RULE MAKING ACTIVITIES

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

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

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

Office of Children and Family Services

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Procedures for Addressing Children Absent Without Consent from Foster Care, Conditional Releases and Searches

I.D. No. CFS-19-19-00006-EP
Filing No. 338
Filing Date: 2019-04-17
Effective Date: 2019-04-17

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

Proposed Action: Amendment of sections 431.8, 431.19, 431.20, 431.21, 441.2, 441.18 and 441.23 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f) and 398(3-a)(a)(1)

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

Specific reasons underlying the finding of necessity: The Office of Children and Family Services (Office) has determined that immediate adoption of 18 NYCRR §§ 431.8, 431.19, 431.20, 431.21, 441.18, and 441.23 on an emergency basis is necessary to protect the health, safety and welfare of youth in care throughout New York State, and specifically to protect youth in care under Chapter 59 of the Laws of 2017 (also known as the Raise the Age legislation.) These emergency regulations strengthen the Office's ability to monitor the local department of social services' (LDSS) oversight of such youth and provide LDSSs with appropriate standards for the conditional release, revocation and duration of placement of youth in care. In addition, the regulations set appropriate standards for authorized agencies caring for Raise the Age youth and other youth as it related to youth leaving their program without permission, youth privacy rights, searches and contraband.

There are currently 11 programs across the state serving youth placed by the court on a delinquency due to Raise the Age and over 30 programs in New York City serving youth placed on delinquencies. In October 2019, the second phase of the legislation goes into effect and with it authorized agencies, including Close to Home programs, will need these tools and resources to best serve their populations.

Social Services Law (SSL) § 398(3-a)(a)(1), enacted as part of the Close to Home legislation, (see L.2012, c. 57, pt. G, subpt. B, § 7; see also SSL § 404), authorizes the conditional release of youth that are adjudicated juvenile delinquents and placed with an LDSS in aftercare provided the conditional release is made in accordance with the Office's regulations. Moreover, SSL § 398(3-a)(a)(4) authorizes LDSSs, pursuant to the Office's regulations, to revoke a youth's release to the community from care and return the youth to an LDSS facility. Presently, the Office does not have regulations governing the release and revocation of such youth. Adoption of these regulations on an emergency basis is needed to prevent inconsistent standards among LDSSs in the release and revocation of delinquent youth and to promote consistent methods in the calculation of the duration of placement of delinquent youth.

The regulatory proposals are needed to provide guidance to authorized agencies to address the treatment of youth placed in care and who are residing with authorized agencies when those children are absent from the program without consent; the circumstances under which an adjudicated juvenile delinquent may be conditionally released; the circumstances under which searches of persons and property may occur; define contraband; and provide terms and conditions to be imposed on conditional release to promote and enhance the chances for success for youth. The proposed regulations are needed to promote consistent outcomes for youth and the fundamental interests of youth, such as due process and the right to a hearing when a youth's conditional release is revoked, as well as the prevention of wrongful placement due to the miscalculation of the duration of placement for a delinquent youth.

Subject: Procedures for addressing children absent without consent from foster care, conditional releases and searches.

Purpose: To put into place procedures for children absent without consent from foster care, conditional releases and searches.

Substance of emergency/proposed rule (Full text is posted at the following State website: https://ocfs.ny.gov/main/legal/Regulatory/pc/): 431.8 Procedures in cases of children absent without consent from foster care placement

Amends subdivision (f) by adding a new subparagraph (2) and renumbering the subsequent subparagraphs. References new regulatory sections 431.19 and 431.20 regarding release calculations and placement time and includes youth who are adjudicated delinquent and are over the age of 16 at the time of the delinquent act who may stay in custody through age 23; adds new language to clarify the mechanisms under which youth can be discharged from care if absent and are unable to be found; and makes conforming language changes reflecting the state system of record, CONNECTIONS.

431.19 Conditional Release of Youth Placed Pursuant to a Delinquency Adjudication

This section is added to the foster care regulations that are required by legislation to create the framework for conditional release of youth placed pursuant to a delinquency adjudication by the Close to Home legislation. These regulations are required now due to an increased number of youth anticipated to be placed in LDSS custody due to Raise the Age, and a new model of delinquency placement which requires a period of supervised release prior to the expiration of the delinquency placement order. This part provides for the following:

Conditions under which a youth may be conditionally released; limits on those releases relative to time out of program due to absence; appropriate release resources; required conditions of release; actions required to be taken by youth, release resource, case worker and DSS case manager; conditions under which a youth's conditions of release may be modified; conditions for revocation of release; required documentation for revocation; the process for revocation of release including requirements of a revocation hearing and; conditions for a voluntary return to placement.

431.20 Interruption of Placement Time

This section is added to address interruptions in placement and effects on calculating placement time.

431.21 Placement Calculation for Youth Placed Pursuant to a Delinquency Adjudication

This section is added to provides requirements to calculate the time in placement, including provisions for any time credit due to time served in detention.

441.2 Definitions

Subdivision (a) is amended to add the term "youth" as part of the definitions for foster care; references article 10-B of the Family Court Act (FCA) for youth reentering care after age 18; allows youth over the age 21 to stay in care if they come into care on an Article 3 of the FCA and were over the age of 16 at the time of the act. Subdivision (p) is added to define "office" the Office of Children and Family services.

441.18 Children's Privacy Rights

Subdivision (d) is repealed and replaced to provide the circumstances under which a youth's property and person may be searched congregate care settings, setting out a "reasonable cause" standard. It provides limitations on where and how searches shall be conducted including requirements for the child care facility to have a search policy; grounds for facility searches; use of metal detectors or dogs; sets forth parameters for personal searches of a youth limited to pat searches except in programs that serve only youth placed on an Article 3 which allows pat frisks; provides a definition of contraband; requires agencies to have a contraband policy which includes procedures for documenting and disposing of contraband.

441.23 Tobacco Product and Non-Prescribed or Non-Approved Inhaling Device Use Prohibition

Is amended to prohibit use of non-prescribed or non-approved inhaling devices by staff, youth and visitors; and to define unauthorized inhaling devices as contraband for youth and requiring confiscation.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire July 15, 2019.

Text of rule and any required statements and analyses may be obtained from: Leslie Robinson, Senior Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, NY 12144, (518) 486-9563, email: regcomments@ocfs.ny.gov

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

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority:

Section 20(3) of the Social Services Law authorizes the Department (Office of Children and Family Services – OCFS) to establish rules, regulations and policies to carry out the OCFS's powers and duties under the Social Services Law.

Section 34(3)(f) of the Social Services Law authorizes the Commissioner of the OCFS to establish regulations for administration of public assistance and care within the state.

Section 398(3-a)(a)(1) of the Social Services Law authorizes the conditional release of any juvenile delinquent placed with a district to aftercare provided that such conditional release shall be made in accordance with OCFS regulations.

2. Legislative objectives:

Enactment of "Raise The Age" (RTA) (Chapter 59 or the Laws of 2017) legislation was an initiative of Governor Andrew Cuomo as New York was one of only two states left that still considered all 16 and 17 year-olds automatically criminally responsible. Consistent with adolescent developmental needs and the Prison Rape Elimination Act, the RTA recognizes the potential vulnerability and treatment needs of young persons who are charged with criminal conduct. The RTA law raises the presumptive age of juvenile accountability to 16 year-olds as of 10/1/2018 and for 17 year-olds effective 10/1/2019, and the vast majority of cases for 16 and 17 year-olds will either originate or be transferred to Family Court from the new Youth Part of the adult criminal court. Youth whose cases are in Family Court, if the youth is to be detained (pretrial or during the pendency of trial), or if placed (post-trial as a disposition), will be housed in OCFS-operated or OCFS-licensed authorized agencies.

3. Needs and benefits:

The proposed regulations provide uniform guidance to clarify the Raise the Age law as it applies to authorized agencies and county Departments of Social Services.

The regulatory proposals which add provisions to Part 431 of the Social Services regulations for the "Care and Protection of Children" are needed to provide guidance to authorized agencies to address the circumstances under which an adjudicated juvenile delinquent may be conditionally released and provides for terms and conditions to be imposed on such a conditional release so as to promote and enhance the chances for success for the youth. There is also a provision for a hearing for the youth where the conditional release is revoked. Other regulations are proposed for Part 431 to address the calculation of a placement for a youth placed on a delinquency adjudication and the effect of an interruption of that placement.

The regulatory proposals in Article 3 – "Child Care Agencies" in the Part 441 General provisions of the Social Services regulations expands the definition of a "child or youth" to comply with the language in the Raise The Age law. A new subdivision is added to provide guidance to authorized agencies for circumstances in which searches of a child's or youth's property or person may be searched and requires agencies to have written policies about searches that must be in accord with the regulations. Another proposed regulation adds a prohibition of non-prescribed or non-approved inhaling devices.

4. Costs:

The authorized child care agencies may have increased staffing needs due to more, older youth being placed pursuant to juvenile delinquency adjudications, resulting in higher costs for the agencies. Also, any youth whose conditional release is revoked is entitled to a revocation hearing and as such, there may be an increase in hearing of this nature. This may result in increased costs for the counties, however, these costs are likely to be covered by the Raise The Age law appropriation at 100% provided that the county is within the tax cap or proves hardship.

5. Local government mandates:

Proposed regulation 18 NYCRR § 431.19 imposes the following mandates on a local social services district (LDSS):

1. Subdivision (e) requires the LDSS to remain responsible for a youth conditionally released pursuant to a delinquency adjudication; and
2. Subdivision (g)(4) requires that any proposed modification to the conditions of release must be reviewed and approved by the aftercare worker supervisor in consultation with the LDSS case manager; and
3. Subdivision (j)(2) requires that a written recommendation of a youth's conditional release revocation to be reviewed by the youth's LDSS case manager, and
4. Subdivision (k) requires the LDSS to provide the youth with timely notice and an opportunity to be heard when there is a revocation of the youth's conditional release.

6. Paperwork:

There will be paperwork generated in order to comply with the above-stated mandates for notices required to be given by the LDSS.

Proposed regulation 18 NYCRR § 441.18 pertaining to searches will require authorized agencies to have written policies for searches and each search conducted and/or contraband confiscated as a result thereof will have to be documented pursuant to the regulation.

Proposed regulation 18 NYCRR § 431.19 requires all conditions of a conditional release, as well as any modifications or revocations thereof to be written. There is likely paperwork associated with any revocation hearing.

7. Duplication:

These proposed regulations do not duplicate any existing State or federal requirements.

8. Alternatives:

There were no significant alternative proposals to these regulations considered.

9. Federal standards:

The proposed rules do not exceed federal standards.

10. Compliance schedule:

These provisions should be complied with upon filing of the emergency and adoption of the final rule.

Regulatory Flexibility Analysis

1. Effect of rule:

Small businesses and local (other than county) governments are not impacted by this rule. County government probation departments and departments of social services must comply with the rules.

2. Compliance requirements:

These regulations add no additional requirements on small businesses or local governments. These rules clarify the requirements in statute and add no additional burdens beyond the statutory requirements.

3. Professional services:

No additional professional services are necessary for compliance with these rules.

4. Compliance costs:

The proposed rule imposes no additional costs on local government or small businesses because it clarifies the statutory requirements of the Raise the Age law.

5. Economic and technological feasibility:

Small business and local government will have no additional economic or technological burden due to this rulemaking.

6. Minimizing adverse impact:

The proposed rule minimizes adverse impact by providing 100% reimbursement for qualified expenses under Raise the Age.

7. Small business and local government participation:

There has been extensive outreach and local work by OCFS, DCJS and other key participants to educate persons on the law and to listen to concerns from those impacted. Additionally, the regulatory proposal will be available to affected parties for comment and will be thoroughly addressed through statewide trainings and guidance documentation distributed to affected parties and counties, including those that serve rural communities, departments of social services, authorized agencies and facilities.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed rulemaking will have minimal impact on rural areas. Potentially each rural area could be home to youth impacted by Raise the Age. However, State estimates of youth likely to be placed do not indicate that there is likely to be a large flow of youth into the system, therefore the impact is expected to be a minimal.

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

These regulations impose no new requirements but clarify requirements in statute. As is currently required, the county departments of social service and voluntary authorized agencies impacted by Raise the Age will use the CONNECTIONS system and the Juvenile Justice Information Systems-Child Welfare (JJIS-CW). State estimates of youth likely to be placed do not indicate that there is likely to be a large flow of youth into the foster care system, therefore the impact is expected to be a minimal increase.

3. Costs:

There are some costs associated with these requirements however costs for youth who are in placement in a Raise the Age program are 100% reimbursable provided the county is within the tax cap or is approved for a hardship and includes those costs in their approved Raise the Age plan. There may be a cost to county government associated with hearings that may be needed if a youth's conditional release is being revoked.

4. Minimizing adverse impact:

It is anticipated that rural counties will have relatively low numbers of youth placed in foster care on delinquency based on historical data and current arrest and placement trends.

5. Rural area participation:

There has been extensive outreach and local work by OCFS, DCJS and other key participants to educate persons on the law and to listen to concerns from those impacted. Additionally, the regulatory proposals will be available to affected parties for comment and will be thoroughly addressed through statewide trainings and guidance documentation distributed to affected parties and counties, including those that serve rural communities.

Job Impact Statement

The changes to the regulations are not expected to have a negative impact on the job market. The Raise the Age law may result in some small positive impact resulting from the possible need to have additional hearing officers or additional staff for voluntary authorized agency programs to serve the older population.

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Child Care Market Rates

I.D. No. CFS-19-19-00009-EP

Filing No. 382

Filing Date: 2019-04-22

Effective Date: 2019-05-01

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

Proposed Action: Amendment of section 415.9 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f) and art. 6, title 5-C

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

Specific reasons underlying the finding of necessity: The adoption of these regulations on an emergency basis is necessary to protect the health, safety and welfare of families and children receiving subsidized child care in New York State. Federal statute, section 658E(c)(4)(A) of the Child Care and Development Block Grant Act, and federal regulation, 45 CFR 98.43(a), require that the State establish payment rates for federally-funded child care subsidies that are sufficient to ensure equal access for eligible children. The market rates that are being replaced are based on a survey conducted in 2017-18 and as a result, continuing to maintain the existing 2015 rates could result in subsidized families losing equal access for eligible children to child care arrangements, or being unable to find appropriate child care.

Subject: Child Care Market Rates.

Purpose: To adjust child care market rates in accordance with the results of the most recent cost of care market survey.

Text of emergency/proposed rule: Subdivision (j) of section 415.9 is amended to add a heading to read as follows:

(j) *Establishment of market rates.*

Paragraph (1) of subdivision (j) of section 415.9 is amended to read as follows:

(1) Effective [June 1, 2016] *May 1, 2019* the following are the local market rates for each social services district set forth by the type of provider, the age of the child and the amount of time the child care services are provided per week.

Paragraph (2) of subdivision (j) of section 415.9 is amended to read as follows:

(2) [Upon the effective date of these regulations, t]*T*here [will be]*are* two market rates for *informal child care*[the legally-exempt family child care and in-home child care categories], a standard market rate and an enhanced market rate. The standard market rate for [legally-exempt family child care and in-home child care categories]*informal child care* will be 65 percent of the applicable registered family day care market rate. The enhanced market rate for [legally-exempt family child care and in-home child care categories]*informal child care* will be 70 percent of the applicable registered family day care market rate. The enhanced market rate will apply to those [caregivers of legally-exempt family child care and in-home child care]*informal child care providers* who have provided notice to, and have been verified by, the applicable legally-exempt caregiver enrollment agency [or by the district for those portions of the district that are not covered by a legally-exempt caregiver enrollment agency,] as having completed 10 or more hours of training annually in the areas set forth in section 390-a(3)(b) of the Social Services Law. A social services district has the option, if it so chooses in the child care portion of its [child and family services plan]*Child and Family Services Plan*, to increase the enhanced market rate for [eligible legally-exempt family child care and in-home child care categories]*informal child care providers* to up to 75 percent of the applicable registered family day care market rate[:

(i) for all such providers;

(ii) for those providers who were receiving the enhanced rate on the date of the regulations but only for the remainder of their current one-year enrollment period; or

(iii) for those providers who were receiving the enhanced rate on the date of the regulations for the remainder of the time they remain enrolled and continue to meet the 10 hour annual training requirement. The standard market rate will apply to all other caregivers of legally-exempt family child care and in-home child care].

Paragraph (3) of subdivision (j) of section 415.9 is repealed in its entirety. A new paragraph (3) of subdivision (j) of section 415.9 is added as follows:

(3) The market rates are established for each of five groupings of social services districts. The rates established for a group apply to all districts in the designated group. The district groupings are as follows:

CHILD CARE MARKET RATES

Market rates are established for five groupings of social services districts as follows:

GROUP 1: Nassau, Putnam, Rockland, Suffolk, Westchester

GROUP 2: Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Schenectady, Tompkins, Warren

GROUP 3: Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, Yates

GROUP 4: Albany, Dutchess, Orange, Saratoga, Ulster

GROUP 5: Bronx, Kings, New York, Queens, Richmond

GROUP 1 COUNTIES:

Nassau, Putnam, Rockland, Suffolk, and Westchester

DAY CARE CENTER

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$364	$338	$310	$317
DAILY	$65	$62	$55	$65
PART-DAY	$43	$41	$37	$43
HOURLY	$9.50	$11.00	$10.00	$8.00

FAMILY DAY CARE HOME AND
GROUP FAMILY DAY CARE HOME

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$300	$295	$285	$275
DAILY	$60	$60	$60	$57
PART-DAY	$40	$40	$40	$38
HOURLY	$10.00	$10.00	$10.00	$10.00

SCHOOL-AGE CHILD CARE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$310	$317
DAILY	$0	$0	$55	$65
PART-DAY	$0	$0	$37	$43
HOURLY	$0	$0	$10.00	$8.00

LEGALLY-EXEMPT GROUP CHILD CARE
STANDARD RATE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$233	$238
DAILY	$0	$0	$41	$49
PART-DAY	$0	$0	$28	$32
HOURLY	$0	$0	$7.50	$6.00

INFORMAL CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$195	$192	$185	$179
DAILY	$39	$39	$39	$37
PART-DAY	$26	$26	$26	$25
HOURLY	$6.50	$6.50	$6.50	$6.50

INFORMAL CHILD CARE ENHANCED RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$210	$207	$200	$193
DAILY	$42	$42	$42	$40
PART-DAY	$28	$28	$28	$27
HOURLY	$7.00	$7.00	$7.00	$7.00

GROUP 2 COUNTIES:

Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Schenectady, Tompkins and Warren

DAY CARE CENTER

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$280	$264	$245	$215
DAILY	$59	$55	$51	$45
PART-DAY	$39	$37	$34	$30
HOURLY	$9.75	$9.25	$9.00	$9.00

FAMILY DAY CARE HOME AND
GROUP FAMILY DAY CARE HOME

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$190	$185	$180	$175
DAILY	$40	$40	$38	$35
PART-DAY	$27	$27	$25	$23
HOURLY	$8.00	$8.00	$8.00	$8.00

SCHOOL-AGE CHILD CARE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$245	$215
DAILY	$0	$0	$51	$45
PART-DAY	$0	$0	$34	$30
HOURLY	$0	$0	$9.00	$9.00

LEGALLY-EXEMPT GROUP CHILD CARE
STANDARD RATE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$184	$161
DAILY	$0	$0	$38	$34
PART-DAY	$0	$0	$26	$23
HOURLY	$0	$0	$6.75	$6.75

INFORMAL CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$124	$120	$117	$114
DAILY	$26	$26	$25	$23
PART-DAY	$18	$18	$16	$15
HOURLY	$5.20	$5.20	$5.20	$5.20

INFORMAL CHILD CARE ENHANCED RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$133	$130	$126	$123
DAILY	$28	$28	$27	$25
PART-DAY	$19	$19	$18	$16
HOURLY	$5.60	$5.60	$5.60	$5.60

GROUP 3 COUNTIES:

Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, and Yates

DAY CARE CENTER

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$220	$206	$195	$180
DAILY	$48	$45	$44	$39
PART-DAY	$32	$30	$29	$26
HOURLY	$8.00	$8.00	$8.00	$7.00

FAMILY DAY CARE HOME AND
GROUP FAMILY DAY CARE HOME

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$160	$150	$150	$150
DAILY	$35	$35	$33	$30
PART-DAY	$23	$23	$22	$20
HOURLY	$5.00	$5.00	$5.00	$5.00

SCHOOL-AGE CHILD CARE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$195	$180
DAILY	$0	$0	$44	$39
PART-DAY	$0	$0	$29	$26
HOURLY	$0	$0	$8.00	$7.00

LEGALLY-EXEMPT GROUP CHILD CARE
STANDARD RATE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$146	$135
DAILY	$0	$0	$33	$29
PART-DAY	$0	$0	$22	$20
HOURLY	$0	$0	$6.00	$5.25

INFORMAL CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$104	$98	$98	$98
DAILY	$23	$23	$21	$20
PART-DAY	$15	$15	$14	$13
HOURLY	$3.25	$3.25	$3.25	$3.25

INFORMAL CHILD CARE ENHANCED RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$112	$105	$105	$105
DAILY	$25	$25	$23	$21
PART-DAY	$16	$16	$15	$14
HOURLY	$3.50	$3.50	$3.50	$3.50

GROUP 4 COUNTIES:
Albany, Dutchess, Orange, Saratoga, and Ulster

DAY CARE CENTER

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$282	$265	$250	$230
DAILY	$59	$55	$52	$50
PART-DAY	$39	$37	$35	$33
HOURLY	$8.50	$8.25	$9.00	$9.75

FAMILY DAY CARE HOME AND
GROUP FAMILY DAY CARE HOME

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$225	$210	$200	$200
DAILY	$45	$45	$45	$40
PART-DAY	$30	$30	$30	$27
HOURLY	$8.75	$8.75	$8.50	$9.00

SCHOOL-AGE CHILD CARE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$250	$230
DAILY	$0	$0	$52	$50
PART-DAY	$0	$0	$35	$33
HOURLY	$0	$0	$9.00	$9.75

LEGALLY-EXEMPT GROUP CHILD CARE
STANDARD RATE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$188	$173
DAILY	$0	$0	$39	$38
PART-DAY	$0	$0	$26	$25
HOURLY	$0	$0	$6.75	$7.31

INFORMAL CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$146	$137	$130	$130
DAILY	$29	$29	$29	$26
PART-DAY	$20	$20	$20	$18
HOURLY	$5.69	$5.69	$5.53	$5.85

INFORMAL CHILD CARE ENHANCED RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$158	$147	$140	$140
DAILY	$32	$32	$32	$28
PART-DAY	$21	$21	$21	$19
HOURLY	$6.13	$6.13	$5.95	$6.30

GROUP 5 COUNTIES:
Bronx, Kings, New York, Queens, and Richmond

DAY CARE CENTER

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$406	$315	$289	$236
DAILY	$69	$60	$54	$47
PART-DAY	$46	$40	$36	$31
HOURLY	$15.75	$17.00	$15.75	$10.00

FAMILY DAY CARE HOME AND
GROUP FAMILY DAY CARE HOME

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$200	$196	$185	$170
DAILY	$40	$40	$35	$35
PART-DAY	$27	$27	$23	$23
HOURLY	$16.00	$15.00	$15.00	$15.00

SCHOOL-AGE CHILD CARE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$289	$236
DAILY	$0	$0	$54	$47
PART-DAY	$0	$0	$36	$31
HOURLY	$0	$0	$15.75	$10.00

LEGALLY-EXEMPT GROUP CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 1½	1½–2	3–5	6–12
WEEKLY	$0	$0	$217	$177
DAILY	$0	$0	$41	$35
PART-DAY	$0	$0	$27	$23
HOURLY	$0	$0	$11.81	$7.50

INFORMAL CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$130	$127	$120	$111
DAILY	$26	$26	$23	$23
PART-DAY	$18	$18	$15	$15
HOURLY	$10.40	$9.75	$9.75	$9.75

INFORMAL CHILD CARE ENHANCED RATE

AGE OF CHILD

	Under 2	2	3–5	6–12
WEEKLY	$140	$137	$130	$119
DAILY	$28	$28	$25	$25
PART-DAY	$19	$19	$16	$16
HOURLY	$11.20	$10.50	$10.50	$10.50

SPECIAL NEEDS CHILD CARE

The rate of payment for child care services provided to a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the State, as applicable, based on the amount of time the child care services are provided per week regardless of the type of child care provider used or the age of the child.

