PROPOSED RULE MAKING

REQUIREMENTS FOR THE EXTENSION FOR GIFTED EDUCATION

Purpose: To clarify and strengthen the education requirements for the extension for gifted education to better align with the competencies tested in the teacher certification examination for this extension as articulated in the examination’s framework, and defer the different from that of their classmates, including but not limited to gifted students, and skill in using [the] such tools and methods;

(3) knowledge and understanding of appropriate curriculum design for gifted students;

(4) knowledge and skills for planning, providing, coordinating, and evaluating differentiated teaching and learning environments to challenge and assist [all] gifted students in learning to their highest levels of achievement; and

(5) skill in collaborating with other school staff, families and the community to provide appropriate individualized instruction for [all] gifted students; and

(a) study that will permit the candidate to obtain the following knowledge, understanding and skills:

(1) knowledge of the characteristics of gifted students who learn at a pace and level that is significantly different from [that of] their classmates, including but not limited to gifted students and other high ability learners;

(2) knowledge of various tools and methods for identifying and assessing gifted students [who learn at a pace and level that is significantly different from that of their classmates], and skill in using [the] such tools and methods;

(3) knowledge and understanding of appropriate curriculum design for gifted students;

(4) knowledge and skills for planning, providing, coordinating, and evaluating differentiated teaching and learning environments to challenge and assist [all] gifted students in learning to their highest level; and

(5) skill in collaborating with other school staff, families and the community to provide appropriate individualized instruction for [all] gifted students; and

Statutory authority: Education Law, sections 207 (not subdivided); 210 (ii) The candidate shall complete a program registered pursuant to (not subdivided); 305(1), (2) and (7); 3001(2); 3004(1); 3006(1)(b); 3009(1); and 3010 (not subdivided)

Subject: Extension in gifted education of a teaching certificate.

Purpose: To clarify and strengthen the education requirements for the extension for gifted education to better align with the competencies tested in the teacher certification examination for this extension as articulated in the examination’s framework, and defer the different from that of their classmates, including but not limited to gifted students, and skill in using [the] such tools and methods;

Text of proposed rule: Pursuant to sections 207, 210, 305, 3001, 3004, 3006, 3009, and 3010 of the Education Law.

1. Subparagraph (v) of paragraph (4) of subdivision (b) of section 52.21 of the Regulations of the Commissioner of Education is amended, effective August 11, 2005, as follows:

(v) Programs leading to extensions for gifted education for classroom teaching certificates shall require:

(a) study that will permit the candidate to obtain the following knowledge, understanding and skills:

(1) knowledge of the characteristics of gifted students who learn at a pace and level that is significantly different from [that of] their classmates, including but not limited to gifted students and other high ability learners;

(2) knowledge of various tools and methods for identifying and assessing gifted students [who learn at a pace and level that is significantly different from that of their classmates], and skill in using [the] such tools and methods;

(3) knowledge and understanding of appropriate curriculum design for gifted students;

(4) knowledge and skills for planning, providing, coordinating, and evaluating differentiated teaching and learning environments to challenge and assist [all] gifted students in learning to their highest levels of achievement; and

(5) skill in collaborating with other school staff, families and the community to provide appropriate individualized instruction for [all] gifted students; and
collaborating with other school staff, families, and the community to provide appropriate individualized instruction for gifted students. For such equivalent coursework, the candidate must have achieved at least a C or its equivalent in any undergraduate level course and at least a B- or its equivalent in any graduate level course in order for the semester hours associated with that course to be credited toward meeting this semester hour requirement.

(iii) . . .

(3) Statement of continued eligibility.

(i) A person employed in a position in New York State as a teacher within a gifted and talented program which is funded pursuant to the Education Law and in accordance with Part 142 of this Title for three years in the period between September 1, 1998 and August 31, [2005] 2006, may be issued a statement of continued eligibility pursuant to which such person may continue to teach in such a program without the extension prescribed in this subdivision, provided such person holds a permanent or professional certificate in the classroom teaching service.

(ii) . . .

Text of proposed rule and any required statements and analyses may be obtained from: Anne Marie Koschnick, Legal Assistant, Office of Counsel, Education Department, Albany, NY 12234, (518) 473-8296, e-mail: legal@mail.nysed.gov

Data, views or arguments may be submitted to: Joseph B. Porter, Executive Director, State Education Department, Office of Teaching Initiatives, Rm. 5N, Education Bldg., 89 Washington Ave., Albany, NY 12234, (518) 474-6440, e-mail: hedepcom@mail.nysed.gov

Public comment will be received until: 45 days after publication of this notice.

This action was not under consideration at the time this agency’s regulatory agenda was submitted.

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Section 207 of the Education Law grants general rule making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 210 of the Education Law grants to the Board of Regents the authority to register domestic and foreign institutions in terms of New York standards.

Subdivision (1) of section 305 of the Education Law empowers the Commissioner of Education to be the chief executive officer of the state system of education and of the Board of Regents and authorizes the Commissioner to enforce laws relating to the educational system and to execute educational policies determined by the Regents.

Subdivision (2) of section 305 of the Education Law authorizes the Commissioner of Education to have general supervision over all schools subject to the Education Law.

Subdivision (7) of the section 305 of the Education Law authorizes the Commissioner of Education to annul upon cause shown to his satisfaction any certificate of qualification granted to a teacher.

Subdivision (2) of section 3001 of the Education Law establishes certification by the State Education Department as a qualification to teach in the public schools of New York State.

Subdivision (1) of section 3004 of the Education Law authorizes the Commissioner of Education to prescribe, subject to the approval of the Regents, regulations governing the examination and certification of teachers employed in all public schools in the State.

Paragraph (b) of subdivision (1) of section 3006 of the Education Law provides that the Commissioner of Education may issue such teacher certificates as the Regents Rules prescribe.

Subdivision (1) of section 3009 of the Education Law provides that no part of the school moneys apportioned to a district shall be applied to the payment of the salary of an unqualified teacher, nor shall his salary or any part thereof, be collected by a district tax except as provided in the Education Law.

Section 3010 of the Education Law provides that any trustee or member of a board of education who applies, or directs, or consents to the application of any district money to the payment of an unqualified teacher’s salary, thereby commits a misdemeanor.

2. LEGISLATIVE OBJECTIVES:

The proposed rule carries out the legislative objectives of the aforementioned statutes by clarifying and strengthening the education requirements for a gifted education extension of a teaching certificate and delaying the effective date for requiring the extension.

3. NEEDS AND BENEFITS:

The purpose of the proposed amendment is to clarify and strengthen the education requirements for the extension of a teaching certificate in gifted education to better align with the competencies tested in the teacher certification examination for this extension as articulated in the examination’s framework, and defer the implementation of the requirement for the extension.

The proposed amendment would defer until September 1, 2006 the implementation of the requirement that a teacher must hold a gifted education extension of a teaching certificate, or have obtained from the Department a statement of continued eligibility based upon employment in this field, in order to provide instruction for gifted pupils in State funded gifted and talented programs. Although the Department has been working with institutions of higher education to expand the number of programs for the preparation of teachers to provide instruction to gifted pupils, at the present time, there are insufficient options available for candidates to take the coursework necessary to qualify for the extension. The deferral in implementation will provide necessary additional time to colleges to develop programs.

The existing regulation requires a candidate for the gifted education extension of a teaching certificate to meet an education requirement and also pass the New York State Teacher Certification Examination (NYSTCE) content specialty test in gifted education. The amendment is needed to strengthen and clarify education requirement for the extension.

At the present time to meet the education requirement, a candidate must complete a registered program leading to the gifted education extension or six semester hours of equivalent coursework in specified subjects. Eight institutions of higher education in New York State have registered programs leading to the gifted education extension. These programs require completion of between nine and 18 semester hours of coursework. Based upon review of these programs and similar programs offered by institutions in other states, and the competencies articulated in the framework for the certification examination required for this extension, the Department has determined that candidates who seek to meet the education requirement through completion of coursework equivalent to a registered program leading to this extension need additional coursework to adequately prepare them to pass the certification examination and provide instruction to gifted students. The amendment requires these candidates to complete 12 semester hours of coursework in specified subjects, rather than six.

The amendment is also needed to clarify the content requirements for meeting the education requirement, either through a registered program or through equivalent course completion. The amendment clarifies that the coursework must be specifically focused on training teachers for providing instruction and support to gifted students. These changes are consistent with the latest practice in the field and programs, and will not require them to make any changes. It will require candidates who meet the education requirement through completing equivalent coursework to focus such coursework on the provision of instruction and support to gifted students. The changes better align with the competencies articulated in the framework for the certification examination in this field. The aim is to better prepare candidates for the certification examination and teaching gifted students.

4. COSTS:

(a) Costs to State government: The amendment will not impose any additional costs on State government.

(b) Costs to local government: The amendment will not impose any additional costs on local government, including school districts.

(c) Costs to private regulated parties: The amendment increases the number of semester hours that candidates who complete the education requirement for the extension by coursework that is equivalent to a registered program. These candidates must complete 12 semester hours in specified course work, rather than six semester hours. The increase of six semester hours is expected to cost candidates between $3,050 and $3750, based upon an average tuition rate of about $508 per semester hour charged by colleges and universities over the internet for teacher preparation in gifted education and an average tuition rate of about $25 per semester hour charged by the eight independent colleges and universities in New York State that offer this preparation.

(d) Costs to regulating agency for implementing and continued administration of the rule: As stated above in “Costs to state government,” the amendment will not impose any additional costs on State government, including the State Education Department.

5. PAPERWORK:

The proposed amendment does not impose any reporting or other paperwork requirements.

6. LOCAL GOVERNMENT MANDATES:
The amendment will affect school districts that have gifted and talented programs funded pursuant to Education Law and in accordance with Part 142 of the Commissioner’s Regulations. The amendment delays, until September 1, 2006, the requirement that teachers in the funded gifted education programs must hold a gifted education extension of their teaching certificate, or obtain from the Department a statement of continued eligibility based upon employment in this field. The amendment does not impose any other program, service, duty or responsibility on local governments, including school districts.

7. DUPLICATION:
The proposed amendment does not duplicate other existing State or Federal requirements. There are no relevant State or Federal requirements that deal with the subject of the proposed amendment.

8. ALTERNATIVES:
There are no viable alternatives to the proposed amendment, and none were considered because of the nature of the amendment, which clarifies and strengthens education requirements for an extension in gifted education of a teaching certificate and delays the effective date for the requirement for the extension.

9. FEDERAL STANDARDS:
There are no Federal standards regarding the subject matter of the proposed amendment.

10. COMPLIANCE SCHEDULE:
The amendment would be effective on its stated effective date. However, it prescribes in its terms a delay, until September 1, 2006, of the requirement that a teacher providing instruction in a State funded gifted and talented program must hold an extension in gifted education, or obtain from the Department a statement of continued eligibility based upon employment in this field.

Regulatory Flexibility Analysis
(a) Small Businesses:
The proposed amendment concerns requirements that a candidate must meet to teach in the public schools of New York State and that college teacher preparation programs must meet. Specifically, it clarifies and strengthens the education requirements for the extension of a teaching certificate in gifted education and defers the implementation of the requirement for this extension. The amendment does not impose any reporting, recordkeeping, or compliance requirements and will not have an economic impact on small businesses. Because it is evident from the nature of the rule that it does not affect small businesses, no further steps were needed to ascertain that fact and none were taken.

(b) Local Governments:
1. Effect of the rule:
The proposed amendment affects all school districts in the State that wish to employ a teacher to provide education for gifted pupils within a gifted and talented program which is funded pursuant to Education Law and in accordance with Part 142 of the Commissioner’s Regulations.

2. Compliance requirements:
The regulation change that affects school districts defers until September 1, 2006 the requirement that a teacher must hold a gifted education extension of a teaching certificate, or obtain from the Department a statement of continued eligibility based upon employment in this field, in order to provide instruction to gifted pupils within a gifted and talented program that is funded pursuant to Education Law and in accordance with Part 142 of the Commissioner’s Regulations.

3. Professional services:
The proposed amendment does not mandate school districts to contract for additional professional services to comply.

4. Compliance costs:
There is no cost for school districts to comply with the regulatory change that affects school districts, which simply defers a requirement, until September 1, 2006, that teachers employed to provide education in a State funded gifted and talented program must hold an extension in gifted education of their teaching certificate, or obtain from the State Education Department a statement of continued eligibility based upon employment in this field.

5. Economic and technological feasibility:
Meeting the requirements of the proposed amendment is economically and technologically feasible. As stated above in compliance costs, the amendment imposes no costs on school districts.

6. Minimizing adverse impact:
The amendment only applies to those school districts that wish to employ teachers in State funded gifted and talented programs. The change will not adversely affect school districts because it simply constitutes a delay in the implementation of an existing requirement.

7. Local government participation:
The State Education Department provided a draft of the proposed rule to the State Professional Standards and Practices Board for Teaching and asked for comment. This is an advisory group to the Board of Regents and the Commissioner of Education on matters pertaining to teacher education, certification, and practice. The Board has representatives of school districts and BOCES and school districts across the State, and asked for comment.

Rural Area Flexibility Analysis
1. Types and estimate of number of rural areas:
The proposed amendment will affect school districts in all parts of the State that offer State funded gifted and talented programs and teachers in those programs, and colleges that offer registered teacher preparation programs leading to the extension of a teaching certificate in gifted education, including those located 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 per square mile or less.

2. Reporting, recordkeeping, and other compliance requirements and professional services:
The amendment would clarify and strengthen the education requirements for the extension of a teaching certificate in gifted education to better align with the competencies tested in the teacher certification examination for this extension as articulated in the examination’s framework, and defer the implementation of the requirement for a gifted education extension of a teaching certificate.

The proposed amendment would defer until September 1, 2006 the implementation of the requirement that a teacher must hold a gifted education extension of a teaching certificate, or have obtained from the Department a statement of continued eligibility based upon employment in this field, in order to provide instruction for gifted pupils in State funded gifted and talented programs.

The existing regulation requires a candidate for the gifted education extension of a teaching certificate to meet an education requirement and also pass the New York State Teacher Certification Examination (NYSTCE) content specialty test in gifted education. The amendment would strengthen and clarify the education requirement for the extension. At the present time to meet the education requirement, a candidate must complete a registered program leading to the gifted education extension or six semester hours of equivalent coursework in specified subjects. The amendment would require candidates who seek to meet the education requirement through completion of equivalent coursework to complete 12 semester hours of coursework in specified subjects, rather than six. The amendment would also clarify the content requirements for meeting the education requirement, either through a registered program or through equivalent course completion. The amendment clarifies that the coursework must be specifically focused on training teachers for providing instruction and support to gifted students. These changes are consistent with current practice in the registered programs, and would not require them to make any changes. However, it would require candidates who meet the education requirement through equivalent coursework to focus such coursework specifically on the provision of instruction and support to gifted students.

The proposed amendment would not establish additional reporting or recordkeeping requirements. The amendment would not require regulated parties, including those located in rural areas, to hire professional services in order to comply.

3. Costs:
The amendment increases the number of semester hour requirement for candidates who complete the education requirement for the extension by coursework that is equivalent to that obtained in a registered program leading to the extension. These candidates must complete 12 semester hours in specified coursework, rather than six semester hours. The increase of six semester hours is expected to cost candidates between $3,050 and $3,750, based upon an average tuition rate of about $508 per semester hour charged by colleges. The Board has representatives of for teacher preparation in gifted education and an average tuition rate of about $625 per semester hour charged by the eight independent colleges and universities in New York State that offer this preparation.

The amendment is not expected to have any cost impact upon school districts that offer State funded gifted and talented programs or colleges that offer teacher preparation programs leading to the extension of a teaching certificate in gifted education, including those located in rural areas of the State.

4. Minimizing adverse impact:
At the present time to meet the education requirement for the extension of a teaching certificate in gifted education, a candidate must complete a registered program leading to the extension or six semester hours of equivalent coursework in specified subjects. The amendment would require candidates who seek to meet the education requirement through completion of coursework equivalent to a registered program leading to this extension to complete 12 semester hours of coursework in specified subjects, rather than six. The change is necessary to adequately prepare candidates for the New York State teacher certification examination and teaching gifted students in the public schools. Because of the nature of the proposed amendment, the Department does not believe that establishing different requirements for teachers of the gifted who live or work in rural areas is warranted. The Department believes that uniform teacher certification standards are necessary to help ensure teacher competency in all parts of the State.

5. Rural area participation:
The State Education Department provided a draft of the proposed rule to the State Professional Standards and Practices Board for Teaching and asked for comment. This is an advisory group to the Board of Regents and the Commissioner of Education on matters pertaining to teacher education, certification, and practice. The Board has representatives who live and work in rural areas, including individuals who are employed as educators in rural school districts and BOCES. In addition, the Department sent a draft of the proposed regulation to the State’s District Superintendents, representing BOCES and school districts across the State, including rural areas. Also, during the development of the proposed rule, the Department consulted with the eight New York colleges that offer teacher preparation programs leading to the extension in gifted education, one of which is located in a rural area of the State.

Job Impact Statement
The proposed amendment would clarify and strengthen the education requirements for the extension of a teaching certificate in gifted education to better align with the competencies tested in the teacher certification examination for this extension. It also defers until September 1, 2006 the implementation of the requirement that a teacher must hold a gifted education extension of a teaching certificate, or have obtained from the Department a statement of continued eligibility based upon employment in this field, in order to provide instruction in a State funded gifted and talented program.

Strengthening certification requirements for this extension and deferring implementation of the requirement for this extension will have no affect on the number of teaching positions in gifted and talented programs in the State’s public schools or employment opportunities in this field. This amendment, which concerns education requirements for an extension of a teaching certificate, will have no effect on demand for teachers of the gifted. Because it is evident from the nature of the rule that it will have no impact on the number of jobs and employment opportunities in teaching or any other field, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required, and one has not been prepared.

Department of Environmental Conservation

ERRATUM
A Notice of Proposed Rule Making, I.D. No. ENV-20-05-00018-P, pertaining to Emission Standards for Motor Vehicles and Motor Vehicle Engines published in the May 18, 2005 issue of the State Register contained a typographical error, made by Department of State staff during the composition process, concerning a public comment period.

