

RULE MAKING ACTIVITIES

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

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

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

Department of Civil Service

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-33-06-00011-A
Filing No. 741
Filing date: July 23, 2007
Effective date: Aug. 8, 2007

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

Action taken: Amendment of Appendix(es) 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional classification.

Purpose: To delete positions from and classify positions in the non-competitive class in the Education Department.

Text was published in the notice of proposed rule making, I.D. No. CVS-33-06-00011-P, Issue of Aug. 16, 2006.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Stella Chen Harding, Department of Civil Service, State Campus, Albany, NY 12239, (518) 457-6205, e-mail: stella.harding@cs.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Department of Correctional Services

NOTICE OF ADOPTION

Chateaugay Correctional Facility

I.D. No. COR-20-07-00001-A
Filing No. 738
Filing date: July 20, 2007
Effective date: Aug. 8, 2007

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

Action taken: Repeal of section 100.126(b) and addition of section 100.131 to Title 7 NYCRR.

Statutory authority: Correction Law, section 70

Subject: Chateaugay Correctional Facility.

Purpose: To amend the designation and classification for Chateaugay Correctional Facility.

Text or summary was published in the notice of proposed rule making, I.D. No. COR-20-07-00001-P, Issue of May 16, 2007.

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

Text of rule and any required statements and analyses may be obtained from: Anthony J. Annucci, Deputy Commissioner and Counsel, Department of Correctional Services, Bldg. 2, State Campus, Albany, NY 12226-2050, (518) 485-9613, e-mail: AJAnnucci@docs.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Crime Victims Board

NOTICE OF ADOPTION

Reimbursement of Crime-Related Counseling Expenses

I.D. No. CVB-22-07-00002-A
Filing No. 737
Filing date: July 19, 2007
Effective date: Aug. 8, 2007

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

Action taken: Amendment of section 525.12(g)(2) of Title 9 NYCRR.

Statutory authority: Executive Law, sections 626 and 631

Subject: Reimbursement of crime-related counseling expenses which are filed more than one year after counseling has begun.

Purpose: To specifically outline the process by which the board may approve counseling expenses filed more than one year after the counseling

rural areas, they have employed totalisator companies as agents for decades and have experience in meeting such business records requirements. This rulemaking was narrowly crafted to focus on reporting, recordkeeping and the professional qualifications of such entities, and as such, no alternative approaches were considered. This rule is intended to create public oversight of those operational aspects that currently exist but are not open to regulatory review. This rule places no burdens on local governments in rural areas, no does it create a burden for private sector entities other than those licensed as pari-mutuel wagering entities or doing business as totalisator companies. The objective of this rule is to achieve transparency in the conduct of pari-mutuel wagering, thereby regulating the conduct of pari-mutuel wagering activity in a manner designed to maintain the integrity of racing while generating a reasonable revenue for the support of government.

(e) The Racing and Wagering Board has solicited comment from the totalisator companies that currently offer their services in New York State.

Job Impact Statement

This rule will neither create nor adversely impact jobs or employment opportunities. The rule will, among other reporting and recordkeeping requirements, require totalisator companies to install and operate electronic monitoring systems. These systems may be installed by the companies themselves using existing personnel, or they may elect to hire outside contractors. In either case, as is apparent from its nature and purpose, this rule will not have a substantial adverse impact on jobs employment opportunities in New York State.

Department of Transportation

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**

Rates and Charges at Republic Airport

I.D. No. TRN-32-07-00001-P

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

Proposed action: Amendment of Part 78 of Title 17 NYCRR.

Statutory authority: Transportation Law, sections 400 and 402

Subject: Rates and charges at Republic Airport.

Purpose: To revise the fees paid for use of Republic Airport by individuals and businesses.

Text of proposed rule: Sections 78.49, 78.50, 78.51, and 78.52 of Title 17 of the Official Compilation of Codes, Rules, and Regulations of the State of New York are repealed and Section 78.49 is added as follows:

RATES AND CHARGES

78.49 Rates and charges effective upon adoption of the rule.

a. **LANDING FEE** - \$0.50 per 1,000 pounds of aircraft certified maximum takeoff weight for the first 12,500 pounds. \$1.00 for each 1,000 pounds above 12,500 pounds up to 70,000 pounds. Then \$2.00 for each 1,000 pounds above 70,000 pounds. The minimum landing fee is \$2.50.

b. **TERMINAL USE FEE** - either (by choice of the carrier)

1. \$150 per aircraft operation with an arrival and departure constituting separate operations.

