

RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

- AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing; or C for first Continuation.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Adirondack Park Agency

NOTICE OF ADOPTION

Adirondack Park Agency Regulations

I.D. No. APA-17-05-00007-A
Filing No. 927
Filing date: Aug. 25, 2005
Effective date: Sept. 14, 2005

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

Action taken: Amendment of Parts 570-573, 576, 587 and 588 and repeal of Appendix Q-1 of Title 9 NYCRR.

Statutory authority: Adirondack Park Agency Act, Executive Law, art. 27; Wild, Scenic and Recreational Rivers System Act (ECL section 15-2709); Freshwater Wetlands Act (ECL section 24-0801)

Subject: Adirondack Park Agency regulations.

Purpose: To clarify and simplify the regulations.

Text or summary was published in the notice of proposed rule making, I.D. No. APA-17-05-00007-P, Issue of April 27, 2005.

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

Text of rule and any required statements and analyses may be obtained from: Barbara A. Rottier, Associate Counsel, Adirondack Park Agency, P.O. Box 99, Ray Brook, NY 12977, (518) 891-4050, e-mail: barottie@gw.dec.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Department of Correctional Services

EMERGENCY RULE MAKING

Packages and Articles Sent or Brought to Institutions

I.D. No. COR-37-05-00008-E
Filing No. 930
Filing date: Aug. 30, 2005
Effective date: Aug. 30, 2005

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

Action taken: Repeal of Part 724 and addition of new Part 724 to Title 7 NYCRR.

Statutory authority: Correction Law, section 112

Finding of necessity for emergency rule: Preservation of public safety.

Specific reasons underlying the finding of necessity: Packages have represented a window through which inmates and their external sources have attempted to transmit contraband items such as drugs, money and articles which can be used as or converted to weapons. Because of technological advances, seemingly innocuous consumer items may conceal sinister capabilities, and advances in packaging have sometimes aided in disguising and concealing dangerous products. When such items are successfully smuggled into a correctional facility, they become an instant threat to the safety and security of staff, inmates, visitors, volunteers and the public at large.

Accordingly, the Department has concluded that it must have the capability of making immediate changes to the list of items allowed to be received via packages. For this reason, the listing, previously presented at section 724.4 of this regulation, has been removed. The listing, which has always been printed as part of the Department's internal directive #4911, "Packages and Articles Sent or Brought to Institutions," will henceforth be viewable on the Department's website and, as before, posted in facilities and available to inmates at facility libraries. The department will be able, thereby, to quickly alter the list whenever it becomes evident that an item presents a security risk. Likewise, public access to the up-to-date list will help to minimize the likelihood that someone might purchase and send to an inmate an article that would not be allowed.

Concurrently, the remainder of Part 724 is amended to reflect procedures designed to enhance security, guard against abuse of package privileges and prevent importation of contraband into correctional facilities.

In view of the potential harm to public safety which may arise from abuse of inmate package privileges, the Department has concluded that this rule should be implemented on an emergency basis.

Subject: Packages and articles sent or brought to institutions.

Purpose: To update procedures consistent with security needs.

Substance of emergency rule:

PACKAGES AND ARTICLES SENT OR
BROUGHT TO INSTITUTIONS

This Part formerly consisted of four sections, 724.1 through 724.4. It now consists of five sections with the addition of a new section 724.2 on applicability, identifying which inmates and facilities may receive packages in accordance with this Part.

Section 724.3, "Policy" (formerly 724.2), has been greatly expanded. New material is summarized as follows:

Subdivision (a).

- Paragraph (3) restricts received articles to those which will be for the inmate's personal use and will not cause the inmate to exceed in-cell limits;

- Paragraph (4) defines the value of an article as the actual purchase price, excluding tax, shipping or handling costs;

- Paragraphs (5) and (6) clarify procedures for disposition of previously received package items which subsequently become disallowed;

- Paragraph (7) specifies that the department is not responsible for articles damaged in shipping or received in spoiled condition;

- Paragraph (8) provides for a record of return-to-sender transactions.

