

Notice of Emergency Adoption and 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.
- This adoption will amend the NYCRR.
- This adoption will not amend the NYCRR.

NOTE: THIS FORM CANNOT BE USED FOR A CONSENSUS RULE MAKING.

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. Proposed action:

Amendment of	§ 350.2(a) of	Title 18	NYCRR
Amendment of	§ 351.21(b)-(c) of	Title 18	NYCRR
_____	_____	Title _____	NYCRR
_____	_____	Title _____	NYCRR
_____	_____	Title _____	NYCRR
_____	_____	Title _____	NYCRR

2. Effective date of emergency rule:

- Date of filing.
- Other date (specify): _____

3. History of emergency actions:

- This is the first time this emergency rule has been adopted.
- This is the first re-adoption of an emergency rule printed in the *State Register* on _____ under I.D. No. _____.

4. Statutory authority under which the rule was adopted:

Social Services Law §§ 20(3)(d), 34(3)(f), 131(1), 134-a, and 355(3)

5. This emergency rule is necessary for the preservation of:

- public health
- public safety
- general welfare

6. The specific reasons underlying the finding of necessity, above, are as follows:

7. *Subject of the rule:*

See attached Addendum #1

8. *Purpose of the rule:*

See attached Addendum #2

9. *Public hearings* (check box and complete as applicable):

- A public hearing is not scheduled. (*SKIP TO ITEM 12*)
- 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:

10. *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.

11. *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.

12. *Terms of rule* (SELECT A, B **or** C. Item D is required.):

- 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]:

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)].

D. Signed certification of adoption and full text of the rule are attached:

- Signed certification of adoption (scanned pdf).
- Full text of the rule (MS Word).

13. *Emergency expiration date* (A first emergency rule is effective and enforceable for up to 90 days from the **date of filing**. Second and subsequent emergency rules are effective and enforceable for up to 60 days from their **date of filing** UNLESS the agency specifies an earlier date). This rule expires:

- 90 days after filing
- 60 days after filing
- Other (*specify date*): _____ .

14. Proposed 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).

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

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

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

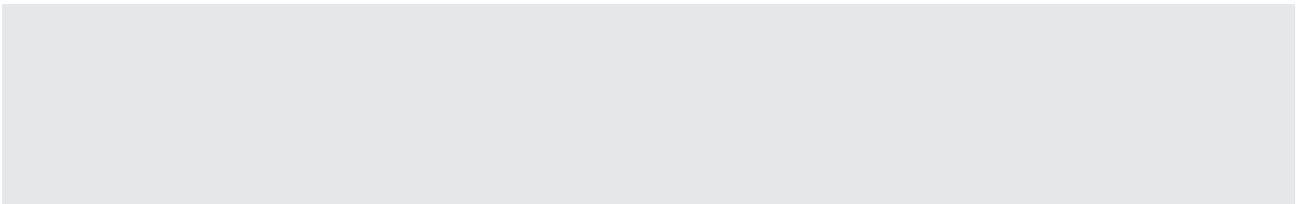
<i>Agency contact</i>	_____
<i>Agency name</i>	_____
<i>Office address</i>	_____ _____
<i>Telephone</i>	_____
<i>E-mail</i>	_____

17. *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*) _____ .

18. *Additional matter required by statute:*

- YES (include below material required by statute).



- NO additional material required by statute.

19. *Regulatory Agenda* [see SAPA §202-d(1)]:

- This action was a Regulatory Agenda item in the following issue of the *State Register*. 01/31/2024 .
- This action was not under consideration at the time this agency’s Regulatory Agenda was submitted for publication in the *Register*.
- Not applicable.

20. 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: _____.

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

but will be published in the *Register* within 30 days of the rule's effective date.

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

21. 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: _____.

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

but will be published in the *Register* within 30 days of the rule's effective date.

22. 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: _____ . because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. but will be published in the *Register* within 30 days of the rule's effective date.**23. 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 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 is submitted with this notice.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: _____ . because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making]. because this rule was proposed by the State Comptroller or Attorney General. but will be published in the *Register* within 30 days of the rule's effective date.

24. Referenced material:

- No information is being incorporated by reference in this rule making.
- This rule making contains referenced material in the following Parts, sections, subdivisions, or paragraphs:

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 10/11/2024

Please read before submitting this notice:

Reset Form

- 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*.
- Rule making notices, with any necessary attachments (in MS Word unless otherwise specified), should be e-filed via the Department of State website.

