

For Department of State use only.

## Notice of Adoption

Temporary and Disability Assistance, Office of  
(SUBMITTING AGENCY)

- This adoption will amend the NYCRR.  
 This adoption will not amend the NYCRR.

**NOTE:** Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms will be cause for rejection of this notice.

**1. Action taken:**

Adoption of § 352.37 of Title 18 NYCRR

"X" box if the rule was originally proposed as a consensus rule making.

**2. Effective date of rule:**

- Date this notice is published in the *State Register*.  
 This is a "rate making" as defined in SAPA §102(2)(a)(ii), and, is effective as follows:  
 Date of filing.  
 Other date (*specify*): \_\_\_\_\_  
 Other date (*specify*): \_\_\_\_\_  
 \_\_\_\_\_ days after filing.

**3. Statutory authority under which the rule was adopted:**

Social Services Law §§ 17(a)-(b), and (j), 20(2)-(3), 34, 460-c, and 460-d; Executive Law § 43(1); General Municipal Law § 34; State Finance Law § 109(4); New York City Charter § 93; and §7-4 of Article 7 of Chapter C of the Buffalo City Charter

**4. Subject of the rule:**

Emergency shelters for the homeless

**5. Purpose of the rule:**

Emergency measures concerning shelters for the homeless

6. Terms and identification of rule :

A. I.D. No. of original notice of proposed or emergency/proposed rule making: TDA-06-16-00016 - E

B. Comparison of the proposed rule to the adopted rule (CHECK ALL THAT APPLY):

[X] No changes were made to the proposed rule.

Do NOT attach the text of the previously published rule. If the last previously published RIS, RFA, RAFA or JIS remain adequate and do not require correction, SKIP ITEMS 9-12 and do NOT attach any such statements. If any of the most recently published statements were deemed inadequate or required correction, complete Item 9, 10, 11, or 12 as applicable, do NOT attach previously published statements. Be sure to complete C, if applicable, as well as remaining Items 7-8 and 13-14.

[ ] Nonsubstantive changes were made in [Parts, sections, subdivisions or paragraphs]:

[Redacted text]

Attach the original of the text as adopted (if proposed as full text, submit full text; if proposed as a summary, submit a summary) typed in scannable format. Do not skip Items 9-12; revised statements or explanatory statements are required.

Text attached.

Summary attached.

[ ] This is a "rate making" as defined in SAPA §102(2)(a)(ii) and, pursuant to SAPA §202(7)(b), the agency elected to submit an original copy of a description of the substance. Substantial revisions were made in the following Parts, sections, subdivisions or paragraphs:

[Redacted text]

C. List the publication date and I.D. No. of any previously published notice(s) of revised rule making:

Publication date: 05/11/2016, I.D. No. TDA-06-16-00016 - ERP

Publication date: , I.D. No. -

7. The text of the final rule and any required statements and analyses may be obtained from:

Agency contact: Richard P. Rhodes, Jr.
Agency name: New York State Office of Temporary and Disability Assistance
Office address: 40 North Pearl Street, 16-C
Albany, NY 12243-0001
Telephone: (518) 486-7503 E-mail: richard.rhodesjr@otda.ny.gov

8. Additional matter required by statute:

[ ] Yes (include below material required by statute).

[Redacted text]

[X] No additional material required by statute.

9. Revised Regulatory Impact Statement (RIS)

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RIS contains:

[ ] The full text of the Revised RIS.

[ ] A summary of the Revised RIS.

B. A statement is attached explaining why a revised RIS is not required (check one box):

[ ] Changes made to the last published rule do not necessitate revision to the previously published RIS.

[ ] This is a technical amendment exempt from SAPA §202-a.

C.  A revised RIS is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).

A revised RIS is **not** attached because this rule was proposed as a consensus rule as defined in SAPA

**10. Revised Regulatory Flexibility Analysis (RFA) for small businesses and local governments**

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RFA contains:

The full text of the Revised RFA.

A summary of the Revised RFA.

B. A **statement is attached** explaining why a revised RFA is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published RFA.

The changes will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The attached statement sets forth this agency's findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.

C.  A revised RFA is **not** attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).

A revised RFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

**11. Revised Rural Area Flexibility Analysis (RAFA)**

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised RAFA contains:

The full text of the Revised RAFA.

A summary of the Revised RAFA.

B. A **statement is attached** explaining why a revised RAFA is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published RAFA.

The changes will not impose any adverse impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The attached statement sets forth this agency's findings and the reason(s) upon which the findings were made, including what measures were used to determine those findings.

C.  A revised RAFA is not attached because this rule is a "rate making" as defined in SAPA §102(2)(a)(ii).

A revised RAFA is **not** attached because this rule was proposed as a consensus rule as defined in SAPA §102(11).

**12. Revised Job Impact Statement (JIS)**

(SELECT AND COMPLETE ALL THAT APPLY; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached Revised JIS contains:

The full text of the Revised JIS.

A summary of the Revised JIS.

B. A **statement is attached** explaining why a revised JIS is not required (check one box):

Changes made to the last published rule do not necessitate revision to the previously published JIS.

The changes will not impose a substantial impact on jobs and employment opportunities. The attached statement sets forth this agency's findings that the rule will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

C. A revised JIS is **not** attached because:

This rule is a "rate making" as defined in SAPA §102(2)(a)(ii).

This rule was proposed by the State Comptroller or Attorney General.

