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

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

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

Office of Children and Family Services

NOTICE OF ADOPTION

Child Care for Children Experiencing Homelessness
L.D. No. CFS-24-16-00001-A
Filing No. 118
Filing Date: 2017-02-14
Effective Date: 2017-03-01

Pursuant to the provisions of the State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 404.1, 404.6, 404.8, 415.1, 415.2, 415.3, 415.4, 415.7, 415.8 and 415.9; and repeal of section 415.11 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 410(1) and title 5-C

Subject: Child care for children experiencing homelessness.

Purpose: To reduce barriers for children experiencing homelessness to receive child care assistance and to attend child care.

Text or summary was published in the June 15, 2016 issue of the Register, L.D. No. CFS-24-16-00001-P.

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

Revised rule making(s) were previously published in the State Register on January 4, 2017.

Text of rule and any required statements and analyses may be obtained from: Public Information Office, New York State Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 473-7793, email: info@ocfs.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

This assessment responds to the comments received on the Notice of Revised Rule Making for Child Care for Children Experiencing Homelessness, Parts 404 and 415 of Title 18 of the OfficialCompilation of Codes, Rules and Regulations of the State of New York (NYCRR), L.D. No. CFS-24-16-00001-RP, included in the New York State Register dated January 4, 2017. The Office of Children and Family Services (OCFS) received comments from 14 responders during the public comment period. Responses were received from representatives of child and family advocacy groups. OCFS combined similar comments from multiple responders in preparing the following assessment of public comments.

OCFS received comments from 14 responders supporting the elimination of parent fees for families experiencing homelessness. OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from 14 responders supporting the higher differential rate for licensed and registered child care providers serving children experiencing homelessness. Additionally, one of these commenters supported providing support services districts with the intent to set a differential rate for legally-exempt providers serving children experiencing homelessness. OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from 14 responders stating that the proposed regulations do not comport with the requirements of federal statute, and therefore recommended OCFS revise the proposed regulations to establish a mandatory grace period for children experiencing homelessness and children in foster care to receive child care services while the family takes necessary action to comply with immunization and other health and safety requirements. Section 658E(c)(2)(b)(1) of the Child Care and Development Block Grant Act (CCDBG) and Section 98.41(a)(1)(i)(C) of the Child Care and Development Fund (CCDF) regulations require Lead Agencies to establish a grace period that allows homeless children and children in foster care to receive child care subsidies while their families are taking any necessary action to comply with immunization and other health and safety requirements. Use of the word “allows” instead of “requires” indicates that child care providers can choose whether or not to implement the grace period. The proposed regulations are in compliance with federal statute and regulations, which only require OCFS to establish a permissible grace period. There is no requirement in federal statute or regulation for OCFS to establish a mandatory grace period. Moreover, Section 98.41(a)(1)(i)(C) of the CCDF regulations allows Lead Agencies to establish grace periods for children who are not homeless or in foster care. As provided in the Preamble to the CCDF regulations the intent was to establish, at a minimum, a grace period for children experiencing homelessness and children in foster care, but not to limit the State’s ability to establish a grace period for other children. Section 2164(7)(a) of the New York State Public Health Law prohibits a child care program from allowing a child to attend such program for more than fourteen days (thirty days for a child coming from another state or country) without documentation of immunization. The grace period in New York State Public Health Law Section 2164(7)(a) is not limited to children experiencing homelessness or children in foster care; it applies to all children seeking enrollment at a child care program. OCFS cannot revise the proposed regulations in a way that would limit the availability of the grace period to only families of children experiencing homelessness or in foster care, or expand the grace period beyond the state statutorily defined time period. The proposed regulations are in compliance with federal statute and regulations, which were intended to reduce barriers to enrollment but not to undermine children’s health and safety. The proposed regulations codify the provisions set forth above in the New York State Public Health Law. Therefore, OCFS
OCFS received comments from two responders recommending that the grace period be set at 90 days. Section 2164(7)(a) of the New York State Public Health Law prohibits a child care program from allowing a child to attend the program for more than fourteen days (thirty days for a child coming from another state or country) without documentation of immunization. OCFS cannot extend the grace period to 90 days without a change to this statute. OCFS will issue policy statements clarifying that child care providers cannot delay enrollment of children experiencing homelessness or children in foster care due to lack of medical or immunization records, and will detail the statutorily designated length of time that such children are able to participate in the child care program in accordance with the New York State Public Health Law. OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from two responders alleging that the proposed regulations do not apply to licensed and registered child care providers and current regulations at 18 NYCRR Part 418-1.11(a) and § 418-2.11(a) do not address a grace period. Current regulations at 18 NYCRR § 418-1.11(a), § 418-2.11(a), for licensed and registered child care program already codify the provisions set forth above in the New York State Public Health Law, in that they allow a child to be enrolled without documentation of immunization provided the child’s immunizations are in process. OCFS reviewed the comment and intends to issue a policy statement clarifying that the proposed regulations specifically allow OCFS to establish eligibility conditions or requirements. The Preamble to the CCDF regulations provide further guidance about the State’s ability to establish eligibility requirements, and Section 98.51 of the CCDF regulations require OCFS to use the provisions provided to the State for each fiscal year for activities that improve access to child care services for homeless children, including the use of: procedures to permit enrollment (after an initial eligibility determination) of homeless children while required documentation is obtained; training and technical assistance on identifying and serving homeless children and their families; and specific outreach to homeless families. There is no requirement in federal statute or regulation for OCFS to require categorical eligibility for homeless children. Section 98.2(b) of the CCDF regulations specifically allows OCFS to establish eligibility conditions or priority rules in addition to those specified through Federal regulation so long as they do not discriminate, limit parental rights, or violate priority requirements. The Preamble to the CCDF regulations provides further guidance about the State’s ability to establish eligibility requirements, specifically that a State could decide to provide child care services to a family experiencing homelessness; this language is discretionary, not mandatory. OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from 13 responders supporting the proposed regulation that includes the arrangement for, and participation in, counseling services programs in the list of approved activities for families experiencing homelessness, as an additional subclause (d) to the changes to 18 NYCRR § 415.2(a)(2)(x). OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from 13 responders supporting the revised regulation after OCFS withdrew proposed changes to 18 NYCRR § 415.2(a)(3)(iii)(b) and § 415.2(a)(3)(iii)(c) that would have eliminated the option for social services districts to provide child care assistance to income-eligible homeless families to the extent that funding is available. OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from two responders recommending the inclusion of the definition of homelessness in regulation. Additionally, one of these responders recommended the regulations also include a definition for family experiencing homelessness. Section 98.2 of the CCDF regulations defines “child experiencing homelessness” as a child who is homeless as defined in section 725 of Subtitle VII-B of the McKinney-Vento Act (42 U.S.C. 11434a). OCFS is required to comply with the federal regulatory definition and, as provided in the Preamble to the CCDF regulations, use of the McKinney-Vento definition will provide for consistency with other programs that also use the McKinney-Vento definition. OCFS reviewed the comment and intends to issue a policy statement to clarify that the applicable definition of homelessness is the one included in the McKinney-Vento Act. OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from two responders recommending that social services districts be required to administer a housing questionnaire to the population to receive child care assistance. OCFS reviewed the comment and determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from two responders recommending that OCFS maintains that this information will be adequate in identifying homelessness. However, social services districts may establish additional local procedures as needed to assist in determining if families are experiencing homelessness. OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from two responders recommending that OCFS reviewed the comments and determined that federal rules require OCFS to report whether families chosen in monthly samples of child care assistance cases are experiencing homelessness. OCFS obtains this information on a quarterly basis from each of the social services districts; this information will also be recorded in the Welfare Management System (WMS) by the social services districts. OCFS has issued a policy statement to social services districts identifying the data needed to meet new federal reporting requirements (16-OCFS-LCM-17). OCFS determined that no change will be made to the proposed regulations in response to these comments.