2. \$2.00 per seat based on the total seats in the aircraft.

c. **NON-LEASED TICKET COUNTER USE FEE** - \$25.00 per use.

d. **AIRCRAFT RAMP PARKING FEE** - After direction by airport operator to remove the aircraft, \$25.00 for the first two hours and \$10.00 per hour thereafter.

e. **TIE-DOWN FEES** - \$125.00 per month for single engine aircraft and \$150.00 per month for multi-engine aircraft. Beginning April 1, 2008, \$140.00 per month for single engine aircraft and \$170.00 per month for multi-engine aircraft.

f. **FUEL FLOWAGE FEE** - \$0.07 per gallon for each gallon of jet fuel sold at the airport and \$0.05 per gallon for each gallon of aviation fuel sold at the airport.

g. **AIRCRAFT OVERNIGHT RAMP PARKING FEE** - \$180.00 per month.

h. **AIRSHIP MOORING FEE** - \$150.00 per day.

i. **LAND USE FEES** - \$200.00 per acre per day.

j. **FILM/COMMERCIAL USAGE FEE** -

- \$1,650.00 per day for taxiways

- \$750.00 per hour for runways

- \$1,450.00 per day for the terminal building

-\$1,600.00 per day for the ramp

-\$1,200.00 per day for non-operational areas.

k. **AIRCRAFT REMOVAL FROM RUNWAY OR TAXIWAY FEE** - \$375.00 for single engine aircraft and \$750.00 for multi-engine aircraft.

l. **MEETING ROOM USAGE FEE** - \$200.00 per day. \$60.00 per day for non-profit or public organizations.

m. **COMMERCIAL OPERATING PERMIT FEE** - \$200.00 per year.

Text of proposed rule and any required statements and analyses may be obtained from: Michael Geiger, Department of Transportation, 7150 Republic Airport, Rm. 216, East Farmingdale, NY 11735-3930, (631) 752-7707

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

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

Regulatory Impact Statement

1. **Statutory authority:** Section 400 of the Transportation Law provides for the Commissioner of Transportation to establish and collect rates and charges as deemed necessary or desirable. Specifically Transportation Law section 400(3)(c) give the Commissioner authority to establish, levy and collect such fares, tolls, rentals, rates, charges and other fees as may be necessary for the use and operation of Republic Airport.

2. **Legislative objectives:** Republic Airport was transferred from the Metropolitan Transportation Authority to the Department of Transportation in 1982 by Chapter 370 of the Laws of 1982 which adopted a new Transportation Law Article 15, Air Transportation Facilities and Services at Stewart and Republic Airports. Specifically, section 400(3)(c) was created to "establish, levy and collect such fares, tolls, rentals, rates, charges and other fees as the commissioner deems necessary, convenient or desirable . . ." Further, it was the intent of the Legislature that the operation of Republic Airport be self-supporting. This intent requires the airport to periodically update its rates and charges to account for changes in the consumer price index over time.

3. **Needs and benefits:** The Airports operating budget must function on a self-sufficient basis. The operation expenditures are not subsidized in any manner. All operation expenses are directly funded through the various user fees collected. Rates and charges at the airport have not been updated since 1992. Since then, operating expenses have steadily increased each year. Republic Airport operation is experiencing a deficit that is approaching several hundred thousand dollars each year. The proposed fee and rate increases will alleviate this deficit and allow Republic Airport to continue to provide services for its customers. Updating the rates and charges at the airport will result in an increase in revenue of approximately \$390,000; this will permit the airport to meet its annual operating costs.

4. **Costs:** The increase in the rates and charges at the airport is expected to generate about \$390,000 in extra revenue.

a. Use of Republic Airport can be broken into two groups: private individuals operating small aircraft and corporate clients usually operating jet aircraft. Private individual's costs would be realized primarily in their tie-downs fees. The average increase would be about \$40 per month or \$480 per year. However, the increase in landing fees would not affect the smaller private aircraft individuals. Therefore, the pilot operating a small, single engine plane would not see an increase in landing fees.

b. The larger the corporate aircrafts clients would realize an increase in their landing fees. Aircraft exceeding 20,000 pounds would be subject to the majority of the landing fee increase. These are generally larger corporate clients. See chart below.

c. There would be no cost to the Department of Transportation, New York State, or any local government. Official flights do not pay landing fees.

