

Notice of Proposed Rule Making

Temporary and Disability Assistance, Office of
(SUBMITTING AGENCY)

- Approval has been granted by Executive Chamber to propose this rule making.
- This rule making does not require Executive Chamber approval.

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. A. <i>Proposed action:</i>			
Amendment of	§ 387.1 of	Title <u>18</u>	NYCRR
Addition of	§ 387.24 of	Title <u>18</u>	NYCRR
_____	_____	Title _____	NYCRR
_____	_____	Title _____	NYCRR
_____	_____	Title _____	NYCRR
_____	_____	Title _____	NYCRR

- B. This is a consensus rule making. A statement is attached setting forth the agency's determination that no person is likely to object to the rule as written [SAPA §202(1)(b)(i)].
- C. This rule was previously proposed as a consensus rule making under I.D. No. _____ . Attached is a brief description of the objection that caused/is causing the prior notice to be withdrawn [SAPA §202(1)(e)].
- D. This rule is proposed pursuant to [SAPA §207(3)], 5-Year Review of Existing Rules (see also item 16).

2. *Statutory authority under which the rule is proposed:*
 Chapter 51 of Title 7 of the United States Code §§ 2011, 2013 and 2026; Social Services Law §§ 17(a)-(b) and (k), 20(3) (d) and 95

3. *Subject of the rule:*
 New York State Combined Application Project (NYSCAP)

4. *Purpose of the rule:*

See attached Addendum.

5. *Public hearings* (check box and complete as applicable):
- A public hearing is not scheduled. (*SKIP TO ITEM 8*)
 - A public hearing is required by law and is scheduled below. (**Note:** first hearing date must be at least 60 days **after** publication of this notice unless a different time is specified in statute.)
 - A public hearing is not required by law, but is scheduled below.

Time:	Date:	Location:

6. *Interpreter services* (check only if a public hearing is scheduled):

- Interpreter services will be made available to hearing impaired persons, at no charge, upon written request to the agency contact designated in this notice.

7. *Accessibility* (check appropriate box only if a public hearing is scheduled):

- All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.
- Attached is a list of public hearing locations that are **not** reasonably accessible to persons with a mobility impairment. An explanation is submitted regarding diligent efforts made to provide accessible hearing sites.

8. *Terms of rule* (SELECT ONE SECTION):

- A. The full text of the rule is attached because it does not exceed 2,000 words.
- B. A summary of the rule is attached because the full text of the rule exceeds 2,000 words.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

<http://otda.ny.gov/legal/regulatory-activities.asp>

- C. Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full text of such rule is not required [SAPA §202(1)(a)].

9. *The text of the 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

10. *Submit data, views or arguments to* (complete only if different than previously named agency contact):

Agency contact _____

Agency name _____

Office address _____

Telephone _____ E-mail: _____

11. *Public comment will be received until:*

- 60 days after publication of this notice (MINIMUM public comment period).
- 5 days after the last scheduled public hearing required by statute (MINIMUM, with required hearing).
- Other: (specify) _____.

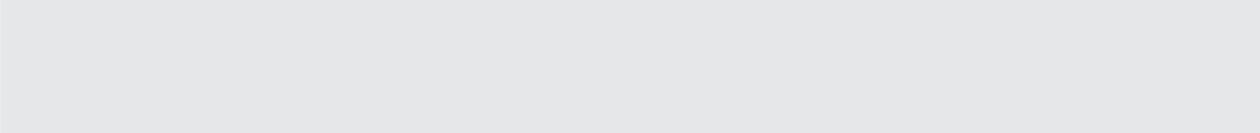
12. A prior emergency rule making for this action was previously published in the _____ issue of the *Register*, I.D. No. _____.

13. *Expiration date* (check only if applicable):

This proposal will not expire in 365 days because it is for a "rate making" as defined in SAPA §102(2)(a)(ii).

14. *Additional matter required by statute*:

Yes (include below material required by statute).



No additional material required by statute.

15. *Regulatory Agenda* (See SAPA §202-d[1]):

This rule was a Regulatory Agenda item for this agency in the following issue of the *State Register*:
01/22/2020

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the *Register*.

Not applicable.

16. **Review of Existing Rules** (ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

This rule is proposed pursuant to SAPA §207 (item 1D applies) (check applicable boxes):

Attached is a statement setting forth a reasoned justification for modification of the rule. Where appropriate, include a discussion of the degree to which changes in technology, economic conditions or other factors in the area affected by the rule necessitate changes in the rule.

Attached is an assessment of public comments received by the agency in response to its publication of a list of rules to be reviewed.

An assessment of public comments is not attached because no comments were received.

Not applicable.

17. **Regulatory Impact Statement (RIS)**

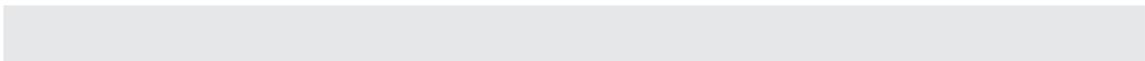
(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS, EXCLUDING SUMMARIES OF STUDIES, REPORTS OR ANALYSES [Needs and Benefits]):

A. The attached RIS contains:

The full text of the RIS.