OCFS received comments from two responders recommending that OCFS received comments from one responder supporting the proposed regulation that OCFS regulations should require social services districts to appoint a liaison to assist families experiencing homelessness in obtaining necessary immunizations and medical records. OCFS reviewed the comment and determined that, with limited federal and state resources, the State does not have sufficient child care funds to pay for such positions nor does the State wish to pass unfunded personnel costs on to social service districts. OCFS determined that no change will be made to the proposed regulations in response to this comment.

OCFS received a comment from one responder supporting the proposed regulation that includes families experiencing homelessness as a priority population to receive child care assistance. OCFS reviewed the comment and determined that no change will be made to the proposed regulations in response to this comment.

**Department of Environmental Conservation**

**PROPOSED RULE MAKING**

**NO HEARING(S) SCHEDULED**

**Regional Hunting Regulations**

**L.D. No. ENV-09-17-00001-P**

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

**Proposed Action:** This is a consensus rule making to repeal Parts 69 and 101 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 11-0303, 11-0321 and 11-2101

**Subject:** Regional Hunting Regulations.

**Purpose:** To repeal regional hunting regulations.

**Text of proposed rule:** Part 69 of Title 6 of the Codes, Rules and Regulations of the State of New York is repealed.

**Part 101 of Title 6 of the Codes, Rules and Regulations of the State of New York is repealed.**

**Text of proposed rule and any required statements and analyses may be obtained from:** Nick Perry, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4752, (518) 402-9526, email: nicholas.perry@dec.ny.gov
The rule repeals outdated sets of regional hunting regulations. For this reason, the department anticipates that the proposed rule making will have no adverse impact on jobs or employment opportunities in New York and that a job impact statement is not necessary.

Department of Financial Services

NOTICE OF ADOPTION

Cybersecurity Requirements for Financial Services Companies

L.D. No. DFS-39-16-00008-A
Filing No. 117
Filing Date: 2017-02-14
Effective Date: 2017-03-01

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

Action taken: Addition of Part 500 to Title 23 NYCRR

Statutory authority: Financial Services Law, sections 102, 201, 202, 301, 302 and 408

Subject: Cybersecurity Requirements for Financial Services Companies.

