## CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, following is a concise explanatory statement:

**AGENCY: RHODE ISLAND PAROLE BOARD**

**DIVISION:** *(If any)*

**RULE IDENTIFIER**: 242RICRXXXXX2745

**RULE TITLE:** Parole Board Sexual Offender Community Notification Guidelines 2015

**REASON FOR RULEMAKING**:

This is a Regular Repeal of the Parole Board Sexual Offender Community Notification Guidelines 2015 ("the Guidelines"), erroneously promulgated as regulations. As per the Parole Board's initial filing of November 30, 2018, sexual offender community notification guidelines have historically been adopted by the Rhode Island Parole Board as "guidelines", that is, a policy statement and guidance document for the use of Parole Board and Corrections staff and local law enforcement concerning community notification of leveled sex offenders. The Guidelines under consideration for regulatory repeal were in fact adopted by the Rhode Island Parole Board at a public meeting on December 3, 2015 and are currently in effect as a guiding document.

The Guidelines do not have the force or effect of law; and include no penalties or remedies. The statute requiring the Parole Board to publish "guidelines and procedures" for community notification of leveled sex offenders expressly refers to them as "guidelines" and uses this reference in multiple sections. That the statute uses the word "rules" or "regulations" once in its title is insufficient to give the Guidelines the force and effect of law. Indeed, in all other instances the statutory provisions for community notification use the term "guidelines" when referencing the Guidelines adopted and currently in use by the Board, its staff and law enforcement. See, e.g. § 11-37.1-12 (a); § 11-37.1-12(b) (1), § 11-37.1-12(b) (2), § 11-37.1-12(b) (3).

The Guidelines do not create or impact private rights or procedures, which are instead addressed and impacted by Rhode Island General laws § 11-37.1-1 et. seq., which expressly includes all statutory mandates and procedures related to sexual offender registration and community notification as well as penalties and remedies.

The Parole Board has received comments from the RI-ACLU on behalf of itself and other named community organizations. For the reasons stated above, the Parole Board does not believe its guidelines are regulations. The Parole Board previously resolved to explore the concerns discussed by the RI-ACLU and did so in April 2018. The Parole Board is prepared to address these or other concerns at its next public meeting by considering amendments to its sexual offender community notification guidelines.

The Parole Board will continue to use its annual open meetings process to review, solicit input and/or update these and other guidelines.

**ANY FINDING REQUIRED BY LAW AS A PREREQUISITE TO THE EFFECTIVENESS OF THE RULE:** *(if any)*

**TESTIMONY AND COMMENTS:**

Comments uploaded in a separate document.

**CHANGE TO TEXT OF THE RULE**: n/a

**REGULATORY ANALYSIS**:

In the development of the proposed repeal consideration was given to: (1) alternative

approaches; (2) overlap or duplication with other statutory and regulatory provisions;

and (3) significant economic impact on small business. No alternative approach,

duplication, or overlap was identified based upon available information. This is a

corrective action, consistent with P.L. 2003, ch. 162, R.I. Gen. Laws 1137.112.

For full regulatory analysis or supporting documentation see agency contact person

above.