A summary of the RIS.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:



A consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.

B. A RIS is **not attached**, because this rule is:

subject to a consolidated RIS printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

exempt, as defined in SAPA §102(11) [Consensus Rule Making].

C. A **statement is attached** claiming exemption pursuant to SAPA § 202-a (technical amendment).

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

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

A. The attached RFA contains:

 The full text of the RFA. A summary of the RFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

 A consolidated RFA, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a RFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is **not** attached, because this rule:

is subject to a consolidated RFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

 is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. is exempt, as defined in SAPA §102(11) [Consensus Rule Making].19. **Rural Area Flexibility Analysis (RAFA)**

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

A. The attached RAFA contains:

 The full text of the RAFA. A summary of the RAFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

 A consolidated RAFA, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is **not attached**, because this rule:

is subject to a consolidated RAFA printed in the *Register* under I.D. No.: _____ - _____; issue date: _____.

 is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. is exempt, as defined in SAPA §102(11) [Consensus Rule Making].

20. Job Impact Statement (JIS)

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

A. The attached JIS contains:

 The full text of the JIS. A summary of the JIS.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

 A consolidated JIS, because this rule is one of a series of closely related rules.

B. A **statement is attached** explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and explains the agency's finding 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.

 A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.C. A JIS is **not attached**, because this rule:

is subject to a consolidated JIS printed in the *Register* under I.D. No.: _____ - _____ issue date: _____.

 is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. is proposed by the State Comptroller or Attorney General.**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 /s/ Richard P. Rhodes, Jr.

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 04/07/2020

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 (in MS Word), should be e-filed via the Department of State website.

4. Purpose of the rule:

The proposed regulatory amendments would implement the New York State Combined Application Project (NYSCAP), a new combined application project for recipients of Supplemental Security Income (SSI) benefits, who have been designated as “Live-Alone” by the Social Security Administration and the State-funded SSI State Supplement Program.

Summary of the Proposed Rule

The Office of Temporary and Disability Assistance (OTDA) proposes amendments to 18 NYCRR § 387.1 and the addition of a new § 387.24 relative to the New York State Combined Application Program (NYSCAP). The full text of the proposed rule is posted at <http://otda.ny.gov/legal/regulatory-activities.asp>.

Amend § 387.1 (ab) to add a definition for “New York State Combined Application Project (NYSCAP)” and reletter existing definitions contained in subdivisions “(ab) – “(ar)” as subdivisions “(ac)” – “(as)”.

Add a new § 387.24 in relation to the NYSCAP. Added § 387.24 defines the parameters, scope and purpose of the proposed regulatory amendments, namely, the implementation of the federally-approved demonstration waiver, NYSCAP.

Subdivision 387.24(a) sets forth the requirements for eligibility and participation in the NYSCAP.

Subdivision 387.24(b) sets forth conditions that shall render an individual ineligible for participation in the NYSCAP.

Subdivision 387.24(c) sets forth the process by wherein eligible households are enrolled in the Supplemental Nutrition Assistance Program (SNAP) by means of the NYSCAP.

Subdivision 387.24(d) sets forth the process wherein active SNAP households that become eligible for the NYSCAP have their case converted to the NYSCAP.

Subdivision 387.24(e) provides that NYSCAP benefits will be calculated pursuant to standard SNAP rules.

Subdivision 387.24(f) addresses the transition of current New York State Nutrition Improvement Project (NYSNIP) households to the NYSCAP.

Subdivision 387.24(g) sets forth the certification period length for NYSCAP cases.

Subdivision 387.24(h) sets forth the reporting responsibilities for participating NYSCAP households, the parameters governing the use of system reported changes, and the district responsibility to act on known changes in NYSCAP household circumstances.

Subdivision 387.24(i) provides the process for establishing continued eligibility for SNAP under the NYSCAP by means of the recertification process.

Subdivision 387.24(j) sets forth requirements concerning the distribution of notifications to NYSCAP households, including the necessary content and timelines of these notices.

Part 387 of Title 18 NYCRR is amended as follows:

The section index for Part 387 of Title 18 NYCRR is amended to read as follows:

Sec.

387.24 New York State Combined Application Project.

Subdivisions “(ab)” through “(ar)” of section 387.1 of Title 18 NYCRR are relettered as subdivisions “(ac)” through “(as)”.

A new subdivision “(ab)” is added to section 387.1 of Title 18 NYCRR to read as follows:

(ab) New York State Combined Application Project (NYSCAP) is a federally-approved demonstration project which uses an automatic SNAP case enrollment and conversion process for certain single, live-alone Supplemental Security Income recipients.

A new section 387.24 is added to Title 18 NYCRR to read as follows:

§ 387.24 New York State Combined Application Project (NYSCAP).

The NYSCAP is a federally-approved demonstration project which uses an automatic SNAP case enrollment and conversion process for certain single, live-alone Supplemental Security Income (SSI) recipients. Information from the Social Security Administration (SSA) provided to the Office of Temporary and Disability Assistance (Office) is used to identify individuals eligible to receive SNAP benefits under the NYSCAP. The operation of the NYSCAP, as set forth in this section, is subject to continued federal approval and funding.