Purpose: To require effective cybersecurity to protect consumers and ensure the safe and sound operation of Department-regulated entities.

Substance of final rule: The full text of the regulation can be viewed at dfs.ny.gov.

The following is a summary of the final rule:

Section 500.00, “Introduction,” introduces the rule.

Section 500.01, “Definitions,” defines terms used throughout the rule.

Section 500.02, “Cybersecurity Program,” requires that each Covered Entity maintain a cybersecurity program reasonably designed to protect the confidentiality, integrity, and availability of its Information Systems.

Section 500.03, “Cybersecurity Policy,” requires each Covered Entity to implement and maintain a written cybersecurity policy addressing specified areas and also sets forth the requirements for approval of that policy.

Section 500.04, “Chief Information Security Officer,” requires that each Covered Entity designate a qualified individual responsible for overseeing and implementing the Covered Entity’s cybersecurity program (the “CISO”), and that the CISO shall develop a written report, at least annually, which shall be reviewed internally and which shall address specified cybersecurity issues.

Section 500.05, “Penetration Testing and Vulnerability Assessments,” requires each Covered Entity’s cybersecurity program to include monitoring and testing, developed in accordance with the Covered Entity’s Risk Assessment, designed to assess the effectiveness of the Covered Entity’s cybersecurity program. The monitoring and testing shall include continuous monitoring or periodic Penetration Testing and vulnerability assessments. Absent effective continuous monitoring, or other systems to detect, on an ongoing basis, changes in Information Systems that may create or indicate vulnerabilities, Covered Entities shall conduct annual Penetration Testing and a bi-annual vulnerability assessment of the Covered Entity’s Information Systems, based on the Covered Entity’s Risk Assessment.

Section 500.06, “Audit Trail,” requires each Covered Entity to securely maintain systems that, based on its Risk Assessment, reconstruct material financial transactions and include audit trails designed to detect and respond to Cybersecurity Events that have a reasonable likelihood of materially harming any material part of the normal operations of the Covered Entity.
maintain for examination by the Department all records, schedules and data supporting the certificate for a period of five years; to notify the su-
pervisor within 72 hours from the determination of the occurrence of a 
Cybersecurity Event impacting the Covered Entity of which notice is 
required to be provided to any government body, self-regulatory agency 
or any other supervisory body, or that has a reasonable likelihood of materi-
ally harming any material operation(s) of the Covered 
Entity; and to document the identification of areas that require material 

improvement, updating or redesign, as well as planned remedial efforts. 

Section 500.18, “Confidentiality,” states that information provided by a 
Covered Entity pursuant to this Part is subject to exemptions from 
disclosure under the Banking Law, Insurance Law, Financial Services 
Law, Public Officers Law, or any other applicable state or federal law. 

Section 500.19, “Exemptions,” provides that Covered Entities that have 
less than the specified number of employees, gross annual revenue, or 
year-end total assets shall be exempt from the requirements of the enumer-
ated sections; an exemption for an employee, agent, representative or 
designee of a Covered Entity, who is itself a Covered Entity; an exemption 
from enumerated sections for a Covered Entity that does not directly or 
indirectly operate, maintain, utilize or control any Information Systems, 
and that with respect to any obligation arising under this Part, is not 
required to, directly or indirectly control, own, access, generate, receive or possess Nonpublic Information; an exemption from enumerated sections for a Covered Entity under Article 
70 of the Insurance Law that does not and is not required to directly or 
indirectly control, own, access, generate, receive or possess Nonpublic Information other than information relating to corporate plans (or Affiliates); a requirement that Covered Entities that qualify for an 
exemption file a Notice of Exemption; an exemption for Persons that do 
not otherwise qualify as Covered Entities and are subject to Insurance 
Law Section 1110, Insurance Law Section 5904, and any accredited 
reinsurance ceding entity relating to the normal operation(s) of the Cur-

tant to 11 NYCR 125; and that a Covered Entity that ceases to qualify for 
an exemption must comply with all applicable requirements of the final 
rule. 

Section 500.20, "Enforcement,” provides that the rule will be enforced by the superintendent pursuant to, and is not intended to limit, the superi-
tendent’s authority under any applicable laws. 

Section 500.21, “Effective Date,” provides that the rule will be effective 
March 1, 2017, and that Covered Entities will be required to annually 
prepare and submit a certification of compliance pursuant to Section 

Section 500.22, “Transitional Periods,” provides that Covered Entities 
shall have 180 days from the effective date of the final rule to comply with 
its requirements, except as otherwise specified, and also includes ad-
ditional transitional periods. 

Section 500.23, “ Severability,” states that in the event a specific provi-
sion of the rule is adjudged invalid, such judgment shall not impair the vi-
ability of the remainder of the rule. 