The notice should have indicated that public comment will be received until five days after the last scheduled public hearing required by statute. The dates of the scheduled public hearings are listed in the above referenced notice. Documents posted on the Department of Environmental Conservation website contain the correct information.

The Department of State apologizes for any inconvenience this may have caused.

The corrected notice follows:

PROPOSED RULE MAKING
HEARING(S) SCHEDULED

Emission Standards for Motor Vehicles and Motor Vehicle Engines
I.D. No. ENV-20-05-00018-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: Amendment of Parts 200 and 218 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0107, 19-0301, 19-0303, 19-0305, 71-2103, 71-2105; and Federal Clean Air Act, section 177

Subject: Emission standards for motor vehicles and motor vehicle engines.

Purpose: To incorporate revisions California has made to its vehicle emission control program regarding the reduction of greenhouse gases (GHG) emissions from motor vehicles, and otherwise update various incorporation by reference citations included in the LEV program.

Public hearing(s) will be held at:
1:00 p.m., July 5, 2005 at Department of Environmental Conservation, Region 8, Conference Rm., 6274 E. Avon-Lima Rd., Avon, NY; 9:00 a.m., July 6, 2005 at Department of Environmental Conservation Annex, Region 2, 11-15 47th Ave., Hearing Rm. 106, Long Island City, NY; 9:00 a.m., July 7, 2005 at Department of Environmental Conservation, Region 5, Conference Rm., 1113 State S. Rte. 86, Ray Brook, NY; and 9:00 a.m., July 8, 2005 at Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129B, Albany, NY.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Interpreter Service: Interpreter services will be made available to deaf persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Substance of proposed rule (Full text is posted at the following State website: www.dec.state.ny.us): The New York State Department of Environmental Conservation (Department) is proposing to amend 6 NYCRR Part 218 and Section 200.9. Section 200.9 is a list that cites Federal and California codes and regulations that have been referenced by the Department in the course of amending this Part. The purpose of the amendment is to revise the existing low emission vehicle (LEV) program to incorporate modifications California has made to its vehicle emission control program to reduce greenhouse gas (GHG) emissions. The Department is proposing to amend sections 218-1.2 Definitions, 218-2.1(b) Prohibitions, 218-8 GHG Exhaust Emission Standards, and 218-9 Severability. The remaining sections are unchanged.

Section 218-1.2 was amended to include revisions to definitions that govern the provisions of this Part. Section 218-2.1(b) was also amended to change Subpart to Part to clarify applicability.

Section 218-8.1 lists the definitions that govern the GHG provisions of this Part. Section 218-8.2 establishes the prohibitions that pertain to the GHG provisions. Specifically, these provisions apply to all 2009 and subsequent model year new vehicles delivered or sold in New York.

Section 218-8.3 has been revised to incorporate the proposed fleet average greenhouse gas exhaust emission standards established by California, as well as credit and debit trading provisions. The standards are in CO₂ equivalent grams per mile for passenger cars/light duty truck1 (PC/LDT1) and light duty truck2 (LDT2) vehicle categories. PC/LDT1 consists of vehicles up to 3,750 pounds loaded vehicle weight (LVW), and LDT2 consists of vehicles between 3,751 pounds LVW and 8,500 pounds gross vehicle weight (GWW). Medium duty passenger vehicles (MDPV) up to 10,000 pounds GVW are also included in LDT2.

CO₂ equivalent grams per mile standards are obtained by multiplying the emissions of carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and hydrofluorocarbons (HFC) by their global warming potentials and adding them together. Global warming potential (GWP) is an estimate of the climate changing ability of 1 kilogram of any GHG relative to the climate changing ability of 1 kilogram of CO₂. Over a 100 year period, CO₂ has a GWP of 1, CH₄ is 23, N₂O is 296, and HFC-134a is 1300. The Department will incorporate California standards identically, which includes a declining fleet average standard for model years 2009 through

Rule Making Activities
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An alternative compliance option is also proposed in section 218-8.4, as in California. This proposal would provide vehicle manufacturers flexibility in meeting the GHG reduction requirements by allowing them to earn credits by utilizing 2009 and subsequent model year vehicles that operate on alternative fuel vehicles. The manufacturers would be required to demonstrate that the vehicles achieve equal or greater GHG reductions as compared to the regulations and meet strict eligibility criteria. The criteria include real or additional GHG emission reductions, reductions must be regulatory surplus, permanent, and enforceable. The Department proposes to adopt California criteria and crediting for determining acceptable alternative compliance programs.

The Department also proposes to include New York specific GHG exhaust emissions reporting requirements in section 218-8.5. Starting with the 2009 model year, each manufacturer must report the average GHG emissions of its fleet sold in New York to the Department. These reports will contain the same information and format as those submitted to California.

Existing section 218-8 was renumbered to create section 218-9. This section contains severability provisions. Text of proposed rule and any required statements and analyses may be obtained from: Jeff Marshall, Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, NY 12233-3255, (518) 402-8929, e-mail: jtmarsha@gw.dec.state.ny.us

Additional matter required by statute: Pursuant to art. 8 of the (State Environmental Quality Review Act), a short environmental assessment form, a negative declaration and a coastal assessment form have been prepared and are on file. This rule must be approved by the environmental board.

Summary of Regulatory Impact Statement
The New York State Department of Environmental Conservation (Department) is proposing to amend 6 NYCCR Part 218 and Part 200.9. This will be accomplished by revising the existing Part 218 to reflect changes to California’s low emission vehicle (LEV) program that incorporated greenhouse gas (GHG) standards for light and medium duty vehicles, and to maintain identical standards with California for all vehicle weight classes as required under section 177 of the Clean Air Act. Subpart 200.9 will also be revised in order to reflect updates to the reference material incorporated in the Part 218 revisions.

By statutory authority of, and pursuant to, Environmental Conservation Law (ECL), the Commissioner of Environmental Conservation is responsible for protecting the air resources of New York State. The Commission is authorized to adopt rules and regulations to enforce the ECL. The Legislature bestowed on the Department the power to formulate, adopt, promulgate, amend and repeal regulations for preventing, controlling or prohibiting air pollution.

The main purpose of enacting this regulation is to address the adverse climate change impacts that GHGs such as carbon dioxide (CO₂), methane (CH₄), nitrous oxide (N₂O), and hydrofluorocarbons (HFC) will cause in New York State, and globally, if left uncontrolled. The global warming effects of GHG can adversely affect human health and the environment.

Heat related illnesses and mortality can increase as a result of intensified and prolonged heat waves resulting from global warming induced temperature increases. Increased temperatures could also exacerbate respiratory illnesses by contributing to conditions favorable to the formation of ground-level ozone. Vector-borne illnesses such as West Nile Virus, Equine Encephalitis, and Lyme Disease could also increase as a result of increased temperature and precipitation resulting from global warming.

New York’s shoreline could be adversely affected by sea level rise due to thermal expansion of the oceans caused by global warming. New York has approximately 2,625 miles of coastline including barrier islands, coastal wetlands, and bays. As sea level rises, erosion and flooding due to storm surge can increase. This can lead to loss of beaches, damage to coastal ecosystems, and flood damage to infrastructure.

New York’s water supply may also be stressed by changes in temperature and precipitation caused by global warming. The majority of New York’s population is served by surface water flow, which can be highly variable. Extended periods of drought could be expected to place additional stress on the water supply. Global warming is also likely to lower the water levels of the Great Lakes, which would impact drinking water supplies, hydroelectric power production, commercial shipping, and recreational activities.

Agriculture and forests may be adversely affected by global warming. Crop mix and growing seasons for cold weather crops could be shortened or lost due to changes in temperature and precipitation. Tree species such as sugar maples could be displaced from New York due to climate change. This would impact maple syrup production and regional tourism related to fall foliage. The existence of hardwood ecosystems such as the Adirondack Park would be threatened. Wildlife distribution and diversity are also likely to be affected by climate change. Species such as trout and migratory birds could be displaced by loss or changes in habitat resulting from increased temperature and precipitation.

The GHG emission reduction regulation mandates lower new vehicle certification levels for all 2009-2016 model year passenger cars, light trucks, and medium duty passenger vehicles. The vehicle classes are combined into 2 vehicle classes: PC/LDT1 and LDT2. The PC/LDT1 category consists of all passenger cars, as well as minivans, sport utility vehicles (SUVs) and light trucks up to 3,750 pounds loaded vehicle weight (LVW). The LDT2 category consists of light duty trucks and SUVs between 3,751 pounds LVW and 8,500 pounds gross vehicle weight (GVW), as well as medium duty passenger vehicles (MDPV) between 8,500 and 10,000 pounds GVW.

Vehicle climate change emissions comprise four main elements: 1) CO₂, CH₄ and N₂O emissions resulting directly from the operation of the vehicle; 2) CO₂ emissions resulting from the operation of the air conditioning (AC) system (indirect AC emissions); 3) refrigerant emissions from the AC system due to either leakage, losses during recharging, or release from scraping of the vehicle at the end of life (direct AC emissions); and 4) upstream emissions associated with the production of the fuel used by the vehicle. All of these elements are incorporated into the GHG emissions reduction standard.

The California Air Resources Board (CARB) estimated the emissions from light duty vehicles for the years 2020 and 2030 in CO₂ equivalent tons per day. These estimates represent the light duty vehicle emissions that would be expected without the proposed regulation and serve as a baseline to estimate the benefits of the program. CO₂ equivalent tons per day are obtained by multiplying the emissions of each GHG (CO₂, CH₄, N₂O, CFCs) by its global warming potential (GWP). The GWP is an estimate of the climate changing ability of 1 kilogram of any GHG relative to the climate changing ability of 1 kilogram of CO₂. Over a 100 year period, CO₂ has a GWP of 1, CH₄ is 23, N₂O is 296, and HFC-134a, the current vehicle air conditioner refrigerant, is 1300.

New York proposes to incorporate California’s GHG emissions standards as a declining fleet average requirement similar to the LEV program. Vehicle manufacturers would be required to comply with the emissions standards in New York for each year starting in 2009. The proposed standards, expressed in terms of CO₂ equivalent grams/mile are as follows:

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<tr>
<th>Tier Year</th>
<th>PC/LDT1</th>
<th>LDT2</th>
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<tbody>
<tr>
<td>2009</td>
<td>323</td>
<td>439</td>
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<tr>
<td>2010</td>
<td>301</td>
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<td>341</td>
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<td>2016</td>
<td>205</td>
<td>332</td>
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</tbody>
</table>

New York estimates that adoption of the regulation will reduce New York’s GHG emissions by an estimated 40,700 CO₂ equivalent tons per day in 2020 and by 72,000 CO₂ equivalent tons per day in 2030. New York
estimated the reductions by comparing 2002 new vehicle registrations in California and New York. California had approximately 1,500,000 new vehicles registered compared to approximately 696,000 new vehicles registered in New York. This ratio was used as the basis for estimating the baseline emissions and emissions reductions in New York due to the regulation. New York’s baseline emissions, emissions due to the regulation, and total emissions reductions are shown below.

New York Light Duty Fleet CO2 Equivalent Emissions and Reductions

<table>
<thead>
<tr>
<th></th>
<th>2020 CO2 Equivalent (tpd)</th>
<th>2030 CO2 Equivalent (tpd)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Baseline Emissions (Total Light Duty)</td>
<td>230,800</td>
<td>267,000</td>
</tr>
<tr>
<td>Emissions with Regulation (Total Light Duty)</td>
<td>191,100</td>
<td>195,000</td>
</tr>
<tr>
<td>Emissions Reductions (Total Light Duty)</td>
<td>40,700</td>
<td>72,000</td>
</tr>
</tbody>
</table>

New York proposes to incorporate early reduction credit provisions that are identical to California’s provisions. The credit trading provision in this rule offers flexibility for each manufacturer to over comply with one vehicle category’s standard and trade those credits to compensate for a deficit, or undercompliance, within another category. Credit trading is also allowed among manufacturers. CARB shall utilize the 2000 model year as a baseline for calculating emission reduction credits. Under CARB’s proposal, manufacturer fleet average emissions for model year 2000 through model year 2008 for PC/LDT1 will be compared with the 2012 fully-phased-in near-term standard of 233 g/mile CO2 equivalent. For LDT2, the baseline is 361 g/mile CO2 equivalent. If a manufacturer has certified fleet average emissions in a specific model year lower than these standards, the manufacturer will earn early compliance credits. Any emissions reduction early credits earned could be used during model year 2009 through 2015, or traded with another manufacturer. To ensure that the regulation ultimately achieves the greatest possible climate change emission reductions, CARB staff proposes that the credits generated by early compliance retain full value through the 2013 model year. These credits will then be worth 50 percent of their initial value in model year 2014, 25 percent of their initial value in model year 2015 and have no value thereafter.

New York proposes to incorporate an alternative compliance strategy that employs criteria identical to those put forth by California. The criteria are: real or additional emissions reductions; emissions reductions that can be reasonably measured; emissions reductions must be surplus of any reductions required by separate entities; reductions must be independently verified and legally binding; projects should be irreversible and permanent. CARB Staff will explore ways to evaluate that alternative compliance strategies do not increase GHG emissions outside the alternative compliance project. The exception would be that the proposed projects would be required to be in the state of New York to be eligible for consideration. These projects would also be required to be made available to inspection by New York State representatives upon request.

CARB estimates that the near-term standards will result in an average incremental cost in 2012 of $367 for PC/LDT1, and $277 for LDT2 compared to the 2009 baseline vehicle fleet. The fully-phased-in mid-term standards will result in an incremental cost in 2016 of $1,064 for Passenger cars and LDT1, and $1,029 for LDT2. The CARB analysis concludes, however, that these increased costs will be more than offset by operating cost savings over the lifetime of the vehicle.

Operating cost savings are the basis for determining the cost effectiveness of the regulation. As gasoline prices increase, the operating cost savings will also increase. New York performed a benefit-cost analysis using VMT obtained from Mobile6 and gasoline price to estimate the cost effectiveness. The break-even year is the first year in which the overall return from gasoline savings exceeds the initial cost and interest payments of purchasing the new vehicle. New York also performed a sensitivity analysis utilizing different gasoline prices per gallon, ranging from $1.50 to $2.00, to estimate the cost effectiveness of the regulation. The Department’s analysis indicates that the regulation is cost effective for even the low estimate of $1.50 per gallon of gasoline.

Currently, there is no automobile manufacturing in New York. However, when “automotive facilities” are taken into account, such as parts manufacturing and distribution, corporate offices, research and development, automobile dealerships, financial centers, and engineering and design facilities, the employment share of the automotive industry in the state is 3.2 percent, according to the Alliance of Automobile Manufacturers. These affiliated businesses in addition to gasoline service stations are local businesses that compete within the state and generally are not subject to competition from out-of-state businesses. New York dealerships will be able to sell California certified vehicles to states bordering New York.

New York residents will not be able to buy noncomplying vehicles out of state since vehicles must be California certified in order to be registered in New York. Therefore, the proposed regulation is not expected to impose a competitive disadvantage on affiliated businesses.

State and local governments who own or operate vehicles in New York States are subject to the same requirements as privately owned vehicles. In other words, they must purchase California certified vehicles. There should not be any additional costs for State and local governments to comply with this regulation.

The climate change emission regulations will not result in any significant paperwork requirements for New York vehicle suppliers, dealers or government. New York relies on materials submitted to California for certification while manufacturers must submit to New York annual sales, and corporate fleet average reports to show compliance with the fleet average requirements. This is the current arrangement in the LEV program. Also, the climate change emission regulations will not result in an increased amount of paperwork for dealers. While dealers must ensure that the vehicles they sell are California certified, most manufacturers will include provisions in their ordering mechanisms to ensure that only California certified vehicles are shipped to New York dealers. This has been the case since New York first adopted the California LEV program in 1992. The implementation of the climate change regulatory proposal is not expected to be burdensome in terms of paperwork to owners/operators of vehicles.

California’s GHG standards are the most stringent and most protective of public health and the environment in the absence of federal GHG emission standards. There are no equivalent federal vehicle GHG standards available as a regulatory alternative. The only regulatory alternative to the proposed climate change amendments to the LEV regulation is to revert back to less stringent federal new motor vehicle emission standards.

In addition, the absence of the climate change emissions regulation New York would forfeit other emission benefits. NOx, VOC and CO reductions, for example, are an important part of its state implementation plans (SIP) for ozone and CO. For example, New York estimates that the LEV program achieves VOC reductions in the year 2020 that are approximately 7.5 percent greater than corresponding reductions that would result from the federal standards. NOx reductions were approximately equal when comparing LEV to the federal standards for the year 2020. VOC reductions would be difficult, if not impossible, for New York to find additional reductions from other sources to offset the loss of mobile source reductions that would occur if the State were forced to revert back to federal standards. For the light-duty fleet, New York would be losing emission benefits by not requiring the climate change emission reductions adopted by California as part of the LEV program. The climate change regulation is also expected to result in additional reductions of criteria pollutants in addition to GHG as discussed previously.

This regulatory proposal will take effect for the 2009 model year for light-duty and medium duty passenger vehicles up to 10,000 pounds GVWR.

**Regulatory Flexibility Analysis**

1. **Effect of rule:**

   The New York State Department of Environmental Conservation (Department) is proposing to amend 6 NYCRR Section 200.9, and 6 NYCRR Part 218 low emission vehicle (LEV) program. The changes to the regulations incorporate New York State’s adoption of the motor vehicle greenhouse gas (GHG) emission reduction standards adopted by the California Air Resources Board (CARB). These changes apply to vehicles purchased by consumers, businesses, and government agencies in New York. The proposed changes to the regulations may impact businesses involved in manufacturing, selling, purchasing or repairing passenger cars or trucks.

   There are about 202,233 state and local agency owned vehicles in New York State, or 2.0 percent of the total state fleet of about 10.2 million vehicles, according to data provided by the US Department of Energy, and
the Alliance of Automobile Manufacturers. The Department operated a fleet consisting of a combined 1,850 PC/LDT1 and LDT2 vehicles during the State fiscal year from April 1, 2003 to March 31, 2004. PC/LDT1 consists of vehicles up to 3,750 pounds loaded vehicle weight (LVW), and LDT2 consists of vehicles between 3,751 pounds LVW and 8,500 pounds gross vehicle weight (GVW). Medium duty passenger vehicles (MDPV) up to 10,000 pounds GVW are also included in LDT2.