Subdivision (b).

- Paragraphs (1) through (4) specify search procedures, including a procedure for handling items of religious significance;

- Paragraphs (5) and (6) define contraband and articles not permitted and include procedures for disposition;

- Paragraph (7) prohibits alteration of items once received;

- Paragraph (8) provides for review and disposition of items withheld by staff because of non-conformance with specifications.

Subdivision (d).

- Paragraph (1) adds procedures for disposition of packages not having return addresses;

- Paragraph (2) expands procedures for sending a package out of a facility at an inmate's request.

Subdivision (e) - limits receipt of art and handicraft supplies.

Subdivision (f) - explains procedures for handling packages brought by visitors.

Subdivision (g).

- Paragraph (2) requires that a received article valued at over \$20 must be accompanied by a receipt or bill;

- Paragraph (4) establishes special watch procedures to guard against importation of contraband in packages addressed to inmates who have been identified with contraband or drug-related misbehavior;

Subdivision (h).

- Paragraph (2) specifies that an inmate who orders a package while under a "loss of package" disciplinary disposition must pay to have it returned to sender. Subdivision (i) provides for disposition of packages received for inmates in SHU. Subdivision (j) provides for processing and forwarding or disposition of packages received for inmates who have been transferred or are temporarily away from a facility.

Section 724.4, "Local permits" (formerly 724.3), has not changed except for the following addition at paragraph (5): "If a permit is revoked, the article will be confiscated and disposed of at the inmate's expense in accordance with the departmental directive on inmate personal property limits."

Section 724.5, "Listing of approved items" (formerly 724.4, "Allowable Items") is completely changed. The department will no longer list items in this regulation because of the necessity of making changes as security needs require and on an expeditious basis. The new section is printed here in its entirety.

§ 724.5 Listing of approved items.

(a) The department shall promulgate a detailed listing of items approved for receipt by inmates through facility package rooms. This listing shall be appended to the departmental directive #4911, "Packages and Articles Sent or Brought to Institutions," made available to inmates in all facility libraries, posted in all facility package rooms and visiting rooms, and posted on the department's website at www.docs.state.ny.us/directives/4911.pdf

(b) This listing only identifies items which may be received through the package room and sets forth the conditions and restrictions for receipt of those items; this listing is not a comprehensive list of all items that an inmate may be authorized to possess.

(c) This list will be periodically updated and amended, consistent with the needs of the department.

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 November 27, 2005.

Text of emergency rule and any required statements and analyses may be obtained from: Anthony J. Annucci, Deputy Commissioner and Counsel, Department of Correctional Services, Bldg. 2, State Campus, Albany, NY 12226-2050, (518) 457-4951

Regulatory Impact Statement

Statutory Authority:

Section 112 of the Correction Law assigns to the commissioner of correction the powers and duties of management and control of correctional facilities and inmates, and the responsibility to make rules and regulations for the government of correctional facilities and discipline of inmates.

Legislative Objective:

By vesting the commissioner with this rulemaking authority, the legislature intended the commissioner to determine if inmates may receive packages from family members and other outside sources and, if allowed, to implement procedures to ensure that the privilege is not abused.

Needs and Benefits:

Inmates have long enjoyed the privileges of receiving packages from family and visitors and of ordering consumer goods from a list of approved articles. Packages, however, have represented a window through which inmates and their external sources have attempted to obtain contraband items such as drugs, money and articles which can be used or converted to weapons. Needless to say, when such items are successfully smuggled in, they become an instant threat to the safety and security of staff, inmates, visitors, volunteers and the public at large.

The Department has preserved these privileges despite the increasing sophistication of those who would attempt to smuggle contraband via packages. Because of technological advances, seemingly innocuous consumer items may conceal sinister capabilities, and advances in packaging have sometimes aided in disguising and concealing dangerous products.