Final rule as compared with last published rule: Nonsubstantive changes 
were made in sections 500.1, 500.2, 500.4, 500.5, 500.6, 500.10, 500.11, 

Revised rule making(s) were previously published in the State Register on 
December 28, 2016. 

Text of rule and any required statements and analyses may be obtained 
from: Cassandra Lentchner, New York State Department of Financial Ser-

vices, One State Street, New York, NY 10004, (212) 709-1675, email: 
CyberRegComments@dfs.ny.gov. 

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

A Revised Regulatory Impact Statement, Regulatory Flexibility Analysis 
and Rural Area Flexibility Analysis are not required because the revisions 
to the proposed regulation do not change the conclusions set forth in the 
previously published Regulatory Impact Statement, Regulatory Flexibility 
Analysis and Rural Area Flexibility Analysis. 

Revised Job Impact Statement 

A Revised Job Impact Statement is not required because the revisions 
to the proposed regulation do not change the statement regarding the need 
for a Job Impact Statement that was previously published. 

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 af-
after the year in which this rule is being adopted. 

Assessment of Public Comment 

The New York State Department of Financial Services (the “Depart-
ment” or “DFS”) initially released proposed rule 23 NYCR 500 in 
September 2016 and received over 150 comments to that proposed 
rulemaking from individuals and entities, including a variety of regulated
Department has determined that its provisions are appropriately consistent with the Department's goal of setting effective minimum standards.

Commenters also made suggestions or sought clarification in regard to the Risk Assessment section (500.09), particularly with respect to its scope. The Department did not make any changes in response, as the Department believes that this section’s scope is appropriate and sufficiently clear.

Commenters offered suggestions regarding the Cybersecurity Personnel and Intelligence section (500.10), including suggestions that it be narrowed or that more specific language be included. The Department did not make any changes in response, as the Department believes that the section is appropriate. However, the Department did make a clarifying revision.

Commenters also stated that the requirements in section 500.11 regarding third parties doing business with a Covered Entity were too prescriptive, requiring entities to apply certain controls to all third parties. The Department notes that, as revised, section 500.11 requires Covered Entities to develop and implement risk-based policies and procedures that include relevant guidelines concerning certain enumerated issues.

In addition, commenters suggested revisions to the Multi-Factor Authentication section (500.12), asserting that its provisions should be less prescriptive and more prescriptive. The Department did not make any changes in response, as the Department believes that section 500.12 is appropriately tailored.

Commenters made suggestions or sought clarification in regard to the Limitations on Data Retention section (500.13), particularly with respect to its scope. The Department did not make any changes in response, as the Department believes that this section’s scope is appropriate and sufficiently clear.

Commenters also made suggestions and sought clarification in regard to the Training and Monitoring section (500.14). In response, the Department made a clarifying revision.

Several commenters requested changes in scope or wording to the Encryption of Nonpublic Information section (500.15), suggesting, for example, that the encryption at rest language should be removed altogether or should be limited in application, or that the provisions regarding encryption of data in transit should be revised to exclude leased lines from the term “external networks.” The Department has not revised section 500.15 in response to these comments because the Department has determined that section 500.15 as drafted appropriately highlights the importance of encryption as a key cybersecurity control while also providing flexibility for Covered Entities to evaluate, in light of their Risk Assessment, the scope and means of data security implementation controls. Furthermore, the Department does not believe the term “external networks,” which includes both public networks and external leased lines, requires further clarification within the final rule.

Commenters made suggestions in regard to the Incident Response Plan section (500.16), including suggested revisions to narrow its scope. The Department has not revised section 500.16 in response, because the Department has determined that its provisions are appropriately consistent with the Department’s goal of setting effective minimum standards.

Commenters requested clarification with respect to provisions of the Notices to the Superintendent section (500.17) and also offered suggestions to narrow its scope and suggestions to increase the 72-hour reporting timeframe. Based on its experience and goals, the Department believes that the 72-hour reporting timeframe is appropriate and necessary to address fast-moving cybersecurity risks and thus has retained it. However, in response to comments, the Department has made revisions to section 500.17 to clarify the scope of reportable Cybersecurity Events.

Some commenters asserted that the annual certification requirement of subsection 500.17(b) should be eliminated. Other commenters sought revisions in the annual certification requirement and/or certification form. The Department has determined that the annual certification is an important requirement for effective regulatory oversight of cybersecurity within and the Department’s overall oversight of the financial markets and is essential to good corporate governance. Accordingly, the Department has retained this requirement, but has made revisions to this section to clarify the time period covered by the certification.

Commenters offered suggestions regarding the Confidentiality section (500.18), including suggestions that it be expanded or that more specific language be included. The Department did not make any changes in response, as the Department believes that the current Confidentiality section is sufficient.