(a) Eligible Households. The process for enrollment of eligible households in the NYSCAP is set forth below:

(1) Automatically Enrolled Eligible Households.

(i) Single SSI, live-alone households, not currently receiving SNAP benefits, designated with an SSI federal living arrangement Code A, and a State SSI Supplemental Code A. These are individuals that SSA and the Office have determined to be separate, independent households; even if they are physically living with others. These households are automatically enrolled in the NYSCAP, except as otherwise provided by this section.

(ii) Automatic enrollment of a NYSCAP case for an individual will be stopped if an “Exception” situation exists for that individual. The NYSCAP case will not be automatically enrolled. The Exception reason must be reviewed and

resolved, and its effect on eligibility for SNAP and for participation in the NYSCAP must be determined prior to manually opening a NYSCAP case. Exception situations include but are not limited to:

(a) The individual is a member of a household that has a pending application for SNAP benefits.

(b) The individual is sanctioned or disqualified from participation in the SNAP due to a SNAP Intentional Program Violation (IPV).

(c) The last case action recorded in the Welfare Management System, (WMS) or any system of record that succeeds WMS, for a SNAP household of which the individual was a member, was the closure of the case due to the request of the household.

(d) The last case action recorded in WMS, for a SNAP household of which the individual was the only member, is the termination of an automatic NYSCAP enrollment because the individual failed to redeem SNAP benefits following the automatic enrollment in the NYSCAP, as provided by this section.

(2) Conversion of NYSCAP-Eligible Current SNAP Recipient Households to the NYSCAP.

(i) Current SNAP recipients who are determined eligible for SSI will be converted to the NYSCAP.

(ii) Automatic conversion of a currently active regular SNAP case to the NYSCAP will be stopped if an "Exception" situation exists for that household. The NYSCAP case will not be automatically enrolled, and the Exception Reason must be reviewed by the social services district for possible resolution and subsequent NYSCAP enrollment. Exceptions include but are not limited to:

(a) Case Exception Reasons:

(1) The individual is a member of a household that has a pending application for SNAP benefits.

(2) The individual is sanctioned or disqualified from participating in the SNAP due to a SNAP IPV.

(3) The individual is an active member of another SNAP household.

(4) Information about the individual failed a date of birth or sex validation match between the SSA and the WMS.

(5) The individual is listed as residing in more than one social services district.

(6) The individual is listed as deceased in the WMS.

(7) The last SNAP case transaction for the household in the WMS was case closure for having moved out-of-state.

(b) Budget Exception Reasons:

(1) The individual is sanctioned or disqualified from participating in the SNAP due to a SNAP IPV.

(2) The SNAP case has no stored budget.

(3) The individual is in an open SNAP case with a household greater than one.

(4) The household has a SNAP budget with an overpayment claim, for either a past, current or future period, stored in WMS.

(5) The household is not receiving any SSI.

(6) If the effective date of an SSA change is reported after the expiration date of the household's SNAP certification period.

(7) Information from the SSA indicates that the household's social services district of residence has changed.

(3) Ineligibility to opt out of the NYSCAP.

All individuals eligible to participate in the NYSCAP who wish to participate in the SNAP must receive SNAP through the project.

(b) Ineligible Households. Households ineligible to participate in the NYSCAP are as follows:

(1) Individuals in receipt of SSI who are not designated with a federal living arrangement Code A, and a State SSI Supplemental Code A.

(2) SSI individuals residing in Group Living Arrangements as defined in section 387.1 of this Part.

(3) NYSCAP-eligible SNAP recipients aged 18 through 21 who are currently receiving SNAP benefits as part of a multi-person SNAP household are ineligible to participate and must remain part of the multi-person household if they otherwise would be a required member of the household as defined in section 387.1 of this Part.

(4) Individuals who are currently or permanently disqualified from participation in the SNAP.

(c) Enrollment Process. The NYSCAP automatic enrollment process for eligible households.

(1) Eligible households automatically enrolled in the NYSCAP are authorized to receive an initial SNAP benefit of at least the minimum allotment for a household of one (excepting those cases wherein a recoupment for an outstanding claim balance is re-established for collection) and a certification period of 36 months. These households are sent an initial enrollment notice by the Office which includes:

(i) Notification of their eligibility for SNAP benefits under the NYSCAP;

(ii) Overview of the NYSCAP;

(iii) Explanation of the individual's rights and responsibilities under the NYSCAP; and

(iv) Provisions for submitting documentation to support the receipt of a higher SNAP benefit.

(2) Verification.

(i) For the purpose of the NYSCAP, unless contradicted by more current, verified-upon-receipt information, the use of the SSI, SSA and the State-funded SSI State Supplement Program (SSP) data will fulfill SNAP verification requirements for the following:

(a) Identity;

(b) Date of Birth;

(c) Social Security Number;

(d) Sex;

(e) SSI and Other Income;

(f) Household Size; and

(g) Living Arrangement.

(ii) Information subsequently reported is subject to SNAP verification requirements as set forth in section 387.8 of this Part.

