Statement in Lieu of Rural Area Flexibility Analysis

The proposed amendments to Sections 65.4(d) and 65.4(e) of Title 9, Subtitle B, of the New York Codes, Rules and Regulations (N.Y.C.R.R.) would modernize existing regulations relating to the anti-discrimination provisions in the Alcoholic Beverage Control Law (“ABCL”) which prevent licensed wholesalers from giving preferential treatment to certain licensed retailers through price discrimination. The legislative objective of the amendments is to ensure that smaller retailers (restaurants, taverns, and small liquor stores), who are not in a financial position to purchase all of the liquor and wine they sell to consumers by the case, are not unlawfully discriminated against through the charging of exorbitant split case fees. The proposed amendments would affect all licensed alcoholic beverage wholesalers throughout the state equally. While the amendments may have a potentially disparate impact on licensed retailers, their purpose is to protect smaller retailers -- restaurants, taverns, small liquor stores -- from discriminatory pricing.

Since the proposed amendments will not have an adverse impact on facilities in rural areas, nor will they impose reporting, record keeping or other compliance requirements on facilities in rural areas, no further steps were needed to ascertain those facts and none were taken by the Authority. Accordingly, a rural area flexibility analysis is not required for any of these amendments and none has been prepared.