The highest full time market rate in the State is:

WEEKLY	$ 406
DAILY	$ 69
PART-DAY	$ 46
HOURLY	$ 17

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire July 20, 2019.

Text of rule and any required statements and analyses may be obtained from: Leslie Robinson, Senior Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, (518) 486-9563, email: regcomments@ocfs.ny.gov

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

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Commissioner of the Office of Children and Family Services (Office) to establish rules, regulations and policies to carry out the Office's powers and duties under the SSL.

Section 34(3)(f) of SSL authorizes the Commissioner of the Office to establish regulations for the administration of public assistance and care within the State.

Section 410(1) of the SSL authorizes a social services official of a county, city or town to provide day care for children at public expense and authorizes the Office to establish criteria for when such day care is to be provided.

Title 5-C (sections 410-u through 410-z) of the SSL governs the New York State Child Care Block Grant. It includes provisions regarding the use of funds by social services districts, the types of families eligible for services, the amount of local funds that must be spent on child care services, and reporting requirements. The Office is required to specify certain NYSCCBG requirements in regulation.

Section 410-x(4) of the SSL requires the Office to establish, in regulation, the applicable market-related payment rates that will establish the ceilings for State and federal reimbursement for payments made under the New York Child Care Block Grant.

Federal statute, 42 U.S.C. § 9858c(c)(4)(A), and federal regulation, 45 CFR 98.45(a), also require that the state establish payment rates for federally-funded child care subsidies that are sufficient to ensure such equal access to care that is provided to children whose parents/caretakers are not eligible to receive assistance under federal or state programs. Federal regulation 45 CFR 98.45(f)(2)(i) requires that payment rates be based on a local market survey conducted no earlier than two years prior to the effective date of the currently approved state plan for the Child Care and Development Fund.

2. Legislative objectives:

The legislative intent of the child care subsidy program is to assist low income families in meeting their child care costs in programs that provide for the health and safety of their children. The legislative intent is to have child care subsidy payment rates that reflect market conditions and that are adequate to enable subsidized families to access child care services comparable to other families not in receipt of a child care subsidy.

The regulations support the legislative objectives underlying Sections 332-a, 334, 335 and 410 and Title 5-C of the SSL to provide child care services to public assistance recipients and low income families when necessary to promote self-sufficiency and protect children. In addition, the regulations provide social services districts with local flexibility to provide child care services in the manner that best meets the needs of their local communities.

3. Needs and benefits:

The state is required under federal regulation 45 CFR 98.45(f)(2)(i) to adjust child care payment rates with each new State Plan based on a current survey of providers. The proposed State Plan for the period October 1, 2018 through September 30, 2021 has been submitted for approval to the federal government. These regulations are needed to adjust existing rates that were established based on a survey conducted in 2015. A more recent survey of providers was conducted from September 2017 to March 2018. Adjustments to the child care market rates based on that survey reflect the current child care market place. Some rates have increased, some have decreased, while others are unchanged. Adjustments to the child care market rates provide comparable access to those families in receipt of child care subsidy as compared with families that do not receive a child care subsidy, which is require by federal and state law.

4. Costs:

Under section 410-v(2) of the SSL, the state is responsible for reimbursing social services districts for 75 percent (75%) of the costs of providing subsidized child care services to public assistance recipients; and, social services districts are responsible for the other 25 percent (25%) of such costs. The state is responsible for reimbursing social services districts for 100 percent (100%) of the costs of providing child care services to other eligible low-income families. The state reimbursement for these child care services is made from the state and/or federal funds allocated to the New York State Child Care Block Grant, and is limited on an annual basis in each social services district to that district's New York State Child Care Block Grant allocation for that year.

Under the State Budget for SFY 2019-2020, social services districts will receive a total allocation of $832,082,001 in federal and state funds under the New York State Child Care Block Grant. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their Block Grant allocations. Social services districts may use block

grant funds to serve the optional category of eligible individuals set forth in these regulations.

The standard market rate for informal child care providers will be 65 percent (65%) of the applicable registered family day care market rate. The enhanced market rate for informal child care providers will be 70 percent (70%) of the applicable registered family day care market rate. Social services districts may also use block grant funds allocated to them to increase the enhanced rate for informal child care providers from 70 percent (70%) up to 75 percent (75%), if social services districts select this option in the child care portion of its child and family services plan.

The standard market rates for legally-exempt group child care are seventy-five percent (75%) of the market rates for day care centers. Social services districts may also use block grant funds allocated to them to establish one or two enhanced market rates for eligible legally-exempt group child care programs, each of which may be up to eighty-one percent (81%) of the applicable day care center market rates.

5. Local government mandates:

Social services districts will be required to make payments for subsidized child care services based on the actual cost of care up to the applicable market rates. Social services districts will need to review cases to determine whether the payments reflect the actual cost of care up to applicable market rates. Payment adjustments will have to be made, as appropriate.

6. Paperwork:

Social services districts will need to process any required payment adjustments after conducting the necessary case reviews.

7. Duplication:

The new requirements do not duplicate any existing state or federal requirements.

8. Federal standards:

The regulations are consistent with applicable federal regulations. 45 CFR 98.45(a), (f)(2)(i) and (h) require that the state establish payment rates that are sufficient to ensure equal access to comparable care received by unsubsidized families, based on a survey of providers, and consistent with the parental choice provisions in 45 CFR 98.30.

9. Compliance schedule:

These provisions must be effective on May 1, 2019.

10. Alternative approaches:

No alternative approaches were considered because federal regulation requires that payment rates be based on a local market rate survey.

Regulatory Flexibility Analysis

1. Effect on small businesses and local governments:

The adjustments to the child care market rates will affect the 58 social services districts. There is a potential effect on over 19,000 licensed and registered child care providers and an estimated 20,000 informal providers and legally-exempt group child care programs that may provide child care services to families receiving a child care subsidy.

2. Compliance requirements:

Social services districts will be required to make payments for subsidized child care services based on the actual cost of care up to the applicable market rates. Social services districts will need to review cases to determine whether the payments reflect the actual cost of care up to applicable market rates. Payment adjustments will have to be made, as appropriate.

3. Professional services:

Neither social services districts nor child care providers should have to hire additional professional staff in order to implement these regulations.

4. Compliance costs:

Under section 410-v(2) of the Social Services Law, the State is responsible for reimbursing social services districts for seventy-five percent (75%) of the costs of providing subsidized child care services to public assistance recipients; social services districts are responsible for the other twenty-five percent (25%) of such costs. In addition, the State is responsible for reimbursing social services districts for one hundred percent (100%) of the costs of providing child care services to other eligible low-income families. The State reimbursement for these child care services is made from the State and/or federal funds allocated to the New York State Child Care Block Grant, and is limited in each district to that district's State Child Care Block Grant allocation for that year.

Under the State Budget for SFY 2019-2020, social services districts will receive allocations totaling $832,082,001 in federal and State funds under the New York State Child Care Block Grant. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their Block Grant allocations.

5. Economic and technological feasibility:

The child care providers and social services districts affected by the regulations have the economic and technological ability to comply with the regulations.

6. Minimizing adverse impact:

The market rates were developed in accordance with federal guidelines for conducting a survey of child care providers, using standard statistical methodology, to minimize adverse impact. The Office applied standard statistical methods to choose a random sample of licensed and registered child care providers in such a manner that the survey was representative throughout the State. A total of 3,744 licensed and registered child care providers completed the survey. Prior to conducting the 2017-18 survey, the composition of the county cluster groups was reassessed using the 2015 market rate survey data. No changes were made to the county cluster groups from 2015. The data was analyzed to establish the market rates at the 69th percentile of the prices reported by providers on the survey. The market rates were clustered into five distinct groupings of counties based on similarities in rates among the counties in each group. The rates established for each cluster of counties are based on the actual costs of care that were reported in the survey. Adjustments to the child care market rates reflect the market place and provide access comparable to the access of families not receiving a child care subsidy.

Adjustments to the child care market rates reflect the current child care market place. Some rates have increased, some have decreased, while others are unchanged. . These rate adjustments provide comparable access for families receiving a child care subsidy to those families not received a child care subsidy, as required by federal and State laws. The adjustments in the rates will enable social services districts to provide temporary assistance recipients and low-income families receiving subsidized child care services with access to child care providers. This will enable temporary assistance and low-income families to work, thereby reducing the number of families in need of temporary assistance (TA). It also should assist the districts in meeting their federal participation rates for TA recipients because there should be a reduction in the number of TA recipients who are excused from work activities due to a lack of child care.

The standard market rates for informal child care providers are sixty-five percent (65%) of the applicable market rates for registered family day care. This differential reflects the higher costs associated with meeting the higher regulatory standards to become a registered family day care provider. The enhanced market rates for informal child care providers are seventy percent (70%) of the applicable child care market rates for registered family day care. The additional five percent (5%) provides an incentive to informal child care providers to pursue a minimum of ten hours of approved training. Additionally, the regulation allows local social services districts, which so choose in their Child and Family Services Plans, to increase the enhanced market rate up to seventy-five percent (75%) of the applicable registered family day care market rate.

The market rates for legally-exempt group child care are seventy-five percent (75%) of the market rates for day care centers. This differential reflects the higher costs associated with meeting the higher regulatory standards to become a licensed day care center. Additionally, the regulation allows local social services districts, which so choose in their Child and Family Services Plans, to establish one or two enhanced market rates for eligible legally-exempt group child care programs, each of which may be up to eighty-one percent (81%) of the applicable day care center market rate.

The regulations recognize that there may be differences in the needs among social services districts. To the extent allowed by statute, the regulations provide social services districts with flexibility in designing their child care subsidy programs in a manner that will best meet the needs of their communities.

7. Small business and local government participation:

In accordance with federal regulatory requirements, OCFS conducted a telephone survey of a sample of licensed/registered child care providers. Prior to conducting the telephone survey, a letter was sent to all regulated child care providers to inform them that they might be included among the sample of providers called to participate in the market rate survey. A copy of the questions was also sent so that providers could prepare responses. A New York State Preferred Source Program contractor conducted the telephone survey, on behalf of OCFS, in English and in Spanish, as needed, and had the resources available to assist providers in other languages, if needed, as well. Rate data was collected from 3,744 providers and that information formed the basis for the updated market rates.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The regulations will affect the 44 social services districts located in rural areas of the state and the child care providers located in those social services districts.

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

The regulations will not result in any new reporting or recordkeeping requirements for social services districts.

Social services districts will be required to make payments for subsidized child care services based on the actual cost of care up to the new market rates. Social services districts will need to review cases to

determine if the payments reflect the actual cost of care up to the appropriate market rate. Neither social services districts nor child care providers should have to hire additional professional staff in order to implement these regulations.

3. Costs:

Under the State Budget for SFY 2019-2020, social services districts will receive a total allocation of $832,082,001 in federal and state funds under the New York State Child Care Block Grant. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their New York State Child Care Block Grant allocations.

Under section 410-v(2) of the Social Services Law, the state is responsible for reimbursing social services districts for 75 percent (75%) of the costs of providing subsidized child care services to public assistance recipients and social services districts are responsible for the other 25 percent (25%) of such costs. The state is responsible for reimbursing social services districts for 100 percent (100%) of the costs of providing child care services to other eligible low-income families. The state reimbursement for these child care services is made from the state and/or federal funds allocated to the State Child Care Block Grant, and is limited on an annual basis in each social services district to that social services district's State Child Care Block Grant allocation for that year.

Social services districts will be required to provide an enhanced market rate on behalf of parents for subsidized child care services provided by informal child care providers who have completed ten hours of training annually, as approved by the legally-exempt caregiver enrollment agency. Such an enhanced rate will be seventy percent (70%) of the registered family day care rate. Social services districts have the option to pay up to seventy-five percent (75%) of the registered family day care market rate as the enhanced market rate, if the social services district selects this option in its Children and Family Services Plan. Social services districts have the option to establish one or two enhanced market rates for eligible legally-exempt group child care programs, each of which may be up to eighty-one percent (81%) of the applicable day care center market rates.

4. Minimizing adverse impact:

The market rates were developed in accordance with federal guidelines for conducting a survey of child care providers, using standard statistical methodology, to minimize adverse impact. The Office applied standard statistical methods to choose a random sample of licensed and registered child care providers in such a manner that the survey was representative throughout the state. A total of 3,744 licensed and registered child care providers completed the survey. The data were analyzed to establish the market rates at the 69th percentile of the prices reported by providers on the survey. The market rates are different for each of five distinct groupings of counties that were created based on similarities in rates among the counties in each group. The rates established for each cluster of counties are based on the actual costs of care that were reported in the survey. Adjustments to the child care market rates reflect changes in the market place and provide access for families receiving subsidies comparable to those families not receiving a child care subsidy.

Adjustments to the child care market rates reflect the results of a survey of providers that was conducted from September 2017 to March 2018. Some rates have increased, some have decreased, while others are unchanged. These rate adjustments reflect the market place and provide comparable access for families receiving child care subsidy as for those families not receiving a child care subsidy as required by federal and state laws.

The adjustments in the rates will enable social services districts to provide temporary assistance (TA) recipients and low-income families receiving subsidized child care services with access to child care providers. This will enable temporary assistance and low-income families to work, thereby reducing the number of families in need of temporary assistance. It also should assist the districts in meeting their federal participation rates for temporary assistance recipients because there should be a reduction in the number of TA recipients who are excused from work activities due to a lack of child care.

The market rates for informal child care providers are sixty-five percent (65%) of the market rates established for family day care. This differential reflects the higher costs associated with meeting the higher regulatory standards to become a registered family day care provider. The enhanced market rates for informal child care providers are seventy percent (70%) of the child care market rates established for registered family day care. The additional five percent (5%) differential provides an incentive to informal child care providers to pursue a minimum of ten hours of approved training. Additionally, the regulation allows local social services districts, which so choose in their Child and Family Services Plans, to increase the enhanced market rate to up 75 percent (75%) of the applicable registered family day care market rate.

The market rates for legally-exempt group child care are seventy-five percent (75%) of the market rates established for day care centers. This differential reflects the higher costs associated with meeting the higher regulatory standards to become a day care center. Additionally, the regulation allows local social services districts, which so choose in their Child and Family Services Plans, to establish one or two enhanced market rates for eligible legally-exempt group child care programs, each of which may be up to eighty-one percent (81%) of the applicable day care center market rate.

The regulations recognize that there may be differences in the needs among social services districts. To the extent allowed by statute, the regulations provide social services districts with flexibility in designing their child care subsidy programs in a manner that will best meet the needs of their communities.

5. Rural area participation:

Federal regulation 45 CFR 98.45(f)(2)(i) requires that payment rates be based on a local market survey conducted no earlier than two years prior to the effective date of the currently approved state plan for the Child Care and Development Fund. In accordance with the federal regulatory requirements, OCFS conducted a telephone survey of a sample of regulated providers. The sample drawn was representative of the regions across the state and, therefore, providers located in rural areas were appropriately represented in the survey. Prior to conducting the telephone survey, a letter was sent to all regulated child care providers to inform them that they might be included among the sample of providers called to participate in the market rate survey. A copy of the questions was also sent so that providers could prepare responses. A New York State Preferred Source Program contractor conducted the telephone survey in English and in Spanish, as needed, and had resources available to assist providers in other languages. Rate data was collected from 3,744 providers, including providers from rural counties, and that information formed the basis for the updated market rates.

Job Impact Statement

Section 201-a of the State Administrative Procedures Act requires a job impact statement to be filed if proposed regulations will have an adverse impact on jobs and employment opportunities in the State.

Proposed changes in the child care market rates reflect the market place and are not substantial enough to impact employment.

Adjustments to the child care market rates reflect the results of a survey of providers that was conducted from September 2017 to March 2018. Some rates have increased, some have decreased, while others are unchanged. OCFS believes that these rate adjustments will not cause a loss of jobs in child care programs as they reflect the current child care market place.

Higher Education Services Corporation

EMERGENCY RULE MAKING

New York State Science, Technology, Engineering and Mathematics Incentive Program

I.D. No. ESC-19-19-00001-E

Filing No. 333

Filing Date: 2019-04-17

Effective Date: 2019-04-17

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

Action taken: Addition of section 2201.13 to Title 8 NYCRR.

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

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 2201.13 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 attending New York State public institutions of higher education beginning with the fall 2014 term and students attending private degree-granting institutions of higher educa-

tion located in New York State beginning with the fall 2018 term. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible scholarship applicants. The statute provides for tuition benefits to college-going students who, beginning in August, pursue an undergraduate program of study in science, technology, engineering, or mathematics at a New York State institution of higher education. High school students entering college in August must inform the institution of their intent to enroll no later than May 1. Therefore, it is critical that the terms of the program as provided in the regulation be available immediately in order for HESC to process scholarship applications so that students can make informed choices. 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 Science, Technology, Engineering and Mathematics Incentive Program.

Purpose: To implement the New York State Science, Technology, Engineering and Mathematics Incentive Program.

Text of emergency rule: New section 2201.13 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.13 New York State Science, Technology, Engineering and Mathematics Incentive Program.

(a) Definitions. For purposes of this section and section 669-e of the Education Law, the following definitions shall apply:

(1) "Award" shall mean a New York State Science, Technology, Engineering and Mathematics Incentive Program award pursuant to section 669-e of the New York State education law.

(2) "Employment" shall mean continuous employment for at least thirty-five hours per week in an approved occupation in the science, technology, engineering or mathematics field, as published on the corporation's web site, for a public or private entity located in New York State for five years after the completion of the undergraduate degree program and, if applicable, a higher degree program or professional licensure degree program and a grace period as authorized by section 669-e(4) of the education law.

(3) "Grace period" shall mean a six month period following a recipient's date of graduation from a public or private degree granting institution of higher education and, if applicable, a higher degree program or professional licensure degree program as authorized by section 669-e(4) of the education law.

(4) "High school class" shall mean the total number of students eligible to graduate from a high school in the applicable school year.

(5) "Interruption in undergraduate study or employment" shall mean a temporary period of leave for a definitive length of time due to circumstances as determined by the corporation, including, but not limited to, maternity/paternity leave, death of a family member, or military duty.

(6) "Private degree granting institution of higher education" shall mean any institution of higher education recognized and approved by the Regents of the State University of New York which provides a course of study leading to the granting of a post-secondary degree or diploma except public institutions of higher education as defined in this subdivision.

(7) "Program" shall mean the New York State Science, Technology, Engineering and Mathematics Incentive Program codified in section 669-e of the education law.

(8) "Public institution of higher education" shall mean the state university of New York, as defined in subdivision 3 of section 352 of the education law, a community college as defined in subdivision 2 of section 6301 of the education law, or the city university of New York as defined in subdivision 2 of section 6202 of the education law.

(9) "School year" shall mean the period commencing on the first day of July in each year and ending on the thirtieth day of June next following.

(10) "Science, technology, engineering and mathematics" programs shall mean those undergraduate degree programs designated by the corporation on an annual basis and published on the corporation's web site.

(11) "Successful completion of a term" shall mean that at the end of any academic term, the recipient: (i) met the eligibility requirements for the award pursuant to sections 661 and 669-e of the education law; (ii) completed at least 12 credit hours or its equivalent in a course(s) of study leading to an approved undergraduate degree in the field of science, technology, engineering, or mathematics; and (iii) possessed a cumulative grade point average (GPA) of 2.5 as of the date of the certification by the institution. Notwithstanding, the GPA requirement is preliminarily waived for the first academic term for programs whose terms are organized in semesters, and for the first two academic terms for programs whose terms are organized on a trimester basis. In the event the recipient's cumulative GPA is less than a 2.5 at the end of his or her first academic year, the recipient will not be eligible for an award for the second academic term for programs whose terms are organized in semesters or for the third academic term for programs whose terms are organized on a trimester basis. In such case, the award received for the first academic term for programs whose terms are organized in semesters and for the first two academic terms for programs whose terms are organized on a trimester basis must be returned to the corporation and the institution may reconcile the student's account, making allowances for any other federal, state, or institutional aid the student is eligible to receive for such terms unless: (A) the recipient's GPA in his or her first academic term for programs whose terms are organized in semesters was a 2.5 or above, or (B) the recipient's GPA in his or her first two academic terms for programs whose terms are organized on a trimester basis was a 2.5 or above, in which case the institution may retain the award received and only reconcile the student's account for the second academic term for programs whose terms are organized in semesters or for the third academic term for programs whose terms are organized on a trimester basis. The corporation shall issue a guidance document, which will be published on its web site.

(b) Eligibility. In addition to the requirements of Education Law, section 669-e, recipients must satisfy the general eligibility requirements provided in Education Law, section 661. An applicant must apply and be selected for this program for the fall term immediately following his or her high school graduation.

(c) Class rank or placement. As a condition of an applicant's eligibility, the applicant's high school shall provide the corporation:

(1) official documentation or other certification showing that the applicant is in the top 10 percent of his or her graduating high school class; and

(2) any additional information the corporation deems necessary to determine that the applicant has graduated within the top 10 percent of his or her high school class.

(d) Recipient selection. If there are more applicants attending private degree granting institutions of higher education than available funds, the following provisions shall apply:

(1) First priority shall be given to eligible applicants who have received payment of an award pursuant to this section in a prior year, including payment for attendance at a public institution of higher education, and are currently in attendance at a private degree granting institution of higher education. If there are more applicants than available funds, recipients shall be chosen by lottery.

(2) Second priority shall be given to eligible applicants who are matriculated in an approved undergraduate program in science, technology, engineering or mathematics for the first time. If there are more applicants than available funds, recipients shall be chosen by lottery.

(e) Administration.

(1) Applicants for an award shall:

(i) apply for program eligibility on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility; and

(ii) submit applications for program eligibility to the corporation on or before the date prescribed by the corporation for the applicable academic year. Notwithstanding any other rule or regulation to the contrary, such applications shall be received by the corporation no later than August 15th of the applicant's year of graduation from high school.

(2) Recipients of an award shall:

(i) execute a service contract prescribed by the corporation;

(ii) apply for payment annually on forms specified by the corporation;

(iii) be enrolled in an approved undergraduate degree program in science, technology, engineering, or mathematics;

(iv) receive such awards for not more than four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years, as defined by the commissioner pursuant to article thirteen of the education law, excluding any allowable interruption(s) of study; and

(v) confirm employment in an approved occupation each year on forms or in a manner prescribed by the corporation.

(f) Amounts.

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

(2) Disbursements shall be made each term to institutions, on behalf of recipients, within a reasonable time upon successful completion of the term subject to the verification and certification by the institution of the recipient's GPA and other eligibility requirements.

(3) Awards shall be applied to any remaining tuition after the application of all other educational grants and scholarships limited to tuition, as authorized by section 669-e of the education law.

(g) Failure to comply.

(1) All award monies received shall be converted to a 10-year student loan plus interest for recipients who fail to meet the statutory, regulatory, contractual, administrative or other requirement of this program.

(2) The interest rate for the life of the loan shall be fixed and equal to that published annually by the U.S. Department of Education for undergraduate unsubsidized Stafford loans at the time the recipient signed the service contract with the corporation.

(3) Interest shall begin to accrue on the day each award payment is disbursed to the institution.

(4) Interest shall be capitalized on the day the award recipient violates any term of the service contract or the date the corporation deems the recipient was no longer able or willing to perform the terms of the service contract. Interest on this amount shall be calculated using simple interest.

(5) Where a recipient has demonstrated extreme hardship as a result of a total and permanent disability, labor market conditions, or other such circumstances, or is working in an approved occupation, the corporation may, in its discretion, postpone converting the award to a student loan, temporarily suspend repayment of the amount owed, prorate the amount owed commensurate with service completed, discharge the amount owed, or such other appropriate action. Where a recipient has demonstrated in-school status, the corporation shall temporarily suspend repayment of the amount owed for the period of in-school status.