(3) SNAP benefits are accessible using the Electronic Benefit Transfer (EBT) Card.

Use of the EBT card to access SNAP benefits within 90 days following automatic NYSCAP case enrollment constitutes an electronic signature and an acknowledgment that the recipient understands and agrees to their rights and responsibilities under the SNAP.

(i) A NYSCAP case is not considered open, and a household is not considered a SNAP recipient or to have been an applicant, until the household has redeemed a portion of any SNAP benefit within 90 days following automatic NYSCAP case enrollment.

(ii) A household has no rights to a fair hearing unless the household has accessed a portion of any SNAP benefit within 90 days following automatic NYSCAP case enrollment.

(iii) A NYSCAP enrollment is closed automatically if a household has not redeemed any SNAP benefits within 90 days following automatic NYSCAP case enrollment. No further notices are required.

(4) Automatic Case Enrollment / Closing Date for the NYSCAP.

(i) The SNAP case for an automatic NYSCAP enrollment is open effective the first day of the month following the month that the information on the household's SSI and SSP case activation is received, provided the information is received on or before the 20th day of the month. If the information is received after the 20th day of the month, automatic NYSCAP enrollment is effective no later than the first day of the second month following receipt of this information.

(ii) The SNAP case for an automatic NYSCAP enrollment is closed automatically if a household has not redeemed any SNAP benefits within 90 days following automatic NYSCAP case enrollment. No further notices are required.

(5) No eligibility for expedited processing.

There is no expedited processing, pursuant to section 387.8 of this Part, for the NYSCAP automatic enrollment process.

(6) Restored benefits.

- (i) There are no restored SNAP benefits dating back to the date of SSI eligibility for automatically-enrolled NYSCAP cases.
- (ii) If a NYSCAP household fails to redeem any SNAP benefits within 90 days of automatic NYSCAP case enrollment and the SNAP case created by the automatic NYSCAP case enrollment is closed as a result, and the individual then subsequently applies for and is found eligible for SNAP, there is no right or entitlement to restored SNAP benefits back to the date of the initial automatic NYSCAP case enrollment. The new SNAP application and case would then be processed pursuant to section 387.8 of this Part.

(7) Initial Certification Interview.

An initial certification interview is not required for households automatically enrolled in the NYSCAP.

(d) Conversion Process. The NYSCAP Conversion Process for Active SNAP Households.

(1) Conversion.

SNAP recipients who are determined eligible for the NYSCAP will be converted to the NYSCAP as follows:

(i) Conversion to the NYSCAP is effective the first day of the month following the month the information on the SSI case activation is received by the Office provided the information is received by the 20th of the month. If the information is received after the 20th of the month, conversion to the NYSCAP is effective no later than the first day of the second month following receipt of this information.

(ii) The Office will send a notice that includes:

(a) Notification of the household's conversion to the NYSCAP.

(b) Overview of the NYSCAP.

(c) Explanation of the household's rights and responsibilities under the NYSCAP.

(iii) NYSCAP-eligible SNAP recipients aged 18 through 21 who are in an open SNAP case with a household greater than one must remain part of the multi-person household if they otherwise would be a required member of the household as defined in section 387.1

(2) Verification.

NYSCAP households are subject to SNAP verification requirements as set forth in paragraph (2) of subdivision (c) of this section.

(e) NYSCAP Benefit Levels.

Households automatically enrolled in the NYSCAP pursuant to paragraph (1) of subdivision (a) of this section initially receive at least the federal minimum monthly benefit level for a household of one, excepting those cases wherein a recoupment for an outstanding claim balance is re-established for collection. The household may qualify for a higher SNAP benefit by submitting information regarding household circumstances and all required verification as outlined in section 387.15 of this Part.

(f) Transition from NYSNIP to NYSCAP.

The New York State Nutrition Improvement Project (NYSNIP) is an expiring, federally-approved demonstration project which used an automatic SNAP case enrollment and conversion process for certain single, live-alone SSI recipients.

NYSNIP households in receipt of a standardized benefit amount will be transitioned to the NYSCAP and the regular SNAP budgeting methodology as put forth in this Part as soon as practicable but no later than the household's next required contact.

(g) Certification Periods.

SNAP households participating in the NYSCAP will be assigned certification periods of 36 months. Households that were previously certified under NYSNIP with certification periods of between 36-48 months will receive a 36-month certification period at their next recertification.

(h) Reporting Requirements.

Between certifications, the only reporting requirement for NYSCAP households is to respond to NYSCAP SNAP Benefit Interim Reports (Interim Reports) as set forth below.

- (1) Interim Reports. NYSCAP households are required to complete Interim Reports. Approximately 18 months prior to the end of the certification period, households are mailed the Interim Reports requesting that the households provide

updated information regarding living arrangements, shelter costs, and utility expenses. Households are advised to return the completed form by the tenth day of the month following the month the Interim Report is received or SNAP benefits will be discontinued. Blank reports, reports submitted without required verification as set forth in section 387.8 of this Part, and unsigned reports will be treated as “No change” reports and processed for continuing NYSCAP eligibility at the current benefit amount.

