

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas. The rule applies uniformly throughout the state, including all rural areas. Executive Law, Article 19-F Rural Affairs Act, Section 481(7) defines a rural area as a county with a population of less than 200,000. New York currently has 44 counties that would constitute rural areas. The rule applies to nonprofit organizations that are registered with the Attorney General and that are legally allowed to participate or intervene in political campaigns. Such organizations may exist or engage in activity in all areas of the state.
2. Compliance requirements. The rule requires nonprofit organizations in rural areas and elsewhere that are registered with the Attorney General and that are legally allowed to engage in election-related advocacy to include in their annual financial report a calculation of the percentage of total expenses spent on such election advocacy. The rule also requires nonprofit organizations that spend more than \$10,000 in any fiscal year to influence state or local elections in New York to include an additional schedule in their annual report filed with the Attorney General that itemizes specific information regarding expenditures and donations related to such election advocacy, unless the information is reported to another public agency and made available to the public.
3. Compliance costs. (A) Nonprofits located in rural areas and elsewhere that are registered with the Attorney General and that are allowed to engage in activities to influence an election will be subjected to de minimus compliance costs associated with calculating and reporting the percentage of their expenditures, if any, that are spent on influencing elections in a fiscal year. (B) Nonprofits located in rural areas and elsewhere that are registered with the Attorney General and that spend more than \$10,000 in any fiscal year to influence New York state and local elections will bear small costs associated with tracking and reporting information on donations and expenditures related to such election advocacy, unless the information is reported to another public agency and made available to the public.

4. Minimizing adverse impact. The rule will not adversely impact rural areas in any way.

Relatively few nonprofits in New York State will be impacted by the rule's additional filing or disclosure requirements because (a) a substantial portion of nonprofits are not allowed to participate in election activities at all; and (b) few nonprofits will spend more than \$10,000 or more in any fiscal year to influence New York state and local elections. In any event, the costs of complying are de minimus or negligible even for those nonprofits that spend this amount to influence elections, and the rule exempts them from having to file itemized information related to New York State and local elections if they have provided such information to other government agencies that make the information available to the public. Thresholds both lower and higher than \$10,000 on election related expenditures to trigger additional disclosure under the rule were considered. While establishing a threshold lower than \$10,000 would provide some benefits with respect to protecting donors from fraudulent solicitations, law enforcement functions, and transparency in New York state and local elections, the Department of Law determined that the added costs to organizations in rural areas and elsewhere that engage in this level of election related activity outweighed these benefits. The Department of Law rejected establishing an amount greater than a \$10,000 threshold because of the reduction in benefits with respect to law enforcement, fraud-reduction, and transparency in New York state and local elections that the rule is designed to promote.

5. Rural Participation. In order to ensure that nonprofits and other interested parties in rural areas have an opportunity to participate in the rule making process, a copy of the rule will be posted on the Attorney General's web site, members of the public will have the opportunity to comment on the rule in writing, and four hearings will be held in different regions of the state concerning the proposed rule.