State and local governments are also consumers of vehicles that will be regulated under the proposed GHG amendments. Therefore, local governments who own or operate vehicles in New York State are subject to the same requirements as privately owned vehicles in New York State; i.e., they must purchase California certified vehicles.

The changes are an addition to the current LEV standards. The new motor vehicle emissions program has been in effect in New York State since model year 1993 for passenger cars and light-duty trucks, with the exception of the 1995 model year, and the Department is unaware of any adverse impact to small businesses or local governments as a result.

There are no equivalent federal vehicle GHG standards available as a regulatory alternative. The only regulatory alternative to the proposed climate change amendments to the LEV regulation is to revert back to less stringent federal new motor vehicle emission standards. This is because the Clean Air Act requires states adopting the California programs under section 177 to maintain identical standards and consistent programs. Since the GHG provisions affect light and medium duty vehicles, New York must adopt such standards in order to remain identical.

Another alternative available would be to require reductions of GHG emissions from stationary sources. New York has already begun to address stationary source GHG reductions through its regional greenhouse gas (RGGI) and renewable portfolio standards (RPS) initiatives. These are being developed in conjunction with the vehicle GHG regulation in an attempt to establish a comprehensive program to reduce GHG emissions from both mobile and stationary sources in New York.

2. Compliance requirements:

There are no specific requirements in the regulation which apply exclusively to small businesses or local governments. Reporting, recordkeeping and compliance requirements are effective statewide. Automobile dealers (some of which may be small businesses) selling new cars are required to sell or offer for sale only California certified vehicles. These proposed amendments will not result in any additional reporting requirements to dealerships other than the current requirements to maintain records demonstrating that vehicles are California certified. This documentation is the same documentation already required by the New York State Department of Motor Vehicles for vehicle registration. If local governments are buying new fleet vehicles they should make sure that the vehicles are California certified.

3. Professional services:

There are no professional services needed by small business or local government to comply with the proposed rule.

4. Compliance costs:

California has estimated that in the year 2012 the incremental per vehicle cost for passenger cars/light duty truck1 (PC/LDT1) will be approximately $367, and light duty truck2/medium duty passenger vehicles (LDT2) will be approximately $277. In the year 2016 the incremental per vehicle cost for PC/LDT1 vehicles is estimated to be $1,064, and the incremental cost for LDT2 vehicles is expected to be $1,029. As manufacturers of scale and further technological developments are achieved, it is expected that the incremental costs will be reduced. PC/LDT1 consists of vehicles up to 3,750 pounds loaded vehicle weight (LVW), and LDT2 consists of vehicles between 3,751 pounds LVW and 8,500 pounds gross weight (GVW). Medium duty passenger vehicles (MDPV) up to 10,000 pounds GVW are also included in LDT2.

New York performed a benefit-cost analysis using gasoline price and vehicle miles traveled (VMT) obtained from Mobile6 to estimate the cost effectiveness. The break-even year is the first year in which the overall reduction from gasoline savings exceeds the initial cost and interest payments of purchasing the new vehicle. The table shown below assumes an average gasoline price of $1.74 per gallon, which is identical to CARB’s analysis.

<table>
<thead>
<tr>
<th>Model Year</th>
<th>Vehicle Group</th>
<th>Break Even Year</th>
<th>Control Cost ($)</th>
<th>Fuel Savings (%)</th>
<th>Gallons Saved in 10 Years</th>
<th>$ Saved in 10 Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>PC/LDT1</td>
<td>2</td>
<td>17</td>
<td>1.3</td>
<td>67</td>
<td>85</td>
</tr>
<tr>
<td>2010</td>
<td>PC/LDT1</td>
<td>2</td>
<td>58</td>
<td>4.4</td>
<td>222</td>
<td>277</td>
</tr>
<tr>
<td>2011</td>
<td>PC/LDT1</td>
<td>3</td>
<td>230</td>
<td>14.0</td>
<td>646</td>
<td>718</td>
</tr>
<tr>
<td>2012</td>
<td>PC/LDT1</td>
<td>3</td>
<td>367</td>
<td>24.9</td>
<td>1048</td>
<td>1174</td>
</tr>
</tbody>
</table>

New York State Break-Even Years for Pavley Vehicles Using $1.74 Per Gallon

<table>
<thead>
<tr>
<th>Rule Making Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>2013 PC/LDT1 3 504 26.7 1108 1073</td>
</tr>
<tr>
<td>2014 PC/LDT1 4 609 28.5 1166 1015</td>
</tr>
<tr>
<td>2015 PC/LDT1 5 836 31.2 1250 822</td>
</tr>
<tr>
<td>2016 PC/LDT1 6 1064 33.9 1331 622</td>
</tr>
<tr>
<td>2009 LDT2 1 36 2.1 192 266</td>
</tr>
<tr>
<td>2010 LDT2 1 85 5.5 487 685</td>
</tr>
<tr>
<td>2011 LDT2 1 176 11.8 986 1380</td>
</tr>
<tr>
<td>2012 LDT2 1 277 18.3 1454 1995</td>
</tr>
<tr>
<td>2013 LDT2 2 434 19.6 1531 1909</td>
</tr>
<tr>
<td>2014 LDT2 2 581 20.9 1615 1835</td>
</tr>
<tr>
<td>2015 LDT2 3 804 22.9 1741 1720</td>
</tr>
<tr>
<td>2016 LDT2 4 1029 24.8 1857 1585</td>
</tr>
</tbody>
</table>

Note: Assumes: 1) 5 percent interest and discount rates, compounded annually
2) California control costs, baseline fuel economy, and percent fuel savings
3) Gasoline cost $1.74 per gallon

Uses: 1) New York State miles driven in each year of vehicle life
2) Baseline fuel economy calculated from CARB 2009 model year EMFAC data
3) Control costs from revised Table 6.2-8, Addendum to CARB ISOR, Sep. 2004
4) Percent CO₂ reduction from Table 6.2-2, CARB ISOR, Aug. 2004

The Department also performed a sensitivity analysis using gasoline prices of $2.00 and $1.50 per gallon to estimate cost effectiveness. An increase in the cost of gasoline would serve to increase the cost effectiveness due to reduced vehicle operating costs. The Department’s analysis indicates that the regulation would be cost effective even if the average price of gasoline fell to $1.50, which would result in a slightly longer period to break-even as well as a corresponding reduction in overall savings.

New York State currently maintains personnel and equipment to administer the LEV program. It is expected that these personnel will be retained to administer the revisions to this program. Therefore, no additional costs will be incurred by the State of New York for the administration of this program.

5. Minimizing adverse impact:

The climate change regulation may impact several sectors of the economy. The steps that manufacturers need to take to comply with the new regulation are expected to lead to increases in the price of new vehicles. It is expected that the manufacturers will recoup these costs by passing them on to consumers in the form of increased vehicle prices, which occurred with the implementation of the LEV program. For example, it is expected that manufacturers may selectively increase vehicle prices on popular or high-end models to subsidize lower price increases on economy models. Manufacturers also have other options which include changing “standard” equipment packages, increasing prices across their entire product line, incorporating and financing. It is also possible that consumers could regard vehicles equipped with the new technology to be desirable, leading to increased sales despite higher prices.

The technological options that manufacturers choose to comply with the new regulation are also expected to reduce operating costs. These two responses have combined negative and positive impacts on businesses and consumers. The vehicle price increase may negatively affect businesses by possibly reducing demand for their vehicles, while the reduction in operating costs will have a positive impact on consumers and local businesses due to increased disposable income. This increased disposable income would allow consumers to make additional purchases of goods and services, including new vehicles, resulting in an expansion of businesses and employment.

The flexibility of the GHG mandate allows manufacturers to earn early reduction credits, phase-in advanced technology, and utilize a vast array of existing and emerging advanced emission reduction technology. The proposed regulation also provides mechanisms for implementation flexibility which provides clean air benefits from the commercialization of advanced motor vehicle technology, while affording the manufacturer choices over what technology to develop and place into service. These options will provide general long term air quality benefits, as well as a long term GHG program compliance benefit.

Currently, there is no automobile manufacturing in New York. However, when “automotive facilities” are taken into account, such as parts manufacturing and distribution, corporate offices, research and development, automobile dealerships, financial centers, and engineering and design facilities, the employment share of the automotive industry in the state is 3.2 percent, according to the Alliance of Automobile Manufacturers. These affiliated businesses in addition to gasoline service stations are local...
businesses. They compete within the state and generally are not subject to
test procedures, which include the vehicle GHG regulation. This is expected due to the fact that in some cases
these are technologies that a dealership has not previously handled, and
will thus be required to train service personnel to service these vehicles.
The proposed amendments may have a positive impact on New York
employment since the new technologies associated with sale and service of
equipped with advanced GHG technology may require hiring or
training personnel who are familiar with the products and associated tech-
nologies. In some cases these are a technology that a dealership has not
previously handled. New marketing strategies will also need to be devel-
oped to promote the advantages of driving these cleaner vehicles, includ-
ing significant air quality benefits, and thus increase sales to consumers. It
is also anticipated that the money saved due to reduced operating expenses
will trickle into other sectors of the economy, thereby stimulating eco-
nomic growth.
There will be no adverse impact on local governments who own or
operate vehicles in the state because they are subject to the same require-
ments as those imposed upon privately owned vehicles. In other words,
state and local governments will be required to purchase California certi-
fied vehicles. Individual consumers, businesses, and governments are
likely to experience net savings since the initial cost is more than offset by
decreased operating expenses over the life of the vehicle as a result of the
regulation.
This regulation contains exemptions for emergency vehicles, and mili-
tary tactical vehicles and equipment.
6. Small business and local government participation:
The Department plans on holding public hearings at various locations
throughout New York State after the amendments are proposed. Small
businesses and local governments will have the opportunity to attend these
public hearings. Additionally, there will be a public comment period in
which interested parties who are unable to attend a public hearing can
submit written comments.
7. Economic and technological feasibility:
The proposed regulations are feasible for all vehicle manufacturers. California used 2002 vehicle emissions to establish the baseline emissions for the
GHG regulation. If the manufacturer with the heaviest fleet
was selected to set the GHG emission standards. This manufacturer would
require the most extensive use of advanced existing and emerging technol-
yogy to meet the proposed standards. The remaining manufacturers would
utilize these technologies to varying degrees to achieve compliance with
the proposed standards.
Given the climate change emission program, manufacturers of 2009-
2016 model year vehicles can choose the vehicle models to which they
wish to apply technology packages, as long as the emissions of the entire
product line meet the fleet average requirement. This average requirement
decrees from 2009 through 2016 model year. It is important to note that in
the case of CO₂ tailpipe emissions, there are generally no aftertreatment
devices that can be applied to reduce engine out CO₂ emissions. Therefore,
there is greater reliance on engine modifications to achieve these reduc-
tions.
The proposed amendments may have a positive impact on New York
employment since the new technologies associated with sale and service of
equipped with advanced GHG technology may require hiring or
training personnel who are familiar with the products and associated tech-
nologies. In some cases these are a technology that a dealership has not
previously handled. New marketing strategies will also need to be develop-
oped to promote the advantages of driving these cleaner vehicles, includ-
ing significant air quality benefits, and thus increase sales to consumers. It
is also anticipated that the money saved due to reduced operating expenses
will trickle into other sectors of the economy, thereby stimulating eco-
nomic growth.

The New York State Department of Environmental Conservation (De-
partment) is proposing to amend 6 NYCRR Section 200.9, and 6 NYCRR
Part 218 low emission vehicle (LEV) program. The changes to the regula-
tions incorporate New York State’s adoption of the motor vehicle greenhouse
gas (GHG) emission reduction standards adopted by the California
Air Resources Board (CARB). There are no requirements in the regulation
which apply only to rural areas. These changes apply to vehicles purchased
by consumers, businesses, and government agencies in New York. The
changes to these regulations may impact businesses involved in manufac-
turing, selling or purchasing passenger cars or trucks, as well as businesses
that distribute gasoline.

The changes add to the current LEV standards. The new motor
due to the fact that in some cases
these are technologies that a dealership has not previously handled, and
would thus be require to train service personnel to service these vehicles.
The proposed amendments may have a positive impact on New York
employment since the new technologies associated with sale and service of
equipped with advanced GHG technology may require hiring or
training personnel who are familiar with the products and associated tech-
nologies. In some cases these are a technology that a dealership has not
previously handled. New marketing strategies will also need to be developed
to promote the advantages of driving these cleaner vehicles, including
significant air quality benefits, and thus increase sales to consumers. It
is also anticipated that the money saved due to reduced operating expenses
will trickle into other sectors of the economy, thereby stimulating economic
growth.

The changes add to the current LEV standards. The new motor vehicle
emission program has been in effect in New York State since model year 1993 for passenger cars as well as light-duty trucks, with the exception of model year 1995, and the Department is unaware of any adverse impact to rural areas as a result. The beneficial GHG emission reductions from the program accrue to all areas of the state.

There are no equivalent federal GHG standards available as a
regulatory alternative. The only regulatory alternative to the proposed
climate change amendments to the LEV regulation is to revert back to less stringent federal new motor vehicle emission standards. This is because the Clean Air Act requires states adopting the California programs under section 177 to maintain identical standards and consistent programs. Since the GHG provisions affect light and medium duty vehicles, New York must adopt such standards in order to remain unaffiliated.

Another alternative available would be to require reductions of GHG emissions from stationary sources. New York has already begun to address stationary source GHG reductions through its regional greenhouse gas (RGGI) and renewable portfolio standards (RPS) initiatives. These are being developed in conjunction with the vehicle GHG regulation in an attempt to establish a comprehensive program to reduce GHG emissions from both mobile and stationary sources in New York.

2. Reporting, recordkeeping and other compliance requirements; and
professional services:

There are no specific requirements in the proposed regulations which apply exclusively to rural areas. Reporting, recordkeeping and compliance requirements will apply primarily to vehicle manufacturers, and to a lesser degree to automobile dealerships. Manufacturers reporting requirements
mirror the California requirements, and are thus not expected to be burden-
some. Dealerships do not have reporting requirements, but must maintain
records to demonstrate that vehicles and some engines are California
certified. This documentation is the same as documentation already re-
quired by the New York State Department of Motor Vehicles for vehicle registration. Professional services are not anticipated to be necessary to comply with the rules.

3. Costs:

California has estimated that in the year 2012 the incremental per vehicle cost for passenger cars/light duty truck (PC/LDT1) will be approximately $367, and light duty truck/medium duty passenger vehicles (LDT2) will be approximately $277. In the year 2020 the incremental per vehicle cost for PC/LDT1 vehicles is estimated to be $1,064, and the incremental cost for LDT2 vehicles is expected to be $1,029. As manufac-
turing economics of scale and further technological developments are achieved, it is expected that the incremental costs will be reduced. PC/
LDT1 consists of vehicles up to 3,750 pounds loaded vehicle weight (LVW), and LDT2 consists of vehicles between 3,751 pounds LVW and 8,500 pounds gross vehicle weight (GVW). Medium duty passenger vehi-
cles (MDPV) up to 10,000 pounds GVW are also included in LDT2.

New York performed a benefit-cost analysis using gasoline price and
miles traveled (VMT) obtained from Mobile6 to estimate the cost
effectiveness. The break-even year is the first year in which the overall
return from gasoline savings exceeds the initial cost and interest payments of purchasing the new vehicle. The table below assumes an average gasoline price of $1.74 per gallon, which is identical to CARB’s analysis.

### New York State Break-Even Years for Pavley Vehicles Using $1.74 Per Gallon

<table>
<thead>
<tr>
<th>Model Year</th>
<th>Vehicle Group</th>
<th>Break-Even Year</th>
<th>Gasoline Control Cost ($)</th>
<th>Fuel Savings (%)</th>
<th>Dollars Saved in 10 Years</th>
<th>$ Saved in 10 Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>PC/LDT1</td>
<td>2</td>
<td>17</td>
<td>4.4</td>
<td>222</td>
<td>277</td>
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<tr>
<td>2010</td>
<td>PC/LDT1</td>
<td>2</td>
<td>58</td>
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<td>222</td>
<td>277</td>
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<td>230</td>
<td>14.0</td>
<td>646</td>
<td>718</td>
</tr>
<tr>
<td>2012</td>
<td>PC/LDT1</td>
<td>2</td>
<td>367</td>
<td>24.9</td>
<td>1048</td>
<td>1174</td>
</tr>
<tr>
<td>2013</td>
<td>PC/LDT1</td>
<td>3</td>
<td>504</td>
<td>26.7</td>
<td>1108</td>
<td>1073</td>
</tr>
<tr>
<td>2014</td>
<td>PC/LDT1</td>
<td>4</td>
<td>609</td>
<td>28.5</td>
<td>1166</td>
<td>1015</td>
</tr>
<tr>
<td>2015</td>
<td>PC/LDT1</td>
<td>5</td>
<td>836</td>
<td>31.2</td>
<td>1250</td>
<td>822</td>
</tr>
</tbody>
</table>

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### Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:
on to consumers in the form of higher vehicle prices. Dealerships may see decreased sales as a result of new vehicle prices. Dealerships will be able to sell California certified vehicles to buyers from states bordering New York. Since vehicles must be California certified in order to be registered in New York, New York dealerships will be able to buy non-complying vehicles out of state, but may be able to buy complying vehicles out of state. These businesses compete within the state and generally are not subject to competition from out-of-state businesses. Therefore, the proposed regulation is not expected to impose a competitive disadvantage on affiliated businesses, and there would be no change from the current relationship with out-of-state businesses.

3. Regions of adverse impact:

None.

4. Minimizing adverse impact:

The change in vehicle technology may impact several sectors of the economy. The steps that manufacturers need to take to comply with the new regulation are expected to lead to increases in the cost of new vehicles. It is expected that the manufacturers will recoup these costs by passing them on to consumers in the form of increased vehicle prices, which occurred with the implementation of other regulatory programs. For example, it is expected that manufacturers may selectively increase vehicle prices on popular or high-end models to subsidize lower price increases on economy models. Manufacturers also have other options which include changing “standard” equipment packages, incentives, and financing. It is also possible that consumers could regard vehicles equipped with this new technology as desirable, leading to increases in sales despite higher prices.