(2) Client Reported Changes. A NYSCAP household is not required to report any changes except as provided in paragraph (1) of this subdivision. When a household reports and verifies a change, in accordance with paragraph (2) of subdivision (c) of this section, that would affect the household’s eligibility or change its benefit amount, the social services district must act upon that information.

(3) System Reported Changes.

(i) The Office receives change information daily from the SSA. SSA information is transmitted to or made available to the social services districts by daily NYSCAP reports. Action by the social services district is required for certain case status changes. System-reported changes that require the social services districts to make a determination of continuing eligibility for SNAP benefits include:

(a) Loss of SSI income;

(b) Relocation from one social services district to another; or

(c) Relocation to an ineligible living arrangement.

(ii) System-reported changes that do not require the social services districts to take action are changes in:

(a) Income;

(b) Relocation within the same social services district;

(c) Relocation to an eligible living arrangement; or

(d) Death.

(i) Recertification.

(1) All SNAP cases recertified into the NYSCAP are recertified for a 36-month period.

(2) NYSCAP households are required to recertify by the end of the current certification period, in order to determine continued eligibility in accordance with recertification requirements set forth in section 387.17 (f) of this Part.

(3) A NYSCAP household's failure to recertify for the SNAP results in case closing.

(j) Notice Requirements.

(1) Initial enrollment:

(i) NYSCAP-eligible households will receive an initial enrollment notice as set forth in paragraph (1) of subdivision (c) of this section.

(ii) SNAP households converted to the NYSCAP will receive a notice of conversion as set forth in paragraph (1) of subdivision (d) of this section.

(iii) NYSCAP households that have redeemed SNAP benefits within three months of case opening but have not submitted the information collection sheet or otherwise had the initially-authorized budget adjusted within six months of case opening will receive a reminder letter prompting the household to submit information regarding household circumstances.

(2) Interim Report: The Interim Report is automatically mailed to households 18 months prior to the end of the certification period as set forth in subdivision (h) of this section.

(3) Recertification: NYSCAP households are subject to recertification requirements set forth in section 387.17 of this Part and subdivision (i) of this section.

Regulatory Impact Statement

1. Statutory authority:

The Supplemental Nutrition Assistance Program (SNAP) is authorized by Chapter 51 of Title 7 of the *United States Code* (U.S.C.). Pursuant to 7 U.S.C. § 2011, the SNAP promotes the general welfare and safeguards the health and well-being of the nation's population by raising levels of nutrition among low-income households. Pursuant to 7 U.S.C. § 2013, the United States Department of Agriculture (USDA) is authorized to administer the federal SNAP, under which, at the request of the State agency, eligible households within the State are provided an opportunity to obtain SNAP benefits.

7 U.S.C. § 2026 provides that the USDA may grant a State agency approval to conduct a demonstration project in order to, in part, "test program changes that might increase the efficiency of the SNAP" and may waive any program requirements necessary for the conduct of the project. The proposed § 387.24 New York State Combined Application Project (NYSCAP) is a federal demonstration project designed to enhance food security for Supplemental Security Income (SSI) Live-Alone households, a population considered to be categorically eligible for SNAP. The NYSCAP will replace the existing, expiring demonstration project currently serving this population, the New York State Nutrition Improvement Project (NYSNIP). The two projects are fundamentally very similar in that they systematically identify and then automatically enroll new participants into the project. The primary difference between the two projects is in the SNAP budgeting methodology; the NYSNIP utilizes a standardized benefit amount while the NYSCAP will use regular SNAP budgeting methodology. SNAP recipients

participating in the NYSCAP as well as social services districts (districts) administering the SNAP are obligated to adhere to the NYSCAP requirements as outlined in the New York State Waiver approved by the USDA for as long as the Office of Temporary and Disability Assistance (OTDA) continues to operate the project or until directed to cease operations by the USDA. The implementation of NYSCAP is contingent on continued federal approval because of its demonstration project status.

Social Services Law (SSL) § 17(a)-(b) and (k) provide, in part, that the Commissioner of 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 § 95 authorizes OTDA to administer the SNAP in New York State and to perform such functions as may be appropriate, permitted, or required by or pursuant to federal law.

2. Legislative objectives:

It was the intent of the Legislature in enacting the above statutes that the OTDA establish rules, regulations, and policies, for the provision of SNAP benefits to eligible households in New York State in the most efficient, streamlined manner possible. The NYSCAP not only maintains a streamlined SNAP eligibility process and protects the

nutrition security of a significant number of vulnerable New York State residents, it also reduces state government's administrative burden.

3. Needs and benefits:

The proposed regulatory amendments would update Part 387 of Title 18 of the State regulations by adding a new § 387.24. The proposed regulatory amendments would implement a new combined application project for recipients of SSI benefits, who have been designated as "Live-Alone" by the Social Security Administration (SSA) and the State-funded SSI State Supplement Program (SSP). While a similar demonstration project has been in operation since March 2003, the addition of § 387.24 would codify enhanced access to nutrition benefits for one of the State's most vulnerable populations, the elderly and disabled in State regulations. This is a categorically eligible population that has historically struggled with the application and recertification process for SNAP benefits. Under the NYSCAP, information about SSI applicants is electronically transferred to the OTDA from the SSA, via the State Data Exchange (SDX), which is then used by the OTDA to automatically issue SNAP benefits to the project-eligible individuals once their SSI is approved. The households are then automatically notified of their enrollment in the SNAP via the NYSCAP. This notification includes an overview of the NYSCAP, an explanation of their rights and responsibilities under the NYSCAP, instructions for accessing benefits, and provisions for submitting documentation to support the receipt of a higher SNAP benefit.