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 July 15, 2019.

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 Science, Technology, Engineering and Mathematics Incentive Program ("Program") is codified within Article 14 of the Education Law. Part G of Chapter 56 of the Laws of 2014 created the Program by adding a new section 669-e to the Education Law, which was subsequently amended by Part BB of Chapter 56 of the Laws of 2018. Subdivision 5 of section 669-e of the Education Law authorizes HESC to promulgate emergency regulations to administer 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 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-e to create the "New York State Science, Technology, Engineering and Mathematics Incentive Program" (Program). This Program is aimed at increasing the number of individuals working in the fields of science, technology, engineering and mathematics (STEM) in New York State to meet the increasingly critical need for those skills in the State's economy.

Needs and benefits:

According to a February 2012 report by President Obama's Council of Advisors on Science and Technology, there is a need to add to the American workforce over the next decade approximately one million more science, technology, engineering and mathematics (STEM) professionals than the United States will produce at current rates for the country to stay competitive. To meet this goal, the United States will need to increase the number of students who receive undergraduate STEM degrees by about 34% annually over current rates. The report also stated that fewer than 40% of students who enter college intending to major in a STEM field complete a STEM degree. Further, a recent Wall Street Journal article reported that New York state suffers from a shortage of graduates in STEM fields to fill the influx of high-tech jobs that occurred five years ago. At a plant in Malta, about half the jobs were filled by people brought in from outside New York and 11 percent were foreigners. According to the article, Bayer Corp. is due to release a report showing that half of the recruiters from large U.S. companies surveyed couldn't find enough job candidates with four-year STEM degrees in a timely manner; some said that had led to more recruitment of foreigners. About two-thirds of the recruiters surveyed said that their companies were creating more STEM positions than other types of jobs. There are also many jobs requiring a two-year degree. To deal with this shortage, companies are using more internships, grants and scholarships.

The Program is aimed at increasing the number New York graduates with two and four year degrees in STEM who will be working in STEM fields across New York state. Eligible recipients may receive annual awards for not more than four academic years of undergraduate full-time study (or five years if enrolled in a five-year program) while matriculated in an approved program leading to a career in STEM.

Students receiving a New York State Science, Technology, Engineering and Mathematics Incentive Program award must sign a service agreement and agree to work in New York state for five years in a STEM field and reside in the State during those five years. Recipients who do not fulfill their service obligation will have the value of their awards converted to a student loan and be responsible for interest.

Costs:

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

b. The maximum cost of the program to the State is $8 million in the first year based upon budget estimates. At private degree granting institutions of higher education $1 million was appropriated for the 2018-19 academic year in the State Budget.

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

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

Local government mandates:

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

Paperwork:

This proposal will require applicants to file an electronic application for each year they wish to receive an award up to and including five years of eligibility. Recipients are required to sign a contract for services in exchange for an award. Recipients must submit annual status reports until a final disposition is reached in accordance with the written contract.

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 regarding this Program. Several alternatives were considered in the drafting of this regulation. For example, several alternatives were considered in defining terms/phrases used in the regulation as well as the academic progress requirement. Given the statutory language as set forth in section 669-e 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 unsubsidized Stafford loan rate if the award is converted into a student loan.

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 2201.13 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 impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who pursue their undergraduate studies in the fields of science, technology, engineering, or mathematics at degree-granting institutions of higher education located in New York State. Students will be rewarded for remaining and working in New York, which

will also serve to provide economic benefits to the State's small businesses and local governments.

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 2201.13 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 tuition benefits to college students who pursue their undergraduate studies in the fields of science, technology, engineering, or mathematics at degree-granting institutions of higher education located in New York State. Students will be rewarded for remaining and working in New York, which will also serve to benefit rural areas around the State.

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 2201.13 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 impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who pursue their undergraduate studies in the fields of science, technology, engineering, or mathematics at degree-granting institutions of higher education located in New York State. Students will be rewarded for remaining and working in New York, which will also serve to benefit the State.

EMERGENCY RULE MAKING

NYS Child Welfare Worker Loan Forgiveness Incentive Program

I.D. No. ESC-19-19-00002-E

Filing No. 334

Filing Date: 2019-04-17

Effective Date: 2019-04-17

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

Action taken: Addition of section 2201.22 to Title 8 NYCRR.

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

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 2201.22 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 or graduate degree from a college or university located in New York State. 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, agree to work as child welfare workers at not-for-profit agencies in New York State licensed by the New York State Office of Children and Family Services, on a full-time basis, for five years, and apply for this program within two years after graduating from college. Eligible applicants will receive up to $10,000 per year for five years in loan forgiveness payments. Since individuals must apply within two years of college graduation, 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: NYS Child Welfare Worker Loan Forgiveness Incentive Program.

Purpose: To implement the NYS Child Welfare Worker Loan Forgiveness Incentive Program.

Text of emergency rule: New section 2201.22 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.22 New York State Child Welfare Worker Loan Forgiveness Incentive Program.

(a) Definitions. For purposes of this section and Education Law, section 679-i, the following definitions shall apply:

(1) Award shall mean a New York State Child Welfare Worker Loan Forgiveness Incentive Program award pursuant to section 679-i of the New York State Education Law.

(2) Child welfare worker shall mean an individual who provides direct-care services to children and families at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services.

(3) Corporation shall mean the New York State Higher Education Services Corporation.

(4) Direct care services shall mean the provision of programs and services to children and families that requires some degree of interaction between the child/family and the child welfare worker. Such direct care services include, but are not limited to, assessments, home visits, or direct implementation of care plans.

(5) Economic need shall mean applicants whose household adjusted gross income is at or below 250 percent of the federal poverty level for the most recent calendar year available.

(6) Full time shall mean employment as a child welfare worker providing direct-care services to children and families at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services for an average of 35 hours per week, or more, continuously over a calendar year, except for an allowable interruption of employment.

(7) Interruption of employment shall mean an allowable temporary leave for a definitive length of time due to circumstances approved by the corporation, including, but not limited to, parental leave, medical leave, death of a family member, or military duty that exceeds forty-two calendar days, excluding legal holidays, regardless of whether such absence or leave is paid or unpaid.

(8) Household adjusted gross income shall mean the federal Adjusted Gross Income (AGI) for individuals or married couples filing jointly, or the aggregate AGI of married couples filing separately, reduced by a cost of living allowance, which shall be equal to the applicant's eligible New York State standard deductions plus their eligible New York State dependent exemptions for personal income tax purposes.

(9) Outstanding student loan debt shall mean the total cumulative student loan balance required to be paid by the applicant at the time of selection for an award under this program, including the outstanding principal and any accrued interest covering the cost of attendance to obtain an undergraduate or graduate degree from a college or university located in New York State. Such outstanding student loan debt may be reduced as provided in subparagraph (iii) of paragraph (4) of subdivision (c) of this section.

(10) Program shall mean the New York State Child Welfare Worker Loan Forgiveness Incentive Program.

(b) Eligibility. Applicants and recipients must:

(1) satisfy the requirements provided in section 679-i(2) of the Education Law;

(2) be in a non-default status on a student loan made under any statutory New York State or federal education loan program or repayment of any award made pursuant to Article 14 of the Education Law; and

(3) be in compliance with the terms of any service condition imposed by an award made pursuant to article 14 of the Education Law.

(c) Administration.

(1) An applicant for an award shall:

(i) apply for program eligibility on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility; and

(ii) electronically transmit an application for program eligibility to the corporation on or before the date prescribed by the corporation.

(2) A recipient of an award shall:

(i) execute a service contract prescribed by the corporation;

(ii) confirm each year, for five years, employment as a child welfare worker providing direct-care services to children and families at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services by submitting a certification from his or her employer attesting to the recipient's employment setting, job title, job duties, employment period, full time employment status, and any other information necessary for the corporation to determine eligibility. Said submissions shall be on forms or in a manner prescribed by the corporation;

(iii) apply for payment annually on forms prescribed by the corporation; and

(iv) receive no more than ten thousand dollars per year for not

more than five years in duration, and not to exceed the total amount of such recipient's outstanding student loan debt as defined in paragraph (9) of subdivision (a) of this section.

(3) If a recipient has been employed as a child welfare worker at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services for less than one year upon his or her initial selection for an award, the final award payment shall be prorated based on the ratio of months in the year that the recipient worked in such capacity when initially selected and disbursed in two proportionate installments. The first disbursement shall be made as part of the regular annual payment and the second disbursement shall be made at the time such recipient completes his or her full year of employment as a child welfare worker at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services.

(4) The outstanding student loan debt shall:

(i) include New York State student loans, federal government student loans, and private student loans for the purpose of financing undergraduate or graduate studies made by commercial entities subject to governmental examination.

(ii) exclude federal parent PLUS loans; loans cancelled under any program; private loans given by family or personal acquaintances; student loan debt paid by credit card; loans paid in full, or in part, before, on, or after the first successful application for program eligibility under this program; loans for which documentation is not available; loans without a promissory note; or any other loan debt that cannot be verified by the corporation.

(iii) be reduced by any reductions to student loan debt that an applicant has received or shall receive including voluntary payments made which reduces the balance owed.

(d) Award selection.

(1) For the first year of this program's operation, awards shall be made in the following order of priority:

(i) applicants who are completing the second, third, fourth or fifth year of full-time employment as a child welfare worker at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services;

(ii) applicants who can demonstrate economic need.

(2) For the second year of this program's operation and thereafter, awards shall be made in the following order of priority:

(i) applicants who received payment of an award in a prior year and remain eligible;

(ii) applicants who are completing the second, third, fourth or fifth year of full-time employment as a child welfare worker at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services;

(iii) applicants who can demonstrate economic need but did not receive an award during the first year of this program's operation.

(3) All awards are contingent upon annual appropriations.

(e) Revocation. Upon prior notice to a recipient, an award may be revoked by the corporation if the corporation determines that the recipient has failed to comply with the requirements to maintain their award, as evidenced by:

(1) a failure to apply for payment or reimbursement;

(2) a failure to respond to requests to contact or communication with the corporation;

(3) a failure to respond to a request for information; or

(4) any other information known to the corporation reasonably evidencing an indication of failure to comply with program requirements by a program participant.

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 July 15, 2019.

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 Child Welfare Worker Loan Forgiveness Incentive Program ("Program") is codified within Article 14 of the Education Law. In particular, Section 3 of Part MMM of Chapter 59 of the Laws of 2017 created the Program by adding a new section 679-i to the Education Law. Pursuant to subdivision 5 of section 679-i of the Education Law, HESC is required to promulgate rules and regulations for the administration of 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:

This Program was created to enhance the ability of child welfare workers in New York State to meet the needs of the children and youth in care as well as provide them with the skills needed to operate in today's changing health landscape by alleviating the student loan debt burden for recent college graduates pursuing careers in child welfare.

Needs and benefits:

New York State law provides various loan forgiveness programs to encourage individuals to pursue careers in a needed area or profession. Providing student loan relief to college graduates pursuing careers in child welfare serves to help address the growing demand in this sector for a skilled workforce.

The landscape of the child welfare system in New York State has changed dramatically. According to the Council of Family and Child Caring Agencies (COFCCA), the closure of state-operated mental health and juvenile justice facilities and recent focus on community-based and prevention services have helped to preserve thousands of families and has kept hundreds of children and youth out of the State's care. However, the result has been that children and youth who are residentially placed or who require services from a not-for-profit child welfare agency have higher and more complex needs. Additionally, these children and their families living in poverty desperately need access to programs and services. With child welfare agencies now providing services to an extremely vulnerable population of children and families, there is a greater need for a higher skilled workforce than in the past.

COFCCA reports that jobs in the child welfare sector are among the lowest paying jobs across the State. Due to the low wages, this sector has a difficult time recruiting and retaining employees. The current annual turnover rate for this sector is approximately 33 percent. While there are career track opportunities and potential for advancement, it is extremely difficult for entry level staff and/or direct care workers to enhance their education while working. Child welfare agencies need qualified individuals who have the education, training, and experience to provide the care needed.

Costs:

a. There are no application fees, processing fees, or other costs to the applicants of this Program.

b. The estimated cost to the agency for the implementation of, or continuing compliance with this rule is $489,975.

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

d. Costs to the State shall not exceed available New York State budget appropriations for the Program. The 2017-18 State Budget contained an appropriation for this Program in the sum of $50,000.

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 web application to determine eligibility and an electronic application for each year they wish to receive an award payment for up to five years.

Duplication:

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

Alternatives:

Given the statutory language as set forth in section 679-i(5) 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.

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 2201.22 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 a negative 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 impacts by providing loan forgiveness benefits to recent New York State college graduates who agree to work as child welfare workers at not-for-profit agencies in New York State licensed by the New York State Office of Children and Family Services, on a full-time basis, for five years. Providing such financial assistance will encourage individuals to pursue careers in child welfare throughout 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 new section 2201.22 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

HESC finds that this rule will not impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas. Rather, it has potential positive impacts by providing loan forgiveness benefits to recent New York State college graduates who agree to work as child welfare workers at not-for-profit agencies in New York State licensed by the New York State Office of Children and Family Services, on a full-time basis, for five years. Providing such financial assistance will encourage individuals to pursue careers in child welfare benefitting rural communities throughout New York State.

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 2201.22 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 a negative impact on jobs or employment opportunities. Rather, it has potential positive impacts by providing loan forgiveness benefits to recent New York State college graduates who agree to work as child welfare workers at not-for-profit agencies in New York State licensed by the New York State Office of Children and Family Services, on a full-time basis, for five years. Providing these benefits will encourage individuals to pursue careers in child welfare throughout New York State.

EMERGENCY RULE MAKING

NYS Child Welfare Worker Incentive Scholarship Program

I.D. No. ESC-19-19-00003-E

Filing No. 335

Filing Date: 2019-04-17

Effective Date: 2019-04-17

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

Action taken: Addition of section 2201.23 to Title 8 NYCRR.

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

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 2201.23 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Emergency adoption is necessary to avoid an adverse impact on the processing of scholarship awards to eligible applicants. This regulation implements a statutory student financial aid program that provides cost of attendance awards to be made to students pursuing their undergraduate or graduate degree from a college or university located in New York State beginning with the 2017-18 academic year, which generally starts in August. Decisions on applications for this program are typically made at the beginning of the academic year. 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 recipients can be selected and payments can be made on behalf of program recipients expeditiously. 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: NYS Child Welfare Worker Incentive Scholarship Program.

Purpose: To implement the NYS Child Welfare Worker Incentive Scholarship Program.

Text of emergency rule: New section 2201.23 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.23 New York State Child Welfare Worker Incentive Scholarship Program.

(a) Definitions. For purposes of this section and Education Law, section 679-h, the following definitions shall apply:

(1) Approved program of study shall mean those child welfare-related undergraduate and graduate degree programs designated by the corporation on an annual basis and published on the corporation's website conducted by an institution situated in the State, which has been approved and operating in this State for at least one year, and has been approved for participation in federal student financial aid programs authorized by Title IV of the Higher Education Act of 1965, as amended.

(2) Award shall mean a New York State Child Welfare Worker Incentive Scholarship Program award pursuant to section 679-h of the New York State Education Law.

(3) Child welfare worker shall mean an individual who provides direct-care services to children and families at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services.

(4) Corporation shall mean the New York State Higher Education Services Corporation.

(5) Direct care services shall mean the provision of programs and services to children and families that require some degree of interaction between the child/family and the child welfare worker. Such direct care services include, but are not limited to, assessments, home visits, or direct implementation care plans.

(6) Full time basis, as required by Education Law, sections 679-h(2)(c) and 679-h(3)(a), shall mean employment as a child welfare worker, as defined in this section, for an average of 35 hours per week, or more, continuously over a calendar year, except for an allowable interruption of employment upon completion of an award recipient's degree program.

(7) Interruption of employment shall mean an allowable temporary leave for a definitive length of time due to circumstances approved by the corporation, including, but not limited to, parental leave, medical leave, death of a family member, or military duty that exceeds forty-two calendar days, excluding legal holidays, regardless of whether such absence or leave is paid or unpaid.

(8) Interruption of study shall mean an allowable temporary leave for a definitive length of time due to circumstances approved by the corporation, including, but not limited to parental leave, medical leave, death of a family member, or military duty.

(9) Non-direct care services shall mean the provision of administrative and operational services in the child welfare sector.

(10) Program shall mean the New York State Child Welfare Worker Incentive Scholarship Program.

(11) Qualified experience, as required by Education Law, section 679-h(2)(a), shall mean the provision of direct-care services or non-direct care services as defined in this section. Such qualified experience may be obtained through employment, training, or education.

(b) Eligibility. Applicants and recipients must:

(1) satisfy the requirements provided in section 679-h(2) of the Education Law;

(2) satisfy the requirements provided in section 661(4)(f) of the Education Law;

(3) be matriculated in an undergraduate or graduate degree program, on a full-time or part-time basis, at an institution of higher education located within New York State in an approved program of study. A recipient is not required to be employed at a voluntary not-for-profit child welfare agency in New York State licensed by the New York State Office of Children and Family Services for the duration of his or her enrollment in an approved program of study.

(4) maintain good academic standing as set forth in section 665(6) of the Education Law, except that recipients enrolled in a graduate program of study must maintain a cumulative grade point average of 2.0 or higher as of the date of certification by the institution.

(5) make satisfactory progress towards completing his or her degree program within a reasonable timeframe, as determined by the corporation.

(6) be in a non-default status on a student loan made under any statutory New York State or federal education loan program or repayment of any award made pursuant to article 14 of the Education Law; and

(7) be in compliance with the terms of any service condition imposed by an award made pursuant to article 14 of the Education Law.

(c) Priorities. If there are more applicants than available funds, the following provisions shall apply:

(1) First priority shall be given to applicants who have received payment of an award for the academic year immediately preceding the academic year for which payment is sought including those who were subsequently granted an interruption in study by the corporation for the academic year immediately preceding the academic year for which payment is sought. If there are more applicants than available funds, recipients shall be chosen by lottery.

(2) Second priority shall be given to new applicants, within the remaining funds available for the program, if any. If there are more applicants than available funds, recipients shall be chosen by lottery.

(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) execute a service contract prescribed by the corporation;

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

(iii) receive such awards for no more than: (A) two academic years for an associate's degree; (B) four academic years for a bachelor's degree or five academic years if the bachelor's degree program normally requires five years; or (C) two academic years for a graduate degree. Notwithstanding, such duration may be extended for an allow interruption of study;

(iv) facilitate the submission of information from their employer attesting to the recipient's job title, job duties, employment period, full time employment status, and any other information necessary for the corporation to determine compliance with the program's employment requirements on forms and in a manner prescribed by the corporation; and

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

(e) Amounts.

(1) The amount of the award shall be determined in accordance with section 679-h(4) of the Education Law.

(2) Disbursements shall be made each term to institutions, on behalf of recipients, within a reasonable time upon certification by the institution of the recipient's eligibility for payment.

(3) Awards shall be reduced by the value of other educational grants and scholarships, as authorized by section 679-h(4) of the Education Law.

(f) Failure to comply.

(1) All award monies received shall be converted to a 10-year student loan plus interest for recipients who fail to meet the statutory, regulatory, contractual, administrative or other requirements of this program.

(2) The interest rate for the life of the loan shall be fixed and equal to that published annually by the U.S. Department of Education for undergraduate unsubsidized Stafford loans at the time the recipient signed the service contract with the corporation.

(3) Interest shall begin to accrue on the day each award payment was disbursed to the institution.

(4) Interest shall be capitalized on the day the award recipient violates any term of the service contract or the date the corporation deems the recipient was no longer able or willing to perform the terms of the service contract. Interest on this capitalized amount shall continue to accrue and be calculated using simple interest until the amount is paid in full.

(5) 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, postpone converting the award to a student loan, temporarily suspend repayment of the amount owed, prorate the amount owed commensurate with service completed, discharge the amount owed, 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 July 15, 2019.

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 Child Welfare Worker Incentive Scholarship Program ("Program") is codified within Article 14 of the Education Law. In particular, Section 2 of Part MMM of Chapter 59 of the Laws of 2017 created the Program by adding a new section 679-h to the Education Law. Pursuant to subdivision 9 of section 679-h of the Education Law, HESC is required to promulgate rules and regulations for the administration of 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:

This Program was created to enhance opportunities for committed child welfare workers in New York State by providing cost of attendance scholarship awards to support continued professional and skills development.

Needs and benefits:

New York State law provides various scholarship programs to attract and retain individuals in a needed area or profession. Providing the opportunity for affordable higher education through cost of attendance scholarship awards to current child welfare workers serves to help address the need to retain and promote those committed to serving communities in the not-for-profit sector.

According to the Council of Family and Child Caring Agencies (COFCCA), the landscape of the child welfare system in New York State has changed dramatically. With the State's focus on community based prevention services and efforts to preserve families, child welfare agencies are now providing services to the more vulnerable populations of children and families. As a result, there is a greater need for skilled child care workers.

COFCCA reports that jobs in the child welfare sector are among the lowest paying jobs across the State. As a result, this sector has a difficult time recruiting and retaining employees. The current annual turnover rate for this sector is approximately 33 percent. While there are career track opportunities and potential for advancement, the high cost of college makes it difficult for workers to advance their education. Child welfare agencies have a growing need for qualified individuals who have the education, training, and experience to fill the needs of this sector.

Costs:

a. There are no application fees, processing fees, or other costs to the applicants of this Program.

b. The estimated cost to the agency for the implementation of, or continuing compliance with this rule is $436,875.

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

d. Costs to the State shall not exceed available New York State budget appropriations for the Program. The 2017-18 State Budget contained an appropriation for this Program in the sum of $50,000.

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 web application, together with supporting documentation, for eligibility. Each year recipients will file an electronic request for payment together with supporting documentation for up to five years of eligibility. Recipients are required to sign a contract for services in exchange for an award. Recipients must submit annual status reports until a final disposition is reached in accordance with the written contract.

Duplication:

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

Alternatives:

Given the statutory language as set forth in section 679-h(9) 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.

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 2201.23 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 a negative 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 impacts inasmuch as it implements a statutory student financial aid program that provides cost of attendance awards to current child welfare workers pursuing undergraduate or graduate degrees at New York State colleges that will enhance their ability to work in voluntary not-for-profit child welfare agencies in New York State. Upon completion of their degree program, recipients are required to work as child welfare workers in voluntary not-for-profit child welfare agencies in New York State for five years and maintain residency in the State for such period of employment. Providing these benefits will encourage individuals to continue employment in the child welfare sector throughout 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 new section 2201.23 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

HESC finds that this rule will not impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides cost of attendance awards to current child welfare workers pursuing undergraduate or graduate degrees at New York State colleges that will enhance their ability to work in voluntary not-for-profit child welfare agencies in New York State. Upon completion of their degree program, recipients are required to work as child welfare workers in voluntary not-for-profit child welfare agencies in New York State for five years and maintain residency in the State for such period of employment. Providing these benefits will encourage individuals to continue employment in the child welfare sector benefitting rural communities throughout New York State.

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 new section 2201.23 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 a negative impact on jobs or employment opportunities. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides cost of attendance awards to current child welfare workers pursuing undergraduate or graduate degrees at New York State colleges that will enhance their ability to work in voluntary not-for-profit child welfare agencies in New York State. Upon completion of their degree program, recipients are required to work as child welfare workers in voluntary not-for-profit child welfare agencies in New York State for five years and maintain residency in the State for such period of employment. Providing these benefits will encourage individuals to continue employment in the child welfare sector throughout New York State.

EMERGENCY RULE MAKING

Enhanced Tuition Awards Program

I.D. No. ESC-19-19-00004-E
Filing No. 336
Filing Date: 2019-04-17
Effective Date: 2019-04-17

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

Action taken: Addition of section 2201.19 to Title 8 NYCRR.

Statutory authority: Education Law, sections 653, 655 and 667-d

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 2201.19 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 2017 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 for tuition benefits to college-going students pursuing their undergraduate studies at a New York State private institution of higher education. Decisions on applications for this Program are made prior to the beginning of the term. Therefore, it is critical that the terms of the Program as provided in the regulation be effective immediately 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: Enhanced Tuition Awards program.

