Regulatory Flexibility Analysis for Small Businesses and Local Governments for 12 NYCRR §§ 300.7(c), 300.9, 300.13(d), 300.18(f), 325-4.6(c), 326-1.5(b), 326-2.7, 330.4(b), 340.4(b) and 345.4(b).

1. Effect of rule: Small businesses and local governments whose only involvement with the workers' compensation system is that they are employers and are required to have coverage will not be affected by this rule. Small businesses and local governments are required to maintain workers' compensation coverage, either through an insurance policy or by self-insurance, as either a stand-alone self-insured employer or as a member of a group self-insurance trust. Generally, small businesses cannot afford to meet the requirements to be individually self-insured but rather purchase workers' compensation coverage from the State Insurance Fund or a private insurance carrier authorized to write workers' compensation insurance in New York or join a group self-insured trust. It is the entity providing coverage for the small employer that may be affected by this rulemaking, not the covered employer. Group self-insured trusts and third party administrators hired by private insurance carriers and group self-insured trusts may be small businesses impacted by this regulation. Medical providers authorized by the Chair to treat claimants, some of who may be small businesses, may be affected by this rule. The Chair authorizes over 20,000 medical providers to treat claimants.

The State Insurance Fund and all private insurance carriers are not small businesses, and, therefore, the effect on it is not discussed in this document.

Approximately 2,511 political subdivisions currently participate as municipal employers in self-insured programs for workers' compensation coverage in New York State.

The proposed rule amends §§ 300.7(c), 300.9, 300.13(d), 300.18(f), 325-4.6(c), 326-1.5(b), 326-2.7, 330.4(b), 340.4(b), and 345.4(b) to replace the requirement that stenographic minutes of hearings must be made and kept with a more flexible one that requires the Board to maintain verbatim records of hearings in a readable, viewable, or audible format. The purposes of this change are to 1) ensure that future hearings are conducted accurately and expeditiously; 2) ensure that the Board always has reliable means of recording hearings; 3) to

use technology to simultaneously record and incorporate the verbatim content of hearings into the Board's electronic files; and 4) enable the Board to better evaluate and monitor the conduct of its hearings and all the parties and participants in that process. The rule would affect small businesses and local governments by possibly changing the format in which they receive the record of a hearing.

2. Compliance requirements: The proposed regulation does not require any action whatsoever by small businesses or local governments. The proposed regulation does not impose or require any reporting requirements or additional paperwork on the part of small business or local government.

3. Professional services: Small businesses and local governments will not have to engage any professional services as a result of the proposed regulation.

4. Compliance costs: Small businesses and local governments will not incur any compliance costs as a result of this proposed regulation.

5. Economic and Technological Feasibility: Small businesses and local governments will not incur any capital costs or annual operating costs or be required to purchase or update technological equipment as a result of the proposed regulation.

6. Minimizing adverse impact: The proposed regulation will have no adverse economic impact on small businesses or local governments. The cost for utilizing alternate means of recording hearings, including installing or updating electronic recording devices, will be borne by the Board.

7. Small business and local government participation: Inasmuch as the proposed regulation does not adversely impact on public or private entities, the Board did not request comment on the proposed regulation. Further, the Board is not eliminating the use of verbatim reporters to record hearings with this proposal. Rather it provides flexibility so the Board can explore all means available to determine and implement the most accurate and cost effective method or methods.