NYSCAP-eligible individuals benefit from the project in several ways. They are not required to complete an application or an eligibility interview, they are entitled to a certification period of 36-months, and they are not required to report any changes other

than responding to the NYSCAP SNAP Benefit Interim Report (Interim Report), which is distributed to the household approximately 18 months prior to the end of the certification period.

The NYSCAP also provides administrative ease to districts by virtue of waiving the application and interview requirements for this population. Additionally, the NYSCAP assumes relatively stable household circumstances while utilizing ongoing communication between the SSA and the OTDA to automatically check for project eligibility; therefore, the resulting lengthened certification periods and reduced participant reporting requirements necessitate less frequent administrative action on the part of districts in order to administer SNAP benefits to these individuals.

The proposed regulatory amendments would : (1) assist SSI recipients by setting forth eligibility requirements that households must satisfy to be eligible for NYSCAP benefits, as well as clarifying criteria that would render any household ineligible for such benefits; (2) provide details regarding the automatic enrollment and conversion processes; and (3) provide guidance concerning notifications sent to households, verification and reporting requirements as well as guidance regarding automatic case actions such as when a NYSCAP case may close for failure to redeem benefits in the 90 days subsequent to enrollment.

4. Costs:

The proposed regulatory amendments would have no fiscal impact for households. The NYSCAP is an inherently cost-neutral program as it utilizes standard SNAP budgeting methodology. Therefore, participants are entitled to the same amount of SNAP benefits under NYSCAP as they are under standard SNAP eligibility rules.

Further, the proposed regulatory amendments would not impose any new costs or administrative burden on districts, as they are already implementing a similar demonstration project. The new project will continue to streamline the SNAP eligibility process and create efficiencies. All districts are required to administer the SNAP in compliance with the State and federal statutes and regulations governing the program, and any associated costs are eligible for administrative reimbursement under current practice and methodologies.

The development costs associated with the NYSCAP are incurred at the State government level and can be managed within existing resources. Overall, the State's administrative burden relative to the NYSCAP would likely be reduced in comparison to the NYSNIP, owing to the NYSCAP's use of regular SNAP budgeting methodology, which eliminates the annual requirement for OTDA to calculate and systematically update the NYSNIP standardized benefit amounts to maintain cost neutrality.

Nor would the proposed regulatory amendments impose any annual costs upon New York State. The development and implementation costs associated with the initial implementation of the NYSCAP were almost exclusively incurred within the parameters of normal operating budgets, except the addition of a project manager hired at a rate of \$86.72/hour for 400 hours for a total additional cost of \$34,688.

5. Local government mandates:

The proposed regulatory amendments would not impose additional government mandates.

6. Paperwork:

The proposed regulatory amendments would reduce and simplify paperwork requirements as compared to standard SNAP processes for eligible households and districts. For households, paper-based and electronic applications would be replaced with the combined application process; NYSCAP households are only required to submit paperwork in 18-month intervals, once for the Interim Report and again at recertification. Similarly, districts need not process these automatically-enrolled combined applications, and therefore would benefit from reduced paperwork by virtue of the extended certification periods and elimination of reporting requirements between contact points.

There would be a slight increase in required paperwork for households and districts for the proposed NYSCAP as compared to the expiring New York State Nutrition Improvement Project (NYSNIP). Certification periods under the NYSNIP were 48-months but under the NYSCAP, new enrollees and recertifications will have a 36-month certification period as a condition of the USDA's continued approval of this demonstration project. For districts, the SNAP benefit amount under the NYSCAP will be determined using regular SNAP budgeting methodology, as compared to the standardized benefit amounts of the NYSNIP. The impact of this change will be relatively modest, as the initial enrollment and conversion to the NYSCAP will continue to automatically create a SNAP budget for households, and districts will no longer have to run comparison budgets to determine if a household would be better served in the demonstration project or in the regular SNAP.

Overall, the increased burden on the participating households and districts would be negligible, and would be offset by a significant paperwork reduction, as compared to the regular SNAP requirements. Moreover, these changes were essentially mandated by the USDA in order to maintain the combined application demonstration project, insofar as the USDA declined to permit either the 48-month certification period or the standardized benefits to carry over from NYSNIP.

At the State government level, OTDA is required to submit an annual report to the USDA to monitor the efficacy and cost-neutrality of the demonstration project. This additional requirement falls within the OTDA's standard scope of responsibilities to administer the SNAP and would not require additional administrative resources to satisfy.

7. Duplication:

The proposed amendments would not conflict with any existing State or federal statutes or regulations.