Purpose: To implement the Enhanced Tuition Awards program.

Text of emergency rule: New section 2201.19 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.19 Enhanced Tuition Awards.

(a) Definitions. For purposes of this section and Education Law, section 667-d, the following definitions shall apply:

(1) Award shall mean an Enhanced Tuition Award pursuant to Education Law, section 667-d.

(2) Full-time attendance or full-time study, for purposes of Education Law, section 667-d(1)(d)(ii), shall mean enrollment in at least 12 credits per semester and completion of at least 30 combined credits per year following the student's start date, or its equivalent, applicable to his or her program(s) of study, excluding any permissible interruption of study as determined by the corporation, and except as provided in subdivision (b) of this section and Education Law, section 667-d(1)(d)(ii). Noncredit courses shall not be considered as contributing toward full-time attendance.

(3) Half-time shall mean enrollment in at least six but less than 12 credits, or the equivalent, per semester.

(4) Interruption in undergraduate study shall mean either: (i) a temporary period of leave or (ii) enrollment in or completion of less than the required number of credits for a definitive length of time both due to circumstances as determined by the corporation, including, but not limited to, death of a family member, medical leave, military service, service in the Peace Corps or parental leave.

(5) Private degree granting institutions of higher education shall mean any institution of higher education recognized and approved by the Regents of the State University of New York which provides a course of study leading to the granting of a post-secondary degree or diploma except public institutions as defined in this subdivision.

(6) Program shall mean the Enhanced Tuition Awards codified in Education Law, section 667-d.

(7) Public institution of higher education shall mean the State University of New York, as defined in subdivision 3 of section 352 of the Education Law, a community college as defined in subdivision 2 of section 6301 of the Education Law, or the City University of New York as defined in subdivision 2 of section 6202 of the Education Law.

(8) Satisfactory progress shall have the same meaning as successful completion.

(9) Student's start date shall mean the date the student first enrolled as a matriculated student.

(10) Successful completion shall mean a student has earned at least 30 combined credits in each consecutive year following the student's start date, or its equivalent, applicable to his or her program or programs of study except as provided in subdivision (b) of this section and Education Law, section 667-d(1)(d)(ii).

(b) Eligibility. In addition to the requirements of Education Law, section 667-d, an applicant must also satisfy the general eligibility requirements provided in Education Law, section 661. As authorized by Education Law, section 667-d, the following exceptions and modifications to the eligibility requirements shall apply:

(1) College credit earned toward a recipient's program(s) of study while a high school student or other non-matriculated status shall be considered as contributing toward full-time attendance. For a recipient who earned college credit toward his or her program(s) of study prior to enrolling in college as a matriculated student and who is making satisfactory progress toward timely completion of his or her program(s) of study, and is enrolled in coursework not applicable toward his or her program(s) of study, such coursework outside of his or her program(s) of study shall be considered as contributing toward full-time attendance.

(2) A recipient must be in full-time attendance as defined in this section.

(3) For purposes of Education Law, section 667-d(1)(d)(i), an applicant must have completed at least 30 combined credits each year following his or her start date, or its equivalent, applicable to his or her program(s) of study which were accepted by his or her current institution at the time of application for this award, except for any permissible interruption of study as determined by the corporation.

(4) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, the full-time attendance requirement is eliminated, subject to the parameters of paragraph 3 of subdivision f of this section. Rather such students are required to have completed the number of credits in which they were enrolled (attempted) each term, except for any allowable interruption in undergraduate study as determined by the corporation.

(c) Income. An applicant or recipient whose current income or prior year adjusted gross income qualifies for an award due to the disability, divorce or separation of a parent, spouse or applicant/recipient or the death of a parent or spouse as authorized in Education Law, section 667-d(3), shall provide documentation required by the corporation to determine his or her eligibility for an award or award payment. The corporation may consider such documentary evidence it deems sufficient to determine disability, divorce, separation or death.

(d) Recipient selection. If there are more applicants than available funds, the following provisions shall apply:

(1) In the program's first year:

(i) First priority shall be given to eligible applicants who are currently in attendance at an institution of higher education. If there are more applicants than available funds, recipients shall be chosen by lottery.

(ii) Second priority shall be given to eligible applicants who are matriculated in an approved program leading to an undergraduate degree at a private not-for-profit degree granting institution of higher education located in New York State, except those institutions set forth in Education Law, section 661(4)(b), for the first time. If there are more applicants than available funds, recipients shall be chosen by lottery.

(2) After the program's first year:

(i) First priority shall be given to eligible applicants who have received payment of an award pursuant to this section in a prior year and are currently in attendance at a private degree granting institution of higher education located in New York State. If there are more applicants than available funds, recipients shall be chosen by lottery.

(ii) Second priority shall be given to eligible applicants who have not received payment of an award in a prior year and are currently in attendance at an institution of higher education. If there are more applicants than available funds, recipients shall be chosen by lottery.

(iii) Third priority shall be given to eligible applicants who are matriculated in an approved program leading to an undergraduate degree at a private degree granting institution of higher education located within New York State for the first time. If there are more applicants than available funds, recipients shall be chosen by lottery.

(e) Administration. In addition to the requirements contained in Education Law, section 667-d, the following requirements shall also apply.

(1) Applicants for an award shall:

(i) apply for program eligibility on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility; and

(ii) electronically transmit applications for program eligibility to the corporation on or before the date prescribed by the corporation for the applicable academic year.

(2) Recipients of an award shall:

(i) execute a contract with the corporation agreeing to reside in New York State for a continuous number of years equal to the duration of the award received and, if employed during such time, to be employed in New York State;

(ii) apply for payment annually on forms specified by the corporation; and

(iii) receive such awards for not more than two academic years of full-time undergraduate study if enrolled in an eligible two-year program of study or four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years, as defined by the commissioner pursuant to article thirteen of the education law, excluding any allowable interruption of study as defined in this section. For purposes of this subparagraph, a recipient's academic year shall begin with the term he or she was first matriculated.

(3) Institutions.

(i) Certification. For each recipient, institutions shall certify on forms and in the manner prescribed by the corporation the tuition rate charged by the institution, the amount of the institution's matching award, eligibility to receive the award, the number of credits completed each academic term, the cumulative credits at the end of each academic term, and any other information requested by the corporation.

(ii) College Option. (A) An institution may annually choose to participate in the Program or to opt out of the Program in the manner prescribed by the corporation; (B) Institutional participation shall be for an entire academic year; (C) An institution may establish a cap on its participation based on a dollar threshold or a maximum number of students; (D) An institution that opts out of the Program shall continue to provide the institutional matching award, unless such institution is exempt, and applicable tuition rate to all award recipients until such recipients have exhausted eligibility or are no longer eligible for award payments.

(f) Amounts.

(1) The amount of the award shall be determined in accordance with Education Law, section 667-d.

(2) Disbursements shall be made each term to institutions, on behalf of recipients, within a reasonable time subject to the verification and certification by the institution of the recipient's full-time status and other eligibility and certification requirements.

(3) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, upon each certification by the college or university, payment eligibility shall be determined and measured proportionally in equivalence with full-time study.

(g) Contractual obligation.

(1) For the purpose of complying with Education Law, section 667-d(1)(f), military personnel, including those in the Military Reserves and ROTC or CSPI, for whom New York is his or her legal state of residence shall be deemed to reside and be employed in New York State regardless of where the individual is stationed or deployed.

(2) For the purpose of complying with Education Law, section 667-d(1)(f), for a recipient who is no longer eligible to receive award payments, the duration he or she resides in New York State while completing undergraduate or graduate study, including medical residency, shall be credited toward the time necessary to satisfy the recipient's residency and employment requirement.

(3) Where a recipient, within six months of receipt of his or her final award payment, fails to maintain permanent domicile in New York State for a continuous number of years equal to the duration of the award received or, during such time, is employed in any other state, the corporation shall convert all award monies received to a 10-year student loan, without interest. However, the requirement to maintain permanent domicile, and only be employed, in New York State, may be deferred to complete undergraduate study or attend graduate school, including medical residency, on at least a half-time basis.

(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, postpone converting the award to a student loan, temporarily suspend repayment of the amount owed, discharge the amount owed, or take such other appropriate action. Notwithstanding, the corporation shall prorate the amount owed commensurate with the length of time the recipient complied with the residency and employment requirements.

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 July 15, 2019.

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 Enhanced Tuition Awards (Program) is codified within Article 14 of the Education Law. Part III of Chapter 59 of the Laws of 2017 created the Program by adding a new section 667-d to the Education Law, which was amended by Part W of Chapter 56 of the Laws of 2018. Subdivision 9 of section 667-d of the Education Law authorizes HESC to promulgate emergency regulations to administer 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 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 667-d to create the Enhanced Tuition Awards program (Program). This Program is aimed at reducing tuition costs and accelerating completion rates for students who attend a private college in New York State.

Needs and benefits:

Many studies have underscored the importance of a college degree in today's global economy. According to a report by the Center on Education and the Workforce (CEW) at Georgetown University, by 2020, 65 percent of all jobs will require some form of postsecondary education or training, compared to 59 percent of jobs in 2010. The CEW report finds that having a skilled workforce is critical if the United States is to "remain competitive, attract the right type of industry, and engage the right type of talent in a knowledge-based and innovative economy." At the current pace, the United States will fall short of its skilled workforce needs by 5 million workers. The disparity in earning potential between high school graduates and college graduates has never been greater, nor has the student loan debt – which stands at $1.3 trillion – being carried by those who have pursued a postsecondary education.

Recognizing the growing need for workers with postsecondary education and training, the wage earnings benefits for those with training beyond high school, the rapidly rising college costs and mounting student loan debt, this Program awards students up to $6,000 to offset students' tuition costs through a combination of a New York State Tuition Assistance Program (TAP) award, the Enhanced Tuition Award and a match from those private colleges who elect to participate in the Program unless the college qualifies for an exemption from providing the match award. When fully phased in, Program awards will be available to resident, undergraduate students from households with incomes of up to $125,000. To be eligible for a Program award, students must be on track to complete an associate's degree in two years or a bachelor's degree in four years by taking at least 30 credits each year. Payments will be made directly to colleges and universities on behalf of students upon certification of their successful completion of the academic term.

The Program was amended to: (1) authorize HESC to use an applicant's current income to establish eligibility if the applicant, a parent or spouse becomes disabled, divorced or separated or in the event of the death of a parent or spouse; (2) include students attending for-profit degree granting colleges; (3) exempt colleges from providing the matching award if certain criteria is met; and (4) authorize colleges to include the matching award as part of the recipient's institutional aid package.

Students receiving Enhanced Program Awards must sign a contract agreeing to live in New York State for the number of years equal to the duration of the award received and, if employed, work within the State during this time. Recipients who do not satisfy this obligation will have the value of their awards converted to an interest-free student loan.

Costs:

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

b. Private colleges that opt to participate in the Program are required to credit each recipient's remaining tuition expenses in an amount equal to the recipient's award ("matching award") unless the college qualifies for an exemption from providing the matching award. Such credit may be part of the recipient's institutional aid package. The maximum amount of the matching award to a recipient is $3,000.

c. The maximum cost of the program to the State is $19 million in the first year and $22.863 million in the second year based upon budget estimates.

d. It is anticipated that there will be no costs to Local Governments for the implementation of, or continuing compliance with, this rule.

e. The source of the cost data in (c) 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 each year they wish to receive an award up to and including five years of eligibility. Recipients are required to sign a contract agreeing to live in New York State, and not be employed outside the State, in exchange for an award. Recipients must submit annual status reports until a final disposition is reached in accordance with the written contract.

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 regarding this Program. Several alternatives were considered in the drafting of this regulation, such as the application of the credit requirement. Given the statutory language as set forth in section 667-d 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.

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 2201.19 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This rule implements a statutory student financial aid program that provides tuition benefits to college students who pursue their undergraduate studies at a New York State private institution of higher education. Colleges that opt to participate in the Program are required to credit each recipient's remaining tuition expenses in an amount equal to the recipient's award ("matching award"), unless the institution qualifies for an exemption from providing the matching award. Such credit may be part of the recipient's institutional aid package. The maximum amount of the matching award to a recipient is $3,000. Notwithstanding, 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 impacts by offering new financial aid support for students seeking to enroll in a private college in New York state and providing students with additional tuition award benefits. Students will be rewarded for remaining and working in New York, 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 2201.19 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 tuition benefits to college students who pursue their undergraduate studies at a New York State private institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit 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 2201.19 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 impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who pursue their undergraduate studies at a New York State private institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit the State as well.

EMERGENCY RULE MAKING

Excelsior Scholarship

I.D. No. ESC-19-19-00005-E

Filing No. 337

Filing Date: 2019-04-17

Effective Date: 2019-04-17

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

Action taken: Addition of section 2201.18 to Title 8 NYCRR.

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

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 2201.18 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 2017 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 for full tuition benefits to college-going students pursuing their undergraduate studies at a New York State public institution of higher education. Decisions on applications for this Program are made prior to the beginning of the term. Therefore, it is critical that the terms of the Program as provided in the regulation be effective immediately 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: Excelsior Scholarship.

Purpose: To implement the Excelsior Scholarship.

Text of emergency rule: New section 2201.18 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.18 Excelsior Scholarship.

(a) Definitions. For purposes of this section and Education Law, section 669-h, the following definitions shall apply:

(1) Award shall mean an Excelsior Scholarship award pursuant to Education Law, section 669-h.

(2) Full-time attendance or full-time study, for purposes of Education Law, section 669-h(1)(c), shall mean enrollment in at least 12 credits per semester and completion of at least 30 combined credits per year following the student's start date, or its equivalent, applicable to his or her program(s) of study, excluding any permissible interruption of study as determined by the corporation, and except as provided in subdivision (b) of this section and Education Law, section 669-h(1)(c). Noncredit courses shall not be considered as contributing toward full-time attendance.

(3) Half-time shall mean enrollment in at least six but less than 12 credits, or the equivalent, per semester.

(4) Interruption in undergraduate study shall mean either: (i) a temporary period of leave or (ii) enrollment in or completion of less than the required number of credits for a definitive length of time both due to circumstances as determined by the corporation, including, but not limited to, death of a family member, medical leave, military service, service in the Peace Corps or parental leave.

(5) Program shall mean the Excelsior Scholarship codified in Education Law, section 669-h.

(6) Public institution of higher education shall mean the State University of New York, as defined in Education Law, section 352(3), a community college as defined in Education Law, section 6301(2), or the City University of New York as defined in Education Law, section 6202(2).

(7) Satisfactory progress shall have the same meaning as successful completion.

(8) Student's start date shall mean the date the student first enrolled as a matriculated student.

(9) Successful completion shall mean a student has earned at least 30 combined credits in each consecutive year following the student's start date, or its equivalent, applicable to his or her program or programs of study except as provided in subdivision (b) of this section and Education Law, section 669-h(1)(c).

(b) Eligibility. In addition to the requirements of Education Law, section 669-h, an applicant must also satisfy the general eligibility requirements provided in Education Law, section 661. As authorized by Education Law, section 669-h, the following exceptions and modifications to the eligibility requirements shall apply:

(1) College credit earned toward a recipient's program(s) of study while a high school student or other non-matriculated status shall be considered as contributing toward full-time attendance. For a recipient who earned college credit toward his or her program(s) of study prior to enrolling in college as a matriculated student and who is making satisfactory progress toward timely completion of his or her program(s) of study, and is enrolled in coursework not applicable toward his or her program(s) of study, such coursework outside of his or her program(s) of study shall be considered as contributing toward full-time attendance.

(2) A recipient must be in full-time attendance as defined in this section.

(3) For purposes of Education Law, section 669-h(1)(b), an applicant must have completed at least 30 combined credits each year following his or her start date, or its equivalent, applicable to his or her program(s) of study which were accepted by his or her current institution at the time of application for this award, except for any permissible interruption of study as determined by the corporation.

(4) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, the full-time attendance requirement is eliminated, subject to the parameters of paragraph 4 of subdivision e of this section. Rather such students are required to have completed the number of credits in which they were enrolled (attempted) each term, except for any allowable interruption in undergraduate study as determined by the corporation.

(c) Income. An applicant or recipient whose current income or prior year adjusted gross income qualifies for an award due to the disability, divorce or separation of a parent, spouse or the applicant/recipient or the death of a parent or spouse as authorized in Education Law, section 669-h(1), shall provide documentation required by the corporation to determine his or her eligibility for an award or award payment. The corporation may consider such documentary evidence it deems sufficient to determine disability, divorce, separation or death.

(d) Administration. In addition to the requirements contained in Education Law, section 669-h, the following requirements shall also apply.

(1) Applicants for an award shall:

(i) apply for program eligibility on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility; and

(ii) electronically transmit applications for program eligibility to the corporation on or before the date prescribed by the corporation for the applicable academic year.

(2) Recipients of an award shall:

(i) execute a contract with the corporation agreeing to reside in New York State for a continuous number of years equal to the duration of the award received and, if employed during such time, to be employed in New York State;

(ii) apply for payment annually on forms specified by the corporation; and

(iii) receive such awards for not more than two academic years of full-time undergraduate study if enrolled in an eligible two year program of study or four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years, as defined by the commissioner pursuant to article thirteen of the education law, excluding any allowable interruption of study as defined in this section. For purposes of this subparagraph, a recipient's academic year shall begin with the term he or she was first matriculated.

(3) For each recipient, institutions shall certify on forms and in the manner prescribed by the corporation the tuition rate charged by the institution, eligibility to receive the award, the number of credits completed each academic term, the cumulative credits at the end of each academic term, the type and amount of each student financial aid award received, excluding loans and work study, and any other information requested by the corporation.

(e) Amounts.

(1) The amount of the award shall be determined in accordance with Education Law, section 669-h.

(2) Disbursements shall be made each term to institutions, on behalf of recipients, within a reasonable time subject to the verification and certification by the institution of the recipient's full-time status and other eligibility and certification requirements.

(3) Awards shall be reduced by the value of other educational grants and scholarships that cover the cost of attendance unless the award is exclusively for non-tuition expenses as authorized by Education Law, section 669-h.

(4) For students who are disabled as defined by the Americans with Disabilities Act of 1990, 42 USC 12101, upon each certification by the college or university, payment eligibility shall be determined and measured proportionally in equivalence with full-time study.

(f) Contractual obligation.

(1) For the purpose of complying with Education Law, section 669-h(4)(e), military personnel, including those in the Military Reserves and ROTC or CSPI, for whom New York is his or her legal state of residence shall be deemed to reside and be employed in New York State regardless of where the individual is stationed or deployed.

(2) For the purpose of complying with Education Law, section 669-h(4)(e), for a recipient who is no longer eligible to receive award payments, the duration he or she resides in New York State while completing undergraduate or graduate study, including medical residency, shall be credited toward the time necessary to satisfy the recipient's residency and employment requirement.

(3) Where a recipient, within six months of receipt of his or her final award payment, fails to maintain permanent domicile in New York State for a continuous number of years equal to the duration of the award received or, during such time, is employed in any other state, the corporation shall convert all award monies received to a 10-year student loan, without interest. However, the requirement to maintain permanent domicile, and only be employed, in New York State, may be deferred to complete undergraduate study or attend graduate school, including medical residency, on at least a half-time basis.

(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, postpone converting the award to a student loan, temporarily suspend repayment of the amount owed, discharge the amount owed, or take such other appropriate action. Notwithstanding, the corporation shall prorate the amount owed commensurate with the length of time the recipient complied with the residency and employment requirements.

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 July 15, 2019.

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 Excelsior Scholarship (Program) is codified within Article 14 of the Education Law. Part HHH of Chapter 59 of the Laws of 2017 created the Program by adding a new section 669-h to the Education Law, which was amended by Part T of Chapter 56 of the Laws of 2018. Subdivision 6 of section 669-h of the Education Law authorizes HESC to promulgate emergency regulations to administer 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 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-h to create the Excelsior Scholarship (Program). This Program makes college tuition-free for New York's middle class families at all State University of New York (SUNY) and City University of New York (CUNY) two-year and four-year colleges.

Needs and benefits:

Many studies have underscored the importance of a college degree in today's global economy. According to a report by the Center on Education and the Workforce (CEW) at Georgetown University, by 2020, 65 percent of all jobs will require some form of postsecondary education or training, compared to 59 percent of jobs in 2010. The CEW report finds that having a skilled workforce is critical if the United States is to "remain competitive, attract the right type of industry, and engage the right type of talent in a knowledge-based and innovative economy." At the current pace, the United States will fall short of its skilled workforce needs by 5 million workers. The disparity in earning potential between high school graduates and college graduates has never been greater, nor has the student loan debt – which stands at $1.3 trillion – being carried by those who have pursued a postsecondary education. Recognizing the growing need for workers with postsecondary education and training, the wage earnings benefits for those with training beyond high school, the rapidly rising college costs and mounting student loan debt, this Program makes college tuition-free for New York's students attending a State University of New York (SUNY) or City University of New York (CUNY) two-year or four-year college.

The Program provides for annual tuition awards up to $5,500 for resident, undergraduate students from households with incomes of up to $125,000, when fully phased in. Students must be on track to complete an associate's degree in two years or a bachelor's degree in four years by taking at least 30 credits each year. Awards are reduced by other financial aid received by the student, such as a Tuition Assistance Program (TAP) award. Any remaining tuition expense will be covered through a college credit. Payments will be made directly to the public college or university on behalf of the student upon certification of his or her successful completion of the academic term.

The Program was amended to authorize HESC to use an applicant's current income to establish eligibility if the applicant, a parent or a spouse becomes disabled, divorced or separated or in the event of the death of a parent or spouse.

Students receiving an Excelsior Scholarship award must sign a contract agreeing to live in New York State for a number of years equal to the duration of the award received and, if employed, work within the State during this time. Recipients who do not satisfy this obligation will have the value of their awards converted to an interest-free student loan.

Costs:

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

b. The maximum cost of the program to the State is $87 million in the first year and $118.418 million in the second year, based upon budget estimates.

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

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

Local government mandates:

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

Paperwork:

This proposal will require applicants to file an electronic application for each year they wish to receive an award up to and including five years of eligibility. Recipients are required to sign a contract agreeing to live in New York State, and not be employed outside the State, in exchange for an award. Recipients must submit annual status reports until a final disposition is reached in accordance with the written contract.

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 regarding this Program. Several alternatives were considered in the drafting of this regulation, such as the application of the credit requirement. Given the statutory language as set forth in section 669-h 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.

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 2201.18 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 impacts inasmuch as it implements a statutory student financial aid program that provides full tuition benefits to college students who pursue their undergraduate studies at a New York State public institution of higher education. Students will be rewarded for remaining and working in New York, 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 2201.18 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 full tuition benefits to college students who pursue their undergraduate studies at a New York State public institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit 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 2201.18 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 impacts inasmuch as it implements a statutory student financial aid program that provides full tuition benefits to college students who pursue their undergraduate studies at a New York State public institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit the State as well.

State Commission on Judicial Conduct

NOTICE OF ADOPTION

Counsel for Witnesses at Hearings

I.D. No. JDC-08-19-00006-A
Filing No. 383
Filing Date: 2019-04-22
Effective Date: 2019-05-08

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

Action taken: Amendment of section 7000.6(i) of Title 22 NYCRR.

Statutory authority: Judiciary Law, section 42(5)

Subject: Counsel for witnesses at hearings.

Purpose: To codify the practice that a witness may have legal counsel present during a commission hearing.

Text or summary was published in the February 20, 2019 issue of the Register, I.D. No. JDC-08-19-00006-P.

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

Text of rule and any required statements and analyses may be obtained from: Marisa E. Harrison, Commission on Judicial Conduct, Corning Tower, Suite 2301, Empire State Plaza, Albany, New York 12223, (518) 453-4600, email: harrison@cjc.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 2022, 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.