The technological options that manufacturers choose to comply with the new regulation are also expected to reduce operating costs. These two responses have combined negative and positive impacts on businesses and consumers. The vehicle price increase may negatively affect businesses by possibly reducing demand for their vehicles, while the reduction in operating costs will have a positive impact on consumers and local businesses due to increased disposable income. This increased disposable income would allow consumers to make additional purchases of goods and services, including new vehicles, resulting in an expansion of businesses and employment.

The flexibility of the GHG mandate allows manufacturers to earn early reduction credits, phase-in advanced technology, and utilize a vast array of existing and emerging advanced emission reduction technology. The proposed regulation also provides mechanisms for implementation flexibility which provides clean air benefits from the commercialization of advanced motor vehicle technology, while affording the manufacturer choices over the parties who are unable to attend a public hearing can submit written comments.

Job Impact Statement

1. Nature of Impact:

The New York State Department of Environmental Conservation (Department) is proposing to amend 6 NYCRR Section 200.9, and 6 NYCRR Part 218 low emission vehicle (LEV) program. Part 218 is being amended to incorporate vehicle greenhouse gas (GHG) emission reduction standards that are being adopted by the California Air Resources Board (CARB). The amendments to the regulations are not expected to have a major cost impact on the GHG provisions affect light and medium duty vehicles, New York State has had a new motor vehicle emission standards program in effect since model year 1995, and the Department is unaware of any adverse impact to jobs and employment opportunities as a result.

2. Categories and numbers affected:

The changes to this regulation may impact businesses involved in manufacturing, selling or purchasing passenger cars or trucks. Automobile manufacturers are likely to incur significant costs in order to comply with the regulation. These increased compliance costs are expected to be passed
is also anticipated that the money saved due to reduced operating expenses will trickle into other sectors of the economy, thereby stimulating economic growth.

3. Self-employment opportunities:
None that the Department is aware of at this time.

1 Alliance of Automobile Manufacturers: The Auto Industry in New York.

### Department of Health

**NOTICE OF CONTINUATION NO HEARING(S) SCHEDULED**

Syracuse Watershed Rules and Regulations

I.D. No. HLT-48-04-00012-C

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE OF continuance is hereby given:

**The notice of proposed rule making,** I.D. No. HLT-48-04-00012-P was published in the State Register on December 1, 2004.

**Subject:** Minor amendments to the Syracuse Watershed Rules and Regulations.

**Purpose:** To correct clerical and typographic errors.

**Substance of rule:** The proposed amendments to Section 131.1 of Part 131 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York merely correct clerical and typographic errors in the regulation. Because these amendments do not impose any burden on any party that exceeds or expands statutory requirements, a consensus regulatory adoption has been proposed.

**Changes to rule:** No substantive changes.

**Expiration date:** December 1, 2005.

**Text of proposed rule and changes, if any, may be obtained from:** William Johnson, Department of Health, Division of Legal Affairs, Office of Regulatory Reform, Corning Tower, Rm. 2415, Empire State Plaza, Albany, NY 12237, (518) 473-7488, fax: (518) 486-4834, e-mail: regsqna@health.state.ny.us

**Data, views or arguments may be submitted to:** Same as above.

### Office of Homeland Security

**PROPOSED RULE MAKING NO HEARING(S) SCHEDULED**

List of Hazardous and Toxic Chemicals

I.D. No. HLS-21-05-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

**Proposed action:** Addition of Part 10000 to Title 9 NYCRR.

**Statutory authority:** Executive Law, section 714

**Subject:** List of hazardous and toxic chemicals.

**Purpose:** To comply with requirement of Executive Law, section 714.

**Text of proposed rule:** Part 10000

**Protection of Critical Infrastructure**

The New York State Office of Homeland Security (Office) is creating a new Part 10000, subpart 10000-1 and 10000-2 to satisfy provisions of Executive Law, Section 714.

Subpart 10000-1

Storage Facilities for Hazardous Substances

Consistent with provisions of Executive Law, Section 714, the Office has developed a list of toxic or hazardous substances based upon the severity of the threat posed to the public by the unauthorized release of such substances. For the purposes of this rule, unauthorized release means theft, release to the air or release to a potable water source.

**Subpart 10000-2**

**List of Toxic or Hazardous Substances**

The following list of toxic or hazardous substances has been developed as required under provisions of Executive Law, Section 714. The list, in and of itself, does not place a requirement on any facility in New York State that stores such chemicals to undertake any specific action.

<table>
<thead>
<tr>
<th>CAS RN</th>
<th>Chemical Name</th>
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<tbody>
<tr>
<td>540-73-8</td>
<td>1,2 Dimethyl hydrazine</td>
</tr>
<tr>
<td>75-07-0</td>
<td>Acetaldehyde</td>
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<tr>
<td>75-86-5</td>
<td>Acetone cyanohydrin</td>
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<tr>
<td>74-86-2</td>
<td>Acetylene</td>
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<td></td>
<td>Acetylides of heavy metals</td>
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<tr>
<td>107-02-8</td>
<td>Acrolein</td>
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<tr>
<td>80-63-7</td>
<td>Acrylic acid, 2-chloro-, methyl ester</td>
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<tr>
<td>107-13-1</td>
<td>Acrylonitrile</td>
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<tr>
<td>814-68-6</td>
<td>Acrylyl chloride</td>
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<tr>
<td>578-94-9</td>
<td>Adamsite</td>
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<td>111-69-3</td>
<td>Adiponitrile</td>
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<td>329-99-7</td>
<td>Agent GF</td>
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<td>309-00-2</td>
<td>Aldrin</td>
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<td>107-18-6</td>
<td>Aliph alcohol</td>
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<td>107-31-9</td>
<td>Allylamine</td>
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<td>Aluminum containing polymeric propellant</td>
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<td>Aluminum nitrate</td>
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<td></td>
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<td>Ammonium perchlorate compound propellant</td>
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<td>Ammonium perchlorate explosive mixtures</td>
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<td>Ammonium perchlorate having particle size less than 15 microns</td>
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<td>131-74-8</td>
<td>Ammonium Picrate</td>
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<td>Ammonium salt lattice with isomorphously substated inorganic salts</td>
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<td>86-88-4</td>
<td>Antu</td>
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<td>7778-39-4</td>
<td>Aromatic nitro-compound explosive mixtures</td>
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<tr>
<td>1303-28-2</td>
<td>Arsenic acid</td>
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<td>1327-53-3</td>
<td>Arsenic pentoxide</td>
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<td>7784-34-1</td>
<td>Arsenic trioxide</td>
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<td>7784-42-1</td>
<td>Arsenic trichloride</td>
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<td>Arsine</td>
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<td>Azide explosives</td>
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<td>86-50-0</td>
<td>Azimphos-ethyl</td>
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<td></td>
<td>Azimphos-methyl</td>
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<td></td>
<td>Baranol</td>
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<td>Baratol</td>
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<td>18810-58-7</td>
<td>Barium Azide</td>
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<td>112-56-1</td>
<td>b-Butoxy-b’-thiocyanate diethyl ether</td>
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<td>98-16-8</td>
<td>Benceanine, 3-(trifluoromethyl)</td>
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<td>98-09-9</td>
<td>Benzencesulfonyl chloride</td>
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<td>100-44-7</td>
<td>Benzyl chloride</td>
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<td>140-29-4</td>
<td>Benzyl cyanide</td>
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<td>15271-41-7</td>
<td>Bicyclo[2.2.1]heptane-2-carbonitrile, 5 chloro...</td>
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<td>1464-53-5</td>
<td>Biphénylactacetic acid, 2-fluorethyl ester, 4-</td>
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<tr>
<td>4301-50-2</td>
<td>Bis(2-chloroethylidio)-n-butyne, 1,4-</td>
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<td>142868-93-7</td>
<td>Bis(2-chloroethylidio)-n-pentane, 1,5-</td>
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<td>142868-94-8</td>
<td>Bis(2-chloroethylidio)-n-propene, 1,3-</td>
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<td>63905-10-2</td>
<td>Bis(2-chloroethylidio)jethyler</td>
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<tr>
<td>63918-90-1</td>
<td>Bis(chloromethyl) ether</td>
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<tr>
<td>542-88-1</td>
<td>Bitoscanate</td>
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<tr>
<td>4044-65-9</td>
<td>Bitoscanate</td>
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Black powder
Black powder based explosive mixtures
Blasting caps
Blasting gelatin
Blasting powder
122-10-1 Bomyl
10294-34-5 Boron trifluoride
7637-07-2 Boron trifluoride compound with methyl ether (1:1)
353-42-4 Butane, 2-methyl-
1338-23-4 Butanone, 2-
689-97-4 Butan-2-yne, 1-
123-73-9 Butenal, (e)-2-
25167-67-3 Butene
624-64-6 Butene, (E)-2-
106-98-9 Butene, 1-
110-57-6 Butene, 1,4-dichloro-, (e)-2-
107-01-7 Butene, 2-
590-18-1 Butene-cis, 2-
3037-72-7 Butylamine, 4-(diethoxymethyl)-
107-00-6 Butyne, 1-
6581-06-2 BZ
1306-19-0 Cadmium oxide
2223-93-0 Cadmium stearate
7778-44-1 Calcium arsenite
52740-16-6 Calcium arsenite
592-01-8 Calcium cyanide
17702-57-7 Carbamic acid, methyl-4-((dimethylamino)methyl)-
51-83-2 Carbachol chloride
26419-73-8 Carbamic acid
644-64-4 Carbamic acid, dimethyl-, 1-((dimethylamino)methyl)-
carbonyl)-3-methyl-1-phenyl-3-yl ester
119-38-0 Carbamic acid, dimethyl-, 1-isopropyl-3-
methylpyrazol-5-yl ester
23422-53-9 Carbamic acid, methyl-ester with n'-((3-hydroxyphenyl)-n,n-dimethyformamidine, hydrochloride
17702-57-7 Carbamic acid, methyl-,4-(((dimethylamino)methyl)-amino)-m-tolyl ester
1563-66-2 Carbafuran
75-15-0 Carbon disulfide
353-50-4 Carbon monoxide
108-23-6 Carbon monoxide acid, 1-methylethyl ester
109-61-5 Carbon monochloride acid, propylester
786-19-6 Carbonphenothion
463-58-1 Carbon sulfide
124-40-3 Cellulose hexamitrate explosive mixture
1460-30-2 Chlorate explosive mixtures
470-90-6 Chlorfenvinfos
7782-50-5 Chlorine
10049-04-4 Chlorine dioxide
7791-21-1 Chlorine monoxide
2493-91-6 Chloromethane
107-20-0 Chloroacetaldehyde
75-00-3 Chloroaniline
107-07-3 Chloroform
67-66-3 Chloroform
74-87-3 Chloromethane
107-30-2 Chloromethyl methyl ether
3691-35-8 Chlorophacinone
76-06-2 Chloropicrin
590-21-6 Chloropropylene, 1-
557-98-2 Chloropropylene, 2-
Rule Making Activities

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<tr>
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<td>78-34-2 Dioxathion 50-00-0 Formaldehyde</td>
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<td>1746-01-6 Dioxin 107-16-4 Formaldehyde cyanohydrin</td>
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<tr>
<td>DIPAM 64-18-6 Formic acid</td>
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<tr>
<td>82-66-6 Diphenylamine 107-31-3 Formic acid, methyl ester</td>
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<tr>
<td>712-48-1 Diphenyl dichloroarsine 21548-32-3 Fosfhiatan</td>
</tr>
<tr>
<td>76-93-7 Diphenyl-2-hydroxyacetic acid, 2,2- Fulminate of mercury</td>
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<tr>
<td>2217-06-3 Dipiridyl sulfide Fulminate of silver</td>
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<tr>
<td>Dipiridyl sulfone Fulminating gold</td>
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<tr>
<td>DIPAM 64-18-6 Formic acid Fulminating platinum</td>
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<tr>
<td>88-85-7 Dynamite Fulminating silver</td>
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<td>EDNNA 110-00-9 Furan</td>
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<tr>
<td>EDN 76-44-8 Hexachlorohexahydro-endo, endo-di methanaphthaleine</td>
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<td>DNPA 465-73-6 Hexachlorohexahydro-endo, endo-di methanaphthaleine</td>
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<tr>
<td>DNPD 757-58-4 Hexachlorohexahydro-endo, endo-di methanaphthaleine</td>
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<tr>
<td>82-66-6 Diphacinone 14097-21-3 Guanil nitroaminoguanil tetraxene</td>
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<tr>
<td>107-31-3 Formic acid, methyl ester Guanil nitroaminoguanil tetraxene</td>
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<tr>
<td>712-48-1 Diphenyl dichloroarsine 21548-32-3 Fosfhiatan Guanil nitroaminoguanil tetraxene</td>
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<tr>
<td>45x673-7 Formaldehyde cyanohydrin Guanil nitroaminoguanil tetraxene</td>
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<tr>
<td>2217-06-3 Dipiridyl sulfide Fulminate of mercury Guanil nitroaminoguanil tetraxene</td>
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<tr>
<td>Display fireworks Fulminating platinum</td>
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<tr>
<td>298-04-4 Disalpton 1110-90-9 Guanil nitroaminoguanil tetraxene</td>
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<td>950-10-17 Dithiiane, 2-(diethoxy-phosphinylimino)-4-methyl- hexachlorohexahydro-endo, endo-di methanaphthaleine</td>
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<td>1333-74-0 Hydrogen carbonyl Hexachlorohexahydro-endo, endo-di methanaphthaleine</td>
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<tr>
<td>75-21-8 Ethylene oxide Hexachlorohexahydro-endo, endo-di methanaphthaleine</td>
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<tr>
<td>74-84-0 Ethane Hydrogen cyanide</td>
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<td>60-29-7 Ethane, 1,1'-oxybis- Hydrogen cyanide</td>
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<td>107-15-3 Ethanediamine, 1,2- Hydrogen cyanide</td>
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<td>75-08-1 Ethanol Hydrogen cyanide</td>
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<td>75-38-7 Ethene, 1,1-difluoro- Hydrogen cyanide</td>
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<td>79-38-9 Ethene, chlorotrifluoro- Hydrogen cyanide</td>
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<td>109-92-2 Ethene, ethoxy- Hydrogen cyanide</td>
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<td>107-25-5 Ethene, methoxy- Hydrogen cyanide</td>
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<td>116-14-3 Ethene, tetrafluoro- Hydrogen cyanide</td>
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<td>563-12-2 Ethion Hydrogen cyanide</td>
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<td>109-95-5 Ethyl nitrite Hydrogen cyanide</td>
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<td>598-14-1 Ethyldichloroarsine Hydrogen cyanide</td>
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<td>139-87-7 Ethyldimethylamine Hydrogen cyanide</td>
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<td>74-85-1 Ethylene Igniter cord</td>
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<td>371-62-0 Ethylene fluoroacryl Hydrogen cyanide</td>
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<td>947-02-4 Ethylene oxide Hexanitritolylanie</td>
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<tr>
<td>75-21-8 Ethylene oxide Hexagon or octogene and a nitrated Nmethylalanine</td>
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<tr>
<td>151-56-4 Ethylene oxide Explosive compounds</td>
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<tr>
<td>Initiating tube systems Explosive compounds</td>
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<td>Explosive gelatin Explosive compounds</td>
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<td>Explosive gel Explosive compounds</td>
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<td>Explosive liquids Explosive compounds</td>
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<tr>
<td>Explosive mixtures containing oxygen releasing Explosive compounds</td>
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<td>inorganic salts and hydrocarbons Explosive compounds</td>
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<td>Explosive mixtures containing oxygen releasing Explosive compounds</td>
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<tr>
<td>inorganic salts and water insoluble fuels Explosive compounds</td>
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<tr>
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<td>Explosive mixtures containing sensitized nitromethane Explosive compounds</td>
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<td>Explosive mixtures containing tetrnutritomethane Explosive compounds</td>
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<tr>
<td>(nitroform) Explosive compounds</td>
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<td>Explosive nitro compounds of aromatic hydrocarbons Explosive compounds</td>
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<td>Explosive organic nitrate mixtures Explosive compounds</td>
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<tr>
<td>Explosive powders Explosive compounds</td>
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<tr>
<td>Fenamiphos 15245-44-0 Lead azide, wetted</td>
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<td>22224-92-6 Fenamiphos 15245-44-0 Lead azide, wetted</td>
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<tr>
<td>122-14-5 Fenitrothion 21609-90-5 Lead azide, wetted</td>
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<tr>
<td>115-90-2 Fenidrin 40334-69-8 Lead azide, wetted</td>
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<td>Fensulfothion 40334-69-8 Lead azide, wetted</td>
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<td>Flash powder 541-25-3 Lead azide, wetted</td>
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<td>Fluoracetic acid 58-82-0 Lead azide, wetted</td>
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<td>144-49-0 Fluoracetic acid 13524-44-0 Lead azide, wetted</td>
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<td>7664-39-3 Fluoracetic acid 13524-44-0 Lead azide, wetted</td>
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<td>7782-41-4 Fluorine 13524-44-0 Lead azide, wetted</td>
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<td>Fluorocarbamide 15245-44-0 Lead azide, wetted</td>
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<tr>
<td>640-19-7 Fluorocarbamide 15245-44-0 Lead azide, wetted</td>
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<td>Fluorocarbamide, sodium salt 15245-44-0 Lead azide, wetted</td>
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<td>Fonomos 15245-44-0 Lead azide, wetted</td>
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<td>Nitrocellulose</td>
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<td>Nitrogen dinitrate</td>
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<td>Nitrogen Mustard</td>
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<td>10026-13-8 Phosphorus pentachloride</td>
<td>Stannane, tetraethyl-</td>
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<td>7719-12-2 Phosphorus trichloride</td>
<td>Strychnine and salts</td>
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<td>Strychnine, sulfate</td>
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<td>489-98-5 Picramide</td>
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<td>sulphonate explosive</td>
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<td>Picrate of potassium explosive mixtures</td>
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<td>88-88-0 picryl chloride</td>
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<td>Picryl fluoride</td>
<td>Sulfur fluoride (SF4), (T-4)-</td>
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<td>464-07-3 Pinacolyl alcohol</td>
<td>Sulfur monochloride</td>
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<td>110-89-4 Piperidine</td>
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<td>PLX</td>
<td>Sulfur Mustard</td>
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<td>151-50-8 Potassium cyanide</td>
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<td>Potassium nitrominotetrazole</td>
<td>TeoP</td>
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<td>506-61-6 Potassium silver cyanide</td>
<td>Tellurium hexafluoride</td>
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<td>463-49-0 Propadiene, 1,2-</td>
<td>TEP</td>
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<tr>
<td>74-98-6 Propane</td>
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<td>824-11-3 Propanedithiol, 2-ethyl-2-(hydroxymethyl)-, cyclic</td>
<td>Tetraethyl lead</td>
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<td>phosphate (1:1), 1,-</td>
<td>Tetramethyllead</td>
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<tr>
<td>107-12-0 Propanenitrile</td>
<td>Tetranitroline</td>
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<td>107-19-7 Propargyl alcohol</td>
<td>Tetranitrocarbonize</td>
</tr>
<tr>
<td>106-96-7 Propargyl bromide</td>
<td>Tetranitromethane</td>
</tr>
<tr>
<td>115-07-1 Propylene</td>
<td>Tetrazole explosives</td>
</tr>
<tr>
<td>75-55-8 Propylene imine</td>
<td>Tetrazole, 1H-</td>
</tr>
<tr>
<td>75-56-9 Propylene oxide</td>
<td>Tetryl</td>
</tr>
<tr>
<td>74-99-7 Propyne, 1-</td>
<td>Thallic oxide</td>
</tr>
<tr>
<td>504-24-5 Pyridinamine, 4-</td>
<td>Thallium (I) sulfate</td>
</tr>
<tr>
<td>53558-25-1 Pyriminil</td>
<td>Thallium(I) sulfate</td>
</tr>
<tr>
<td>Pyrotechnic compositions</td>
<td>Thickened inorganic oxidizer salt slurred explosive mixture</td>
</tr>
<tr>
<td>PYX</td>
<td>Thiodiglycol</td>
</tr>
<tr>
<td>57856-11-8 QC</td>
<td>Thiofoxon</td>
</tr>
<tr>
<td>1619-34-7 Quinuclidin-3-ol</td>
<td>Thioimidodicarbonic diamide</td>
</tr>
<tr>
<td>9009-86-3 Ricin</td>
<td>Thionyl chloride</td>
</tr>
<tr>
<td>Safety fuse</td>
<td>Thiosemicarbazide</td>
</tr>
<tr>
<td>Salts of organic amino sulfonic acid explosive mixture</td>
<td>Thiourea, (2-chlorophenyl)-</td>
</tr>
<tr>
<td>Salates (bulk)</td>
<td>Thiourea, phenyl-</td>
</tr>
<tr>
<td>107-44-8 Sarin</td>
<td>Titanium tetrachloride</td>
</tr>
<tr>
<td>35523-89-8 Saxitoxin</td>
<td>TMEN</td>
</tr>
<tr>
<td>3563-36-8 Sesquimustard</td>
<td>TNEF</td>
</tr>
<tr>
<td>7803-62-5 Silane</td>
<td>TNEOF</td>
</tr>
<tr>
<td>75-77-4 Silane, chlorotruthemethyl-</td>
<td>Tetronate-2,4-diisocyanate</td>
</tr>
<tr>
<td>75-76-3 Silane, tetrathemethyl-</td>
<td>Tetronate-2,6-diisocyanate</td>
</tr>
<tr>
<td>10025-78-2 Silane, trichloro-</td>
<td>Tetronuedicosocyanate (mixed isomers)</td>
</tr>
<tr>
<td>Silver acetylide</td>
<td>Torpex</td>
</tr>
<tr>
<td>13863-88-2 Silver acide</td>
<td>Trichloro(chloromethyl)lsilane</td>
</tr>
<tr>
<td>5610-59-3 Silver fulminate</td>
<td>Tridite</td>
</tr>
<tr>
<td>Silver oxalate explosive mixtures</td>
<td>Triethanolamine</td>
</tr>
<tr>
<td>146-84-9 Silver picrate</td>
<td>Triethyl phosphite</td>
</tr>
<tr>
<td>Silver styrhinate</td>
<td>trimethyl phosphite</td>
</tr>
<tr>
<td>Silver tartrate explosive mixtures</td>
<td>trimethyl ethyl methane trinitrate composition</td>
</tr>
<tr>
<td>Silver tetrazene</td>
<td>trimethylolthyl trinitratenitrocellulose</td>
</tr>
<tr>
<td>Slurred explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer (cap sensitive)</td>
<td>Trinitonate</td>
</tr>
<tr>
<td>Smokeless powder</td>
<td>Trinitroaniline</td>
</tr>
<tr>
<td>Sodatol</td>
<td>Trinitroanisole</td>
</tr>
<tr>
<td>Sodium ametol</td>
<td>Trinitrobenzene</td>
</tr>
<tr>
<td>7784-46-5 Sodium arsenite</td>
<td>Trinitrobenzenesulphonic acid</td>
</tr>
<tr>
<td>26628-22-8 Sodium acisde</td>
<td>Trinitrobenzosalic acid</td>
</tr>
<tr>
<td>Sodium oxide explosive mixture</td>
<td>Trinitrochlorobenzenes</td>
</tr>
<tr>
<td>143-33-9 Sodium cyanide</td>
<td>Trinitrocresol</td>
</tr>
<tr>
<td>2312-76-7 Sodium dinitro-o-cresolate</td>
<td>Trinitrofluorenone</td>
</tr>
<tr>
<td>Sodium nitrate explosive mixtures</td>
<td>Trinitrometa-cresol</td>
</tr>
<tr>
<td>Sodium nitrate-potassium nitrate explosive mixture</td>
<td>Trinitronaphthalene</td>
</tr>
<tr>
<td>831-52-7 Sodium picramate</td>
<td>Trinitrophenetol</td>
</tr>
<tr>
<td>13410-01-0 Sodium selenate</td>
<td>Trinitrophenetole</td>
</tr>
<tr>
<td>10102-18-8 Sodium selenite</td>
<td>Trinitrophenol</td>
</tr>
<tr>
<td>96-64-0 Soman</td>
<td>Trinitrophenylmethanamine</td>
</tr>
</tbody>
</table>
The proposed regulation does not impose a new program duty or responsibility to any county, city, town, village, school district, fire district or special district. 

