwise be required unless and until:

- (1) the Covered Person is appointed or promoted to a new Title in which such a filing is required; or
- (2) there is a material change in the duties of the Covered Person; or
- (3) there is a material change in the nature of the Client's business before the State, if applicable.

(j) If the Commission receives new facts or other information relevant to the Exemption, it may reconsider a prior determination by the Commission to grant such Exemption.

**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. JPE-04-17-00001-EP, Issue of January 4, 2017. The emergency rule will expire April 5, 2017.

**Text of rule and any required statements and analyses may be obtained from:** Michael E. Sande, NYS Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: michael.sande@jcope.ny.gov

#### **Regulatory Impact Statement**

1. Statutory authority: Executive Law section 94(9)(i-1) and Public Officers Law sections 73-a(8)(b-1); 73-a(8)(b-2); and 73-a(8)(c) authorize the Joint Commission on Public Ethics (the "Commission") to receive, and to adopt rules and regulations relating to, requests for exemptions from certain disclosure requirements with respect to annual financial disclosure statements required to be filed pursuant to Public Officers Law section 73-a.

2. Legislative objectives: To provide guidance and procedures relating

to exemptions from the requirement to publicly disclose client information on a financial disclosure statement.

3. Needs and benefits: The proposed regulation will bring the Commission's regulatory procedures into accordance with statutory client disclosure requirements, and the provision for seeking an exemption from such requirements, set forth in Chapter 56 of the Laws of 2015:

#### **A. Notice to Filers of Financial Disclosure Statements and Their Clients**

This regulation will establish and provide notice of procedures for seeking an exemption from the requirement to publicly disclose client information on a financial disclosure statement, as well as the standard of review for such requests received by the Commission.

#### **B. Summary of Amended Sections**

Part 942.1 is a preamble that sets forth the purpose of the regulation.

Part 942.2 defines key terms in the regulations.

Part 942.3 sets forth the procedure for requesting an exemption from the requirement to disclose client information on a financial disclosure statement.

Part 942.4 sets forth actions to be taken by the Commission upon receipt of a request for an exemption from the requirement to disclose client information on a financial disclosure statement.

#### **4. Costs:**

a. costs to regulated parties for implementation and compliance: Minimal.

b. costs to the agency, state and local government: There will be some cost to the agency associated with the receipt and review of exemption requests. No other costs to state and local governments is anticipated.

c. cost information is based on the fact that there will be no costs to regulated parties and state and local government. The cost to the agency is based on the estimated increase in staff resources to implement the regulation.

5. Local government mandates: The proposed regulation imposes no new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: This regulation may require the preparation of additional forms or paperwork. Such additional paperwork is expected to be minimal.

7. Duplication: This regulation does not duplicate any existing federal, state, or local regulations.

8. Alternatives: Executive Law section 94(9)(i-1) and Public Officers Law sections 73-a(8)(b-1); 73-a(8)(b-2); and 73-a(8)(c) impose an affirmative duty on the Commission to receive requests for exemptions to certain required disclosures on a financial disclosure statement. Therefore there is no alternative to establishing a rule regulating such requests.

9. Federal standards: These regulations do not exceed any federal minimum standard with regard to a similar subject area.

10. Compliance schedule: Compliance will take effect upon adoption.

#### **Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Emergency Re-Adoption because the proposed rulemaking will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employees, members of the Legislature, legislative employees, and candidates for legislative and statewide offices.

#### **Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis is not submitted with this Notice of Emergency Re-Adoption because the proposed rule will not impose any adverse economic impact on rural areas, nor will compliance require or impose any reporting, record-keeping, or other affirmative acts on the part of rural areas. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employees, members of the Legislature, legislative employees, and candidates for legislative and statewide offices. Rural areas are not affected in any way.

#### **Job Impact Statement**

A Job Impact Statement is not submitted with this Notice of Emergency Re-Adoption because the rule will have a limited impact on jobs or employment opportunities. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the Legislature, legislative employees, and candidates for legislative and statewide offices. This regulation does not apply, nor relate to small businesses, economic development or employment opportunities.

#### **Assessment of Public Comment**

The agency received no public comment since publication of the last assessment of public comment.