8. Alternatives:

An alternative to the proposed regulatory amendments would be to retain the existing State regulations. However, OTDA does not consider this a preferred alternative, insofar as recipients and districts would both benefit from implementation of the NYSCAP as outlined in the New York State waiver approved by the USDA and from adoption of the proposed regulatory amendments.

Another alternative would be to refrain from implementing the NYSCAP and allowing the existing demonstration project to expire. However, OTDA does not consider such inaction a viable alternative, because recipients and districts would both

be negatively impacted by an increased administrative burden that would stem from the expiration of the existing demonstration project. There are approximately 240,000 individuals participating in the NYSNIP, all of whom would ultimately be transitioned to the NYSCAP. Presently, the demonstration project is reaching over 90 percent of the eligible population in New York State, and OTDA anticipates that implementation of the NYSCAP will maintain or surpass this participation rate. OTDA notes that prior to the implementation of the NYSNIP, the statewide participation rate for SSI Live-Alone individuals was just 65 percent; OTDA expects that the absence of a replacement project upon expiration of the NYSNIP would prompt a return to a reduced participation rate.

9. Federal standards:

The proposed regulatory amendments would not conflict with any federal standards.

10. Compliance schedule:

The proposed regulatory amendments would take effect on August 1, 2020. Beginning on the effective date, information that is shared between the SSA and OTDA that identifies Live-Alone SSI recipients would automatically enroll these individuals in the SNAP under the provisions of the NYSCAP, excepting any individuals not eligible for the project as described in the proposed § 387.24. Additionally, individuals who are eligible for the NYSCAP and have an existing SNAP case would have their case automatically converted to the NYSCAP.

Households that are currently enrolled in the NYSNIP would not be automatically converted. Such households would be brought into compliance with the proposed

regulatory amendments as soon as practicable, but no later than the household's next required contact with the district, which would occur no later than July 31, 2022.

Regulatory Flexibility Analysis for Small Businesses & Local Governments

1. Effect of rule:

The proposed regulatory amendments would have no effect on small businesses. However, the proposed regulatory amendments would benefit the 58 social services districts (districts) in the State by updating State regulations to reflect the requirements of the New York State Combined Application Project (NYSCAP).

2. Compliance requirements:

The proposed regulatory amendments would not impose any new reporting, recordkeeping or other compliance requirements on the districts. The NYSCAP is a federal demonstration project that will ultimately replace the existing project, the New York State Nutrition Improvement Project (NYSNIP). Both projects simplify the process by which Supplemental Security Income (SSI) Live-Alone households can access federally-funded Supplemental Nutrition Assistance program (SNAP) benefits. As with the current project, NYSCAP would continue to allow this categorically-eligible population to be automatically enrolled into SNAP using information already verified from the State Data Exchange (SDX). The proposed regulatory amendments would also maintain the reduced and simplified paperwork requirements of the current project, which provide administrative ease in comparison to standard SNAP procedures by replacing the separate SNAP application with a combined application process.

3. Professional services:

The proposed regulatory amendments would not require districts to hire additional professional services in order to achieve compliance.

4. Compliance costs:

The proposed regulatory amendments would not impose any new costs or administrative burden on districts, as they are already implementing a similar demonstration project. The new project will continue to streamline the SNAP eligibility process and create efficiencies. All districts are required to administer SNAP in compliance with the State and federal statutes and regulations governing the program, and any associated costs are eligible for administrative reimbursement under current practice and methodologies. The development costs associated with NYSCAP are incurred at the State government level.

5. Economic and technological feasibility:

All districts would have the economic and technological ability to comply with these regulations.

6. Minimizing adverse impact:

The proposed regulatory amendments would not have an adverse impact on districts. NYSCAP maintains the simplified process by which households living alone in the community and receiving SSI can access federally-funded SNAP benefits to help meet their nutritional needs. There are two primary differences between the proposed NYSCAP and the expiring NYSNIP: (1) the reduction of the project certification period length from 48 months to 36 months for new enrollees and recertifications; and (2) the conversion from standardized benefit amounts to the utilization of normal SNAP budgeting methodology.

Although these changes could be construed as having an adverse impact, such an interpretation would be incorrect. One of the requirements to maintain a federal demonstration project is that the project maintain cost-neutrality. The United States

Department of Agriculture (USDA) no longer viewed the standardized benefit amounts of the NYSNIP as “cost neutral” and maintaining the 48-month NYSNIP certification period and the standardized benefit calculation methodology were not options that the USDA would consider. Consequently, the NYSCAP would use 36-month certification period and regular SNAP budgeting methodology to assign benefits to participating households in order to maintain federal approval to operate this demonstration project.

Notwithstanding these changes, the NYSCAP would continue to provide administrative ease to districts by reducing the number of traditional applicants, simplifying recertifications, eliminating the need to interview and assess eligibility for new enrollees, extending certification periods beyond the federally-allowed maximum length, automating change reporting, and limiting the amount of required paperwork. Due to its potential positive impact, the Office of Temporary and Disability Assistance (OTDA) asserts that the NYSCAP would continue to represent a positive program enhancement for eligible SNAP participants and districts.