The Department received a number of comments regarding coverage of the regulation and its limited exemptions. Certain types of entities asserted that they should not be considered, or were not, a “Covered Entity.” Others sought clarification as to whether or not they were a “Covered Entity.” Others requested clarification or offered suggestions regarding the calculation of eligibility for the limited exemptions set forth in subsection 500.19. In response, the Department did not make any changes in response, as the Department believes that subsection 500.19 is appropriate.

The Department has revised section 500.19 to clarify the scope of the regulation. More specifically, the Department has revised section 500.19 to include appropriate exemptions for:

- Article 70 of the New York Insurance Law ( captive insurance companies);
- Entities regulated under section 1110 of the New York Insurance Law (charitable annuity societies);
- Entities regulated under section 5904 of the New York Insurance Law (non-domestic risk retention groups); and
- Any accredited reinsurer or certified reinsurer that has been accredited or certified pursuant to 11 NYCRR 125.

In addition, the Department has clarified the limited exemptions including by limiting exemptions to activities within New York, and clarifying whether affiliates should be included in those calculations. In response, the Department has made certain changes to subsection 500.19(a) to clarify its scope and application.

Commenters additionally requested clarification regarding the timing of filing. The Department made a necessary clarification and requested that the final filing notice of exemption under section 500.19(e). In response, the Department revised section 500.19(e) to clarify that the required filing must be made within 30 days of the determination that the Covered Entity is exempt.

Some commenters offered suggestions for more specific enforcement-related provisions. The Department did not make any revisions in response to those suggestions because it believes that the current Enforcement section (500.20) is sufficient.

Several commenters expressed concern about the implementation timeframe contained in sections 500.21 and 500.22 and requested that various transitional periods be extended or otherwise adjusted. The Department has determined that the effective date of the final rule and the various transitional periods are appropriate.

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Valuation of Life Insurance Reserves and Recognition of the 2001 CSO Mortality Table and the 2017 CSO Mortality Table, and et al. I.D. No. DFS-09-17-00002-P

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

Proposed Action: This is a consensus rule making to amend Parts 98 (Regulation 147) and 100 (Regulation 179) of Title 11 NYCRR.

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

Subject: Valuation of Life Insurance Reserves and Recognition of the 2001 CSO Mortality Table and the 2017 CSO Mortality Table, et al.

Purpose: To adopt the 2017 CSO Mortality Table.

Substance of proposed rule (Full text is posted at the following State website: http://www.dfs.ny.gov): Section 98.4(b)(5)(ii), (iii) and (vii)(b)(2) are amended to specify that mortality improvement for varying premium term life insurance policies and universal life insurance policies that guarantee coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement may only be recognized for policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, 2018 if optionally elected.

Section 98.5(d) is amended to state that if an insurer substitutes the 2001 CSO Preferred Class Structure Mortality Table for the 2001 CSO Mortality Table for a policy issued on a form filed for approval after January 1, 2009 and prior to January 1, 2020, then the insurer shall recalculate the segments using the new valuation mortality rates.

A new section 98.5(e) is added to state that if an insurer substitutes the 2017 CSO Preferred Class Structure Mortality Table for the 2017 CSO Mortality Table then the insurer shall recalculate the segments using the new valuation mortality rates.
Sections 98.6(a)(4), 98.6(a)(7). 98.6(b)(1)(i) and 98.6(b)(2) are amended to specify that the reserve methodology specific to varying premium term life insurance policies may only be applied for policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, 2018 if optionally elected subject to the conditions listed in section 98.6(a)(1)(ii).

Sections 98.7(b)(1)(iv) and 98.7(b)(1)(v) are amended to specify that mortality improvement for universal life insurance policies that guarantee coverage will remain in force as long as the accumulation of premiums paid satisfies the secondary guarantee requirement may only be assumed for policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, 2018 if optionally elected subject to the conditions listed in section 98.9(c)(2)(vii)(b) and 98.9(c)(2)(vii)(c).

The title of Part 100 of Title 11 is amended to include reference to the 2017 CSO Mortality Table, the 2017 CSO Preferred Class Structure Mortality Table, respectively.

Sections 100.1(c) is amended to refer to the 2001 Valuation Basic Table, the 2001 CSO Preferred Class Structure Mortality Table, respectively.

Sections 100.4(a) and 100.4(b) are amended to recognize the 2017 CSO Mortality Table and the 2017 CSO Preferred Class Structure Mortality Table, respectively.

Sections 100.3(i) through 100.3(v) are renumbered as sections 100.3(k) through 100.3(aa); and new sections 100.3(f) through 100.3(j) are added to define the 2017 CSO Mortality Table, 2017 CSO Preferred Mortality Table, (F), 2017 CSO Mortality Table, (M), 2017 CSO Preferred Class Structure Mortality Table, and 2017 Unloaded CSO Preferred Class Structure Mortality Table, respectively. A new section 100.3(ab) is added to define Valuation Basic Table. In addition to section 100.3(o) being renumbered as section 100.3(o), it is also amended to update a reference to section 100.1.

The title of section 100.4 is amended to include reference to the 2017 CSO Mortality Table.