Paperwork:
No new paperwork requirements are created by this amendment.

Duplication:
This regulation does not duplicate any existing local, state or federal regulation. State and federal lists of hazardous or toxic substances do exist but they address only accidental or unintentional releases.

Alternatives Considered:
No alternative approaches were considered as Chapter 1, part C of the Laws of 2004 required the list to be promulgated.

Federal Standards:
Currently, neither federal law nor regulation governs security measures implemented at chemical facilities.

Compliance Schedule:
This regulation will be effective upon publication of a notice of adoption in the State Register.

The proposed list of chemicals is the result of definitional requirements found in Chapter 1, part C of the Laws of 2004 and collaboration with the New York State Department of Environmental Conservation, the New York State Department of Health and representatives of the chemical industry as represented by the Business Council of New York State, the Chemical Alliance and the Chemistry Council. No studies or separate data were utilized in the formation of the proposed chemical list.

No alternative approaches were considered as Chapter 1, part C of the Laws of 2004 required the list to be promulgated.

Federal Standards:
Currently, neither federal law nor regulation governs security measures implemented at chemical facilities.

Compliance Schedule:
This regulation will be effective upon publication of a notice of adoption in the State Register.

An estimated 1,100 chemical facilities exist in New York State of which approximately 163 employ less than 100 employees and are categorized as small businesses. These small businesses are primarily in manufacturing or sale of chemical products. These small businesses will not be affected by the proposed list of toxic or hazardous substances.

Compliance Requirements:
The proposed list does not impose compliance requirements on chemical facilities in New York State.

Professional Services:
No additional professional services are required by chemical facilities.

Costs:
The proposed list of substances does not pose a cost to the regulated parties, as the list carries no burden of compliance.

Economic and Technological Feasibility:
There is no economic cost associated with the proposed list and technological feasibility is not a factor in promulgating the proposed list.

Minimizing Adverse Economic Impact:
The proposed list does not impose compliance mandates on chemical facilities in New York State.

Small Business Participation:
The proposed list is based upon the definition established in Chapter 1, part C of the Laws of 2004. Two meetings were held with representatives of the chemical industry, including the Business Council of New York State, the Chemistry Council and the Chemical Alliance, to address concerns and issues raised in connection to the legislative mandate.

Rural Area Flexibility Analysis

Effect on Rural Areas:
There are approximately 170 chemical facilities in New York State that are located in all rural areas throughout the state.

Reporting and Recordkeeping:
The proposed list does not impose any additional reporting or recordkeeping requirements.

Compliance Requirements:
The proposed list does not impose compliance requirements on chemical facilities in New York State.

Costs:
The proposed list of substances does not pose a cost to the regulated parties in rural areas, as the list carries no burden of compliance.

Minimizing Adverse Economic Impact on Rural Areas:
There is no economic cost associated with the proposed list and technological feasibility is not a factor in promulgating the list.

Rural Area Participation:
The proposed list is based upon the definition established in Chapter 1, part C of the Laws of 2004. Two meetings were held with representatives of the chemical industry, including the Business Council of New York State, the Chemistry Council and the Chemical Alliance, to address concerns and issues they had with the legislative definition.
**Job Impact Statement**

The Office of Homeland Security has determined that this rule will not have a substantial adverse impact on jobs and employment opportunities. The overall intent of this rule making is to satisfy the legislative mandate as described in Chapter 1, part C of the Laws of 2004.

**Department of Labor**

### NOTICE OF ADOPTION

**Minimum Wage Allowances**

<table>
<thead>
<tr>
<th>I.D. No.</th>
<th>LAB-09-05-00005-A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filing No.</td>
<td>516</td>
</tr>
<tr>
<td>Filing date:</td>
<td>May 4, 2005</td>
</tr>
<tr>
<td>Effective date:</td>
<td>May 25, 2005</td>
</tr>
</tbody>
</table>

Pursuant to the provisions of the State Administrative Procedure Act, notice is hereby given of the following action:

**Action taken:** Amendment of parts 137, 138, 141, 142, 143 and 190 of Title 12 NYCRR.

**Statutory authority:** Labor Law, art. 19, section 652 and art. 2, section 21

**Subject:** Minimum wage allowances.

**Purpose:** To conform the wage orders with statutory amendments.

**Substance of final rule:** 12 NYCRR parts 137 and 138, the minimum wage and minimum wage allowances for the restaurant and hotel industries, are amended to incorporate the increase in the minimum wage enacted pursuant to Chapter 747 of the Laws of 2004 and the statutorily required amendments to the minimum wage allowances (i.e., tips, uniforms, meals and lodging).

12 NYCRR Part 141 (building service industry), Part 142 (miscellaneous industries and occupations), Part 143 (non-profitmaking institutions), are amended to incorporate the increase in the minimum wage enacted pursuant to Chapter 747 of the Laws of 2004 and the statutorily required amendments to the minimum wage allowances.

12 NYCRR Part 190 (farm workers) is amended to incorporate the increase in the minimum wage enacted pursuant to Chapter 747 of the Laws of 2004.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in section 142-2.5(a)(1)(ii).

**Text of rule and any required statements and analyses may be obtained from:** Diane Wallace Wehner, Legal Assistant, Department of Labor, State Office Campus, Bldg. 12, Albany, NY 12240, (518) 457-4380, e-mail: diane.wehner@labor.state.ny.us

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis or Job Impact Statement.

**Assessment of Public Comment**

We received comments on our proposed rule from C. Michael Higgins, Assistant Attorney General at the Office of the New York State Attorney General. Mr. Higgins pointed out an error in Section 142-2.5(a)(1)(ii). The amounts for lodging stated “per meal” and they should have stated “per day”. We revised the rule to correct this error.

Mr. Higgins also made a comment regarding a footnote that Lexis put on their version of the proposed rule. He stated that Lexis stated “**NB Effective until March 20, 2005**” and he felt the date should be January 5, 2005. This does not apply to our rule because it is not in the actual text of the amendments to the rule, it is merely a footnote that Lexis supplied.

**Department of Motor Vehicles**

### NOTICE OF ADOPTION

**Windshield Stickers**

<table>
<thead>
<tr>
<th>I.D. No.</th>
<th>MTV-10-05-00008-A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Filing No.</td>
<td>514</td>
</tr>
<tr>
<td>Filing date:</td>
<td>May 4, 2005</td>
</tr>
<tr>
<td>Effective date:</td>
<td>May 25, 2005</td>
</tr>
</tbody>
</table>

Pursuant to the provisions of the State Administrative Procedure Act, notice is hereby given of the following action:

**Action taken:** Amendment of Part 174 of Title 15 NYCRR.

**Statutory authority:** Vehicle and Traffic Law, sections 215(a) and 375(1)

**Subject:** Windshield stickers.

**Purpose:** To allow for-hire vehicles licensed by the New York City Taxi and Limousine Commission to display a New York State inspection reminder sticker.

**Text or summary was published** in the notice of proposed rule making, I.D. No. MTV-10-05-00008-P, issue of March 9, 2005.

**Final rule as compared with last published rule:** No changes.

**Text of rule and any required statements and analyses may be obtained from:** Michele L. Welch, Department of Motor Vehicles, Empire State Plaza, Swan St. Bldg., Rm. 526, Albany, NY 12228, (518) 474-0871, e-mail: mwelic@dmv.state.ny.us

**Assessment of Public Comment**

The agency received no public comment.

**Office of Parks, Recreation and Historic Preservation**

### PROPOSED RULE MAKING

**NO HEARING(S) SCHEDULED**

**Fishing at Allegany State Park**

<table>
<thead>
<tr>
<th>I.D. No.</th>
<th>PKR-21-05-00003-P</th>
</tr>
</thead>
</table>

Pursuant to the provisions of the State Administrative Procedure Act, notice is hereby given of the following proposed rule:

**Proposed action:** This is a consensus rule making amendment section 398.2(c) of Title 9 NYCRR.

**Statutory authority:** Parks, Recreation and Historic Preservation Law, section 309(8)

**Subject:** Fishing at Allegany State Park.

**Purpose:** To address the time of year the taking of fish is to be permitted in specific waters in Allegany State Park.

**Text of proposed rule:** Subdivision (c) of section 398.2 of Title 9 NYCRR is amended to read as follows.

In the waters of Quaker Run Creek from Cain Hollow Bridge easterly to the Coon Run Road, fishing shall be permitted using artificial lures only. The possession or use of any natural bait shall be prohibited. Additionally, such waters will be regulated by a delayed harvest management program requiring that any trout caught from April 1 through May 20 must be released unharmed. Possession of trout on this section is prohibited between April 1 and May 20.

**Text of proposed rule and any required statements and analyses may be obtained from:** Jeffrey A. Meyers, Senior Attorney, Office of Parks, Recreation and Historic Preservation, Agency Bldg. 1, 19th Fl., Albany, NY 12238, (518) 486-2921, e-mail: Jeffrey.Meyers@oprhp.state.ny.us.

**Data, views or arguments may be submitted to:** Same as above.

**Public comment will be received until:** 45 days after publication of this notice.

**Consensus Rule Making Determination**
The Office of Parks, Recreation and Historic Preservation (OPRHP) has determined that these amendments to Title 9 NYCRR meet the qualifications for a consensus rule making, as no person is likely to object to their adoption. The rules set forth when fish may be taken from Quaker Run Creek between Cain Hollow Bridge and east to the Coon Run Road in Allegany State Park. The modification of Section 398.2(c) would address the concerns raised by the Department of Environmental Conservation (“DEC”) fisheries biologists. Specifically, the fisheries biologists believe that the stream is low in productivity, low in food for the fish, and in the summer, very low in water. By requiring that fish be released unharmed between April 1 and May 20, this will ensure that there are sufficient stock for the rest of the fishing season, and that these fish will be caught before they die during the poor summer conditions. Because the regulation amendments would result in greater fishing opportunities for the majority of the fishing season, no person is likely to object to their adoption.

**Job Impact Statement**

A Job Impact Statement is not submitted with this notice because the Office of Parks, Recreation and Historic Preservation has determined that the change to the regulation will not have a substantial adverse impact on jobs and employment opportunities. The rules set forth when fish may be taken from Quaker Run Creek between Cain Hollow Bridge and east to the Coon Run Road in Allegany State Park. The modification of Section 398.2(c) would address the concerns raised by the Department of Environmental Conservation (“DEC”) fisheries biologists. Specifically, the fisheries biologists believe that the stream is low in productivity, low in food for the fish, and in the summer, very low in water. By requiring that fish be released unharmed between April 1 and May 20, this will ensure that there are sufficient stock for the rest of the fishing season, and that these fish will be caught before they die during the poor summer conditions. Because fishing in Allegany State Park is a recreational activity and there is no commercial fishing, there will be no effect on employment in the area. Thus, the change to the regulation will have no effect on jobs or employment opportunities.