Landing Fee Group	# of landings 1/1/2005 to 12/31/2005	current fee	current income	new fee	new income
0-5000 lbs	54,050	\$2.50	\$135,125.00	\$2.50	\$135,125.00
5001-6250	2,346	\$2.50	\$5,865.00	\$2.81	\$6,598.13
6251-12500	3,904	\$3.70	\$14,444.80	\$4.63	\$18,056.00
12501-20000	4,125	\$6.50	\$26,812.50	\$10.00	\$41,250.00
20001-40000	3,628	\$12.00	\$43,536.00	\$23.75	\$86,165.00
40001-70000	1,341	\$22.00	\$29,502.00	\$48.75	\$65,373.75
70001-100000	1,145	\$34.00	\$38,930.00	\$93.75	\$107,343.75

100001-up	84	\$58.00	\$4,872.00	\$213.75	\$17,955.00
total	70,623		\$299,087.30		\$477,866.63

5. Local government mandates: There is no imposition of any mandates upon local governments by the rule amendment.

6. Paperwork: There is no additional reporting or paperwork requirements as a result of the rule change.

7. Duplication: There are no duplicative, overlapping or conflicting rules or legal requirements, either under federal or state law.

8. Alternatives: The only other alternative that was considered was to leave the rates and charges as they exist now. This would only exacerbate the deficit that the airport operates under as inflation continues to increase the costs to operate the airport. That alternative was not chosen.

9. Federal standards: There are no applicable federal government standards implicated as a result of the rule change.

10. Compliance schedule: Immediate upon adoption.

Regulatory Flexibility Analysis

1. Effect of rule: No local government will be affected by this rule as no local government operates through Republic Airport. Most of the corporate flights through Republic Airport are by larger companies doing business on Long Island and the proposed rule will not significantly effect their operation. There are small firms that do business at the airport, but the additional costs will be passed on to their passengers. Since the rates currently charged at the airport are lower than comparable facilities in the New York metropolitan area, there should be little to no loss of business.

2. Compliance requirements: There is no reporting, recordkeeping, or other acts required to be undertaken as a result of this rule.

3. Professional services: There are no professional services required to comply with this rule.

4. Compliance costs: There are no capital costs to comply with this rule. There are no annual costs for local governments to comply with this rule since no local government operates through Republic Airport. The annual costs for this rule are estimated at \$390,000. The majority of these costs will be borne by larger businesses. Small business will pay a fraction of this cost and the cost will depend on the number of flights the small business do at Republic Airport.

5. Economic and technological feasibility: There are no technological requirements of this rule. Economically, the proposed rule is feasible for small businesses as the business jet market has been growing at Republic Airport at a seven to ten percent annual rate.

6. Minimizing adverse impact: The rule will have no adverse economic impact on small businesses or local governments. Local governments do not operate through Republic Airport. Small businesses will pay a percentage of the \$390,000 in revenue increase that will be seen at the airport, but this is a small fraction of the cost of these companies doing business.

7. Small business and local government participation: Local government is not impacted by the proposed rule. However, the Town of Babylon has been notified of the proposed rule and was offered the opportunity to comment on the proposal. Before this rule was submitted for approval, meetings were held at Republic Airport giving tenants and operators at the airport an opportunity to provide input to the costs being proposed. This input was used to establish the rates and charges proposed by this rule.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: This rule will not apply to rural areas.

2. Reporting, recordkeeping and other compliance requirements; and professional services: There are no reporting, recordkeeping, or professional services required by this rule.

3. Costs: This rule will not affect rural areas.

4. Minimizing adverse impacts: Since this rule does not affect rural areas, there are no adverse impacts to minimize.

5. Rural area participation: There are no public or private interests from rural areas to participate in this rule making process.

Job Impact Statement

1. Nature of impact: There should be no job impacts as a result of this rule. The primary increase in cost due to this rule is to the business jet market. This is a rapidly growing section of the aviation industry as seen by the increase in jet traffic at Republic Airport over the past five years. Furthermore, the rates charged at Republic Airport are lower than those of airports in the New York metropolitan area. Therefore, the fact that this is a rapidly expanding market and the rates at Republic Airport are so low means that the affects of this rule are negligible.

2. Categories and numbers affected: There should be no jobs or employment opportunities affected by this rule.

3. Regions of adverse impact: No region of the state should have an impact from this rule.

4. Minimizing adverse impact: Since there should be no job impacts as a result of this rule, there are no adverse impacts to minimize.

5. Self-employment opportunities: The operators of aircraft that will pay the significant amount of the increase are all corporations and therefore the rule will not affect self-employment opportunities.