**NOTICE OF ADOPTION**

**Procedure for Requesting an Exemption from Publicly Disclosing Client Information on a Financial Disclosure Statement**

**I.D. No.** JPE-04-17-00001-A  
**Filing No.** 215  
**Filing Date:** 2017-03-23  
**Effective Date:** 2017-04-12

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

**Action taken:** Addition of Part 942 to Title 19 NYCRR.  
**Statutory authority:** Executive Law, section 94(9)(i-1); Public Officers Law, section 73-a(8)(b-1), (b-2) and (c)

**Subject:** Procedure for requesting an exemption from publicly disclosing client information on a financial disclosure statement.

**Purpose:** To provide a procedure to apply for exemption from publicly disclosing client information on a financial disclosure statement.

**Text or summary was published** in the January 25, 2017 issue of the Register, I.D. No. JPE-04-17-00001-EP.

**Final rule as compared with last published rule:** No changes.  
**Text of rule and any required statements and analyses may be obtained from:** Michael E. Sande, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: michael.sande@jcope.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**

---



---

**NOTICE OF WITHDRAWAL**

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

The following rule makings have been withdrawn from consideration:

I.D. No.	Publication Date of Proposal
PSC-25-16-00022-P	June 22, 2016
PSC-28-16-00016-P	July 13, 2016
PSC-30-16-00006-P	July 27, 2016
PSC-39-16-00012-P	September 28, 2016
PSC-39-16-00013-P	September 28, 2016
PSC-39-16-00014-P	September 28, 2016
PSC-39-16-00015-P	September 28, 2016
PSC-39-16-00016-P	September 28, 2016
PSC-39-16-00017-P	September 28, 2016
PSC-39-16-00018-P	September 28, 2016
PSC-39-16-00019-P	September 28, 2016
PSC-39-16-00020-P	September 28, 2016
PSC-39-16-00021-P	September 28, 2016
PSC-39-16-00022-P	September 28, 2016
PSC-39-16-00023-P	September 28, 2016
PSC-39-16-00024-P	September 28, 2016
PSC-39-16-00025-P	September 28, 2016
PSC-39-16-00026-P	September 28, 2016
PSC-39-16-00027-P	September 28, 2016
PSC-42-16-00008-P	October 19, 2016
PSC-50-16-00007-P	December 14, 2016
PSC-03-17-00004-P	January 18, 2017

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

**Pole Attachment Rates**  
**I.D. No.** PSC-15-17-00003-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 the filing of Central Hudson Gas & Electric Corporation to amend P.S.C. No. 15 — Electricity, to update its pole attachment rate for Cable System Operators and Telecommunication Carriers.

**Statutory authority:** Public Service Law, section 66(12)(b)

**Subject:** Pole Attachment Rates.

**Purpose:** To consider an update to its pole attachment rate for Cable System Operators and Telecommunication Carriers.

**Substance of proposed rule:** The Commission is considering the filing of Central Hudson Gas & Electric Corporation, made on March 23, 2017, to amend P.S.C. No. 15 – Electricity, to update its pole attachment rate for applicable to Cable System Operators and Telecommunication Carriers. The proposed annual pole attachment rate is \$20.37, per equivalent pole, based on 2016 data. The proposed amendment has an effective date of July 1, 2017. The full text of the filing may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). 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](mailto: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](mailto: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.  
 (17-E-0170SP1)

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

**Rolling Meadows Water Corporation’s Rates for the Provision of Water**  
**I.D. No.** PSC-15-17-00004-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 a petition for rehearing of its February 21, 2017 Order Approving Rates and Eliminating Surcharge filed by Rolling Meadows Water Corporation seeking increases in the volumetric rate and the allowance for rate case expense.

**Statutory authority:** Public Service Law, sections 4, 5, 22, 89-c(1) and (10)

**Subject:** Rolling Meadows Water Corporation’s rates for the provision of water.

**Purpose:** To consider increasing the volumetric rate from \$8.57 to \$8.84 and increasing the allowed rate case expense to \$37,000.

**Substance of proposed rule:** The Commission is considering a petition filed on March 23, 2017 by Rolling Meadows Water Corporation that requests rehearing of the Commission’s February 21, 2017 Order Approving Rates and Eliminating Surcharge. Specifically, Rolling Meadows requests that Commission increase the volumetric rate from \$8.57 to \$8.84 and the rate case expense allowance to \$37,000. The full text of the petition may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify, in part or in whole, the relief proposed and may resolve other matters related to the issues raised in the petition.

*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](mailto: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](mailto: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-W-0121SP2)