6. The specific reasons underlying the finding of necessity, above, are as follows:

It is of great importance that the proposed regulatory amendments to establish a standard 12-month authorization period for all Family Assistance (FA) and Safety Net Assistance (SNA) cases, and a standard 24-month authorization period for all FA and SNA cases wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance, be adopted as soon as possible. In light of the ongoing staffing shortages many social services districts (districts) are experiencing across the State, this emergency rule will provide administrative relief by reducing the unnecessary frequency of applications for benefits at the district level and will help ensure efficient delivery of these critical benefits to OTDA's client populations who are depending on them.

It is noted that the proposed regulatory amendments are being promulgated pursuant to a combined Notice of Emergency Adoption and Proposed Rule Making, instead of a Notice of Proposed Rule Making, due to the immediate need to ease administrative burdens on districts. The emergency rule will also have direct and immediate impacts on households applying for and receiving FA and SNA. By extending the redetermination of eligibility timeframes for all cases, the emergency rule will address district staffing concerns and allow districts to improve operational efficiency, thus helping reduce current recertification workloads and preventing future backlogs. This action will help ensure that recipients receive essential benefits timely. Further, although these regulations are being promulgated on an emergency basis to protect public health and general welfare, OTDA will receive public comments on its combined Notice of Emergency Adoption and Proposed Rule Making until 60 days after publication of this notice in the *New York State Register*.

7. Subject of the rule:

Authorization periods for Family Assistance (FA) and Safety Net Assistance (SNA) in both public assistance cases and in cases wherein a non-legally responsible caregiver is caring for a child or children for whom the non-legally responsible caregiver is applying for or receiving assistance.

8. Purpose of the rule:

To amend State regulations to establish a standard 12-month authorization period for all FA and SNA cases, and a standard 24-month authorization period for all FA and SNA cases wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance.

Subdivision (a) of § 350.2 of Title 18 NYCRR is amended to read as follows:

350.2 Authorization of grant. (a) Assistance to an eligible person is granted by a social services official on the basis of an authorization prepared on the State-prescribed form. Such an authorization shall contain all pertinent information as to the status of the case and the amount of the authorized grants of assistance and shall be effective for a period of time coinciding with periods of eligibility determinations and redeterminations and shall be made [not less frequently than] at the following intervals:

(1) [by the end of the third calendar month of the acceptance of an application for all new and reopened cases under the programs of Aid to Dependent Children and Aid to Dependent Children with an unemployed parent (ADC and ADC-U), as well as all Home Relief (including singles);

(2)] by the [sixth] 12th month after such certification for [ADC and HR] Family Assistance (FA) and Safety Net Assistance (SNA) cases;

[(3)] (2) [every three months] by the 24th month after such certification for [ADC-U] FA and SNA cases wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance; and

[(4)] (3) as needed in excess of the minimum where there is a predictable change in need or circumstances.

Subdivisions (b)–(c) of § 351.21 of Title 18 NYCRR are amended to read as follows:

(b) All variable factors of need and eligibility shall be reconsidered, reevaluated and verified at least once in every:

(1) [three months, in cases of Family Assistance (FA) when eligibility is based on the unemployment of a parent; and

(2) six] 12 months, in cases of Family Assistance (FA) [when eligibility is not based on the unemployment of a parent] and [in cases of] Safety Net Assistance (SNA)[.]; and

(2) 24 months, in all cases of FA and SNA wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance.

(c) Unless the social services district has an office-approved alternative recertification requirement, the district must use the State-prescribed form in the recertification process and must require[:

(1)] a face-to-face interview with the recipient, or, at the request of the recipient, an interview by telephone or other digital means, for each recertification[; and

(2) a face-to-face interview with the recipient, or, at the request of the recipient, an interview by telephone or other digital means, by the end of the third calendar month following the month of acceptance for all new and reopened FA and SNA cases].

Regulatory Impact Statement

1. Statutory authority:

Social Services Law (SSL) § 20(3)(d) authorizes the Office of Temporary and Disability Assistance (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 (PA) within the State.

SSL § 131(1) requires social services districts (districts), insofar as funds are available, to provide adequately for those unable to maintain themselves, in accordance with the provisions of the SSL.

