

Statement explaining why a Revised Regulatory Flexibility Analysis for Small Business and Local Governments, Revised Rural Area Flexibility Analysis or Revised Statement in lieu of Job Impact Statement are not required.

A Revised Regulatory Flexibility Analysis for Small Business and Local Governments, Revised Rural Area Flexibility Analysis and Revised Statement in Lieu of Job Impact Statement are not required for the non-substantial changes to 12 NYCRR Section 300.23(b)(2). The proposed rule amended §300.23(b) (2) to, among other things, remove the word “referee” and replace it with the word “board.” However, in a consensus rule making in 2008, the word “referee” had been deleted and replaced with “Workers’ Compensation Law judge.” Therefore, the provision now reads, “[a]t said hearing, if either party fails to appear or fails to submit any evidence as to the above issue, the Workers’ Compensation Law judge shall take such action as he or she deems proper under the circumstances including continuation, suspension or reduction of the award.” The proposed rule made the following changes to this provision, “[a]t said hearing or meeting or conference, if either party fails to appear or fails to submit any evidence as to the above issue, the [referee] board shall take such action as [he deems proper] is appropriate under the circumstances including continuation, suspension or reduction of the award.” The first part of the non-substantive change replaces the word “referee,” which was to be deleted, with “Workers’ Compensation Law judge.” A Workers’ Compensation Law judge and a referee are the same. The Board no longer uses the old title of referee but uses the title of Workers’ Compensation Law judge. Therefore, there is no substantive change. The second part of the non-substantive change is to add the words “or she” to those that will be deleted. As this just removes words added to make the rule gender neutral, it is a non-substantive change. The text that will be adopted will now read, “[a]t said hearing or meeting or conference, if either party fails to appear or fails to submit any evidence as to the above issue, the [Workers’ Compensation Law judge] board shall take such action as [he or she deems proper] is appropriate under the circumstances

including continuation, suspension or reduction of the award.” These changes do not change the meaning or intent of the provision.

These non-substantive changes are not discussed in the Regulatory Flexibility Analysis for Small Business and Local Governments, Rural Area Flexibility Analysis and Statement in lieu of Job Impact Statement. The documents do not specifically discuss the change from “referee” to “Board.” As this change is not discussed, there is no need to revise the documents.