State Liquor Authority

NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the State Liquor Authority publishes a new notice of proposed rule making in the NYS *Register.*

Municipal Notification Requirements for Temporary Beer and Wine Permit as well as Catering Permit Applications for Large Events

I.D. No.	Proposed	Expiration Date
LQR-07-18-00011-P	February 14, 2018	April 18, 2019

Office of Parks, Recreation and Historic Preservation

NOTICE OF ADOPTION

Ice Fishing in Shaver Pond, Grafton Lakes State Park, Saratoga Capital Region

I.D. No. PKR-07-19-00007-A
Filing No. 388
Filing Date: 2019-04-23
Effective Date: 2019-05-08

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

Action taken: Amendment of Part 417.3 of Title 9 NYCRR.

Statutory authority: Parks, Recreation and Historic Preservation Law, sections 3.02, 3.09(5), (8) and (10)

Subject: Ice Fishing in Shaver Pond, Grafton Lakes State Park, Saratoga Capital Region.

Purpose: To remove the prohibition on ice fishing in Shaver Pond at Grafton Lakes State Park.

Text or summary was published in the February 13, 2019 issue of the Register, I.D. No. PKR-07-19-00007-P.

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

Text of rule and any required statements and analyses may be obtained from: Nicholas Ference, Office of Parks, Recreation and Historic Preservation, 625 Broadway, Albany, NY 12238, (518) 486-2921, email: Nicholas.Ference@parks.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, 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 ADOPTION

Joint Proposals

I.D. No. PSC-24-18-00015-A
Filing Date: 2019-04-18
Effective Date: 2019-04-18

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

Action taken: On 4/18/19, the PSC adopted an order adopting the terms of joint proposals executed by New York State Electric & Gas Corporation (NYSEG), Rochester Gas & Electric Corporation (RG&E), et al. in response to the March 2017 Windstorm in Western New York.

Statutory authority: Public Service Law, sections 2, 5, 25, 26, 64, 65 and 66

Subject: Joint Proposals.

Purpose: To adopt the terms of joint proposals.

Substance of final rule: The Commission, on April 18, 2019, adopted an order adopting the terms of joint proposals in response to penalty questions and safety concerns identified by Staff of the Department of Public Service (Staff) based on its investigation into the severe windstorm that stuck Western New York on March 8, 2017. The Settlement Joint Proposal, executed by Staff, New York State Electric and Gas Corporation (NYSEG) and Rochester Gas & Electric Corporation (RG&E), resolves the alleged violations by NYSEG and RG&E that were identified and described in the Order to Show Cause previously issued in this case. The terms of the Settlement Joint Proposal dated and filed May 18, 2018, are adopted, except for paragraphs numbered 2, 4, and 6. The Investment Joint Proposal, executed by Staff, NYSEG, RG&E, Utility Intervention Unit (UIU), the International Brotherhood of Electrical Workers, IBEW Local 10 (IBEW) and the City of Rochester (the City), provides for the use of the settlement proceeds for programs intended to address Staff's safety concerns and to improve the NYSEG and RG&E's storm preparation and response performance. The terms of the Investment Joint Proposal dated and filed May 18, 2018, are adopted, except for paragraphs numbered 2, 3, 5, and 6, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(17-E-0594SA1)

NOTICE OF ADOPTION

Transfer of Street Lighting Facilities

I.D. No. PSC-50-18-00004-A
Filing Date: 2019-04-19
Effective Date: 2019-04-19

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

Action taken: On 4/18/19, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) petition to transfer street lighting facilities located within the City of Albany (Albany) to Albany.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve National Grid's petition to transfer street lighting facilities to the City of Albany.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's petition to transfer street lighting facilities located within the City of Albany to the City of Albany, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-E-0707SA1)

NOTICE OF ADOPTION

Lightened Regulation for Electric Generating Facility

I.D. No. PSC-50-18-00005-A
Filing Date: 2019-04-18
Effective Date: 2019-04-18

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

Action taken: On 4/18/19, the PSC adopted an order approving, with conditions, Ball Hill Wind Energy, LLC's (Ball Hill) petition for lightened regulation of its facility in Chautauqua County.

Statutory authority: Public Service Law, sections 2(12), (13), (22), 5(1)(b), 64-69, 69-a, 70-72, 72-a, 78, 79, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Lightened regulation for electric generating facility.

Purpose: To approve Ball Hill's petition for lightened regulation with its facility in Chautauqua County.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with conditions, Ball Hill Wind Energy, LLC's petition for lightened regulation of its approximately 100 MW wind electric generating facility in Chautauqua County, New York, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-E-0654SA1)

NOTICE OF ADOPTION

Transfer of Street Lighting Facilities

I.D. No. PSC-52-18-00007-A
Filing Date: 2019-04-19
Effective Date: 2019-04-19

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

Action taken: On 4/18/19, the PSC adopted an order approving Rochester Gas and Electric Corporation's (RG&E) petition to transfer street lighting facilities located within the City of Canandaigua (Canandaigua) to Canandaigua.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve RG&E's petition to transfer street lighting facilities to the City of Canandaigua.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Rochester Gas and Electric Corporation's petition to transfer street lighting facilities located within the City of Canandaigua to the City of Canandaigua, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-E-0668SA1)

NOTICE OF ADOPTION

Capacity Value Compensation

I.D. No. PSC-52-18-00009-A

Filing Date: 2019-04-18

Effective Date: 2019-04-18

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

Action taken: On 4/18/19, the PSC adopted an order adopting, with modifications, recommendations and options for Capacity Value compensation under the Value Stack and directed major utilities to file tariff leaves implementing the modifications.

Statutory authority: Public Service Law, sections 5(1)(b), (2), 65(1), (2), (3), 66(2) and (5)

Subject: Capacity Value compensation.

Purpose: To adopt, with modifications, recommendations for future Capacity Value compensation and direct major utilities to file tariffs.

Substance of final rule: The Commission, on April 18, 2019, adopted an order adopting, with modifications, recommendations and options for Capacity Value compensation and directed Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation to file, in conformance with the Order, tariff leaves implementing the modifications to the Value of Distributed Energy Resources policy and to the Value Stack, on not less than 20 days' notice to become effective on June 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(15-E-0751SA20)

NOTICE OF ADOPTION

Value Stack Compensation

I.D. No. PSC-52-18-00013-A

Filing Date: 2019-04-18

Effective Date: 2019-04-18

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

Action taken: On 4/18/19, the PSC adopted an order adopting, with modifications, recommendations and options for future Value Stack compensation and directed major utilities to file tariff leaves implementing the modifications.

Statutory authority: Public Service Law, sections 5(1)(b), (2), 65(1), (2), (3), 66(2) and (5)

Subject: Value Stack compensation.

Purpose: To adopt, with modifications, recommendations for future Value Stack compensation and direct major utilities to file tariffs.

Substance of final rule: The Commission, on April 18, 2019, adopted an order adopting, with modifications, recommendations and options for future Value Stack compensation and directed Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation to file, in conformance with the Order, tariff leaves implementing the modifications to the Value of Distributed Energy Resources policy and to the Value Stack, on not less than 20 days' notice to become effective on June 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(15-E-0751SA19)

NOTICE OF ADOPTION

Transfer of Street Lighting Facilities

I.D. No. PSC-02-19-00010-A

Filing Date: 2019-04-19

Effective Date: 2019-04-19

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

Action taken: On 4/18/19, the PSC adopted an order approving New York State Electric & Gas Corporation's (NYSEG) petition to transfer street lighting facilities located within the Village of Newark (Newark) to Newark.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve NYSEG's petition to transfer street lighting facilities to the Village of Newark.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving New York State Electric & Gas Corporation's petition to transfer street lighting facilities located within the Village of Newark to the Village of Newark, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-E-0737SA1)

NOTICE OF ADOPTION

Limited Waiver of Remote Net Metering Rule

I.D. No. PSC-02-19-00015-A

Filing Date: 2019-04-19

Effective Date: 2019-04-19

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

Action taken: On 4/18/19, the PSC adopted an order approving Niagara Mohawk d/b/a National Grid's (National Grid) petition for a limited waiver regarding remote net metering projects.

Statutory authority: Public Service Law, sections 5(1)(b), (2), 65(1), (2), (3), 66(2), (5) and 66-j

Subject: Limited waiver of remote net metering rule.

Purpose: To approve National Grid's petition for a limited waiver regarding remote net metering projects.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Niagara Mohawk d/b/a National Grid's (National Grid) petition for a limited waiver regarding remote net metering projects. As such, for the life of the ten projects described in the National Grid Petition, each project may provide credits to satellite accounts in the load zones listed for that project in Appendix A to the Order. The satellite accounts for the six projects listed in the National Grid Petition in Table 1 may retain all credits previously applied. National Grid shall provide the satellite accounts for the four projects listed in the National Grid Petition in Table 2 with the accrued net metering credits at the host accounts through a rebilling scenario. The same relief requested by National Grid in its Petition is granted for the two projects listed in Borrego Solar Systems, Inc.'s (Borrego) comments. As such, for the life of the two projects, each project may provide credits to satellite accounts in the load zones listed for that project, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(11-E-0321SA3)

NOTICE OF ADOPTION

Financing Petition

I.D. No. PSC-04-19-00005-A

Filing Date: 2019-04-19

Effective Date: 2019-04-19

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

Action taken: On 4/18/19, the PSC adopted an order approving Cross-Sound Cable Company, LLC (CSC) and Cross-Sound Cable Company (New York) LLC's (CSC New York) petition for a financing arrangement, up to a maximum amount of $237.5 million.

Statutory authority: Public Service Law, sections 2(12), (13), 4(1), 5(2), 65(1), 66(1), (2), (4), (5) and 69

Subject: Financing petition.

Purpose: To approve CSC and CSC New York's petition for a financing arrangement.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Cross-Sound Cable Company, LLC and Cross-Sound Cable Company (New York) LLC's petition for a financing arrangement, up to a maximum amount of $237.5 million, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-E-0723SA1)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00006-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, KeySpan Gas East Corporation d/b/a National Grid's (KEDLI) tariff amendments to P.S.C. No. 1—Gas.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, KEDLI's tariff amendments to P.S.C. No. 1—Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, KeySpan Gas East Corporation d/b/a National Grid's (KEDLI) tariff amendments to P.S.C. No. 1 – Gas, relating to residential meter reading, to become effective on May 1, 2019. KEDLI is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA1)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00008-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Central Hudson Gas and Electric Corporation's (Central Hudson) tariff amendments to P.S.C. No. 15—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, Central Hudson's tariff amendments to P.S.C. No. 15—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Central Hudson Gas and Electric Corporation's (Central Hudson) tariff amendments to P.S.C. No. 15 – Electricity, relating to residential meter reading, to become effective on May 1, 2019. Central Hudson is directed to file further electric tariff modifications to explicitly state the provisions of PSL § 39(4), to be filed on not less than five days' notice effective May 1, 2019. Central Hudson is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with electric service from the company at the same premises. Central Hudson is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA4)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00009-A
Filing Date: 2019-04-22
Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff amendments to P.S.C. No. 219—Gas.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, National Grid's tariff amendments to P.S.C. No. 219—Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff amendments to P.S.C. No. 219 – Gas, relating to residential meter reading, to become effective on May 1, 2019. National Grid is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA2)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00010-A
Filing Date: 2019-04-22
Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Central Hudson Gas and Electric Corporation's (Central Hudson) tariff amendments to P.S.C. No. 12—Gas.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, Central Hudson's tariff amendments to P.S.C. No. 12—Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Central Hudson Gas and Electric Corporation's (Central Hudson) tariff amendments to P.S.C. No. 12 – Gas, relating to residential meter reading, to become effective on May 1, 2019. Central Hudson is directed to file further gas tariff modifications to explicitly state the provisions of PSL § 39(4), to be filed on not less than five days' notice effective May 1, 2019. Central Hudson is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with gas service from the company at the same premises. Central Hudson is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA5)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00012-A
Filing Date: 2019-04-22
Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff amendments to P.S.C. No. 220—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, National Grid's tariff amendments to P.S.C. No. 220—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff amendments to P.S.C. No. 220 – Electricity, relating to residential meter reading, to become effective on May 1, 2019. National Grid is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA3)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00013-A
Filing Date: 2019-04-22
Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, City of Jamestown's (Jamestown) tariff amendments to P.S.C. No. 7—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, Jamestown's tariff amendments to P.S.C. No. 7—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, City of Jamestown's (Jamestown) tariff amendments to P.S.C. No. 7 – Electricity, relating to residential meter reading, to become effective on May 1, 2019. Jamestown is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA12)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00014-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, National Fuel Gas Distribution Corporation's (NFG) tariff amendments to P.S.C. No. 9—Gas.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, NFG's tariff amendments to P.S.C. No. 9—Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, National Fuel Gas Distribution Corporation's (NFG) tariff amendments to P.S.C. No. 9 – Gas, relating to residential meter reading, to become effective on May 1, 2019. NFG is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA13)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00015-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Village of Freeport's (Freeport) tariff amendments to P.S.C. No. 9—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, Freeport's tariff amendments to P.S.C. No. 9—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Village of Freeport's (Freeport) tariff amendments to P.S.C. No. 9 – Electricity, relating to residential meter reading, to become effective on May 1, 2019. Freeport is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA11)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00016-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Consolidated Edison Company of New York, Inc.'s (Con Edison) tariff amendments to P.S.C. No. 10—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, Con Edison's tariff amendments to P.S.C. No. 10—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Consolidated Edison Company of New York Inc.'s (Con Edison) tariff amendments to P.S.C. No. 10 – Electricity, relating to residential meter reading, effective on May 1, 2019. Con Edison is directed to file further tariff modifications to explicitly state the provisions of PSL § 39(4), to be filed on not less than five days' notice effective May 1, 2019. Con Edison is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with electric service from the company at the same premises. Con Edison is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA14)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00017-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Rochester Gas and Electric Corporation's (RG&E) tariff amendments to P.S.C. No. 16—Gas.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, RG&E's tariff amendments to P.S.C. No. 16—Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Rochester Gas and Electric Corporation's (RG&E) tariff amendments to P.S.C. No. 16 – Gas, relating to residential meter reading, to become effective on May 1, 2019. RG&E is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with gas service from the company at the same premises. RG&E is directed to make tariff modifications to accurately reflect that PSL § 39(4) provides that a customer may request an actual meter read upon the discontinuance of service. RG&E is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA10)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00018-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Consolidated Edison Company of New York's (Con Edison) tariff amendments to P.S.C. No. 9—Gas.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, Con Edison's tariff amendments to P.S.C. No. 9—Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Consolidated Edison Company of New York's (Con Ed) tariff amendments to P.S.C. No. 9 – Gas, relating to residential meter reading, effective on May 1, 2019. Con Edison is directed to file further tariff modifications to explicitly state the provisions of PSL § 39(4), to be filed on not less than five days' notice effective May 1, 2019. Con Edison is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with gas service from the company at the same premises. Con Edison is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA15)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00019-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Rochester Gas and Electric Corporation's (RG&E) tariff amendments to P.S.C. No. 19—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, RG&E's tariff amendments to P.S.C. No. 19—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Rochester Gas and Electric Corporation's (RG&E) tariff amendments to P.S.C. No. 19 – Electricity, relating to residential meter reading, to become effective on May 1, 2019. RG&E is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with electric service from the company at the same premises. RG&E is directed to make tariff modifications to accurately reflect that PSL § 39(4) provides that a customer may request an actual meter read upon the discontinuance of service. RG&E is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA9)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00020-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, New York State Electric & Gas Corporation's (NYSEG) tariff amendments to P.S.C. No. 90—Gas.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, NYSEG's tariff amendments to P.S.C. No. 90—Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, New York State Electric & Gas Corporation's (NYSEG) tariff amendments to P.S.C. No. 90 – Gas, relating to residential meter reading, to become effective on May 1, 2019. NYSEG is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with gas service from the company at the same premises. NYSEG is directed to make tariff modifications to accurately reflect that PSL § 39(4) provides that a customer may request an actual meter read upon the discontinuance of service. NYSEG is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA8)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00021-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, New York State Electric & Gas Corporation's (NYSEG) tariff amendments to P.S.C. No. 119—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, NYSEG's tariff amendments to P.S.C. No. 119—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, New York State Electric & Gas Corporation's (NYSEG) tariff amendments to P.S.C. No. 119 – Electricity, relating to residential meter reading, to become effective on May 1, 2019. NYSEG is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with electric service from the company at the same premises. NYSEG is directed to make tariff modifications to accurately reflect that PSL § 39(4) provides that a customer may request an actual meter read upon the discontinuance of service. NYSEG is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA7)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00022-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Village of Rockville Centre's (Village of Rockville) tariff amendments to P.S.C. No. 3—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, Village of Rockville's tariff amendments to P.S.C. No. 3—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Village of Rockville Centre's (Village of Rockville) tariff amendments to P.S.C. No. 3 – Electricity, relating to residential meter reading, to become effective on May 1, 2019. Village of Rockville is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA6)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00023-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with modifications, Orange and Rockland Utilities, Inc.'s (O&R) tariff amendments to P.S.C. No. 3—Electricity.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, O&R's tariff amendments to P.S.C. No. 3—Electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Orange and Rockland Utilities, Inc.'s (O&R) tariff amendments to P.S.C. No. 3 – Electricity, relating to residential meter reading, effective on May 1, 2019. O&R is directed to file further tariff modifications to explicitly state the provisions of PSL § 39(4), to be filed on not less than five days' notice effective May 1, 2019. O&R is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with electric service from the company at the same premises. O&R is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA16)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-04-19-00024-A

Filing Date: 2019-04-22

Effective Date: 2019-04-22

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

Action taken: On 4/18/19, the PSC adopted an order approving, with

modifications, Orange and Rockland Utilities, Inc.'s (O&R) tariff amendments to P.S.C. No. 4—Gas.

Statutory authority: Public Service Law, sections 39(4), 65 and 66

Subject: Tariff amendments.

Purpose: To approve, with modifications, O&R's tariff amendments to P.S.C. No. 4—Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving, with modifications, Orange and Rockland Utilities, Inc.'s (O&R) tariff amendments to P.S.C. No. 4 – Gas, relating to residential meter reading, effective on May 1, 2019. O&R is directed to file further gas tariff modifications to explicitly state the provisions of PSL § 39(4), to be filed on not less than five days' notice effective May 1, 2019. O&R is directed to file further revisions stating the special meter reading fee will only be assessed once per customer for customers with gas service from the company at the same premises. O&R is also directed to file further revisions clarifying that a meter read fee will not be charged to customers where the company has the ability to read the customer's meter without sending personnel to the customer's premises. The further revisions shall be filed on not less than five days' notice to become effective on May 1, 2019, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-M-0679SA17)

NOTICE OF ADOPTION

Financing Petition

I.D. No. PSC-05-19-00013-A

Filing Date: 2019-04-19

Effective Date: 2019-04-19

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

Action taken: On 4/18/19, the PSC adopted an order approving Consolidated Edison Company of New York, Inc.'s (Con Edison) petition for authorization to issue and to sell up to $5.6 billion of unsecured long-term debt, not later than December 31, 2022.

Statutory authority: Public Service Law, section 69

Subject: Financing petition.

Purpose: To approve Con Edison's petition for authorization to issue and to sell up to $5.6 billion of unsecured long-term debt.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Consolidated Edison Company of New York, Inc.'s (Con Edison) petition, authorizing Con Edison to issue and sell up to $5.6 billion of unsecured long-term debt in one or more transactions, not later than December 31, 2022. The proceeds from the issuance of these securities shall only be used for the purposes described in Ordering Clause 2. Consolidated Edison Company of New York, Inc. is authorized to enter into Revolving Credit Agreements in a cumulative amount not to exceed $2.25 billion over a period not to exceed December 31, 2022. For the purposes of the optional refunding of its outstanding unsecured long-term debt, Con Edison is authorized to issue up to $2.5 billion of unsecured long-term debt, not later than December 31, 2022. This Order replaces the authorization granted in the Order Authorizing Issuance of Securities, issued May 20, 2016, in Case 16-M-0020 and the authorization granted in that proceeding is hereby revoked, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(19-M-0012SA1)

NOTICE OF ADOPTION

Transfer of Street Lighting Facilities

I.D. No. PSC-05-19-00015-A

Filing Date: 2019-04-19

Effective Date: 2019-04-19

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

Action taken: On 4/18/19, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) petition to transfer street lighting facilities located within the City of Cortland (Cortland) to Cortland.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To approve National Grid's petition to transfer street lighting facilities to the City of Cortland.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's petition to transfer street lighting facilities located within the City of Cortland to the City of Cortland, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(18-E-0783SA1)

NOTICE OF ADOPTION

Transfer of Electric Transmission Assets

I.D. No. PSC-06-19-00007-A

Filing Date: 2019-04-19

Effective Date: 2019-04-19

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

Action taken: On 4/18/19, the PSC adopted an order approving Cricket Valley Energy Center, LLC (Cricket Valley) and Consolidated Edison Company of New York, Inc.'s (Con Edison) petition to transfer electric transmission assets and accounting treatment.

Statutory authority: Public Service Law, sections 2(12), (13), 5(1)(b), 64, 65, 66, 68, 69, 69-a, 70, 71, 72 and 121

Subject: Transfer of electric transmission assets.

Purpose: To approve Cricket Valley and Con Edison's petition to transfer assets from Cricket Valley to Con Edison.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Cricket Valley Energy Center, LLC (Cricket Valley) and Consolidated Edison Company of New York, Inc.'s (Con Edison) petition to transfer the ownership interests in the Interconnection Facilities from Cricket Valley to Con Edison. Con Edison is directed to debit Account 101 – Operating Property (Conveyed Assets) and credit Account 101 – Operating Property (Contribution in Aid of Construction) in the same amount, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(19-E-0045SA1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

To Consider a Settlement Agreement

I.D. No. PSC-19-19-00011-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 settlement agreement filed by Charter and the Department of Public Service modifying the Network Expansion Condition contained in its January 8, 2016 Order Granting Joint Petition Subject to Conditions and other Orders.

Statutory authority: Public Service Law, sections 99, 100 and 222

Subject: To consider a settlement agreement.

Purpose: Modification of Network Expansion Condition.

Substance of proposed rule: The Public Service Commission (Commission) is considering whether to further modify certain commitments to expand network access it had obtained from Charter Communications, Inc. (Charter), as a condition of approval of a merger by adopting the April 19, 2019 "Proposed Settlement Agreement" and "Exhibit A – Proposed Modified Buildout Terms" thereto. The "Proposed Settlement Agreement" and "Exhibit A – Proposed Modified Buildout Terms" have been filed in this proceeding.

The original commitments were set forth in the Network Expansion Condition in the January 8, 2016 Order Granting Joint Petition Subject to Conditions (including Appendix A § I(B)(1)), issued by the Commission in Case 15-M-0388 and were subsequently modified by the September 14, 2017 Order Adopting Revised Build Out Targets and Additional Terms of a Settlement Agreement. The proposed adoption of "Exhibit A – Proposed Modified Buildout Terms" would further modify the timelines, targets, and terms of Charter's commitments.

In addition, the Commission is considering whether to modify, reexamine, or otherwise reconsider the actions taken in the following Orders in Case 15-M-0388: Order Denying Charter Communications, Inc.'s Response to Order to Show Cause and Denying Good Cause Justifications (June 14, 2018); Order on Compliance (June 14, 2018) (only with regard to the Network Expansion Condition); Order Confirming Missed June 2018 Compliance Obligations and Denying Good Cause Justification (July 27, 2018); Order Denying Petitions for Rehearing and Reconsideration and Revoking Approval (July 27, 2018); and in Case 18-M-0178, Proceeding to Investigate Whether Charter Communications, Inc. and its Subsidiaries Providing Service Under the Trade Name "Spectrum" Have Materially Breached Their New York City Franchises, Order to Show Cause (March 19, 2018). The Settlement Agreement also addresses litigation matters that arose out of the orders in Case 15-M-0388.

The Commission seeks comment on the Proposed Modified Buildout Terms and the Settlement Agreement. The full record of the proceeding and the text of the Settlement Agreement described above 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 the Settlement Agreement, and it 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: 60 days after publication of this notice.