13. **Assessment of Public Comment** (includes legislative comments) (check applicable box):

A.  45-day minimum comment period is complete (Full text was submitted with proposal or summary of text was submitted with the proposal and the full text was posted on a State web site or the rule is a consensus rule or a rule defined under SAPA §102[2][a][ii] [Rate Making])

60-day minimum comment period is complete (Summary of text was submitted with the proposal and the full text was not posted on a State web site or the rule is **not** a consensus rule or a rule defined under SAPA §102[2][a][ii] [Rate Making])

B. (COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

Attached is an assessment of public comment.  
No particular form is required, and it need **only** include comments not addressed in any previously published assessment for this rule. However, the assessment must be based on any written comments received by the agency or any comments presented at any public hearing held by the agency about this rule (include legislative comment). It must contain a summary and an analysis of the issues raised and significant alternatives suggested, a statement of the reason(s) why any significant alternatives were not incorporated, and a description of any changes made as a result of such comments.

An assessment is not attached because no comments were received.

An assessment is not required because this action is for a "rate making" as defined in SAPA §102(2) (a)(ii).

14. **Referenced material** (check one box):

No information is being incorporated by reference in this rule.

This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

[Redacted area]

15. **Initial Review of Rule** (SAPA §207)

(SELECT AND COMPLETE ONE)

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

B.  As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year [redacted] which is the 4<sup>th</sup> or 5<sup>th</sup> year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS:

Attached is an assessment of public comment on the issue of the 4 or 5-year initial review period; or

An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.

C.  As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year [redacted] which is no later than the 5<sup>th</sup> year after the year in which this rule is being adopted.

D.  Not Applicable. This rule is a "rate making" or a "consensus rule," or the agency is not required to review existing rules.

**AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)**

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

Name Richard P. Rhodes, Jr. Signature \_\_\_\_\_

Address N.Y.S.O.T.D.A., 40 North Pearl Street, 16-C, Albany, NY 12243-0001

Telephone (518) 486-7503 E-mail richard.rhodesjr@otda.ny.gov

Date 08/01/2016

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**Please read before submitting this notice:**

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's *Register* procedures manual, *Rule Making in New York*.
2. Rule making notices with any necessary attachments should be e-filed via the Department of State website.

**§ 352.37 Emergency measures concerning shelters for the homeless.**

(a) When the Office of Temporary and Disability Assistance (the office) has knowledge, or has been advised, by announced or unannounced inspections, audits, or other methods with respect to emergency shelters made by any State or local entity authorized to conduct inspections or audits, including the office and State or local comptrollers, that there exists a violation of law, regulation, or code with respect to a building that provides emergency shelter to homeless persons, in which there are conditions that are dangerous, hazardous, imminently detrimental to life or health, or otherwise render the building not fit for human habitation, the office may take immediate emergency measures, including, but not limited to, one or more of the following: (1) issuing an order directing the facility to take immediate measures to rectify any deficiencies, violations, or conditions, requiring additional security, or directing the transfer of the facility's residents to other temporary emergency housing; or (2) temporarily suspending the facility's operating certificate or directing closure of the facility. For purposes of this section, "emergency shelter" shall mean any facility with overnight sleeping accommodations, the primary purpose of which is to provide temporary shelter to recipients of temporary housing assistance.

(b) Any order of the office issued with respect to any emergency shelter pursuant to paragraph (2) of subdivision (a) of this section shall be subject to the notice and expedited hearing process set forth in section 493.8 of this Title.

(c) Nothing in this section shall be construed as limiting the office from taking additional enforcement action authorized under the Social Services Law or any State regulation.

(d) The office is authorized to conduct unannounced inspections at any hour, without prior knowledge by or notification to the emergency shelter, the operator, or the social services district. Interference with an inspection, refusal to allow admission, delay in allowing admission, or refusal to provide complete access to the facility will be deemed to be a violation, and the office may take immediate enforcement action authorized under the Social Services Law or any State regulation. State and local comptrollers, in inspecting, auditing, or reviewing with respect to emergency shelters shall inform the office of any proposed violations of law, regulation, or code and shall provide recommendations as to any enforcement action.



# Office of Temporary and Disability Assistance

**ANDREW M. CUOMO**  
Governor

**SAMUEL D. ROBERTS**  
Commissioner

**MICHAEL PERRIN**  
Executive Deputy Commissioner

## CERTIFICATION

I hereby certify that the attached amendments to § 352.37 to Title 18 of the Official Compilation of Codes, Rules, and Regulations of the State of New York are duly adopted by me, Executive Deputy Commissioner Michael Perrin, acting pursuant to designation under Public Officers Law § 9, on this date pursuant to authority vested in the New York State Office of Temporary and Disability Assistance (OTDA) by Social Services Law §§ 17(a)-(b), and (j), 20(2)-(3), 34, 460-c, and 460-d. These amendments shall be effective upon publication of the Notice of Adoption in the New York State Register.

The Notice of Emergency Adoption and Proposed Rule Making for these amendments was previously published in the New York State Register on February 10, 2016, under I.D. No. TDA-06-16-00016-EP.

The Notice of Emergency Adoption and Revised Rule Making for these amendments was previously published in the New York State Register on May 11, 2016, under I.D. No. TDA-06-16-00016-ERP.

The Notice of Emergency Adoption for these amendments was previously published in the New York State Register on July 13, 2016, under I.D. No. TDA-06-16-00016-E.

No other publication of prior notice is required by statute.

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Michael Perrin  
Executive Deputy Commissioner

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Date