SSL § 134-a authorizes OTDA to conduct an “investigation or reinvestigation of eligibility for [PA].”

SSL § 355(3) requires OTDA to promulgate regulations necessary to carry out the provisions of the SSL concerning Family Assistance (FA).

2. Legislative objectives:

It was the intent of the Legislature in enacting the above statutes that OTDA establish rules, regulations and policies so that adequate provision is made for those persons unable to provide for themselves so that, whenever possible, such persons can be restored to conditions of self-sufficiency.

3. Needs and benefits:

It is necessary for the preservation of the public health and the general welfare that the proposed regulatory amendments be adopted on an emergency basis, as authorized by the State Administrative Procedure Act (SAPA) § 202(6). Pursuant to the proposed regulatory amendments and adoption of the emergency rule, a standard 12-month authorization period will be established for all FA and Safety Net Assistance (SNA) cases. A standard 24-month authorization period will be

established for all FA and SNA cases wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance.

In light of the ongoing staffing shortages many districts are experiencing across the State, the proposed regulatory amendments would provide administrative relief by reducing the unnecessary frequency of applications for benefits at the district level and help ensure efficient delivery of these critical benefits to OTDA's client populations. The proposed regulatory amendments would also have direct and immediate impacts on households applying for and receiving FA and SNA. By extending the redetermination of eligibility timeframes for all cases, the proposed regulatory amendments would address district staffing concerns and would allow districts to improve operational efficiency, thus helping reduce current recertification workloads and preventing future backlogs. This action will help ensure that recipients receive essential benefits timely.

4. Costs:

There are no significant costs to the State or districts anticipated from the proposed regulatory revisions. The proposed revisions to the recertification schedule are already in place in many districts through approved waivers, including New York City. Further, changes in recipient income, which would have the largest impact on caseload and resulting costs, must still be reported outside of the prescribed regulatory schedule. Any additional caseload impacts would be marginal within the PA program and potentially be offset by State and local administrative savings.

5. Local government mandates:

The districts would be required to implement the regulatory amendments. Districts currently perform recertifications on three-month and six-month bases; adoption of the proposed regulatory amendments would eliminate the current three-month recertification, replace the current six-month recertification with a 12-month recertification, and add a 24-month recertification.

6. Paperwork:

There would be no new district forms or reporting requirements associated with the proposed regulatory amendments.

7. Duplication:

The proposed regulatory amendments would not duplicate, overlap or conflict with existing State or federal laws or regulations.

8. Alternatives:

An alternative to the proposed regulatory amendments would be to refrain from adopting them. However, if the proposed regulatory amendments are not adopted, there would be no relief afforded to the districts in response to the ongoing staffing shortages many districts are experiencing across the State. Thus, there would continue to be an unnecessary frequency of applications for benefits at the district level which would continue to grow, thereby threatening to disrupt the efficient delivery of FA and SNA to OTDA's client populations who are depending on them. Consequently, OTDA does not consider such inaction to represent a viable alternative to adopting the proposed regulatory amendments.

9. Federal standards:

The proposed regulatory amendments would not conflict with federal standards for PA.

10. Compliance schedule:

Insofar as there would be no new forms or reporting requirements associated with the proposed regulatory amendments, OTDA believes that the districts would be in compliance with the proposed regulatory amendments when filed with the Department of State.

Statement in Lieu of a Regulatory Flexibility Analysis for Small Businesses and Local Governments (RFASBLG)

A RFASBLG is not required for the proposed regulatory amendments because the proposed regulatory amendments would neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon small businesses or local governments. The purpose of the proposed regulatory amendments is to amend State regulations to establish a standard 12-month authorization period for all Family Assistance (FA) and Safety Net Assistance (SNA) cases, and a standard 24-month authorization period for all FA and SNA cases wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance.

Further, there are no significant costs to the State or social services districts (districts) anticipated relative to the proposed regulatory amendments. The proposed regulatory amendments to the recertification schedule are already in place in many districts through approved waivers, including New York City.

Moreover, changes in recipient income, which would have the largest impact on caseload and resulting costs, must still be reported outside of the prescribed regulatory schedule. Any additional caseload impacts would be marginal within the overall Public Assistance program and would be potentially offset by State and local administrative savings.