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

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

(15-M-0388SP3)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Minor Rate Filing

I.D. No. PSC-19-19-00012-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 proposed tariff amendments filed by the Village of Silver Springs, to P.S.C. No. 1—Electricity, to increase its total annual electric revenues by approximately $57,746, or 12.98%.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Minor rate filing.

Purpose: To ensure that the Village of Silver Spring provides safe and adequate service and that its rates are just and reasonable.

Substance of proposed rule: The Commission is considering a proposal, filed by the Village of Silver Springs (Silver Springs) on April 8, 2019, to amend its tariff schedule, P.S.C. No. 1 – Electricity, to increase its total annual revenues by approximately $57,746 or 12.98%.

Silver Springs last increased its rates in 2004. Silver Springs states that its proposed increase is necessary because the forecasted rate of return before the requested revenue increase is expected to be a negative (2.48%), due to increased rate base and operating costs since 2004. Silver Springs also states it has experienced increased expenses related to purchased power costs and labor and fringe benefits. The proposed amendments have an effective date of October 1, 2019.

The full text of the rate filing and the full record of the proceeding 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 action 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: 60 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.

(19-E-0266SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Proposed Merger of Three Water Utilities Into One Corporation

I.D. No. PSC-19-19-00013-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 from SUEZ Water New York Inc., SUEZ Water Westchester Inc. and SUEZ Water Owego-Nichols Inc. to approve a merger of the three utilities to form a single corporation named SUEZ Water New York Inc.

Statutory authority: Public Service Law, sections 89-h and 108

Subject: Proposed merger of three water utilities into one corporation.

Purpose: To determine if the proposed merger is in the public interest.

Substance of proposed rule: The Commission is considering a petition from SUEZ Water New York Inc. (SWNY), SUEZ Water Westchester Inc. (SWW) and SUEZ Water Owego-Nichols Inc. (SWON, collectively the Companies) to approve a merger of the three utilities to form a single corporation named SUEZ Water New York Inc.

The petition states that SWNY serves approximately 75,000 ratepayers in in Rockland County and parts of Orange County, SWW serves 45,000 ratepayers in Westchester County, and SWON serves 2,500 customers in parts of Tioga, Putnam and Westchester Counties. The Companies are

wholly owned subsidiaries of SUEZ Water Resources, Inc. (SWR), and the combined SUEZ Water New York, Inc. will remain a SWR subsidiary. The petition states that the merger will benefit ratepayers through lower future rate case expenses, efficiencies from a unified tariff serving all three water systems, and the ability to spread capital investment costs over a larger rate and customer base. The petition also requests that the merger be considered in conjunction with the Companies' recently filed rate proceeding (19-W-0168).

The full text of the petition and the full record of the proceeding 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 action 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: 60 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.

(19-W-0269SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Establishment of the Regulatory Regime Applicable to an Approximately 124 MW Electric Generating Facility

I.D. No. PSC-19-19-00014-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 filed by Bluestone Wind, LLC seeking approval of a lightened regulatory regime in connection with its approximately 124 MW electric generating facility, located in Broome County, New York.

Statutory authority: Public Service Law, sections 2(12), (13), (22), 5(1)(b), 64, 65, 66, 67, 68, 69, 69-a, 70, 71, 72, 72-a, 78, 79, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Establishment of the regulatory regime applicable to an approximately 124 MW electric generating facility.

Purpose: Consideration of a lightened regulatory regime for an approximately 124 MW electric generating facility.

Substance of proposed rule: The New York State Public Service Commission (Commission) is considering a petition filed by Bluestone Wind, LLC (Bluestone) on February 20, 2019 requesting approval of a lightened regulatory regime in connection with the approximately 124 MW electric generating facility that Bluestone is developing in Broome County, New York.

Bluestone requests an order providing that it will be regulated as an electric corporation under a lightened regulatory regime consistent with that imposed on the owners-operators of other competitive wholesale generators. The Commission is also considering the Applicant's request for a Certificate of Public Convenience and Necessity pursuant to Public Service Law § 68 for authority to develop, construct, and operate the proposed wind electric generating facility.

The full text of the petition and the full record of the proceeding 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 action 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: 60 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.

(19-E-0121SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Establishment of the Regulatory Regime Applicable to an Energy Storage Facility of Up to 316 MW

I.D. No. PSC-19-19-00015-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 filed by Ravenswood Development, LLC seeking approval of a lightened regulatory regime in connection with its energy storage facility of up to approximately 316 MW located in Long Island City, Queens, New York.

Statutory authority: Public Service Law, sections 2(12), (13), (22), 5(1)(b), 64, 65, 66, 67, 68, 69, 69-a, 70, 71, 72, 72-a, 78, 79, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Establishment of the regulatory regime applicable to an energy storage facility of up to 316 MW.

Purpose: Consideration of a lightened regulatory regime for an energy storage facility of up to 316 MW.

Substance of proposed rule: The New York State Public Service Commission (Commission) is considering a petition filed by Ravenswood Development, LLC (Ravenswood Development) on February 21, 2019 requesting approval of a lightened regulatory regime in connection with the energy storage facility of up to 316 MW that Ravenswood Development proposes to develop in Long Island City, Queens, New York.

Ravenswood Development requests an order providing that it will be regulated as an electric corporation under a lightened regulatory regime consistent with that imposed on the owners-operators of other supply resources that participate in the competitive wholesale markets. In the petition, Ravenswood Development also requests that the Commission grant it a Certificate of Public Convenience and Necessity pursuant to Public Service Law Section 68 to authorize the development, construction, and operation of the energy storage facility.

The full text of the petition and the full record of the proceeding 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 action 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: 60 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.

(19-E-0122SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Establishment of the Regulatory Regime Applicable to an Approximately 242 MW Electric Generating Facility

I.D. No. PSC-19-19-00016-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 filed by Baron Winds LLC seeking approval of a lightened regulatory regime in connec-

tion with its approximately 242 MW electric generating facility, located in Steuben County, New York.

Statutory authority: Public Service Law, sections 2(12), (13), (22), 5(1)(b), 64, 65, 66, 67, 68, 69, 69-a, 70, 71, 72, 72-a, 78, 79, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Establishment of the regulatory regime applicable to an approximately 242 MW electric generating facility.

Purpose: Consideration of a lightened regulatory regime for an approximately 242 MW electric generating facility.

Substance of proposed rule: The New York State Public Service Commission (Commission) is considering a petition filed by Baron Winds LLC (Baron Winds) on April 11, 2019 requesting approval of a lightened regulatory regime in connection with the approximately 242 MW electric generating facility that Baron Winds is developing in Steuben County, New York.

Baron Winds requests an order providing that it will be regulated as an electric corporation under a lightened regulatory regime consistent with that imposed on the owners-operators of other competitive wholesale generators.

The full text of the petition and the full record of the proceeding 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 action 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: 60 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.

(19-E-0277SP1)

State University of New York

NOTICE OF ADOPTION

Proposed Amendments to the Traffic and Parking Regulations at State University College at Oneonta

I.D. No. SUN-44-18-00003-A

Filing No. 387

Filing Date: 2019-04-23

Effective Date: 2019-05-08

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

Action taken: Amendment of Part 564 of Title 8 NYCRR.

Statutory authority: Education Law, section 360(1)

Subject: Proposed amendments to the traffic and parking regulations at State University College at Oneonta.

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

Text or summary was published in the October 31, 2018 issue of the Register, I.D. No. SUN-44-18-00003-P.

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

Text of rule and any required statements and analyses may be obtained from: Lisa S. Campo, State University of New York, State University Plaza, Albany, New York 12246, (518) 320-1400, email: Lisa.Campo@SUNY.edu

Assessment of Public Comment

The agency received no public comment.

Office of Temporary and Disability Assistance

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Adult-Care Facilities and Shelters for Adults

I.D. No. TDA-19-19-00007-P

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

Proposed Action: Amendment of Parts 485 and 486; repeal of Part 491; addition of new Part 491 to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (j), 20(2)(b), (3)(d)-(f), 34(3)(c)-(f), (6), 460, 460-a(1)-(2), 460-c(1), 460-d(1), (7)(a) and 461

Subject: Adult-Care Facilities and Shelters for Adults.

Purpose: To update State regulations pertaining to general provisions, inspections and enforcement, and shelters for adults.

Substance of proposed rule (Full text is posted at the following State website: http://otda.ny.gov/legal/regulatory-activities.asp): The Office of Temporary and Disability Assistance (OTDA) proposes the following amendments updating current State regulations pertaining to adult-care facilities – general provisions, inspections and enforcement, and shelters for adults, respectively. Specifically, the regulatory proposal would amend 18 NYCRR Parts 485 and 486 of the current State regulations such that they would no longer apply to shelters for adults, but would remain applicable to all other types of adult-care facilities; current 18 NYCRR Part 491 would be repealed and replaced with a new Part 491 addressing publicly-funded shelters for adults, small-capacity shelters, and shelters for adult families with no children. The full text of the proposed rule is posted at the following OTDA website: http://otda.ny.gov/legal/regulatory-activities.asp.

Amend General Provisions of § 485.16 to make a technical update to the title of the section.

Amend § 485.1(b) to make technical updates to reflect the current name of the Office of Children and Family Services.

Amend § 485.4(a), (c)-(d) and (g) to add clarifying language excluding shelters for adults from the section's provisions pertaining to certificates of incorporation.

Amend § 485.5(a)-(r) to make technical updates and to add new subdivision (a) clarifying that the section's provisions pertaining to operating certificates shall apply to all adult-care facilities except shelters for adults.

Amend relettered § 485.5(c) and (k) to make technical updates.

Amend relettered § 485.5(n)(1)(i) to remove reference to shelters for adults.

Amend § 485.6(a) to add language clarifying that shelters for adults are excluded from the section's provisions for obtaining approval to operate an adult-care facility.

Repeal § 485.6(f)(2) and renumber § 485.6(f)(3).

Amend § 485.7(a) to add language clarifying that shelters for adults are excluded from the section's provisions pertaining to renewal of an operating certificate.

Amend § 485.9(a)(1) to add language clarifying that shelters for adults are excluded from the section's provisions pertaining to receivership.

Amend § 485.9(a)(6)(i) to make a technical correction.

Amend § 485.11(d) to make technical updates to reflect the current name of the Office of Children and Family Services.

Amend § 485.11(g)(15) to make a technical correction.

Amend § 485.14(a)-(k) to make technical updates and to add a new subdivision (a) clarifying that the section's provisions pertaining to services for nonresidents of adult-care facilities shall apply to all adult-care facilities except shelters for adults.

Amend relettered § 485.14(k) to update a cross-reference.

Amend the title of § 485.16 to make a clarifying technical correction.

Amend § 486.1(a) to clarify that the section's provisions pertaining to inspection and supervision shall apply to all adult-care facilities except shelters for adults, to make a technical correction, and to make technical updates to reflect the current name of the Office of Children and Family Services.

Amend § 486.1(b)-(d) to clarify that the section's general provisions pertaining to inspection and supervision and enforcement shall apply to all adult-care facilities except shelters for adults.

Amend § 486.1(e)-(f) to clarify that the section's general provisions apply to operators of facilities subject to inspection and supervision under this section.

Amend § 486.2(b) and (d) to clarify that the section's general provisions pertaining to inspection shall apply to all adult-care facilities except shelters for adults.

Amend § 486.3(a) to clarify that the section's provisions pertaining to inspection of uncertified shelters under this section apply to any facility which reasonably appears to the department to be an adult care facility other than a shelter for adults.

Amend § 486.5(a)(1) to clarify that the section's provisions pertaining to civil penalties for certified adult-care facilities shall not apply to shelters for adults.

Amend § 486.5(b) to clarify that the section's provisions pertaining to civil penalties for uncertified adult-care facilities shall not apply to shelters for adults.

Amend § 486.6(a) and (c) to clarify that the section's provisions pertaining to withholding of funds and funds to be withheld, respectively relative to reimbursement for expenditures by a social services district (district) for the operation of an adult-care facility shall not apply to shelters for adults.

Repeal § 486.7(g).

Repeal existing Part 491 and add a new Part 491 pertaining to shelters for adults.

Add new § 491.1 defining scope of new Part 491 to include shelters for adults, small-capacity shelters and shelters for adult families and clarifying that reimbursement for such shelter and services is contingent upon compliance with new Part 491.

Add new § 491.2 defining, among other things, the terms "shelter for adults," "small-capacity shelter," "shelter for adult families," and "family."

Add new § 491.2-a providing that, for any proposed or existing not-for-profit corporation desiring to file or amend a certificate of incorporation for the purpose of either establishing and operating a shelter for adults or fundraising for the eventual establishment and operation of a shelter for adults, such not-for-profit corporation shall secure the written approval of OTDA prior to obtaining the endorsement of such certificate by a justice of the Supreme Court of the State of New York and filing of the endorsed certificate with the Secretary of State.

Add new § 491.3 providing that a district may be reimbursed from State grants or funds for costs incurred for shelter and services provided by a shelter for adults, a small-capacity shelter, or shelter for adult families only if the shelter is operated in accordance with both the requirements of Part 491, as amended, and with an operational plan approved by OTDA, outlining the requirements for an operational plan, and setting out the procedure for obtaining OTDA approval of an operational plan.

Add new § 491.4 providing that upon approval of an operational plan, OTDA will issue an operating certificate to the operator of a shelter for adults, a small-capacity shelter, or shelter for adult families; indicating that reimbursement for costs incurred for shelter and services provided by such shelter is contingent upon the operator of such facility having a valid operating certificate; and reserving the right of OTDA to revoke, suspend or terminate an operating certificate under certain circumstances.

Add new § 491.5 setting out the procedure for the voluntary closure of a shelter for adults, a small-capacity shelter, or shelter for adult families.

Add new § 491.6 requiring that shelters for adults, small-capacity shelters and shelters for adult families for which a district seeks reimbursement be operated in accordance with applicable State and local laws, regulations and codes.

Add new § 491.7 setting out general regulatory provisions relating to the operation of shelters for adults, small-capacity shelters, and shelters for adult families.

Add new § 491.8 setting out shelter staffing requirements and staff qualifications.

Add new § 491.9 clarifying requirements for referrals to shelters for adults, small-capacity shelters and shelters for adult families, assessments for public assistance and care needs and suitability for placement in shelter, and independent living plans.

Add new § 491.10 allowing for excess-capacity admissions in emergency circumstances.

Add new § 491.11 clarifying the obligation of residents with income to pay for their care costs in shelters for adults, small-capacity shelters or shelters for adult families.

Add new § 491.12 setting out shelter resident rights, rules and obligations.

Add new § 491.13 setting out shelter operator obligations with respect to shelter residents' funds and valuables.

Add new § 491.14 detailing services that must be provided to residents of shelters for adults, small-capacity shelters or shelters for adult families.

Add new § 491.15 detailing the procedure for involuntarily discharging or transferring a resident of a shelter for adults, small-capacity shelter or shelter for adult families.

Add new § 491.16 detailing the process by which shelter operators and districts must report serious incidents at shelters that impact upon the safety and well-being of a shelter resident or member of a shelter's staff.

Add new § 491.17 detailing the food services that operators of shelters for adults, small-capacity shelters, or shelters for adult families must provide.

Add new § 491.18 setting out environmental standards with which operators of shelters for adults, a small-capacity shelters, or shelters for adult families must comply.

Add new § 491.19 detailing shelter operators' obligations with respect to the collection and maintenance of information, records and reports.

Add new § 491.20 detailing shelter operators' obligations with respect to the confidentiality of HIV- and AIDS-related information.

Add new § 491.21 clarifying conditions under which a shelter operator may contract with a separate independent entity to perform facility operations.

Add new § 491.22 setting forth OTDA's obligation to inspect shelters for adults, small-capacity shelters, and shelters for adult families; clarifying districts' obligations with respect to such inspections; and authorizing OTDA to address deficiencies at such shelters.

Add new § 491.23 clarifying OTDA's authority to undertake investigations of the affairs and management of any shelter for adults, small-capacity shelter, or shelter for adult families and to take appropriate enforcement action as necessary.

Add new § 491.24 setting out the policy and procedures with respect to State reimbursement for costs incurred for shelter and services provided by a shelter for adults, a small-capacity shelter, or a shelter for adult families.

Add new § 491.25 setting forth the procedure whereby OTDA can withhold or deny reimbursement to a district where any publicly-funded shelter within the district fails to comply with the requirements of State or local laws, regulations and codes, including those regulations set forth in new Part 491.

Add new § 491.26 setting out civil penalties that OTDA may impose against the operators of shelters for adults, small-capacity shelters, and shelters for adult families for regulatory violations that endanger residents or result in harm to residents.

Add new § 491.27 authorizing OTDA to seek the appointment of a receiver to operate a shelter for adults, a small-capacity shelter or a shelter for adult families in order to protect the health, safety and welfare of shelter residents.

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

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

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 17(a)-(b) and (j) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall "determine the policies and principles upon which public assistance, services and care shall be provided within the state both by the state itself and by the local governmental units … ," shall "make known his policies and principles to local social services officials and to public and private institutions and welfare agencies subject to his regulatory and advisory powers … ," and shall "exercise such other powers and perform such other duties as may be imposed by law."

SSL § 20(2)(b) provides, in part, that OTDA shall "supervise all social services work, as the same may be administered by any local unit of government and the social services officials thereof within the state, advise them in the performance of their official duties and regulate the financial assistance granted by the state in connection with said work." Pursuant to SSL § 20(3)(d)-(f), OTDA is authorized to promulgate rules, regulations, and policies to fulfill its powers and duties under the SSL and "to withhold or deny state reimbursement, in whole or in part, from or to any social services district [(district)] or any city or town thereof, in the event of their failure to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof."

SSL § 34(3)(c) requires OTDA's Commissioner to "take cognizance of the interests of health and welfare of the inhabitants of the state who lack or are threatened with the deprivation of the necessaries of life and of all matters pertaining thereto." Pursuant to SSL § 34(3)(d), OTDA's Commissioner must exercise general supervision over the work of all districts. SSL § 34(3)(e) provides that OTDA's Commissioner must enforce the SSL and the State regulations within the State and in the districts. Pursuant to SSL § 34(3)(f), OTDA's Commissioner must establish regulations for the administration of public assistance and care within the State by the

districts and by the State itself, in accordance with the law. Pursuant to SSL § 34(6), OTDA's Commissioner "may exercise such additional powers and duties as may be required for the effective administration of the department and of the state system of public aid and assistance."

Pursuant to SSL § 460, OTDA, "acting directly or through [districts], and with the cooperation of other state agencies, shall have the comprehensive responsibility for the development and administration of programs, standards and methods of operation, and all other matters of state policy. . . in relation to shelters for adults and shelters for families."

SSL § 460-a(1) requires that OTDA approve certificates of incorporation before they may be filed with the Department of State where the certificates include among their corporate purposes the establishment or operation of a shelter for adults, and SSL § 460-a(2) requires OTDA to promulgate regulations establishing the procedure for submitting certificates of incorporation to OTDA for approval.

SSL § 460-c(1) authorizes OTDA "to inspect and maintain supervision over all public and private facilities or agencies whether state, county, municipal, incorporated or not incorporated which are in receipt of public funds, which are of a charitable, eleemosynary, correctional or reformatory character," and explicitly including "adult care facilities," defined in SSL § 2(21) to include shelters for adults.

SSL § 460-d(1) authorizes OTDA to conduct investigations of the affairs and management of facilities that it inspects and supervises, and 460-d generally sets forth OTDA's enforcement authority. SSL § 460-d(7)(a) requires OTDA to adopt regulations establishing civil penalties of up to $1,000 per day to be assessed against shelters for adults, except facilities operated by a district, for violations of, among other things, OTDA's regulations pertaining to the care of residents in such facilities.

SSL § 461 provides that OTDA "shall promulgate and may alter or amend regulations effectuating the provisions of this title, including but not limited to establishing fiscal, administrative, architectural, safety, nutritional and program standards which apply to all adult care facilities subject to its inspection and supervision," including shelters for adults.

2. Legislative objectives:

It is the intent of the Legislature in enacting the aforementioned statutes that OTDA establish rules, regulations and policies to provide for the health, safety and general welfare of residents of shelters for adults and families experiencing homelessness.

3. Needs and benefits:

The proposed regulatory amendments would subject all publicly-funded shelters for adults experiencing homelessness to State oversight, including small-capacity shelters that are excluded from the definition of "shelter for adults" set forth in SSL § 2(23), and shelters for adult families that are neither subject to OTDA's regulations pertaining to shelters for families with children, nor explicitly addressed by OTDA's current regulations pertaining to shelters for adults. The proposed regulatory amendments would update State regulations to reflect current State policies and procedures and be consistent with OTDA regulations pertaining to publicly-funded shelters for families with children.

Current State regulations pertaining to shelters for adults are set forth in 18 NYCRR, Parts 485–486 and 491. The term "shelter for adults" is defined in SSL § 2(23) to mean "an adult care facility established and operated for the purpose of providing temporary residential care, room, board, supervision, information and referral, and where required by the department or otherwise deemed necessary by the operator, social rehabilitation services, for adults in need of temporary accommodations, supervision and services." SSL § 2(23) explicitly excludes from the definition of "shelters for adults" small-capacity shelters that provide "temporary residential services to fewer than twenty persons, unless such facility is operated by a …district."

The proposed regulatory amendments would subject all publicly-funded shelters for adults, irrespective of capacity, to OTDA oversight. Each facility providing shelter services to homeless adults with no children – whether a shelter for adults housing 20 or more residents, a small-capacity shelter housing fewer than 20 residents, or a shelter for adult families with no children – would be subject to OTDA oversight and would be required to become "certified" in order to receive reimbursement from State or State-administered funds. Each district would be required to submit, for OTDA approval, an operational plan pertaining to each facility; upon OTDA's approval of the operational plan, the facility would receive an operating certificate. Each facility so credentialed would be required to operate in accordance with State regulations and its approved operational plan.

OTDA seeks to amend Parts 485–486 so that they would no longer apply to shelters for adults, but would continue to apply to all other types of adult care facilities; Part 491 would address all publicly-funded shelters for adults, including small-capacity shelters, and shelters for adult families with no children.

4. Costs:

The proposed regulatory amendments would not result in significant additional costs for the State or districts. Since February 1, 2017, pursuant to 18 NYCRR § 352.39, districts have been required to submit operational plans to OTDA for publicly-funded small-capacity shelters and shelters for adult families that were not previously certified by OTDA. The proposed regulatory amendments may reduce the current burdens insofar as the effective period for operational plans and operating certificates would be extended from four years to five years. Moreover, because OTDA reviews and approves current operational plans and inspects facilities, any additional costs associated with these amendments would be minimal and could be absorbed within current appropriations. Additionally, districts no longer would be required to submit district-wide general security plans for OTDA approval pursuant to 18 NYCRR § 352.38(b), which OTDA is seeking to repeal via a separate proposed rule making.

5. Local government mandates:

Initially, the proposed regulatory amendments would require districts to submit a separate operational plan for each "shelter for adults," "small-capacity shelter" or "shelter for adult families" – as the terms would be defined in proposed new 18 NYCRR § 491.2 – for which the district seeks reimbursement or makes payments to or from State or State-administered grants or funds. Prior to the submission of an operational plan, a district would be required to obtain preliminary approval from OTDA to establish such a facility. Operational plans would include, among other things, information about the operations and services of the proposed shelter facility, shelter-specific security plans, and a financial statement for the shelter's most recently completed fiscal year, or, for a shelter that has not previously been in operation, a financial statement for the shelter operator's most recently completed fiscal year. The operational plan must contain a proposed one-year budget for the shelter, including the estimated income and expenditures projected for the shelter during the upcoming year. OTDA anticipates that operational plans would typically be prepared by shelter operators and submitted to the districts, which, in turn, would submit the plans to OTDA for approval.

If an operator of a shelter for adults, small-capacity shelter or shelter for adult families determines to close a facility, the shelter operator would be required to inform the district and OTDA in writing as soon as possible, but no less than 90 days in advance, after which the district must submit a proposed closure plan to OTDA for approval.