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**Public Service Commission**

### NOTICE OF ADOPTION

**Petition for Rehearing by Glenn Gardens Tenants Association**

**I.D. No.** PSC-42-04-00011-A  
**Filing date:** May 5, 2005  
**Effective date:** May 5, 2005  
**Pursuant to the provisions of the State Administrative Procedure Act, notice is hereby given of the following action:**

**Action taken:** The commission on April 13, 2005, adopted an order in Case 03-E-1425 granting in part the petition for rehearing by Glenn Gardens Tenants Association (GGTA) regarding the commission’s Feb. 18, 2004 order.  
**Statutory authority:** Public Service Law, sections 2, 4(1), 5, 22, 43, 53, 65 and 66  
**Subject:** Petition for rehearing.  
**Purpose:** To grant in part GGTA’s request for rehearing of the commission’s order issued Feb. 18, 2004.  
**Substance of final rule:** The Commission granted in part Glenn Gardens Tenants Association’s request for rehearing of the Commission’s Order issued February 18, 2004 allowing the submetering of electricity at 175 West 87th Street, Manhattan, New York and directed Glenn Gardens Associates, L.P. to refund tenants all charges for the metered electric service charged prior to the Commission’s Order approving the submetering plan for Glenn Gardens, subject to the terms and conditions set forth in the Order.  
**Final rule compared with proposed rule:** No changes.  
**Text of rule may be obtained from:** Central Operations, Public Service Commission, Bldg. 3, 14th Fl., Empire State Plaza, Albany, NY 12223-1350, by fax to (518) 474-9842, by calling (518) 474-2500. An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

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**Rule Making Activities**

**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

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**NOTICE OF ADOPTION**

**Transfer of Certain Cable System Facilities in the City of New York by Time Warner Entertainment Company, L.P.**

**I.D. No.** PSC-43-04-00020-A  
**Filing date:** May 5, 2005  
**Effective date:** May 5, 2005  
**Pursuant to the provisions of the State Administrative Procedure Act, notice is hereby given of the following action:**

**Action taken:** The commission, on January 12, 2005, adopted an order in Case 04-V-0858 granting Time Warner Entertainment Company, L.P. (TWE) permission to transfer its franchise title and ownership interests from Staten Island Cable, LLC to TWE.  
**Statutory authority:** Public Service Law, section 222  
**Subject:** Transfer of cable system facilities.  
**Purpose:** To allow TWE to acquire certain cable system facilities from its subsidiary Staten Island Cable, LLC.  
**Substance of final rule:** The Commission approved a petition from Time Warner Entertainment Company, L.P. (TWE) for authorization to transfer cable television franchise and partnership interests in its subsidiary Staten Island Cable, LLC to TWE, subject to the terms and conditions set forth in the October.  
**Final rule compared with proposed rule:** No changes.  
**Text of rule may be obtained from:** Central Operations, Public Service Commission, Bldg. 3, 14th Fl., Empire State Plaza, Albany, NY 12223-1350, by fax to (518) 474-9842, by calling (518) 474-2500. An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

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**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

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**NOTICE OF ADOPTION**

**Transfer of Certain Cable System Facilities in the City of New York by Time Warner Entertainment Company, L.P.**

**I.D. No.** PSC-43-04-00021-A  
**Filing date:** May 5, 2005  
**Effective date:** May 5, 2005  
**Pursuant to the provisions of the State Administrative Procedure Act, notice is hereby given of the following action:**

**Action taken:** The commission, on Jan. 12, 2005, adopted an order in Case 04-V-0859 granting Time Warner Entertainment Company, L.P. (TWE) permission to transfer its franchise title and ownership interests from Queens Inner Unity Cable System to TWE.  
**Statutory authority:** Public Service Law, section 222  
**Subject:** Transfer of cable system facilities.  
**Purpose:** To allow TWE to acquire certain cable system facilities from its subsidiary Queens Inner Unity Cable System.  
**Substance of final rule:** The Commission approved a request by Time Warner Entertainment Company, L.P. (TWE) for authorization to transfer cable television franchise and partnership interests from its subsidiary Queens Inner Unity Cable System to TWE, subject to the terms and conditions set forth in the Order.  
**Final rule compared with proposed rule:** No changes.  
**Text of rule may be obtained from:** Central Operations, Public Service Commission, Bldg. 3, 14th Fl., Empire State Plaza, Albany, NY 12223-1350, by fax to (518) 474-9842, by calling (518) 474-2500. An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

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**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(04-V-0859SA2)

NOTICE OF ADOPTION
Transfer of Certain Cable System Facilities in and Around Water-town, NY by Time Warner Entertainment Advance/Newhouse Partnership (TWEAN)
L.D. No. PSC-43-04-00022-A
Filing date: May 5, 2005
Effective date: May 5, 2005
PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: The commission, on Jan. 12, 2005, adopted an order in Case 04-V-0860 granting Time Warner Entertainment Advance/Newhouse Partnership (TWEAN) permission to transfer franchise title and ownership interests from its subsidiary CAT Holdings, LLC to TWEAN.
Statutory authority: Public Service Law, section 222
Subject: Transfer of cable system facilities.
Purpose: To allow TWEAN to acquire certain cable system facilities from CAT Holdings, LLC.
Substance of final rule: The Commission approved a request by Time Warner Entertainment Advance/Newhouse Partnership (TWEAN) for authorization to transfer cable television franchises and ownership interests from its subsidiary CAT Holdings, Inc. to TWEAN, subject to the terms and conditions set forth in the Order.
Final rule compared with proposed rule: No changes.
Text of rule may be obtained from: Central Operations, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, by fax to (518) 474-9842, by calling (518) 474-2500. An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.
Assessment of Public Comment
An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(04-V-0860SA2)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED
Open Market Plan Provisions by Frontier of Rochester, Inc.
L.D. No. PSC-21-05-00008-P
PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:
Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, Frontier of Rochester, Inc.’s (FTR) petition to terminate the remaining provisions of the open market plan (OMP) relating to the holding company structure and other related provisions. All aspects of the remaining OMP provisions are subject to review. Among those provisions are dividend restrictions related to service quality, rules on affiliate transactions, cash management, capital structure, and related issues.
Statutory authority: Public Service Law, sections 91, 94(2) and 95(2)
Subject: Open market plan provisions.
Purpose: To terminate all remaining provisions of the OMP.
Substance of proposed rule: The Commission is considering whether to approve or reject, in whole or in part, Frontier of Rochester, Inc.’s (FTR) petition to terminate the remaining provisions of the Open Market Plan (OMP) relating to the holding company structure and other related provisions. All aspects of the remaining OMP provisions are subject to review. Among those provisions are dividend restrictions related to service quality, rules on affiliate transactions, cash management, capital structure, and related issues.
Text of proposed rule may be obtained from: Margaret Maguire, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 474-3204

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED
Data, views or arguments may be submitted to: Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530
Public comment will be received until: 45 days after publication of this notice.
Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement
Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(93-C-0033SA11)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED
Caller ID Information by Rockland County
L.D. No. PSC-21-05-00009-P
PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:
Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, the petition filed by Rockland County concerning unblockingCaller ID information for calls to its 311 municipal call center.
Statutory authority: Public Service Law, section 94(2)
Subject: Unblocking caller ID information for 311 calls to the Rockland County call center.
Purpose: To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Rockland County.
Substance of proposed rule: The Public Service Commission is considering whether to approve or reject, in whole or in part, the petition filed by Rockland County concerning unblocking Caller ID information for calls to its 311 municipal call center.
Text of proposed rule may be obtained from: Margaret Maguire, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 474-3204
Data, views or arguments may be submitted to: Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530
Public comment will be received until: 45 days after publication of this notice.
Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement
Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(05-C-0472SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED
Accounting Changes and Over Earnings by State Telephone Company
L.D. No. PSC-21-05-00010-P
PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:
Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a petition filed by State Telephone Company to implement certain accounting changes and reduce annual revenues to address over earnings and benefits from the Tax Reform Act of 1986 and other related actions. The company also seeks a

Substance of proposed rule: The Public Service Commission is considering whether to approve or reject, in whole or in part, a petition filed by State Telephone Company to implement certain accounting changes and reduce annual revenues to address over earnings and benefits from the Tax Reform Act of 1986 and other related actions. The company also seeks a

**Text of proposed rule may be obtained from:** Margaret Maguire, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 474-3204

**Data, views or arguments may be submitted to:** Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

**Public comment will be received until:** 45 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

**(05-C-0509SA1)**

**PROPOSED RULE MAKING NO HEARING(S) SCHEDULED**

**Capacity Release Surcharges/Credits by The Brooklyn Union Gas Company**

I.D. No. PSC-21-05-00011-P

**PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:**

**Proposed action:** The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by The Brooklyn Union Gas Company to make various changes in the rates, charges, rules and regulations contained in its schedule for gas service — P.S.C. No. 12.

**Statutory authority:** Public Service Law, section 66(12)

**Subject:** Capacity release surcharges/credits.

**Purpose:** To incorporate ESCO/direct customer capacity release surcharges/credits in the company’s gas tariff.

**Substance of proposed rule:** The Commission is considering The Brooklyn Union Gas Company’s request to incorporate ESCO/Direct Customer capacity release surcharges/credits in the company’s tariff.

**Text of proposed rule may be obtained from:** Margaret Maguire, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 474-3204

**Data, views or arguments may be submitted to:** Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

**Public comment will be received until:** 45 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

**(05-G-0533SA1)**

**PROPOSED RULE MAKING NO HEARING(S) SCHEDULED**

**Transfer of Water Plan Assets by the Hamlet of Groveland Station Water Corp. and the Livingston County Water and Sewer Authority**

I.D. No. PSC-21-05-00013-P

**PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:**

**Proposed action:** The Public Service Commission is considering whether to approve or reject, in whole or in part, or modify, a joint petition filed by The Hamlet of Groveland Station Water Corp. and the Livingston County Water and Sewer Authority for approval of the transfer of the water plant assets of Hamlet of Groveland Station Water Corp. to the Livingston County Water and Sewer Authority.

**Statutory authority:** Public Service Law, section 89-h

**Subject:** Transfer of water plant assets.

**Purpose:** To approve the transfer.

**Substance of proposed rule:** On May 5, 2005, the Hamlet of Groveland Station Water Corp. (Groveland Station) and the Livingston County Water and Sewer Authority (LCWSA) filed a joint petition for approval of the transfer of the water plant assets of Groveland Station to LCWSA. Groveland Station currently provides water service to 130 customer and is located in the Town of Groveland, Livingston County. The Commission may approve or reject, in whole or in part, or modify the company’s request.

**Text of proposed rule may be obtained from:** Margaret Maguire, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223, (518) 474-3204

**Data, views or arguments may be submitted to:** Jaclyn A. Brilling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

**Public comment will be received until:** 45 days after publication of this notice.

**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

**(05-W-0531SA1)**
Racing and Wagering Board

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**EMERGENCY RULE MAKING**

**Drug Testing of Horses**

*LD. No., RWB-21-05-00001-E*

*Filing No., 515*

*Filing date: May 4, 2005*

*Effective date: May 4, 2005*

**PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:**

**Action taken:** Amendment of sections 4043.6, 4043.7, 4038.18, 4120.10, 4120.11, 4109.7 and 4113.3 of Title 9 NYCCR.

**Statutory authority:** Racing, Pari-Mutuel Wagering and Breeding Law, sections 101, 301 and 902

**Finding of necessity for emergency rule:** Preservation of public safety and general welfare.

**Specific reasons underlying the finding of necessity:** These rule amendments will provide an effective mechanism to deter the use of reserpine and fluphenazine in horse racing. Both drugs are being abused in an effort to gain an improper advantage in pari-mutuel racing; however the continued time-based framework of the equine drug rule does not provide effectively for the sanction of abusers and deterrence. These rule amendments will provide an effective mechanism to deter the use of erythropoietin and darbepeoitin in horse racing. These substances are being abused in an effort to gain an improper advantage in pari-mutuel racing; however the existing equine drug rule does not provide an effective means for the sanction of abusers and deterrence. The continued abuse of these drugs and substances, which have no legitimate use in pari-mutuel racing, undermines public confidence in the integrity of racing with resultant loss of willing participants and bettors. This would result in the loss of significant revenues to the State, municipalities, breeders and the industry. In addition, the continued unauthenticated use of these drugs and substances poses a threat to the safety of both the equine and human racing participants. An emergency rule making is necessary because the Board has determined that emergency adoption is necessary for the preservation of the general welfare and public safety and that standard rule making procedures would be contrary to the public interest.

**Subject:** Testing of horses for the drugs reserpine and fluphenazine and for the antibodies of erythropoietin and darbepeoitin, as well as the consequences of positive tests.

**Purpose:** To provide for effective testing for the drugs reserpine and fluphenazine and for the antibodies of erythropoietin and darbepeoitin and the consequences of positive tests, in order to deter their use in horses that compete in pari-mutuel racing.

**Text of emergency rule:** THOROUGHBRED

AMEND Part 4043 (Drugs Prohibited and Other Prohibitions) to add a new Rule 4043.6:

4043.6 Erythropoietin and Darbepeoitin

(a) A finding by the laboratory that the antibody of erythropoietin or darbepeoitin was present in the sample taken from a horse shall establish that the horse is unfit to race in any subsequent race, subject to the provisions of paragraph b.

(b) Any horse that has been the subject of a finding by the laboratory that the antibody of erythropoietin or darbepeoitin was present in the sample taken from that horse shall not be entered or allowed to race in any subsequent race until the horse has tested negative for the antibodies of erythropoietin or darbepeoitin in a test conducted by the laboratory.

(c) Notwithstanding any inconsistent provision of this Part, a horse shall not be subject to disqualification from the race and from any share of the purse in the race, and the trainer of the horse shall not be subject to application of trainer’s responsibility based upon the finding by the laboratory that the antibody of erythropoietin or darbepeoitin was present in the sample taken from that horse.

AMEND Rule 4038.18 (Certain Voidable Claims) to add new paragraphs b and c and reletter existing paragraphs b and c to be d and e respectively:

(a) Post-race positive. Should the analysis of a post-race blood or urine sample taken from a claimed horse result in a post-race positive test, the claimant’s trainer shall be promptly notified in writing by the stewards and the claimant shall have the option to void said claim within five days of receipt of such notice by his trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or his trainer.

(b) Erythropoietin and darbepeoitin. Should the analysis of a post-race blood or urine sample taken from a claimed horse result in a finding by the laboratory that the antibody of erythropoietin or darbepeoitin was present in the sample taken from that horse, the claimant’s trainer shall be promptly notified in writing by the stewards and the claimant shall have the option to void said claim within five days of receipt of such notice by his trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or his trainer.

(c) Reserpine and fluphenazine. Notwithstanding any inconsistent provision of Part 4043, should the analysis of a post-race blood or urine sample taken from a claimed horse result in a finding by the laboratory that the drug reserpine or the drug fluphenazine was present in the sample taken from that horse, the claimant’s trainer shall be promptly notified in writing by the stewards and the claimant shall have the option to void said claim within five days of receipt of such notice by his trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or his trainer.

**HARNESS**

AMEND Part 4120 (Drugs Prohibited and Other Prohibitions) by adding a new Rule 4120.10:

4120.10 Erythropoietin and Darbepeoitin

(a) A finding by the laboratory that the antibody of erythropoietin or darbepeoitin was present in the sample taken from a horse shall establish that the horse is unfit to race in any subsequent race, subject to the provisions of paragraph b. Such horse shall be placed on the stewards’ list.

(b) Any horse that has been the subject of a finding by the laboratory that the antibody of erythropoietin or darbepeoitin was present in the sample taken from that horse shall not be entered or allowed to race in any subsequent race until the horse has tested negative for the antibodies of erythropoietin or darbepeoitin in a test conducted by the laboratory.

(c) Notwithstanding any inconsistent provision of this Part, a horse shall not be subject to disqualification from the race and from any share of the purse in the race and the trainer of the horse shall not be subject to application of trainer’s responsibility based upon the finding by the laboratory that the antibody of erythropoietin or darbepeoitin was present in the sample taken from that horse.

AMEND Rule 4109.7 (Certain Voidable Claims) to add new paragraphs b and c and reletter existing paragraphs b and c to be d and e respectively:

(a) Post-race positive. Should the analysis of a post-race blood or urine sample taken from a claimed horse result in a post-race positive test, the claimant’s trainer shall be promptly notified in writing to the stewards and the claimant shall have the option to void said claim within five days of receipt of such notice by his trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or his trainer.

(b) Erythropoietin and darbepeoitin. Should the analysis of a post-race blood or urine sample taken from a claimed horse result in a finding by the laboratory that the antibody of erythropoietin or darbepeoitin was present in the sample taken from that horse, the claimant’s trainer shall be promptly notified in writing by the stewards and the claimant shall have the option to void said claim within five days of receipt of such notice by his trainer. An election to void a claim shall be submitted in writing to the stewards by the claimant or his trainer.

(c) Reserpine and fluphenazine. Notwithstanding any inconsistent provision of Part 4120, should the analysis of a post-race blood or urine sample taken from a claimed horse result in a finding by the laboratory that the drug reserpine or the drug fluphenazine was present in the sample taken from that horse, the claimant’s trainer shall be promptly notified in
that the drug reserpine or the drug fluphenazine was present in the sample. A trainer of a horse which has been the subject of a finding by the laboratory that the drug reserpine or the drug fluphenazine was present in the sample taken from that horse shall not be subject to application of the rules necessary to implement equine drug testing so that the public’s confidence and the high degree of integrity in racing are assured.

Legislative objectives:

To enable the New York State Racing and Wagering Board to preserve the integrity of pari-mutuel racing.

Needs and benefits:

These rule amendments are necessary to provide an effective mechanism to address and deter the use in the racing horse of the tranquilizers reserpine and fluphenazine, as well as the substances erythropoietin and darbepoetin. All drugs are being abused in an effort to gain an improper advantage in pari-mutuel racing.

The substance erythropoietin and darbepoetin, which stimulate red cell production, are similarly being abused. Erythropoietin (EPO) and darbepoetin (D-EPO) are proteins produced by the kidneys to stimulate red blood cell production. These proteins have been produced as drugs through chemical engineering and are used to treat anemia in humans associated with kidney disease and cancer treatment. These two drugs are also used in sports to improve performance due to increased oxygen-carrying capacity in both humans and horses. The abuse of EPO/D-EPO is undisputed fact throughout the world.

EPO abuse became so prevalent because there was not a drug test available capable of detecting its use. Dr. George Maylin, Director of the Board’s equine drug testing and research program at Cornell University discovered that horses given repeated injections of EPO/D-EPO produced antibodies that could be detected in an ELISA test that he developed. The test is highly specific and is suitable for forensic purposes. This information is derived from tests on samples from horses in competition and research conducted by Dr. Maylin at the Board’s Equine Drug Testing and Research Program at Cornell University.

In 2003-2004, Dr. Maylin conducted a field survey on blood samples collected from racehorses in New York State to verify the extent of the abuse and the problem reported by Board’s investigators. From 9-12-02 to 10-23-03, 403 samples of 37,000 blood samples tested positive for EPO/D-EPO. This was an alarming incidence of abuse. It was ten times the rate of normal drug positives. The results of this study were provided to the Board and in turn, was the basis for promulgation of the rules to regulate the abuse of the drugs.