Section 100.4(b) is amended and new sections 100.4(d) and 100.4(e) are added to adopt the 2017 CSO Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2015 and prior to January 1, 2018 if optionally elected, on or after January 1, 2017, replacing the 2001 CSO Mortality Table.

The title of section 100.5 is amended to include reference to the 2017 CSO Mortality Table.

Sections 100.5(c) and 100.5(d) are amended to set forth the conditions for using the 2017 CSO Mortality Table.

The title of section 100.6 is amended to include reference to the 2017 CSO Mortality Table.

Sections 100.6(a)(2), 100.6(a)(3), 100.6(a)(7), and 100.6(a)(8) are amended to specify that mortality improvement for varying premium term life insurance policies may only be recognized for policies issued on or after January 1, 2015 and prior to January 1, 2017, or on or after January 1, 2015 and prior to January 1, 2018 if optionally elected.

Section 100.6(b) is renumbered as 100.6(c); and a new section 100.6(b) is added to state the manner in which the 2017 CSO Mortality Table shall be used in applying Part 98 of this Title.

The title of section 100.7 is amended to include the 2017 CSO gender-blended mortality tables.

Sections 100.7(a) and 100.7(b) are amended to specify that the 2001 CSO gender-blended mortality tables may only be assumed for policies issued on or after January 1, 2004 and prior to January 1, 2020.

Section 100.7(c) is renumbered as 100.7(c); and new sections 100.7(c) and 100.7(d) are added to set forth the general requirements for use of the 2017 CSO gender-blended mortality tables. Such tables may be substituted for the 2017 CSO Mortality Table for use in determining minimum cash surrender values and amounts of paid-up nonforfeiture benefits for policies issued on or after January 1, 2017.

The title of section 100.8 is amended to include reference to the 2017 CSO Preferred Class Structure Mortality Table.

Section 100.8(a) is amended to specify that the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum mortality standard for policies issued on or after January 1, 2007 and prior to January 1, 2020.

Section 100.8(b) is renumbered as 100.8(c) and amended to specify that the 2017 CSO Preferred Class Structure Mortality Table shall not be used as the minimum nonforfeiture standard described in section 4221(b)(v) of the New York Insurance Law.

A new section 100.8(b) is added that sets forth the general requirements for use of the 2017 CSO Preferred Class Structure Mortality Table. Such table may be substituted for the 2017 CSO Mortality Table for policies issued on or after January 1, 2015 and prior to January 1, 2020.
Department of Health

NOTICE OF ADOPTION

Non-Prescription Emergency Contraceptives Drugs

I.D. No. HLT-39-16-00031-A
Filing No. 114
Filing Date: 2017-02-10
Effective Date: 2017-03-01

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

Action taken: Amendment of section 505.3 of Title 18 NYCRR.

Statutory authority: Public Health Law, section 201(1)(v); Social Services Law, sections 363-a(2) and 367-a(9)(b)

Subject: Non-Prescription Emergency Contraceptives Drugs.

Purpose: Allow pharmacies to dispense non-prescription emergency contraceptive drugs for Medicaid female recipients without a written order. Amendments to Regulation 147 and the Third and Fourth Amendments to Title 18 NYCRR Part 505.3(v) are necessary for the performance of its duties. Section 3.09(2) vests OPRHP with the duty to operate and maintain the sites, parks, and recreational facilities under its jurisdiction. PRHPL Section 3.09(5) authorizes OPRHP to encourage, promote and provide recreational opportunities for residents of urban, suburban and rural areas.

1. Legislative Objectives

The current swimming regulation has not been revised in over forty years. OPRHP continually searches for ways to enhance the quality of the experience and the health and safety of park visitors and to respond to patron requests for new recreational opportunities. By providing more opportunities to enjoy the lakes, ponds, and other bodies of water throughout the state park system, the Office is furthering its statutory mission.

Summary of Regulatory Proposal: The Office of Parks, Recreation and Historic Preservation (“OPRHP” or “Office”) is proposing to update its rule on access to swimming areas in the state park system. OPRHP seeks to effectively repeal the current swimming regulation at 9 NYCRR Part 377.1(h) and adopt a new swimming regulation at 9 NYCRR 375.1(t).

2. Legislative Objectives

The current swimming regulation overly restricts park patrons from accessing and enjoying the myriad safe water recreation opportunities because it absolutely prohibits swimming everywhere in state parks except in areas specifically designated for guarded swimming such as developed bathing beaches and swimming pools. The proposed rule would allow swimming, wading and bathing in all water bodies within OPRHP’s parks except in those areas that present an open and obvious danger of serious bodily harm or drowning and those areas where such activities are expressly prohibited by signage or other directive, including the lawful directive of an OPRHP employee.

This regulatory change is closer in spirit to OPRHP’s statutory policy direction to provide and promote more recreational opportunities in the state park system.