In case of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the district would be required to immediately report the incident to OTDA. If the operator of the emergency shelter reports the serious incident directly to OTDA, it also must immediately notify the district. The district then would be required to submit an incident report form to OTDA within three business days after receiving notice.

6. Paperwork:

The paperwork requirements of the proposed regulatory amendments are discussed in § 5, above.

7. Duplication:

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

8. Alternatives:

A possible alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of publicly-funded shelters for persons experiencing homelessness and shelters housing fewer than 20 residents and other shelters that currently operate as "uncertified." The current State regulations pertaining to shelters for adults are outdated, in that they fail to address and provide for oversight of a significant number of shelters serving homeless individuals. Insofar as such inaction could impair OTDA's ability to provide needed services and safeguards to those individuals and families experiencing homelessness, OTDA does not consider it a viable alternative to the proposed regulatory amendments.

9. Federal standards:

The proposed regulatory amendments would not conflict with federal statutes, regulations or policies.

10. Compliance schedule:

If the proposed regulatory amendments were to be adopted, a district would first be required to obtain the preliminary approval of OTDA before establishing a new shelter for adults, a small-capacity shelter, or a shelter for adult families. A district then would be required to submit a proposed operational plan to OTDA at least 45 days before the planned use of a facility as a shelter for adults, a small-capacity shelter or a shelter for adult families. An OTDA-approved operational plan would remain in effect for a maximum of five years, and any proposed revisions or changes to an approved plan would have to be submitted to OTDA for approval. At least 60 days before the expiration of an operational plan, a district could request that OTDA reapprove the operational plan.

If an operator elects to close a shelter for adults, a small-capacity shelter or a shelter for adult families, the operator would be required to notify the district and OTDA in writing as soon as possible, but no less than 90 days

in advance of the anticipated closure, and the district would then be required to submit a closure plan to OTDA at least 45 days before the anticipated closure date.

In case of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the operator of the shelter or the district would be required to immediately report the incident to OTDA. If the shelter operator reports the serious incident directly to OTDA, it also would be required to immediately notify the district. The district then would be required to submit an incident report form to OTDA within three business days after receiving notice.

Districts, shelters for adults, small-capacity shelters, and shelters for adult families would be required to comply immediately with the proposed regulatory amendments that do not provide specific compliance dates including, but not limited to, those regulatory amendments addressing resident services, food services, and environmental standards.

Regulatory Flexibility Analysis

1. Effect of rule:

The proposed regulatory amendments to 18 NYCRR Parts 485–486 and 491 would apply to all 58 social services districts (districts) in the State, as well as to small businesses and other entities that operate publicly-funded emergency shelters for homeless adults and adult families with no children.

2. Compliance requirements:

The proposed regulatory amendments would subject all publicly-funded shelters for adults experiencing homelessness to State oversight, including smaller facilities that are currently excluded from the definition of "shelter for adults" set forth in Social Services Law (SSL) § 2(23), and shelters for adult families that are neither subject to the Office of Temporary and Disability Assistance's (OTDA's) regulations pertaining to shelters for families with children, nor explicitly addressed by OTDA's current regulations pertaining to shelters for adults.

The proposed regulatory amendments would require districts to submit a separate operational plan for each "shelter for adults," "small-capacity shelter" or "shelter for adult families" – as the terms would be defined in proposed new 18 NYCRR § 491.2 – for which the district seeks reimbursement or makes payments to or from State or State-administered grants or funds. Prior to the submission of an operational plan, a district would be required to obtain preliminary approval from OTDA to establish such a facility. Operational plans would include, among other things, information about the operations of the proposed shelter facility, shelter-specific security plans, disaster and emergency plans, and a financial statement for the shelter's most recently completed fiscal year, or, for a shelter that has not previously been in operation, a financial statement for the shelter operator's most recently completed fiscal year. The operational plan also must contain a proposed one-year budget for the shelter, including the estimated income and expenditures projected for the shelter during the upcoming year. OTDA anticipates that operational plans would typically be prepared by shelter operators and submitted to the districts, which would submit the plans to OTDA for approval.

If an operator of a shelter for adults, small-capacity shelter or shelter for adult families determines to close a facility, the shelter operator would be required to inform the district and OTDA in writing as soon as possible of the anticipated closure, but no less than 90 days in advance, after which the district must submit a proposed closure plan to OTDA for approval.

In case of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the operator of the shelter or the district would be required to immediately report the incident to OTDA. If the shelter operator reports the serious incident directly to OTDA, he or she also would be required to immediately notify the district. The district then would be required to submit an incident report form to OTDA within three business days after receiving notice.

3. Professional services:

The need for additional professional services should be limited. OTDA anticipates that operational plans would typically be prepared by shelter operators and submitted to the districts. Districts could require or make revisions themselves before submitting operational plans to OTDA for approval. Districts and shelter operators should have the necessary expertise to prepare operational plans without the need for securing professional services.

4. Compliance costs:

The proposed regulatory amendments would not result in significant additional costs for the districts or businesses. Since February 11, 2017, pursuant to 18 NYCRR § 352.39, districts have been required to submit operational plans to OTDA for publicly-funded small-capacity shelters and shelters for adult families that previously had not been certified by OTDA. The proposed regulatory amendments may reduce the current burdens insofar as the effective period for operational plans would be extended from four years to five years. Moreover, because OTDA reviews and approves current operational plans and inspects facilities, any additional costs associated with these amendments would be minimal and could be absorbed within current appropriations. Additionally, districts no longer would be required to submit district-wide general security plans for OTDA approval pursuant to 18 NYCRR § 352.38(b), which OTDA is seeking to repeal via a separate proposed rule making.

5. Economic and technological feasibility:

Districts already should have the economic and technological abilities to comply with the proposed regulatory amendments.

6. Minimizing adverse impact:

The proposed regulatory amendments would allow a district to request a waiver in an operational plan where a shelter is unable to fully comply with OTDA's regulations. OTDA would have discretion as to whether to approve a waiver request. The proposed regulatory amendments should not provide further exemptions, as it is critical that publicly-funded shelters for persons experiencing homelessness be subject to OTDA's oversight and comply with OTDA regulations, including the proposed regulatory amendments.

7. Small business and local government participation:

It is anticipated that districts and operators of publicly-funded shelters for homeless adults would be dedicated to implementing the proposed regulatory amendments and protecting the health, safety, and general welfare of persons experiencing homelessness. OTDA obtained and considered feedback on the proposed regulatory amendments from the New York City Department of Homeless Services, and the New York Public Welfare Association on behalf of rest-of-State districts.

8. For rules that either establish or modify a violation or penalties associated with a violation:

The proposed regulatory amendments provide that, subject to administrative review, OTDA may revoke, suspend, or limit an operating certificate or deny a request for renewal where an operator of a publicly-funded shelter for adults, a small-capacity shelter, or a shelter for adult families has failed to comply with an OTDA-approved operational plan, OTDA regulations, or any other State or local laws, regulations, and codes applicable to the operation of such facilities. This authority currently exists pursuant to 18 NYCRR § 485.5(l) and would continue under the proposed regulatory amendments pursuant to relettered 18 NYCRR § 485.5(m).

The proposed regulatory amendments also would authorize OTDA to withhold or deny reimbursement to a district, in whole or in part, for expenditures relating to the provision of shelter and services to homeless persons when any publicly-funded shelter for adults, small-capacity shelter, shelter for adult families, or shelter for families located within that district fails to operate in accordance with an OTDA-approved operational plan, OTDA regulations, or any other State or local laws, regulations, and codes applicable to the operation of such facilities. Authority now exists under 18 NYCRR § 486.6 to withhold or deny reimbursement with respect to shelters for adults operated by districts; the proposed regulatory amendments would enhance this authority by allowing OTDA discretion to withhold or deny up to all of the reimbursement to a district for costs of providing shelter and services to homeless persons when any publicly-funded shelter operating within that district fails to operate in accordance with an OTDA-approved operational plan, OTDA regulations, or any other State or local laws, regulations, or codes applicable to the operation of such facilities. Notably, SSL § 20(3)(e) already explicitly authorizes OTDA to "withhold or deny state reimbursement, in whole or in part, from or to any district or any city or town thereof, in the event of the failure of either of them to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof."

Additionally, the proposed regulatory amendments would allow OTDA to assess civil penalties of up to $1,000 per day against shelter operators failing to comply with the proposed regulatory amendments. State regulations applicable to shelters for adults currently provide for civil penalties for noncompliance (see 18 NYCRR §§ 486.6–486.7[g]). The proposed regulatory amendments would clarify that civil penalties may be assessed by OTDA when violations endanger or result in harm to shelter residents, and that civil penalties can also be assessed against the operators of small-capacity shelters and shelters for adult families.

Before any of the aforementioned penalties associated with violations would be imposed, generally, shelter operators would be afforded an opportunity to cure. Specifically, after violations are cited, the district would be allowed 30 days to correct a violation, or, alternatively, if the necessary corrective measures would require more than 30 days to complete, to submit an acceptable plan to OTDA for correction. In cases where a cited deficiency, violation, or condition is dangerous, hazardous, imminently detrimental to life or health, or otherwise renders the facility unfit for human habitation, remedial measures may be directed on an emergency basis.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed regulatory amendments to 18 NYCRR Parts 485-486 and 491 would apply to the 44 rural social services districts (rural districts).

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

Initially, the proposed regulatory amendments would require rural districts to submit a separate operational plan for each "shelter for adults," "small-capacity shelter" or "shelter for adult families" – as defined in § 491.2 – for which the rural district seeks reimbursement or makes payments to or from State or State-administered grants or funds. Prior to the submission of an operational plan, a rural district would be required to obtain preliminary approval from the Office of Temporary and Disability Assistance (OTDA) to establish such a facility. Operational plans would include, among other things, information about the operations and services of the proposed shelter facility, shelter-specific security plans, and a financial statement for the shelter's most recently completed fiscal year, or, for a shelter that has not previously been in operation, a financial statement for the shelter operator's most recently completed fiscal year. The operational plan also would be required to contain a proposed one-year budget for the shelter, including the estimated income and expenditures projected for the shelter during the upcoming year. OTDA anticipates that operational plans would typically be prepared by shelter operators and submitted to the rural districts, which, in turn, would submit the plans to OTDA for approval.

If an operator of a shelter for adults, small-capacity shelter or shelter for adult families determines to close a facility, the shelter operator would be required to inform the rural district and OTDA in writing as soon as possible of the anticipated closure, but no less than 90 days in advance, after which the rural district would be required to submit a proposed closure plan to OTDA for approval.

In case of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the rural district would be required to immediately report the incident to OTDA. If the shelter operator reports the serious incident directly to OTDA, he or she also would be required to immediately notify the district. The rural district then would be required to submit an incident report form to OTDA within three business days after receiving notice.

3. Costs:

The proposed regulatory amendments would not result in significant additional costs for rural districts. Since February 1, 2017, pursuant to 18 NYCRR § 352.39, rural districts have been required to submit operational plans to OTDA for publicly-funded small-capacity shelters and shelters for adult families that previously had not been certified by OTDA. The proposed regulatory amendments may reduce the current burdens insofar as the effective period for operational plans and operating certifications would be extended from four years to five years for shelters for adults, and because OTDA would assume responsibility for inspecting adult shelter facilities. Moreover, because OTDA reviews and approves current operational plans and inspects facilities, any additional costs associated with the proposed regulatory amendments would be minimal and could be absorbed within current appropriations. Additionally, rural districts no longer would be required to submit district-wide general security plans for OTDA approval pursuant to 18 NYCRR § 352.38(b), which is being repealed via a separate proposed rule making.

4. Minimizing adverse impact:

The proposed regulatory amendments should not provide exemptions for rural area participation, because the proposed regulatory amendments are intended to subject all publicly-funded shelters for adults experiencing homelessness to State oversight, including small-capacity shelters that are presently excluded from the definition of "shelter for adults" set forth in Social Services Law (SSL) § 2(23), and shelters for adult families that are neither subject to OTDA's regulations pertaining to shelters for families with children, nor explicitly addressed by OTDA's current regulations pertaining to shelters for adults. The proposed regulatory amendments also would update State regulations to reflect current State policies and procedures, and be consistent with OTDA regulations pertaining to publicly-funded shelters for families with children.

5. Rural area participation:

It is anticipated that rural districts would be dedicated to implementing the proposed regulatory amendments in furtherance of fulfilling their statutory obligations under SSL § 62(1) to provide assistance and care of any person who resides or is found in their respective territories and who is in need of public assistance and care.

Job Impact Statement

A Job Impact Statement is not required for the proposed regulatory amendments. The purpose of the proposed regulatory amendments is to update current State regulations pertaining to adult-care facilities – general provisions, inspections and enforcement, and shelters for adults. Specifically, the proposed regulatory amendments would amend 18 NYCRR Parts 485 and 486 of the current State regulations such that they would no longer apply to shelters for adults, but would remain applicable to all other types of adult-care facilities; current 18 NYCRR Part 491 would be repealed and replaced with a new Part 491 addressing publicly-funded shelters for adults, small-capacity shelters, and shelters for adult families with no children.

It is apparent from the nature and the purpose of the proposed regulatory amendments that they would not have a substantial adverse impact on jobs and employment opportunities in the private sector, in the social services districts, or in the State.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Shelters for Families

I.D. No. TDA-19-19-00008-P

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

Proposed Action: Amendment of sections 352.8, 352.37, 352.38, 352.39, 358-3.1 and Part 493; repeal of Part 900; addition of new Part 900 to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (j), 20(2)(b), (3)(d)-(f), 34(3)(c)-(f), (6), 131-a, 460, 460-c(1) and 460-d(1)

Subject: Shelters for Families.

Purpose: To update State regulations pertaining to shelters for families.

Substance of proposed rule (Full text is posted at the following State website: http://otda.ny.gov/legal/regulatory-activities.asp): The Office of Temporary and Disability Assistance (OTDA) proposes the following amendments to Title 18 of the NYCRR updating current State regulations pertaining to shelters for homeless families with children and single pregnant women. Specifically, the proposed regulatory amendments would update State regulations to subject each facility providing shelter services to homeless families with children – including facilities sheltering less than 10 homeless families and facilities sheltering single pregnant women – to OTDA oversight, so as to help ensure that shelters for homeless families with children and homeless pregnant women are properly and efficiently operated, are properly utilized at a reasonable cost, and effectively protect the health, safety and welfare of shelter residents and staff. The full text of the proposed rule is posted at the following OTDA website: http://otda.ny.gov/legal/regulatory-activities.asp.

Repeal and reserve §§ 352.8(b)(2) and 352.37.

Amend § 352.38(a) to exclude from the scope of that section emergency shelters that would be required to submit operational plans for OTDA approval pursuant to § 491.3, as amended, or § 900.3, as amended, and would be issued operating certificates pursuant to § 491.4, as amended, or § 900.4, as amended.

Repeal § 352.38(b), reletter subdivisions (c)-(e) as subdivisions (b)-(d), and amend relettered subdivision (b) to require that, unless otherwise directed by OTDA, serious incidents resulting in harm to any resident of an emergency shelter covered by the regulation or staff member of such shelter be immediately reported to OTDA by e-mail or telephone, and to require that the social services district (district) submit an incident report to OTDA within three business days thereafter.

Amend § 352.39(a)-(b) to exclude emergency shelters that would be required to submit operational plans for OTDA approval pursuant to § 491.3, as amended, or § 900.3, as amended, and that would be issued operating certificates pursuant to § 491.4, as amended, or § 900.4, as amended.

Amend § 358-3.1(h) to conform the section to the regulatory changes proposed with respect to Part 900, described below, and to make technical updates.

Amend the title of Part 493 to clarify that it would apply to both residential care programs for adults and shelters for families with children.

Amend § 493.1(f) to include, within the definition of facility, shelters for adults as defined in § 491.2, as amended, small-capacity shelters as defined in § 491.2, as amended, shelters for adult families as defined in § 491.2, as amended, and shelters for families with children as defined in § 900.2, as amended.

Amend § 493.1(h) to include, within the definition of operator, those persons or entities that operate shelters for adults as defined in § 491.2, as amended, small-capacity shelters as defined in § 491.2, as amended, shelters for adult families as defined in § 491.2, as amended, and shelters for families with children as defined in § 900.2, as amended.

Amend § 493.1(i) to include, within the definition of operating certificate, documents signifying approval by OTDA that are issued to shelters for adults as defined in § 491.2, as amended, small-capacity shelters as defined in § 491.2, as amended, shelters for adult families as defined in § 491.2, as amended, and shelters for families with children as defined in § 900.2, as amended.

Repeal existing Part 900 and add a new Part 900 pertaining to shelters for families with children.

Add new § 900.1 defining the applicability of new Part 900 to clarify

the requirement that a shelter have OTDA operational approval in order for the district to qualify for reimbursement for such shelter and services.

Add new § 900.2 defining the terms "Office," "family," "pregnant woman," and "shelter for families."

Add new § 900.3 providing that a district may be reimbursed from State grants or funds for costs incurred for shelter and services provided by a shelter for families only if the shelter is operated in accordance with both the requirements of Part 900, as amended, and pursuant to an operational plan approved by OTDA, outlining the requirements for an operational plan, and setting forth the procedure for obtaining OTDA approval of an operational plan.

Add new § 900.4 providing that, upon approving an operational plan, OTDA would issue an operating certificate to the operator of a shelter for families; indicating that reimbursement for costs incurred for shelter and services provided by such shelter would be contingent upon the operator of such facility having a valid operating certificate; and reserving the right of OTDA to revoke, suspend, or terminate an operating certificate under certain circumstances.

Add new § 900.5 setting forth the procedure for the voluntary closure of a shelter for families.

Add new § 900.6 requiring that shelters for families for which a district seeks reimbursement be operated in accordance with all applicable State and local laws, regulations and codes.

Add new § 900.7 setting forth general regulatory provisions relating to the operation of shelters for families.

Add new § 900.8 setting forth shelter staffing requirements and staff qualifications.

Add new § 900.9 clarifying requirements for referrals to shelters for families, assessments for public assistance and care needs and suitability for placement in shelter, and independent living plans.

Add new § 900.10 allowing for excess-capacity admissions in emergency circumstances.

Add new § 900.11 clarifying the obligation of residents of a shelter for families with income to contribute towards care costs.

Add new § 900.12 setting out shelter resident rights, rules and obligations.

Add new § 900.13 setting out shelter operator obligations with respect to shelter residents' funds and valuables.

Add new § 900.14 describing services that must be provided to residents of shelters for families.

Add new § 900.15 describing the procedure for involuntarily discharging or transferring a resident of a shelter for families.

Add new § 900.16 describing the process by which shelter operators and districts must report serious incidents at shelters that impact upon the safety and well-being of a shelter resident or member of a shelter's staff.

Add new § 900.17 detailing the food services that operators of shelters for families must provide.

Add new § 900.18 setting forth environmental standards with which operators of shelters for families must comply.

Add new § 900.19 describing shelter operators' obligations with respect to the collection and maintenance of information, records and reports.

Add new § 900.20 describing shelter operators' obligations with respect to the confidentiality of HIV- and AIDS-related information.

Add new § 900.21 clarifying conditions under which a shelter operator may contract with a separate independent entity to perform facility operations.

Add new § 900.22 setting forth OTDA's obligation to inspect shelters for families; clarifying districts' obligations with respect to such inspections; and authorizing OTDA to address deficiencies existing at such shelters.

Add § 900.23 clarifying OTDA's authority to undertake investigations of the affairs and management of any shelter for families and to take appropriate enforcement action as necessary.

Add new § 900.24 setting forth the policy and procedures with respect to State reimbursement for costs incurred for shelter and services provided by a shelter for families.

Add new § 900.25 setting forth the procedure whereby OTDA could withhold or deny up to all reimbursement to a district for costs relating to the provision of shelter and services to homeless persons where any shelter within the district fails to operate in accordance with its approved operational plan, or to comply with the requirements of State or local laws, regulations and codes, including those regulations set forth in new Part 900.

Add new § 900.26 setting forth civil penalties that OTDA may impose against the operators of shelters for families for regulatory violations that endanger residents or result in harm to shelter residents.

Add new § 900.27 authorizing OTDA to seek the appointment of a receiver to operate a shelter for families in order to protect the health, safety and welfare of shelter residents.

Add new § 900.28 clarifying the districts' obligation to provide a special needs allowance for residents of shelters for families.

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

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

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 17(a)-(b) and (j) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall "determine the policies and principles upon which public assistance, services and care shall be provided within the state both by the state itself and by the local governmental units … ," shall "make known his policies and principles to local social services officials and to public and private institutions and welfare agencies subject to his regulatory and advisory powers …," and shall "exercise such other powers and perform such other duties as may be imposed by law."

SSL § 20(2)(b) provides, in part, that the OTDA shall "supervise all social services work, as the same may be administered by any local unit of government and the social services officials thereof within the state, advise them in the performance of their official duties and regulate the financial assistance granted by the state in connection with said work." Pursuant to SSL § 20(3)(d)-(f), OTDA is authorized to promulgate rules, regulations, and policies to fulfill its powers and duties under the SSL and "to withhold or deny state reimbursement, in whole or in part, from or to any social services district [district] or any city or town thereof, in the event of their failure to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof."

SSL § 34(3)(c) requires OTDA's Commissioner to "take cognizance of the interests of health and welfare of the inhabitants of the state who lack or are threatened with the deprivation of the necessaries of life and of all matters pertaining thereto." Pursuant to SSL § 34(3)(d), OTDA's Commissioner must exercise general supervision over the work of all districts. SSL § 34(3)(e) provides that OTDA's Commissioner must enforce the SSL and the State regulations within the State and in the social services districts (districts). Pursuant to SSL § 34(3)(f), OTDA's Commissioner must establish regulations for the administration of public assistance and care within the State by the districts and by the State itself, in accordance with the law. Pursuant to SSL § 34(6), OTDA's Commissioner "may exercise such additional powers and duties as may be required for the effective administration of the department and of the state system of public aid and assistance."

SSL § 131-a requires districts to provide special needs allowances to eligible members of family households to the extent that they are eligible.

Pursuant to SSL § 460, OTDA, "acting directly or through [districts], and with the cooperation of other state agencies, shall have the comprehensive responsibility for the development and administration of programs, standards and methods of operation, and all other matters of state policy. . . in relation to shelters for adults and shelters for families."

SSL § 460-c(1) authorizes OTDA "to inspect and maintain supervision over all public and private facilities or agencies whether state, county, municipal, incorporated or not incorporated which are in receipt of public funds, which are of a charitable, eleemosynary, correctional or reformatory character," including but not limited to, "homes or shelters for unmarried mothers."

SSL § 460-d(1) authorizes OTDA to conduct investigations of the affairs and management of facilities that it inspects and supervises, and 460-d generally sets forth OTDA's enforcement authority.

2. Legislative objectives:

It is the intent of the Legislature in enacting the aforementioned statutes that OTDA establish rules, regulations and policies to provide for the health, safety and general welfare of residents of shelters for adults and shelters for families experiencing homelessness.

3. Needs and benefits:

The proposed regulatory amendments would subject all publicly-funded shelters for homeless families with children and homeless pregnant women to State oversight, and would update State regulations to reflect current State policies and procedures pertaining to publicly-funded shelters for families.

Current State regulations pertaining to shelters for families are set forth in 18 NYCRR Part 900; however, current 18 NYCRR Part 900 applies only to facilities that provide shelter to 10 or more homeless families. The proposed regulatory amendments would subject each facility providing shelter services to homeless families with children – including facilities sheltering less than 10 homeless families and facilities sheltering single pregnant women and adult families with no children where one family member is pregnant – to OTDA oversight. The proposed regulatory amendments would clarify that the district must submit for OTDA ap-

proval an operational plan pertaining to each facility, and that upon OTDA's approval of the operational plan, OTDA will issue the facility an operating certificate. Upon issuance of the operating certificate, each facility would then be required to operate in accordance with its approved operational plan and with State regulations. Toward this end, OTDA seeks to repeal the current 18 NYCRR, Part 900 and add a new Part 900 addressing publicly-funded shelters for families, defined to include shelters for single pregnant women and adult families with at least one pregnant woman.