7. Small business and local government participation:

During the initial implementation of the NYSNIP demonstration project in 2003, OTDA conducted a series of conference calls to introduce the project to districts and to discuss and resolve related issues and questions. Districts have supported the NYSNIP project as a simplification initiative because it eases their administrative mandates. OTDA endeavors to maintain the core functionality of the demonstration project as it transitions to the NYSCAP with the proposed regulatory amendments, and, for this reason, OTDA would anticipate a straightforward initial implementation period. During

this period, OTDA would be available to districts to discuss and resolve any related issues and questions through whatever means of guidance are necessary.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed regulatory amendments would benefit the 44 rural social services districts (rural districts) in the State by updating State regulations to implement the transition from the current federal demonstration project, the New York State Nutrition Improvement Project (NYSNIP), to the New York State Combined Application Project (NYSCAP).

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

The proposed regulatory amendments would not impose any new reporting, recordkeeping or other compliance requirements on the rural districts. The rural districts would not need to hire additional professional services to comply with the proposed regulations. As with the expiring NYSNIP, the NYSCAP would allow a categorically-eligible population to be automatically enrolled into the Supplemental Nutrition Assistance Program (SNAP) using information already verified from the State Data Exchange (SDX). The proposed amendments maintain reduced and simplified paperwork requirements as compared to the standard SNAP eligibility process by waiving the separate SNAP application and replacing it with a combined application process.

The NYSCAP differs from the NYSNIP in benefit calculation methodology, in that the NYSCAP would use standard SNAP budgeting rules to calculate a participating household's benefit. However, overall, the impact of this change would be modest, as the initial enrollment and conversion to the NYSCAP would continue to automatically create a SNAP budget for households, and rural districts would no longer have to run comparison budgets

to determine if a household would be better served in the demonstration project or in the regular SNAP program. Furthermore, this change would not constitute a new requirement, as rural districts are already required to administer SNAP in compliance with the federal statutes and regulations governing the program.

3. Costs:

The proposed regulatory amendments would not impose any new costs or administrative burden on rural districts, as they are already implementing a similar demonstration project. The new project will continue to streamline the SNAP eligibility process and create efficiencies. All districts are required to administer SNAP in compliance with the State and federal statutes and regulations governing the program, and any associated costs are eligible for administrative reimbursement under current practice and methodologies. The development costs associated with NYSCAP are incurred at the State government level.

4. Minimizing adverse impact:

The proposed regulatory amendments would not have an adverse impact on the State's rural districts. The NYSCAP would maintain the simplified process by which households living alone in the community and receiving SSI can access federally-funded SNAP benefits to help meet their nutritional needs. There are two primary differences between the proposed NYSCAP and the expiring NYSNIP: (1) the reduction of the project certification period length from 48 months to 36 months for new enrollees and recertifications; and (2) the conversion from standardized benefit amounts to the utilization of normal SNAP budgeting methodology.

Although these changes could be construed as having an adverse impact, such an interpretation would be incorrect. One of the requirements to maintain a federal demonstration project is that the project maintain cost-neutrality. The United States Department of Agriculture (USDA) no longer viewed the standardized benefit amounts of the NYSNIP as “cost neutral” and maintaining the 48-month NYSNIP certification period length and the standardized benefit calculation methodology were not options that the USDA would consider. Consequently, the NYSCAP will use regular SNAP budgeting methodology to assign benefits to participating households and to maintain federal approval to operate this demonstration project.

Notwithstanding these changes, the NYSCAP would continue to provide administrative ease to rural districts by reducing the number of traditional applicants, simplifying recertifications, eliminating the need to interview and assess eligibility for new enrollees, extending certification periods beyond the federally allowed maximum length, automating change reporting, and limiting the amount of required paperwork. Due to its potential positive impact, the Office of Temporary and Disability Assistance (OTDA) asserts that the NYSCAP would continue to represent a positive program enhancement for eligible SNAP participants and rural districts.

5. Rural area participation:

During the initial implementation of the NYSNIP demonstration project in 2003, OTDA conducted a series of conference calls to introduce the project to rural districts and to discuss and resolve related issues and questions. Generally, rural districts have supported the NYSNIP as a simplification initiative because it eases their administrative mandates. OTDA endeavors to maintain the core functionality of the demonstration

project as it transitions to the NYSCAP with the proposed regulatory amendments and, for this reason, OTDA would anticipate a straightforward initial implementation period. During this period, OTDA would be available to rural districts, to discuss and resolve any related issues and questions through whatever means of guidance are necessary.

Job Impact Statement (JIS)

A JIS is not required for the proposed regulatory amendments. The proposed regulatory amendments would implement a new combined application project for recipients of Supplemental Security Income (SSI) benefits, who have been designated as “Live-Alone” by the Social Security Administration and the State-funded SSI State Supplement Program. It is apparent from the nature and purpose of the proposed regulatory amendments that they would not have a substantial adverse impact on jobs and employment opportunities in the public and private sectors of the State. The proposed regulatory amendments would not substantively affect the jobs of employees at the State or social service district (district) level. Adoption of the proposed regulatory amendments would not impose any new annual costs or administrative burdens upon the districts, as they are already required to administer the Supplemental Nutrition Assistance Program in compliance with the federal statutes and regulations governing the program.