Proposed § 505.3(h)(1)(i) allows recipients to obtain non-prescription emergency contraceptive drugs “subject to a utilization frequency limit of 6 courses of treatment in any 12-month period”. Women should have access to the full spectrum of birth control options to meet their needs. These limitations are contrary to the protection of women’s choice, and should be removed.

Response: The regulations were not revised to include this change. Emergency contraception is indicated for the prevention of pregnancy following unprotected intercourse or a known or suspected contraceptive failure. Per the U.S. Food and Drug Administration (FDA) approved prescribing information, emergency contraception is not indicated for routine use as a contraceptive. Based on this information, the utilization frequency limit is deemed appropriate.

Comment: It is recommended that the same provisions be made for the other emergency contraceptive pill, Ella or ulipristal acetate. This medication is effective in women with a BMI over 25, while Plan B is not.

Response: The regulations were not revised to include this change. This regulation relates to non-prescription emergency contraceptive drugs, as approved by the FDA. Ella or ulipristal acetate has not been approved by the FDA as a non-prescription drug. Although it continues to be available when prescribed by a physician, it cannot be made available without a prescription, in accordance with Federal and New York State law.
3. Needs and Benefits

There is a need to update the existing swimming regulation set forth in 9 NYCRR Part 377.1(h) to respond to patron requests for more access to swimming areas. Although OPRHP’s mission is to encourage and promote recreational opportunities that correspond to the abundance of natural and scenic resources, the existing rule forbids swimming everywhere in the state park system except in designated, guarded swimming areas.

The plain language of the rule prohibits more swimming and water-related activity than is necessary. In effect, the rule restricts the public’s access to natural, scenic and recreational resources in a manner at odds with the Office’s statutory mission in PRHPL Section 3.02 to provide for public enjoyment of and access to these resources.

For example, under the existing rule, park patrons could be penalized for wading into a lake adjacent to their campsite that does not have a developed beach or lifeguard. OPRHP seeks to allow rather than preclude or penalize this access to swimming opportunities.

The existing rule has other limitations OPRHP seeks to address. No other definitions or description of how OPRHP regulates swimming are contained in the rule.

The proposed amendment, which adds subdivision (t) to section 375.1, would allow wading, swimming and bathing in all bodies of water in the state parks except in areas where there is an open and obvious danger of serious bodily injury or drowning or those areas where OPRHP has expressly forbidden swimming by signage or other directive of the Office.

The benefits from this proposal would help OPRHP achieve multiple goals. The proposed rule would ease overly restrictive restrictions and, at the same time, balance the need for promoting the safety of park patrons with more public access to swimming areas. The change would expand areas where park patrons may permissibly swim, thus creating more recreational opportunities open to the public.

The new rule would authorize OPRHP to more precisely prohibit swimming in areas that are known to be unsafe or inappropriate for recreation. Accordingly, if this amendment is adopted, OPRHP will erect “no swimming” signs or direct patrons away from those areas where it is aware of dangerous conditions, including, currents, obstructions, pollution and drop-offs. This regulation will not change current OPRHP practices regarding swimming pools, which will be open for public use only when lifeguards are on duty.

4. Costs

There would be minimal cost to OPRHP for additional signage, but no costs to park patrons who swim or to local governments from this regulation.

5. Local Government Mandates

This regulation would not impose any programs, services, duties or responsibilities upon any county, city, town, village, school district or fire district.

6. Paperwork

Some additional paperwork and record keeping would result from the proposed rule involving the erection of signage for appropriate areas.

7. Duplication

No other State or federal regulations govern swimming in pools or waters under OPRHP’s jurisdiction.

8. Alternatives

OPRHP considered leaving the outdated regulation in place. This alternative overly restricts park patrons from accessing and enjoying the abundance of safe water recreation opportunities naturally available throughout New York’s state park system. The proposed rule appropriately allows more swimming and entry into state park waters in areas that do not contain patent or known dangers or contravene any sign or other directive of OPRHP. The new rule also fosters a relaxing and healthy recreational atmosphere appropriate to the unique settings under OPRHP’s jurisdiction.

9. Federal Standards

There are no federal standards that apply to swimming regulation in New York State parks.

10. Compliance Schedule

This regulation, if adopted, would become effective immediately upon publication of the Notice of Adoption in the State Register.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required for this proposal since it will not impose any adverse economic impact on small businesses or local governments. The proposed rule changes the manner in which OPRHP regulates swimming in waters within its jurisdiction. Therefore, a Regulatory Flexibility Analysis is not required.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not required for this proposed rule because it does not impose an adverse economic impact on any private or public sector interests in rural areas. The proposed rule changes the manner in which OPRHP regulates swimming in waters within its jurisdiction. Therefore, a Rural Area Flexibility Analysis is not required.

Job Impact Statement

The proposed amendments to OPRHP’s swimming regulations will not affect jobs or employment opportunities. Therefore, a Job Impact Statement is not required.
PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Petition to Submeter Electricity

I.D. No.  PSC-09-17-00007-P

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

Proposed Action: The Public Service Commission is considering a petition, filed by 587-91 Third Owner LLC, to submeter electricity at 591 Third Avenue, New York, New York.