The proposed regulatory amendments would also repeal 18 NYCRR § 352.8(b)(2), which requires districts to notify OTDA when an entity or organization continuously houses 20 or more homeless families throughout the previous 3 months, so that OTDA may require the district to submit operational plans for the subject facility or facilities. Adoption of the proposed regulatory amendments would render 18 NYCRR § 352.8(b)(2) redundant and obsolete, insofar as, under the amended regulations, all publicly-funded shelters for families would be required to submit operational plans for OTDA approval. Likewise, OTDA seeks to repeal 18 NYCRR § 352.37, which sets forth emergency measures concerning shelters for the homeless, based upon the same rationale.

Additionally, OTDA would amend 18 NYCRR § 352.38(a), which requires districts to submit operational plans for uncertified shelters for adults and uncertified shelters for families with children, to exclude from its scope shelters for adults, which would be subject to 18 NYCRR Part 491 – the subject of a separate proposed rulemaking – and shelters for families with children, which would be subject to the proposed new 18 NYCRR Part 900. OTDA also seeks to repeal 18 NYCRR § 352.38(b), which requires districts to submit general district-wide security plans for OTDA approval, because, if the proposed regulatory amendments are adopted, districts would already be involved in assessing and submitting operational plans addressing security at shelters seeking OTDA certification.

OTDA would amend 18 NYCRR § 358-3.1(h) to conform the section to the regulatory changes proposed with respect to Part 900, described below, and to make technical updates.

OTDA would also amend 18 NYCRR Part 493 to clarify that the administrative hearing procedure described therein would apply to both residential care programs for adults and shelters for families with children.

4. Costs:

The proposed regulatory amendments would not result in significant additional costs for the State or districts. Since February 1, 2017, districts have been required, pursuant to 18 NYCRR § 352.39, to submit operational plans for publicly-funded shelters for families with children that fall outside of the scope of 18 NYCRR, Part 900 because they shelter fewer than 10 families. Accordingly, the proposed regulatory amendments would not impose a significant additional burden on the districts. Similarly, OTDA presently reviews and approves current operational plans and inspects facilities, so any additional costs associated with the proposed regulatory amendments would be minimal and could be absorbed within current appropriations. In fact, adoption of the proposed regulatory amendments may reduce the administrative burden on the districts because OTDA would assume responsibility for inspection for all shelters for families with children; because districts no longer would be required to notify OTDA, pursuant to 18 NYCRR § 352.8(b)(2), when entities or organizations continuously house 20 or more homeless families for 3 months; and because, if the proposed regulatory amendments are adopted, districts would no longer be required to submit district-wide general security plans for OTDA approval pursuant to 18 NYCRR § 352.38(b).

5. Local government mandates:

Initially, the proposed regulatory amendments would require districts to submit an operational plan for each "shelter for families" – as would be defined in proposed new 18 NYCRR § 900.2 – to include facilities providing shelter to families with children or to single pregnant women for which the district seeks reimbursement or makes payments to or from State or State-administered grants or funds. Prior to the submission of an operational plan, a district would be required to obtain preliminary approval from OTDA for the establishment of such a facility. Operational plans would include, among other things, information about the operations and services of the proposed shelter facility, shelter-specific security plans, as well as a financial statement for the shelter's most recently completed fiscal year, or, for a shelter that has not previously been in operation, a financial statement for the shelter operator's most recently completed fiscal year. The operational plan also would be required to contain a proposed one-year budget for the shelter, including the estimated income and expenditures projected for the shelter during the upcoming year. OTDA anticipates that operational plans would typically be prepared by shelter operators and then submitted to the districts, which, in turn, would submit the plans to OTDA for approval.

If an operator of a shelter for families determines to close a facility, the proposed regulatory amendments would require the shelter operator to inform the district of the anticipated closure no less than 90 days in advance, after which the district would be required to submit a proposed closure plan to OTDA for approval.

In case of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the district would be required to immediately report the incident to OTDA. If the operator of the emergency shelter reports the serious incident directly to OTDA, it also must immediately notify the district. The district then would be required to submit an incident report form to OTDA within three business days after receiving notice.

6. Paperwork:

The paperwork requirements of the proposed regulatory amendments are discussed in § 5, above.

7. Duplication:

The proposed regulatory amendments would not duplicate, overlap, or conflict with any existing State or federal rules or regulations. As noted above, OTDA is repealing the duplicative provisions.

8. Alternatives:

A possible alternative to the proposed regulatory amendments would be to refrain from promulgating them. However, such inaction would diminish OTDA's ability to exercise needed oversight of publicly-funded shelters for persons experiencing homelessness and shelters housing fewer than 10 families and other shelters that currently operate as "uncertified". The current State regulations pertaining to shelters for families with children are outdated, in that they fail to address and provide for oversight of a significant number of shelters serving homeless families with children and homeless single pregnant women. Insofar as such inaction could impair OTDA's ability to provide needed services and safeguards to those families and persons experiencing homelessness, OTDA does not consider inaction a viable alternative to the proposed regulatory amendments.

9. Federal standards:

The proposed regulatory amendments would not conflict with federal statutes, regulations or policies.

10. Compliance schedule:

If the proposed regulatory amendments were to be adopted, a district would first be required to obtain the preliminary approval of OTDA before establishing a new shelter for families. A district would then be required to submit a proposed operational plan to OTDA at least 45 days before the planned use of a facility as a shelter for families. An operational plan approved by OTDA would remain in effect for a maximum of five years. At least 60 days before the expiration of an operational plan, a district could request that OTDA renew the approval of the operational plan.

If an operator elects to close a shelter for families, the operator would be required to notify both the district and OTDA at least 90 days in advance, and the district would then be required to submit a closure plan to OTDA at least 45 days before the anticipated date of closure.

In the event of a serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the district would be required to immediately report the incident to OTDA. If the operator of the emergency shelter reports the serious incident directly to OTDA, it would also be required to immediately notify the district. The district then would be required to submit an incident report form to OTDA within three business days after receiving notice.

Districts and shelters for families with children would be required to immediately comply with all regulations that do not prescribe fixed dates for compliance, including, but not limited to, those addressing resident services, food services, and environmental standards.

Regulatory Flexibility Analysis

1. Effect of rule:

The proposed regulatory amendments would apply to all 58 social services districts (districts) in the State, as well as to small businesses and other entities that operate publicly-funded emergency shelters for homeless families with children, which would be defined to include single pregnant women.

2. Compliance requirement:

The proposed regulatory amendments would subject all publicly-funded shelters for homeless families with children, defined to include homeless single pregnant women and adult families with at least one pregnant woman, to State oversight. This includes smaller facilities that shelter less than 10 families, which presently fall outside of the scope of 18 NYCRR Part 900 and are not currently subject to oversight by the Office of Temporary and Disability Assistance (OTDA).

Toward this end, the proposed regulatory amendments would require districts to submit a separate operational plan for each shelter for families with children – as would be defined in proposed new 18 NYCRR § 900.2 – for which the district seeks reimbursement or makes payments to or from State or State-administered grants or funds. Prior to the submission of an operational plan, a district must obtain preliminary approval from OTDA for the establishment of such facility. Operational plans would include, among other things, information about the operations of the

proposed shelter facility, shelter-specific security plans, and disaster and emergency plans, as well as a financial statement for the shelter's most recently completed fiscal year, or, for a shelter that has not been in operation, a financial statement for the shelter operator's most recently completed fiscal year. The operational plan also must contain a proposed one-year budget for the shelter, including the estimated income and expenditures projected for the shelter during the upcoming year. OTDA anticipates that operational plans would typically be prepared by shelter operators and then submitted to the districts, which, in turn, would submit the plans to OTDA for approval.

If an operator of a shelter for families determines to close a facility, the shelter operator would be required to inform the district of the anticipated closure no less than 90 days in advance, and the district would be required to submit a proposed closure plan to OTDA for approval at least 45 days prior to the anticipated date of closure.

In the event of any serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the district would be required to immediately report the incident to OTDA. If the operator of the emergency shelter reports the serious incident directly to OTDA, the shelter operator would also be required to immediately notify the district. The district would be required to submit an incident report form to OTDA within three business days after receiving notice.

3. Professional services:

The need for additional professional services should be limited. OTDA anticipates that operational plans would typically be prepared by shelter operators, who would then submit them to the districts. The districts may require or make revisions before submitting operational plans to OTDA for approval. Districts and shelter operators should already possess the necessary expertise to prepare operational plans without the need for securing professional services.

4. Compliance costs:

The proposed regulatory amendments would not result in significant additional costs for the State or districts. Since February 1, 2017, districts have been required, pursuant to 18 NYCRR § 352.39, to submit operational plans for publicly-funded shelters for families with children that fall outside of the scope of 18 NYCRR, Part 900 because they shelter fewer than 10 families. Accordingly, the proposed regulatory amendments would not impose a significant additional burden on the districts. Similarly, OTDA presently reviews and approves current operational plans and inspects facilities, so any additional costs associated with the proposed regulatory amendments would be minimal and could be absorbed within current appropriations.

In fact, adoption of the proposed regulatory amendments may reduce the administrative burden on the districts because: OTDA would assume responsibility for inspection for all shelters for families with children; because districts no longer would be required to notify OTDA, pursuant to 18 NYCRR § 352.8(b)(2), when entities or organizations continuously house 20 or more homeless families for 3 months; and because districts would no longer be required to submit district-wide general security plans for OTDA approval pursuant to 18 NYCRR § 352.38(b).

5. Economic and technological feasibility:

Districts should already have the economic and technological abilities to comply with the proposed regulatory amendments.

6. Minimizing adverse impact:

The proposed regulatory amendments would allow a district to request a waiver from OTDA in an operational plan where a shelter is unable to fully comply with OTDA's regulations. A request for a waiver could be approved at OTDA's discretion. OTDA maintains that the proposed regulatory amendments should not provide further exemptions, as it is critical that publicly-funded shelters for families experiencing homelessness be subject to OTDA oversight and comply with OTDA standards.

7. Small business and local government participation:

It is anticipated that districts and operators of publicly-funded shelters for homeless families with children will be dedicated to implementing the regulatory amendments and protecting the health, safety, and general welfare of persons experiencing homelessness. OTDA obtained and considered feedback on the proposed regulatory amendments from the New York City Department of Homeless Services, and the New York Public Welfare Association on behalf of rest-of-State districts.

8. For rules that either establish or modify a violation or penalties associated with a violation:

The proposed regulatory amendments provide that OTDA may revoke, suspend, or limit an operating certificate or deny a request for renewal where an operator of a shelter for families has failed to comply with an OTDA-approved operational plan, OTDA's regulations, or any other State or local laws or regulations applicable to the operation of such facilities.

The proposed regulatory amendments also would authorize OTDA to withhold or deny reimbursement to a district, in whole or in part, for expenditures relating to the provision of shelter and services to homeless persons when any publicly-funded shelter for adults, small-capacity shelter, shelter for adult families, or shelter for families located within that district fails to operate in accordance with an OTDA-approved operational plan, OTDA regulations, or any other State or local laws, regulations, and codes applicable to the operation of such facilities. Authority now exists under 18 NYCRR § 900.15 to withhold or deny reimbursement with respect to shelters operated by districts; the proposed regulatory amendments would enhance this authority by allowing OTDA discretion to withhold or deny up to all of the reimbursement to a district for costs of providing shelter and services to homeless persons when any publicly-funded shelter operating within that district fails to operate in accordance with an OTDA-approved operational plan, OTDA regulations, or any other State or local laws, regulations, or codes applicable to the operation of such facilities. Notably, SSL § 20(3)(e) already explicitly authorizes OTDA to "withhold or deny state reimbursement, in whole or in part, from or to any district or any city or town thereof, in the event of the failure of either of them to comply with law, rules or regulations of [OTDA] relating to public assistance and care or the administration thereof."

Additionally, the proposed regulatory amendments would allow OTDA to assess civil penalties of up to $1,000 per day against the operators of shelters for families for noncompliance, in contrast to current regulations, which do not provide for civil penalties for noncompliance against operators of shelters for families. The proposed regulatory amendments would also provide for the assessment of civil penalties by OTDA against shelter operators when violations endanger residents or result in harm to a shelter resident.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed regulatory amendments would apply to the 44 rural social services districts (rural districts).

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

Initially, the proposed regulatory amendments would require rural districts to submit a separate operational plan for each "shelter for families" – as would be defined in proposed new 18 NYCRR § 900.2 – for which the rural district seeks reimbursement or makes payments to or from State or State-administered grants or funds. Prior to the submission of an operational plan, a rural district would be required to obtain preliminary approval from the Office of Temporary and Disability Assistance (OTDA) for the establishment of such a facility. Operational plans would include, among other things, information about the operations and services of the proposed shelter facility, shelter-specific security plans, a financial statement for the shelter's most recently completed fiscal year, or, for a shelter that has not previously been in operation, a financial statement for the shelter operator's most recently completed fiscal year. The operational plan also would be required to contain a proposed one-year budget for the shelter, including the estimated income and expenditures projected for the shelter during the upcoming year. OTDA anticipates that operational plans would typically be prepared by shelter operators and then submitted to the rural districts, which, in turn, would submit the plans to OTDA for approval.

If an operator of a shelter for families determines to close a facility, the proposed regulatory amendments would require the shelter operator to inform the rural district of the anticipated closure no less than 90 days in advance, after which the rural district would be required to submit a proposed closure plan to OTDA for approval at least 45 days prior to the anticipated date of closure.

In the event of any serious incident impacting upon the safety and well-being of any shelter resident or staff member, either the shelter operator or the rural district would be required to immediately report the incident to OTDA. If the operator of the emergency shelter reports the serious incident directly to OTDA, the shelter operator would also be required to immediately notify the rural district. The rural district would then be required to submit an incident report form to OTDA within three business days after receiving notice.

3. Costs:

The proposed regulatory amendments would not result in significant additional costs for the State or rural districts. Since February 1, 2017, rural districts have been required, pursuant to 18 NYCRR § 352.39, to submit operational plans for publicly-funded shelters for families with children that fall outside of the scope of 18 NYCRR, Part 900 because they shelter fewer than 10 families. Accordingly, the proposed regulatory amendments would not impose a significant additional burden on the rural districts. Similarly, OTDA presently reviews and approves current operational plans and inspects facilities, so any additional costs associated with the proposed regulatory amendments would be minimal and could be absorbed within current appropriations.

In fact, adoption of the proposed regulatory amendments may reduce the administrative burden on the rural districts because OTDA would assume responsibility for inspection for all shelters for families with children; because rural districts no longer would be required to notify OTDA,

pursuant to 18 NYCRR § 352.8(b)(2), when entities or organizations continuously house 20 or more homeless families for 3 months; and because rural districts would no longer be required to submit district-wide general security plans for OTDA approval pursuant to 18 NYCRR § 352.38(b).

4. Minimizing adverse impact:

The proposed regulatory amendments should not provide exemptions for rural area participation, because the proposed regulatory amendments are intended to subject all publicly-funded shelters for homeless families with children and/or for homeless single pregnant women to State oversight, including smaller-capacity shelters that presently are excluded from the scope of the current 18 NYCRR Part 900. The proposed regulatory amendments would also update State regulations to reflect current State policies and procedures pertaining to publicly-funded shelters for families.

5. Rural area participation:

It is anticipated that rural districts would be dedicated to implementing the regulatory amendments in fulfilling their statutory obligations under Social Services Law § 62 to aid and care for any persons who reside or are found in their respective territories and who are in need of public assistance and care.

Job Impact Statement

A Job Impact Statement is not required for the proposed regulatory amendments. The purpose of the proposed regulatory amendments is to update current State regulations pertaining to shelters for families. The proposed regulatory amendments would update State regulations to subject each facility providing shelter services to homeless families with children – including facilities sheltering less than 10 homeless families and facilities sheltering single pregnant women and adult families with at least one pregnant woman – to OTDA oversight, so as to help ensure that shelters for homeless families with children and homeless pregnant women are properly and efficiently operated, are properly utilized at a reasonable cost, and effectively protect the health, safety and welfare of shelter residents and staff.

It is apparent from the nature and the purpose of the proposed regulatory amendments that they would not have a substantial adverse impact on jobs and employment opportunities in the private sector, in the social services districts, or in the State.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Elimination of Finger Imaging Requirement for Public Assistance Applicants and Recipients

I.D. No. TDA-19-19-00010-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 351.2(a); repeal of section 351.9(d)(1) and Part 384 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (j), 20(3)(d), 34(3)(f); L. 1997, ch. 436, part B, section 23-a; L. 1995, ch. 83, section 266

Subject: Elimination of finger imaging requirement for public assistance applicants and recipients.

Purpose: To update State regulations to align public assistance programs with other State benefit programs regarding identification verification requirements while also providing operational efficiencies for the State and social services districts, with no reduction in New York State's abilities to detect and prevent benefit fraud and abuse.

Text of proposed rule: Subdivision (a) of § 351.2 of Title 18 of the NYCRR is amended to read as follows:

(a) Identity.

(1) Verification. The applicant or recipient must furnish verification of his or her identity, as a condition of eligibility, at the time of application or recertification for public assistance or care. [Any member of a household 18 years of age or older and the head of a household who is receiving or applying for safety net assistance, emergency safety net assistance, public institutional care for adults, family assistance or emergency assistance to needy families with children, is, when requested to do so by the social services district, required to establish his or her identity by means of finger images to be used in the automated finger imaging system authorized in Part 384 of this Title. No household can receive safety net assistance, emergency safety net assistance, public institutional care for adults, family assistance or emergency assistance to needy families with children if any member of the household, 18 years of age or older, or the head of the house- hold, refuses to allow his or her finger images to be obtained for use in the automated finger imaging system. Any such household's application must be denied or, if the household is participating in the program, benefits must be discontinued.]

(2) Prohibition against automated finger imaging for public assistance.

(i) The use of an automated finger imaging system is prohibited for any purpose under public assistance.

(ii) No social services district may require an applicant or recipient household member to be finger imaged for purposes of public assistance.

Paragraph (1) of subdivision (d) of § 351.9 is REPEALED and RESERVED.

Part 384 of Title 18 of the NYCRR is REPEALED.

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

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

Public comment will be received until: 60 days after publication of this notice.

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

Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 17(a)-(b) and (j) provide, in part, that the Commissioner of the Office of Temporary and Disability Assistance (OTDA) shall "determine the policies and principles upon which public assistance, services and care shall be provided within the state both by the state itself and by the local governmental units …", shall "make known his policies and principles to local social services officials and to public and private institutions and welfare agencies subject to his regulatory and advisory powers…", and shall "exercise such other powers and perform such other duties as may be imposed by law."

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

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

Section 266 of Chapter 83 of the Laws of 1995 mandated the establishment of an automated fraud prevention system based on personally unique identification factors. As part of the Welfare Reform Act of 1997, § 23-a of Part B of Chapter 436 of the Laws of 1997 applied the automated fraud prevention system requirement to public assistance applicants and recipients.

2. Legislative objectives:

It was the intent of the Legislature in enacting the above statutes, that OTDA establish rules, regulations and policies to detect instances where individuals fraudulently enrolled for public assistance under multiple identities, to remedy administrative errors that could potentially result in the issuance of fraudulently-obtained payments, and to help deter future criminal abuses.

3. Needs and benefits:

The proposed regulatory amendments to 18 NYCRR § 351.2(a) and the proposed repeal and reservation of 18 NYCRR § 351.9(d)(1) and proposed repeal of 18 NYCRR Part 384 would bring New York State's public assistance programs into alignment with other State benefit programs regarding identification verification requirements while also providing operational efficiencies for the State and social services districts (districts), with no reduction in New York State's ability to detect and prevent public assistance fraud and abuse.

Finger imaging is unnecessary because New York State conducts numerous computer matches based on personally unique identification factors for both new applicants and current recipients of public assistance programs in order to detect a wide range of eligibility problems. These matches result in the obtaining of data, including, but not limited to: verification of social security numbers; employment; unearned income; unemployment insurance; disqualification from benefits; incarceration; existence of deceased clients/applicants; application for/receipt of duplicate assistance within New York State and other states; and client resources. These matches are conducted with a wide range of State and federal government agencies and private companies and are supplemented by additional investigation done by district workers throughout the State. The matches include data from, among others: the U.S. Department of Health and Human Services; U.S. Department of Agriculture Food and Nutrition Services; the federal Social Security Administration; the Internal Revenue Service; the New York State Department of Corrections and Community Supervision; the New York State Division of Criminal Justice Services; the New York State Department of Labor; the New York State Department of Taxation and Finance; and various banking institutions.

Previously, Supplemental Nutrition Assistance Program (SNAP) clients

were also required by 18 NYCRR § 387.9 to be finger-imaged; however, OTDA eliminated this requirement in November 2012. Similarly, finger imaging was a statutory requirement of eligibility for adult Medicaid applicants, until this requirement was eliminated as part of the 2009-2010 State Budget. Eliminating the finger imaging requirement would also support New York State's efforts to transition to an on-line application for public assistance and reduce administrative complexities of public assistance programs for clients and staff alike.

4. Costs:

The proposed regulatory amendments would not result in new costs to the State or districts. Since there are other processes in place to prevent and detect fraud in the public assistance program, the elimination of finger imaging would result in operational efficiencies for the State and districts.

5. Local government mandates:

The proposed regulatory amendments would not impose any programs, services, duties or responsibilities upon districts.

6. Paperwork:

The proposed regulatory amendments would not impose any new forms, new reporting requirements or other paperwork upon the State or the districts.

7. Duplication:

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

8. Alternatives:

A possible alternative to the proposed regulatory amendments would be to refrain from promulgating them and to continue to finger image recipients of and applicants for Family Assistance and Safety Net Assistance. However, this course would result in the failure to update State regulations to align public assistance programs with other State benefit programs regarding identification verification requirements, and would also prevent the incurring of resulting operational efficiencies to the State and districts. Consequently, OTDA does not consider this course to represent a viable alternative to the proposed regulatory amendments.

9. Federal standards:

There is no comparable federal standard for an automated fraud prevention system.

10. Compliance schedule:

OTDA anticipates that districts would be in compliance with the proposed regulatory amendments upon the effective date of the proposed regulatory amendments.

Regulatory Flexibility Analysis

A RFASB&LG is not required for the proposed regulatory amendments because the proposed regulatory amendments to 18 NYCRR § 351.2(a) and the proposed repeal and reservation of 18 NYCRR § 351.9(d)(1) and proposed repeal of 18 NYCRR Part 384 would neither have an adverse economic impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon small businesses or social services districts (districts). Pursuant to the proposed regulatory amendments, districts would no longer be required to finger image public assistance applicants or recipients. As it is evident from the nature of the proposed regulatory amendments that they would not have an adverse impact upon or impose reporting, recordkeeping, or other compliance requirements upon small businesses or districts, no further measures were needed to ascertain those facts and, consequently, none were taken.

Rural Area Flexibility Analysis

A RAFA is not required for the proposed regulatory amendments to 18 NYCRR § 351.2(a) or the proposed repeal and reservation of 18 NYCRR § 351.9(d)(1) and the proposed repeal of 18 NYCRR Part 384 because the proposed regulatory amendments would neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon rural social services districts (rural districts) or private entities in rural areas. Pursuant to the proposed regulatory amendments, all districts, including rural districts, would no longer be required to finger image public assistance applicants or recipients. As it is evident that the proposed regulatory amendments would not have an adverse impact upon or impose reporting, recordkeeping, or other compliance requirements upon rural districts or private entities in rural areas, no further measures were needed to ascertain those facts and, consequently, none were taken.

Job Impact Statement

1. Nature of impact:

The proposed regulatory amendments may impact jobs and employment opportunities in the private sector of New York State.

2. Categories and numbers affected:

It is anticipated that there may be possible job losses related to the reduction in finger imaging services.

3. Regions of adverse impact:

It is anticipated that a limited number of counties may experience a job impact.

4. Minimizing adverse impact:

The benefits of removing an unnecessary barrier to public assistance applicants and recipients and promoting operational efficiencies for the State and social services districts outweigh the potential downside.