The incidence of EPO/D-EPO positive tests has been reduced from about 400 per year to only several since the rules were put in effect.

Reserpine and Fluphenazine are tranquilizer drugs that are commonly available capable of detecting its use. Dr. George Maylin, Director of the Board’s equine drug testing and research program at Cornell University discovered that horses given repeated injections of EPO/D-EPO produced antibodies that could be detected in an ELISA test that he developed. The test is highly specific and is suitable for forensic purposes. This information is derived from tests on samples from horses in competition and research conducted by Dr. Maylin at the Board’s Equine Drug Testing and Research Program at Cornell University.

In 2003, investigative reports were made to Dr. George Maylin indicating these drugs were being used on racehorses at the racetrack. As a consequence of these findings, Dr. George Maylin developed tests for these drugs, using experimental horses in his own barns, to develop standards and protocols for testing. Through immunoassay screening and confirmation by liquid chromatography and mass spectrometry, and mass spectrometry again, Dr. Maylin found the horse samples could test positive for reserpine and fluphenazine after 21 days of administration to a horse. In view of this fact, it could not be proven that the drug was given in violation of any current board rules, the highest being prohibited administration within seven days of post time. Once the test protocol was formalized, Dr. Maylin conducted testing on race track samples. Samples were confirmed as positive. Thus, in view of the fact that it is being used at the track, the automatic disqualification of the horse in which it is detected and the option of voiding a claim on a claimed horse with the drug present in it is necessary.

The Board’s existing time-based equine drug rules do not provide effectively for the determination of use or sanctions. The continued and undeterred use of these drugs and substances undermines public confidence in the integrity of racing with corresponding loss of wagering advantage in pari-mutuel racing.
These rules will impose no new costs for state or local governments. The rule will not impose any new costs on the Racing and Wagering Board for the implementation and continued administration of the rule. The costs of manpower, testing and incidental expenses will be accomplished within existing budget limitations.

These rules will impose no costs upon regulated parties in order to comply with limitations concerning the use of the regulated drugs and substances. The only costs are those associated with the sanctions in the event of non-compliance.

Paperwork:
There is no additional paperwork required by or associated with these rule amendments.

Local government mandates:
This rule would impose no local government mandates.

Duplication:
There are no other state or federal requirements similar to the provisions contained in the rule amendment.

Alternative approaches:
There are no other significant alternatives to this rule, which was drafted to accomplish the stated benefits with the least negative impact upon the pari-mutuel racing industry. No action would fail to address the existing problems associated with continued abuse of the drugs and substances that are the subject of these rules.

Federal standards:
The rule does not exceed any minimum standards of the federal government because there are no applicable federal rules.

Compliance schedule:
Compliance can be accomplished immediately.

Regulatory Flexibility Analysis
1. Effect of rule:
The rules do not apply to and thus will not adversely affect local government. The rules will impact all licensed owners and trainers of racehorses that seek to compete in pari-mutuel racing. There are thousands of such licensed owners and/or trainers. The number of horses owned or trained by such licensees may range from one to hundreds. These individuals operate businesses that generally employ less than one hundred persons.

2. Compliance requirements:
There are no required reporting or recordkeeping requirements for small businesses. There are no professional services that are likely to be needed to comply with these rules. The rules do not impose any technological requirements on the industry. The compliance component of the rules, i.e., the exclusion of a horse from pari-mutuel racing competition, is a consequence of the report of a positive test. In that situation, the horse may not participate again until the horse has been restested without a positive result.

3. Professional services:
There are no professional services required to comply with the proposed rules.

4. Compliance costs:
There are few anticipated compliance costs. The licensees should already be monitoring use of drugs and other substances to assure conformity with Board rules. There will be a potential loss of purse monies associated with the exclusion of horses until a clearance test. This cost cannot be estimated due to the competitive nature of horse racing. During this time there might be lower costs associated with the care of the horse if the horse is not maintained in active training status. The cost of the necessary restest will be borne by the Board.

5. Economic and technological feasibility:
There are no technological requirements associated with compliance. There should be no costs associated with compliance. Erythropoietin and darbepoietin have no legitimate use in the racing horse and therefore no affirmative compliance requirement exists. The drugs reserpine and fluphenazine are tranquilizers for which alternatives exist. Horsemen may comply with the prohibitions of the rule by use of alternative drugs at an equal or lesser cost.

6. Minimizing adverse impact:
The Board attempted to minimize adverse impact, consistent with the need to assure public safety and general welfare, by excluding a horse from competition only for the limited period necessary for a negative retest and by providing for limitation of disciplinary sanctions from the otherwise general application of the trainer’s responsibility rule.

7. Small business and local government participation:
The Board provided notice of the concepts and general requirements of these rules to various segments of the regulated racing industry. Among those segments were the representative horsemen’s associations. These associations (one per track) include most if not all of the small business industry participants (owners and trainers) as members.

Rural Area Flexibility Analysis
1. Types and estimated numbers of rural areas:
The rules will impact all licensed owners and trainers of racehorses that seek to compete in pari-mutuel racing. Many of the licensees affected by these rules are located within “rural areas” as that term is defined in New York State Executive Law Section 481(7). The impact of compliance of those entities located in rural areas should be substantially the same as, if not identical to that in other than rural areas.

2. Reporting, recordkeeping and other compliance requirements:
There are no required reporting or recordkeeping requirements for small businesses. There are no professional services that are likely to be needed to comply with these rules. The rules do not impose any technological requirements. The compliance component of the rules, i.e., the exclusion of a horse from pari-mutuel racing competition, is a consequence of the report of a positive test. In that situation, the horse may not participate again until the horse has been restested without a positive result.

3. Costs:
There are few anticipated compliance costs. The licensees should already be monitoring use of drugs and other substances to assure conformity with Board rules. There will be a potential loss of purse monies associated with the exclusion of horses until a clearance test. This cost cannot be estimated due to the competitive nature of horse racing. During this time there might be lower costs associated with the care of the horse if the horse is not maintained in active training status. The cost of the necessary restest will be borne by the Board.

4. Minimizing adverse impact:
As a consequence of the location of horsemen in rural areas, these rules have similar impact on rural areas as on non-rural areas of the State. The geographic location of the horses and horsemen is incidental to the substance of the rule. Consequently, there is no way to design the rule to minimize impact on rural areas.

5. Rural area participation:
The Board provided notice of the concepts and general requirements of these rules to various segments of the regulated racing industry. Among those segments were the representative horsemen’s associations. These associations (one per track) include most if not all of the rural area small business industry participants (owners and trainers) as members.

Job Impact Statement
A job impact statement is not submitted with this notice because the New York State Racing & Wagering Board has determined that these rules will not have a substantial adverse impact on jobs and employment opportunities. The area of potential impact is that which will result from the exclusion of a horse from pari-mutuel competition only for the limited period necessary for a negative retest and by providing for limitation of disciplinary sanctions from the otherwise general application of the trainer’s responsibility rule.

7. Small business and local government participation:
The Board provided notice of the concepts and general requirements of these rules to various segments of the regulated racing industry. Among those segments were the representative horsemen’s associations. These associations (one per track) include most if not all of the small business industry participants (owners and trainers) as members.
EMERGENCY RULE MAKING

Detection of Elevated TCO2 in Race Horses

I.D. No., RWB-21-05-00004-E
Filing No. 518
Filing date: May 6, 2005
Effective date: May 6, 2005

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Parts 4043 and 4120 and section 4109.7 of Title 9 NYCCR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 101, 207, 227, 301, 305, 401, 405, 902; Unconsolidated Laws, section 8162(1)

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: In January 2005, the U.S. Justice Department arrested a New York-licensed thoroughbred trainer and a prominent New York-licensed harness driver and charged the two with milkshaking a thoroughbred at Aqueduct Raceway in December 2003 to increase the odds that the horse, A One Rocket, would win. According to the Justice Department, this was not an isolated incident and such violations occurred regularly. This case has brought national attention to the issue of milkshaking and the need to adopt testing programs and penalties for such “milkshaking” practices. Clearly, the practice of milkshaking race horses is detrimental to the integrity of the sport of horse racing, erodes public confidence in pari-mutuel wagering events, and invites criminal abuse and exploitation.

Subject: Detection of elevated levels of TCO2 in race horses.

Purpose: To detect and deter the prohibited practice known as “milkshaking.”

Substance of emergency rule: 4043.8(a) Establishes method of testing thoroughbred racehorses to detect excess levels of total carbon dioxide (TCO2) using a Clinical Auto Analyzer, establishes the threshold for excess TCO2 at 37 millimoles per liter.
4043.8(b) Establishes penalties for excess TCO2 violations in a thoroughbred racehorse ranging from a 60-day license suspension and $1,000 fine to a maximum 60-day license suspension with a $5,000 fine with a possible one-year Board-imposed license suspension. Includes provision for purse redistribution in case of a positive excess TCO2 test.
4043.8(c) Establishes procedures for stewards to grant relief in cases where excess TCO2 levels are found, to allow a thoroughbred horse owner or trainer to place the horse in guarded quarantine to support a claim of naturally occurring excess TCO2 levels in a horse.
4043.8(d) Establishes that any person participating in the thoroughbred racehorse blood gas testing or thoroughbred racehorse guarded quarantine program shall act at the direction of the Racing and Wagering Board.
4043.8(e) Establishes minimum standards for guarded quarantine of a thoroughbred race horse at a race track operated by a track association.

4043.9(a) Establishes a post-race blood gas-testing program for thoroughbred race horses, and pre-guarded quarantine procedural requirements and requirements for thoroughbred horses that have been tested and found to have excess TCO2 levels.
4043.9(b) Establishes pre-guarded quarantine procedures for thoroughbred horses under the care of a trainer who has been found to have had a horse under his care and custody that was tested and found to have excess TCO2 levels.
4043.9(c) Establishes pre-guarded quarantine requirements for a thoroughbred horse that has been tested and found to have excess TCO2 levels.
4043.10 Establishes punishment for failure to cooperate in the thoroughbred post race gas-testing program.
4038.18 Allows claimants in a claiming race to void a claim on a thoroughbred horse that is subsequently found to have excess TCO2 levels.
4120.13(a) Establishes method of testing harness racehorses to detect excess levels of total carbon dioxide (TCO2) using a Clinical Auto Analyzer, establishes the threshold for excess TCO2 at 37 millimoles per liter.
4120.13(b) Establishes penalties for excess TCO2 violations in a harness racehorse ranging from a 60-day license suspension and $1,000 fine to a maximum one-year license suspension with a $5,000 fine with a possible one-year Board-imposed suspension. Includes provision for purse redistribution in case of a positive excess TCO2 test.
4120.13(c) Establishes procedures for judges to grant relief in cases where excess TCO2 levels are found, to allow a harness racehorse owner or trainer to place the horse in guarded quarantine to support a claim of naturally occurring excess TCO2 levels in a horse.
4120.13(d) Establishes that any person participating in the harness racehorse blood gas testing or thoroughbred guarded quarantine program shall act at the direction of the Racing and Wagering Board.
4120.13(e) Establishes minimum standards for guarded quarantine of a harness racehorse at a race track operated by a track association.
4120.14(a) Establishes a post-race blood gas-testing program for harness racehorses, and pre-guarded quarantine procedural requirements for harness racehorses that have been tested and found to have excess TCO2 levels.
4120.14(b) Establishes pre-guarded quarantine requirements for harness racehorses under the care of a trainer who has been found to have had a harness racehorse under his care and custody that was tested and found to have excess TCO2 levels in the previous 12 months.
4120.14(c) Establishes post-guarded quarantine requirements for a harness racehorse that has been found and test to have excess TCO2 levels.
4120.15 Establishes punishment for failure to cooperate in the harness post race gas testing program.
4109.7(f) Allows claimants in a claiming race to void a claim on a harness racehorse that is subsequently found to have excess TCO2 levels.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the State Register at some future date. The emergency rule will expire August 3, 2005.

Text of emergency rule and any required statements and analyses may be obtained from: Mark A. Stuart, Racing and Wagering Board, One Watervliet Ave. Ext., Suite 2, Albany, NY 12206, (518) 453-8460, e-mail: mstuart@racing.state.ny.us

Regulatory Impact Statement

(a) Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 101, 207, 227, 301, 305, 401, 405, 902; Unconsolidated Laws, section 8162(1).
(b) Legislative objectives:
This amendment advances the legislative objective of regulating the conduct of pari-mutuel wagering in a manner designed to maintain the integrity of racing while generating a reasonable revenue for the support of government.
(c) Needs and benefits:
This rule making is necessary to assure the public’s confidence and continue the high degree of integrity in racing at the pari-mutuel betting tracks. This rule making will detect and deter the administration of alkaline agents to thoroughbred racehorses and harness racehorses for the purpose of affecting the performance of such horse during a pari-mutuel wagering race.

The administration of alkali agents into a racehorse is commonly known as “milkshaking,” where a person administers a mixture of sodium bicarbonate, sugar and water to a horse prior to a race to mitigate the effects of lactic acid on the horse’s muscles during the race, thereby gaining an advantage. Lactic acid is a naturally occurring byproduct of intense muscular exercise in mammals, and the accumulation of lactic acid in such muscles causes fatigue. Some people associated with racehorses believe that the administration of an alkaline substance, such as bicarbonate of soda, can neutralize the effect of lactic acid in a horse’s muscles. This has resulted in the use of alkalis and agents, or “milkshakes” which are administered to a racehorse in an attempt to alter the performance of the horse. Based on this belief, people have administered milkshakes to racehorses on the day of a race with the intent to gain a racing advantage.

This rule making is necessary to establish empirical standards and testing procedures for the enforcement of Board Rule 4043.3(d) and Board Rule 4120.3(d), which apply to thoroughbred and harness racehorses respectively and state “No person shall, either by word, deed, or cause, solicit, request, or conspire with another or others to, . . . administer a mixture of bicarbonate of soda and sugar in any of their forms in any manner to a horse within 24 hours of a racing program at which such horse is programmed to race. It shall be the trainer’s responsibility to prevent such administration.”

Horses that have received an alkalinizing agent will exhibit elevated levels of TCO2 over and above normal levels. This rule making will establish the ion selective electrode method with a clinical auto analyzer as a standard means of detecting elevated TCO2 in horses, and 37 millimoles per liter as the threshold level for TCO2.

22.1

NYS Register/May 25, 2005

Rule Making Activities
In January 2005, the U.S. Justice Department arrested a New York licensed thoroughbred trainer and a prominent New York harness driver and charged the two with milkshaking a thoroughbred at Aqueduct Raceway in December 2003 to increase the odds that the horse, A One Rocket, would win. The rule making is based upon an established TCO2 testing program already adopted and in use by the New Jersey Racing Commission. To date, New Jersey is the only state that conducts TCO2 testing and there are no other TCO2 testing methods adopted in any other state. The testing procedure included in this rule making is the only TCO2 test that has been reviewed and declared reliable by a state court, in this case, the New Jersey Supreme Court recognized the reliability of the Beckman test generally and as applied by the New Jersey Racing Commission (Campbell v. New Jersey Racing Commission, New Jersey Supreme Court, 169 N.J. 579, 781 A.2d 1035, October 11, 2001.)

(i) Federal standards:

There are no federal standards applicable to the subject area of state regulated pari-mutuel wagering activity.

(j) Compliance schedule:

The practice known as “milkshaking” of horses in already prohibited by rule under 9E NYCRR 4043.3 for thoroughbred racehorses and 9E NYCRR 4120.3 for harness racehorses. All of the provisions of this rule making shall be effective immediately upon filing with the Department of State.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for small businesses and governments is not attached because it is apparent from the nature of the rule making that the rule making will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small business or local governments. The TCO2 test mirrors existing medication testing programs, and while some horse owners may be required to bear the cost of a guarded quarantine, the costs are elective based upon the licensed owner’s or trainer’s decision to determine the horse’s excess TCO2 levels prior to entering the horse in a race.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not attached because it is apparent from the nature of the rule making that the rule making will not impose any adverse economic impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

This rule making will not have an adverse impact on jobs and employment opportunities as apparent from its nature and purpose. This rule making utilizes existing testing personnel and facilities. This rule making may create jobs for guards who are experienced and trained in detention bars. Guarded quarantine may require one guard per horse, or one guard for many horses, depending upon the access points that need to be controlled for an effective guarded quarantine. The Board’s rule making requires that the subject horse is kept in an area where access to the subject horse is restricted to authorized licensed trainers, owners and veterinarians as submitted by the owner, that guards maintain a record of all licensed persons who have had access to the horse while in guarded quarantine, along with the time and purpose of the visit. In addition to the distinctive limitations that the guarded quarantine barn will have upon the cost, the wages of a guard varies depending upon the racetrack itself. According to track representatives, the hourly cost of guard may range from $7 per hour up to $20 per hour depending on the individual racetrack, experience required for the specific duties (e.g., a stable guard who is responsible for surveillance only compared to a quarantine supervisor who is responsible for also identifying illegal paraphernalia, treatments or procedures) and local pay scale. The minimum time that a horse is to be quarantined is six hours, and the maximum time for quarantine is 72 hours.

Traffic Control Changes at the State University of New York at Stony Brook

L.D. No. SUN-21-05-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: Amendment of section 584.5 of Title 8 NYCRR.

Statutory authority: Education Law, section 360(1)

Subject: Traffic control changes on the campus of the State University of New York at Stony Brook.

Purpose: To more clearly designate traffic flow, fire zones and lanes.

Text of proposed rule: § 584.5 is Amended to read as follows: § 584.5 Traffic Control.

(b) Intersectional control—stop intersections.

(1) The intersection of South Drive with the following roads and parking lot access roads:

(i) All exits of South P lot—entrance from the south, [except at the entrance to Stony Brook Child Care Center.

(ii) Lake [Drive] lots.