Subject: Petition to submeter electricity.

Proposed action: To consider the petition of 587-91 Third Owner LLC to submeter electricity at 591 Third Avenue, New York, New York.

Statutory authority: Public Service Law, sections 65 and 66.

Purpose: To waive the incremental $3.36 per month customer charge for certain VTOU rate customers.

Substance of proposed rule: The Public Service Commission is considering a proposal by Niagara Mohawk Power Corporation d/b/a National Grid (National Grid or Company) to waive the $3.36 monthly incremental metering charge for Service Classification 1 – Residential customers taking service under the Voluntary Time of Use rate option located within the area of the Company’s Clifton Park Demand Reduction REV Demonstration Project. The full text of the proposal may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may approve, modify or reject, in whole or in part, the petition and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov.

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

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

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

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

(14-M-0101SP17)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Extension of an Outstanding Loan’s Repayment Schedule

I.D. No.  PSC-09-17-00009-P

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

Proposed Action: The Public Service Commission is considering a petition, filed by Red Hook 160, LLC, to submeter electricity at 160 Imlay Street, Brooklyn, New York.

Subject: Petition to submeter electricity.

Proposed action: To consider the petition of Red Hook 160, LLC, to submeter electricity at 160 Imlay Street, Brooklyn, New York. The full text of the petition may be reviewed online at the Department of Public Service web page: 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.

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

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

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

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

(16-E-0688SP1)
by three years to fully recover the extraordinary repairs cost. The full text of the petition may be reviewed online at the Department of Public Service web page: 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/96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov.

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

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

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

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

(17-W-0015SP1)

Department of Taxation and Finance

NOTICE OF ADOPTION

Fuel Use Tax on Motor Fuel and Diesel Motor Fuel and the Art. 13-A Carrier Tax Jointly Administered Therewith

I.D. No. TAF-48-16-00002-A
Filing No. 115
Filing Date: 2017-02-13
Effective Date: 2017-02-13

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

Action taken: Amendment of section 492.1(b)(1) of Title 20 NYCRR.

Statutory authority: Tax Law, sections 171, subd. First, 301-h(c), 509(7), 523(b) and 528(a).

Subject: Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.

Purpose: To set the sales tax component and the composite rate per gallon for the period January 1, 2017 through March 31, 2017.

Text or summary was published in the November 30, 2016 issue of the Register, I.D. No. TAF-48-16-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Kathleen D. O’Connell, Tax Regulations Specialist, Department of Taxation and Finance, Office of Counsel, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 530-4153, email: tax.regulations@tax.ny.gov.

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

PROPOSED RULE MAKING

NO HEARING(S) SCHEDULED

Fuel Use Tax on Motor Fuel and Diesel Motor Fuel and the Art. 13-A Carrier Tax Jointly Administered Therewith

I.D. No. TAF-09-17-00003-P

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

Proposed Action: Amendment of section 492.1(b)(1) of Title 20 NYCRR.

Statutory authority: Tax Law, sections 171, subd. First, 301-h(c), 509(7), 523(b) and 528(a).

NYS Register/March 1, 2017

Subject: Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.

Purpose: To set the sales tax component and the composite rate per gallon for the period April 1, 2017 through June 30, 2017.

Text of proposed rule: Section 1. Paragraph (1) of subdivision (b) of section 492.1 of such regulations is amended by adding a new subparagraph (lxxxvi) to read as follows:

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<th>Fuel Use Tax</th>
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<td><strong>Composite</strong></td>
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<tr>
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<td>Rate</td>
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<tr>
<td>Motor Fuel</td>
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Text of proposed rule and any required statements and analyses may be obtained from: Kathleen D. O’Connell, Tax Regulations Specialist, Department of Taxation and Finance, Office of Counsel, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 530-4153, email: tax.regulations@tax.ny.gov.

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

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

Regulatory Impact Statement, 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.

Office of Temporary and Disability Assistance

NOTICE OF ADOPTION

Storage of Furniture and Personal Belongings

I.D. No. TDA-46-15-00005-A
Filing No. 116
Filing Date: 2017-02-13
Effective Date: 60 days after filing

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

Action taken: Amendment of sections 352.6(f) and 397.5(k) of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (j), 20(3)(d), 34(3)(f), 131(1) and 303(1)(k).

Subject: Storage of furniture and personal belongings.

Purpose: Provide clarification regarding allowances for the storage of furniture and personal belongings.

Text or summary was published in the November 18, 2015 issue of the Register, I.D. No. TDA-46-15-00005-P.

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

Revised rule making(s) were previously published in the State Register on November 16, 2016.

Text of rule and any required statements and analyses may be obtained from: Joseph C. Mazza, NYS Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, NY 12243-0001, (518) 474-0574, email: Joseph.Mazza@otda.ny.gov.

Initial Review of Rule

As a rule that requires a RAFA, 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.