As it was evident that the proposed regulatory amendments would not have an adverse impact upon or impose reporting, recordkeeping, or other compliance requirements, no further measures were needed to ascertain those facts and, consequently, none were taken.

Statement in Lieu of a Rural Area Flexibility Analysis (RAFA)

A RAFA is not required for the proposed regulatory amendments because the proposed regulatory amendments would neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon public or private entities in rural areas. The purpose of the proposed regulatory amendments is to amend State regulations to establish a standard 12-month authorization period for all Family Assistance (FA) and Safety Net Assistance (SNA) cases, and a standard 24-month authorization period for all FA and SNA cases wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance.

Further, there are no significant costs to the State or rural social services districts (rural districts) anticipated relative to the proposed regulatory amendments. The proposed regulatory amendments to the recertification schedule are already in place in many districts, including rural districts, through approved waivers. Moreover, changes in recipient income, which would have the largest impact on caseload and resulting costs, must still be reported outside of the prescribed regulatory schedule. Any additional caseload impacts would be marginal within the overall Public Assistance program and would be potentially offset by State and local administrative savings.

As it was evident that the proposed regulatory amendments would not have an adverse impact or impose reporting, recordkeeping, or other compliance requirements upon rural districts, no further measures were needed to ascertain those facts and, consequently, none were taken.

Statement in Lieu of a Job Impact Statement (JIS)

A JIS is not required for the proposed regulatory amendments. The purpose of the proposed regulatory amendments is to amend State regulations to establish a standard 12-month authorization period for all Family Assistance (FA) and Safety Net Assistance (SNA) cases, and a standard 24-month authorization period for all FA and SNA cases wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance. It is apparent from the nature and the purpose of the proposed regulatory amendments that they would have no substantive impact on jobs and employment opportunities in either the public or the private sectors of New York State. Consequently, a JIS is unnecessary relative to the proposed regulatory amendments.



**Office of Temporary
and Disability Assistance**

KATHY HOCHUL

Governor

BARBARA C. GUINN
Commissioner

RAJNI CHAWLA
Executive Deputy Commissioner

C E R T I F I C A T I O N

I hereby certify that the attached amendments to §§ 350.2(a) and 351.21(b)–(c) of Title 18 of the *Official Compilation of Codes, Rules, and Regulations of the State of New York* are duly adopted by me, Commissioner Barbara C. Guinn, on this date pursuant to authority vested in the New York State Office of Temporary and Disability Assistance (OTDA) by Social Services Law (SSL) §§ 20(3)(d), 34(3)(f), 131(1), 134-a, and 355(3). These amendments shall be effective on the date of filing.

I have determined that it is necessary for the preservation of the public health and the general welfare that these amendments be adopted on an emergency basis, as authorized by the State Administrative Procedure Act (SAPA) § 202(6).

It is of great importance that the proposed regulatory amendments to establish a standard 12-month authorization period for all Family Assistance (FA) and Safety Net Assistance (SNA) cases, and a standard 24-month authorization period for all FA and SNA cases wherein a non-legally responsible caregiver is caring for a child or children for whom they are applying for or receiving assistance, be adopted as soon as possible. In light of the ongoing staffing shortages many social services districts (districts) are experiencing across the State, this emergency rule will provide administrative relief by reducing the unnecessary frequency of applications for benefits at the district level and will help ensure efficient delivery of these critical benefits to OTDA's client populations who are depending on them.

It is noted that the proposed regulatory amendments are being promulgated pursuant to a combined Notice of Emergency Adoption and Proposed Rule Making, instead of a Notice of Proposed Rule Making, due to the immediate need to ease administrative burdens on districts. The emergency rule will also have direct and immediate impacts on households applying for

and receiving FA and SNA. By extending the redetermination of eligibility timeframes for all cases, the emergency rule will address district staffing concerns and allow districts to improve operational efficiency, thus helping reduce current recertification workloads and preventing future backlogs. This action will help ensure that recipients receive essential benefits timely. Further, although these regulations are being promulgated on an emergency basis to protect public health and the general welfare, OTDA will receive public comments on its combined Notice of Emergency Adoption and Proposed Rule Making until 60 days after publication of this notice in the *New York State Register*.

No other publication of prior notice is required by statute.

/s/ Barbara C. Guinn
Barbara C. Guinn
Commissioner

October 8, 2024
Date