(10)
(ii) All exits from West Drive
(12) The intersection of Lake [Drive] lots.
(18) The intersection of Kelly Drive with the following roads:
   (i) West Drive
   (ii) Schomburg Apartment Parking Lot access road
   (f) Fire Zones, Fire Lane, (i) Kelly [Quad access road] Drive from [North Loop] Circle Road to Roosevelt Quad for traffic proceeding in a counterclockwise direction only.
(ii) Main Entrance of University Hospital.
(iii) Emergency Room Entrance of University Hospital.
(iv) Roadway, east of Student Union
(v) Fine Arts Loop, inner curb
(vi) Chemistry Building roadway
(vii) Humanities Building roadway
(viii) Life Sciences Building roadway
(ix) Chapin Apartment Roadway
(g) Traffic Control Signals Traffic control signals
   (i) South Drive and entrance to Child Care Center
   (ii) [Forest] Marburger Drive and South Drive
   (iii) [East Loop Road] Health Sciences Drive and the intersection of Ambulatory Surgery Center/L.I. Veterans’ Home.
   (iv) [East Loop Road] Health Sciences Drive and the intersection of the Main Entrance to University Hospital
   (v) [East Loop Road] Health Sciences Drive and Health Sciences Service Road.
   (vi) Flashing Cautionary device immediately north of intersection of [Forest] Marburger Drive and [South Loop] Circle Road.

Text of proposed rule and any required statements and analyses may be obtained from: Lynnette M. Phillips, SUNY Stony Brook, Office of the University Counsel, 328 Administration Bldg., Stony Brook, NY 11794-1213, (631) 632-6110, e-mail: Lynette.Phillips@sunysb.edu

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement
1. Statutory Authority:
   Education Law § 360(1)
2. Legislative Objectives:
   To provide for safety and convenience of students, faculty, employees and visitors within and upon the property, roads, streets and highways under the supervision and control of the State University through the regulation of vehicular and pedestrian traffic, parking and signage.
3. Needs and Benefits:
   Changes in traffic control designations on the State University campus are designed to enable the campus community, visitors and emergency vehicles to traverse the campus more safely and more efficiently.
4. Costs:
   None.
5. Local Government Mandates:
   None.
6. Paperwork:
   None.
7. Duplication:
   None.
8. Alternatives:
   None.
9. Federal Standards:
   There are no related Federal standards.
10. Compliance Schedule:
   The campus will notify those affected as soon as the rule is effective.

Compliance should be immediate.

Regulatory Flexibility Analysis
No regulatory flexibility analysis is submitted with this notice because this proposal does not impose any requirements on small businesses and local governments. This proposed rule making will not impose any adverse economic impact on small businesses and local governments or impose any reporting, recordkeeping or other compliance requirements on small businesses and local governments. The proposal addresses traffic control on the campus of the State University of New York at Stony Brook.

Rural Area Flexibility Analysis
No rural area flexibility analysis is submitted with this notice because this proposal will not impose any adverse economic impact on rural areas or impose any reporting, recordkeeping or other compliance requirements on public or private entities in rural area. The proposal addresses traffic control changes on the campus of the State University of New York at Stony Brook.

Job Impact Statement
No job impact statement is submitted with this notice because this proposal does not impose any adverse economic impact on existing jobs or employment opportunities. The proposal addresses traffic control changes on the campus of the State University of New York at Stony Brook.

Office of Temporary and Disability Assistance

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Section 8 Housing Vouchers
I.D. No. TDA-21-05-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed action: Amendment of sections 352.3(d)(2), 352.5(b), (f)(2) and (5)(i); and addition of section 352.3(d)(2)(ii) to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 131(1) and 355(3)

Subject: Section 8 housing vouchers.

Purpose: To establish a reasonable shelter schedule for persons and families receiving temporary assistance and rent subsidies under the Section 8 Voucher Program.

Text of proposed rule: Section 352.3(d)(2)(ii) is amended to read as follows:

(i) [Section 236 rental assistance program,] Subsidized housing other than section 8 housing vouchers[, section 8 housing program (noncertificate)]. The rent allowance for tenants of housing subsidized under [the section 236 rental assistance program or the section 8] a housing assistance payments program, except as provided in subparagraph (ii) of this paragraph, is the amount of rent actually paid (exclusive of the subsidy) but not more than the amount in the applicable schedule in subdivisions (a) and (b) of this section.

Section 352.3(d)(2)(ii) is added to read as follows:

(ii) Section 8 voucher program.
   (a) The rent for recipients whose rental housing payments are subsidized under the section 8 voucher program (not including a recipient participating in the program of special allowances for owners of manufactured homes) shall be the amount actually paid, but not in excess of the amount (rounded to the nearest whole dollar) equal to 30 percent of the applicable standard of need by family size and district of residence, considering only the SA-2a, SA-2b, SA-2c schedules contained in section 352.2(d) of this Part, and the local agency monthly shelter allowance schedule with children, exclusive of any supplement. For the purpose of this subparagraph, the allowance amounts are those in Office regulation and in effect on the filing date of this subparagraph.
   (b) Subparagraph (a) of this subdivision shall not apply to recipients whose section 8 vouchers are provided by public housing authorities or other local section 8 voucher issuing agencies that routinely determined the tenants’ share of the rent due and payable for months commencing on or before October 1, 2004 to be the local agency shelter maximums under subdivision (a) of this section.
   (c) The Office shall develop an administrative process to certify whether subparagraph (a) or (b) shall apply to each individual public housing authority or other local section 8 voucher issuing agency.

The introductory language of section 352.5(b) and sections 352.5(f)(2) and 352.5(f)(5)(i) are amended to read as follows:

(b) Fuel for heating allowances.
   Each social services district must grant an allowance for fuel for heating to a public assistance applicant/recipient or self-maintaining grantee in receipt of public assistance for a dependent child or children when it is documented that the applicant/recipient/grantee is the tenant of record, as defined in subdivision (a) of this section, with primary responsibility for payment of the residential heating costs. A fuel for heating allowance must
also be granted to a public assistance applicant/recipient/grantee whose utility heating bill may include costs for service for the applicant/recipient/grantee’s own residential unit and for space outside that unit or whose non-utility heating bill includes costs for the applicant/recipient/grantee’s own residential unit and for other residential units when it is documented that the applicant/recipient/grantee is the tenant and customer of record as defined in subdivision (a) of this section. When a fuel for heating allowance is granted to an applicant/recipient/grantee who is the customer of record for a utility bill which may include costs for service for the applicant/recipient/grantee’s own residential unit and for space outside that unit, the social services district must determine whether a referral for a shared fuel for heating allowance, in accordance with the provisions of section 352 of the Public Service Law, is appropriate. [A fuel for heating allowance is not granted to an applicant/recipient/grantee budgeted in accordance with the Section 8 certificate housing provisions outlined in section 352.3(d)(2)(ii) of this Part.] To have primary responsibility for the payment of residential heating costs, the applicant/recipient/grantee must be the customer of record, as defined in subdivision (a) of this section, for the residential heating bill with a home energy vendor. Fuel for heating allowances must be provided on a 12-month heating season (October 1st through September 30th) in accordance with the following schedules and must be based upon the applicant/recipient/grantee’s primary residential heating source:

(2) Payment must be provided as a nonrecoupable grant when it is documented that during the period specified in paragraph (1) of this subdivision the recipient has fully applied the public assistance grant to purposes intended to be included in such grant. Such documentation for recipients [not budgeted in accordance with the Section 8 certificate housing provisions outlined in section 352.3(d)(2)(ii) of this Part] must include proof of payment of: an amount at least equal to the combined Home Energy Allowance and Supplemental Home Energy Allowance (HEA and SHEA) budgeted in the public assistance grant to domestic (lights, cooking, hot water) energy costs; the monthly fuel for heating allowance budgeted in the public assistance grant to incurred heating costs; and the monthly shelter allowance budgeted in the public assistance grant to shelter costs. In addition, there must be no other evidence of mismanagement. [Document for recipients budgeted in accordance with the provisions outlined in section 352.3(d)(2)(ii) of this Part must include proof of payment of: an amount at least equal to the combined Home Energy Allowance and Supplemental Home Energy Allowance (HEA and SHEA) budgeted in the public assistance grant to domestic energy costs (lights, cooking, hot water); an amount at least equal to the shelter allowance budgeted in the public assistance grant towards shelter, heating, water, and other shelter-related items covered by the federal Department of Housing and Urban Development utility allowance. In addition, there must be no other evidence of mismanagement.]

(i) If the recipient’s utility bill represents “heat only,” and the recipient does not reside in or is not budgeted in accordance with the Section 8 certificate housing provisions outlined in section 352.3(d)(2)(ii) of this Part, the recipient's monthly fuel for heating allowance is reduced from the recipient’s monthly grant. [If the recipient’s utility bill represents “heat only” and the recipient does reside in section 8 certificate housing or is budgeted in accordance with section 352.3(d)(2)(ii) of this Part, the balance of the shelter allowance minus the actual rent obligation, up to an amount equal to the appropriate fuel allowance schedule set forth in subdivision (b) of this section for the appropriate heating type and public assistance household size, is removed from the grant.] Heating costs paid by the district which exceed the amount removed from the recipient’s grant are considered to be overpayments subject to recoupment in accordance with section 352.31(d) of this Part.

Text of proposed rule and any required statements and analyses may be obtained from: Ronald Speier, Office of Temporary and Disability Assistance, 40 N. Pearl St., Albany, NY 12243, (518) 474-6573

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory Authority:
Section 20(3)(d) of the Social Services Law (SSL) authorizes the Department of Social Services to promulgate regulations to carry out its powers and duties. Section 122 of Part B of Chapter 436 of the Laws of 1997 reorganized the Department of Social Services into the Department of Family Assistance with two distinct offices, the Office of Children and Family Services and the Office of Temporary and Disability Assistance (OTDA). The functions of the former Department of Social Services concerning financial support services were transferred by Chapter 436 to OTDA.

Section 34(3)(f) of the SSL requires the Commissioner of the Department of Social Services to establish regulations for the administration of public assistance and care within the State. Section 122 of Part B of Chapter 436 provides that the Commissioner of the Department of Social Services will serve as the Commissioner of OTDA.

Section 131(1) of the SSL requires social services officials, insofar as funds are available therefor, to provide adequately for those unable to maintain themselves.

Section 355(3) of the SSL authorizes OTDA to promulgate regulations for the Family Assistance (FA) program.

2. Legislative Objectives:

The intent of the Legislature in enacting the above statutes that the Office establish rules, regulations and policies so that adequate provision could be made for those persons unable to provide for themselves and that, whenever possible, such persons can be restored to a condition of self-support and self-care.

3. Needs and Benefits:

The regulations of the Housing and Urban Development (HUD) Section 8 voucher program provide that the tenant’s share of the rent is the highest of three calculated amounts: (1) 10% of the family’s total income; (2) 30% of the family’s gross income adjusted to reflect certain deductions; or (3) in states (such as New York) that pay separate, identifiable shelter allowances for rent up to the amount of the actual charges, the maximum allowable shelter allowance. In New York, the third of these amounts, the applicable maximum shelter and fuel allowances, are almost invariably the highest of the three and are not capped for families that have high energy costs.

This Office has recently become aware that housing authorities throughout the State have varied greatly in their implementation of HUD requirements, with many charging 30% of income and applying HUD adjustments instead of using New York’s maximum shelter and fuel allowances, resulting in vastly differing amounts paid by social services districts for shelter allowances. This disparity caused by the failure to charge tenants the highest of the three calculated amounts affects the amount of the federal Section 8 subsidy, the amount of the recipient’s income when calculating food stamp benefits and the amount of assistance owed by the recipient to the social services district and State for past assistance under various provisions of State law providing for recovery or recoupment.

HUD had previously directed housing authorities to reauthenticate the rent payable by public assistance recipients to conform to its regulations by January 1, 2005. The increases in rent would have strained the budgets of the affected social services districts, which have not had sufficient time to prepare for this cost, impairing their ability to meet administrative obligations and to provide services and supports to recipients, while simultaneously reducing federal subsidies and the food stamp allotments of Section 8 tenants.

These changes to the State’s regulations governing the shelter allowance of applicants and recipients of public assistance who participate in the Section 8 voucher program provide that New York will pay a rent allowance of up to 30% of the total of the maximum allowances otherwise available for basic needs, shelter, fuel and energy. This will provide a measure of uniformity and insure that participants in the voucher program will not receive a lower subsidy than other families based only on the fact that they also receive public assistance. The reduced Section 8 voucher subsidy that would otherwise be paid on January 1, 2005, would increase public assistance benefits without increasing spending power. Since food stamp benefits are generally reduced by any increase in income, the change would produce a reduction in food stamp benefits. Public assistance families who participate in the Section 8 voucher program are therefore likely to be disadvantaged in a way that non-public assistance families with the same level of income are not. The Office has taken into consideration the effect of this change on the income of public housing authorities. For public housing authorities that were not charging the applicable New York State maximum shelter and fuel allowances, these changes will produce a moderate increase in rental income, although not large as it would have been generated by using the State’s maximum allowances. The Office recognizes that some public housing authorities have already been calculating the tenant’s share using the local district shelter maximums. If this rule were applied to those public housing authorities, the resulting substantial reduction in shelter allowances would be highly disruptive. In order to mitigate any negative financial impact of this change on those authorities, and since their tenants have already absorbed any negative impact on the food stamp benefits, this change includes a grandfathering provision. The
Office will develop an administrative process for determining whether or not a public housing authority or other local Section 8 voucher issuing agency will qualify under the grandfathering provision.

4. Costs:
The regulatory change will result in cost avoidance to the State and local governments. If the change is not made and housing authorities are allowed to increase rents to the maximums allowed for each social services district, it is projected that there will be additional costs of approximately $52 million gross annually, with a State and local share of $19 million each and a federal share of $14 million.

Adoption of the proposed amendments would potentially result in a slight increase in costs due to the need to revise the budgeting methodology for determining the amount of assistance to be provided to public assistance recipients. Based on an extensive analysis of current average shelter allowances, case sizes and the current resident rent calculation worksheet, it is anticipated that the regulatory change will result in an average shelter increase of $12 per month per recipient. Gross annual costs as a result of this increase are projected to be $5.25 million with a State and local share of approximately $1.9 million each and a federal share of $1.45 million.

Taking into account the cost avoidance plus the anticipated cost associated with the amendments, the net result of the regulatory change is a cost avoidance of $47 million gross with the State and local shares estimated to be $17 million each and the federal share estimated to be $13 million.

5. Local Government Mandates:
This change will result in local social services districts having to rebudget the benefits for individuals and families receiving Section 8 voucher subsidies. Although local social services districts already must communicate with the public housing authorities or other local Section 8 voucher issuing agencies in their districts, a greater level of communication will be required at the initial implementation stage of this change.

6. Paperwork:
Local social services districts will have to rebudget affected cases and provide timely and adequate notice to those households. The change is likely to result in increased requests for administrative fair hearings, at least initially.

Those public housing authorities or other local Section 8 voucher issuing agencies which claim to qualify under the grandfathering provision of the proposed regulations must verify that they qualify and have to provide this Office and/or the local social services office with documentation necessary to validate that claim.

7. Duplication:
This regulation does not duplicate any other requirements. Rather, it establishes a separate budgeting methodology that applies only to certain public assistance households with Section 8 voucher program subsidies.

8. Alternatives:
The alternative is to leave the budgeting unchanged. This is not a desirable alternative since it results in public assistance households with Section 8 voucher program subsidies being treated less favorably than Section 8 voucher families who do not receive public assistance.

9. Federal Standards:
There are no federal standards that impact OTDA’s decisions about how to determine a family’s shelter allowance.

10. Compliance Schedule:
The changes will be effective when the regulations become effective and local social services districts will be required to implement the changes no later than the next contact with the family.

**Regulatory Flexibility Analysis**

1. Effect of Rule:
The proposed amendments will have no impact on small businesses but will have an impact on the 58 local social services districts in the State. The proposed amendments also will have an impact on the federal offices of the Department of Housing and Urban Development located in this State that issue section 8 housing vouchers.

2. Compliance Requirements:
The proposed amendments will require social services districts to rebudget the public assistance benefits for individuals and families receiving section 8 housing vouchers unless the issuing agency is exempt under the grandfathering provision of the proposed regulations.

3. Professional Services:
The proposed amendments will not require local governments to incur costs for additional professional services.

4. Compliance Costs:
The proposed amendments will not require additional compliance costs for small businesses. Local social services districts will experience an additional workload during the implementation stage of this change. The costs associated with this additional workload will not be extensive but cannot be projected at this time.

5. Economic and Technological Feasibility:
Local social services districts have the electronic and technological ability to comply with these regulations when they become effective.

6. Minimizing Adverse Impact:
There will be no adverse impact on small businesses. Local social services districts will have an initial increased workload but the workload will stabilize after the proposed amendments become operational.

7. Small Business and Local Government Participation:
Social services districts were not made aware of the proposed amendments prior to the regulations being adopted on an emergency basis. Upon filing the emergency regulations, the social services districts were made aware of the proposed amendments and it is anticipated that they will support the amendments.

**Rural Area Flexibility Analysis**

1. Type and estimated numbers of rural areas:
The proposed regulations will affect the 44 rural social services districts in the State.

2. Reporting, recordkeeping and other compliance requirements; and professional services:
The proposed regulations will require social services districts to rebudget the public assistance benefits for individuals and families receiving section 8 housing vouchers unless the issuing agency is exempt under the grandfathering provision of the proposed regulations. No new professional services will be imposed on the social services districts in rural areas in order for those districts to comply with the proposed regulations.

3. Costs:
Local social services districts in rural areas will experience an additional workload during the implementation stage of the change. The costs associated with this additional workload will not be extensive but cannot be projected at this time.

4. Minimizing adverse impact:
The proposed regulations will not have an adverse economic impact on social services districts in rural areas.

5. Rural area participation:
Social services districts in rural areas were not made aware of the proposed amendments prior to the regulations being adopted on an emergency basis. Upon filing the emergency regulations, the social services districts in rural areas will be made aware of the proposed amendments and it is anticipated that they will support the amendments.

**Job Impact Statement**
A job impact statement has not been prepared for the proposed regulatory amendments. It is evident from the subject matter of the amendments that the job of the worker making the decisions required by the proposed amendments will not be affected in any real way. Thus, the changes will not have any impact on jobs and employment opportunities in the State.