Accordingly, the Department has concluded that it must have the capability of making immediate changes to the list of items allowed to be received via packages. For this reason, the listing, which has always been presented at section 724.4, has been removed and is being published in more rapidly changeable venues, including posting at the Department's website. The department will be able, thereby, to quickly alter the list whenever it becomes evident that an item presents a security risk. Likewise, public access to the up-to-date list will help to minimize the likelihood that someone might purchase and send to an inmate an article that would not be allowed.

The remaining text has been thoroughly overhauled to ensure that package privileges are maintained for most inmates and that all related procedures serve the department's security interests. These detailed policies and procedures are currently implemented at department facilities and are posted and available to inmates.

Significant changes from the repealed text include: addition of a section on applicability, clarifying which inmates and facilities may receive packages in accordance with this Part; restriction of received articles to those which will be for the inmate's personal use and will not cause the inmate to exceed in-cell limits; clarification of procedures for disposition of disallowed items; enhanced package-related recordkeeping; clarification of package and item search procedures; definitions of contraband and articles not permitted; a procedure for review of items withheld by staff because of non-conformance with specifications; procedures for sending packages out of a facility; procedures for handling packages brought with visitors; special watch procedures to guard against importation of contraband; procedures for handling packages for inmates in special housing units and for inmates who have been transferred or are temporarily away from a facility.

Costs:

a. To State government: None.

b. To local governments: None. The proposed amendment does not apply to local governments.

c. Costs to private regulated parties: None. The proposed amendment does not apply to private regulated parties.

d. Costs to the regulating agency for implementation and continued administration of the rule:

(i) Initial expenses: None.

(ii) Annual cost: None.

Paperwork:

a. New reporting or application forms: None.

b. Additions to existing reporting or application forms: None.

c. New or addition recordkeeping that will be required of the regulated party to comply with the rule or prove compliance with the rule: None.

Local Government Mandates: There are no new mandates imposed upon local governments by this proposal. The proposed amendment does not apply to local governments.

Duplication:

This proposed amendment does not duplicate any existing State or Federal requirement.

Alternatives:

The department has considered eliminating package privileges or severely restricting the number and circumstances under which packages may be received by inmates. It has concluded that such privileges represent a significant connection between inmates and their families and friends and, as such, have rehabilitative and quality-of-life value. As explained under "Needs and Benefits," the chosen course of action intends to maintain package privileges for most inmates while strengthening the procedures designed to ensure that these privileges are not abused and do not compromise security.

No other alternatives have been proposed or considered.

Federal Standards:

There are no minimum standards of the Federal government for this of a similar subject area.

Compliance Schedule:

The Department of Correctional Services is in compliance with this proposed rule.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not required for this proposal since it will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. This merely updates policy and procedures for receiving, handling, searching and disposing of packages and articles received by inmates correctional facilities.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not required for this proposal since it will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on rural areas. This merely updates policy and procedures for receiving, handling, searching and disposing of packages and articles received by inmates correctional facilities.

Job Impact Statement

A job impact statement is not submitted because this proposed rule will have no adverse impact on jobs or employment opportunities. This merely updates policy and procedures for receiving, handling, searching and disposing of packages and articles received by inmates correctional facilities.

identical except for interstate or intrastate shellfish shipping have been consolidated, and references to intrastate and intrastate shipping have been eliminated. Consequently, amendments are necessary to conform references to shellfish dealer permit classes in the Department's regulations with state law.

The proposed amendments to Part 42 also incorporate changes that have occurred to the National Shellfish Sanitation Program (NSSP) requirements since these regulations were last amended in 1998. Section 13-0319 of the ECL provides for the adoption of regulations for the shipping and handling of shellfish in a sanitary manner and requires that the state's shellfish program meet the applicable minimum requirements of the federal government. The U.S. Food and Drug Administration (FDA) monitors the implementation of the criteria adopted by the NSSP on a national level by conducting evaluations of the shellfish programs of states and foreign nations.

In addition, the proposed rulemaking includes changes that are intended to better organize Part 42 and make the regulations clearer and easier to understand. For example, shellfish sanitation requirements are reorganized into separate sections covering facilities, water and ice, plumbing, receiving and packing of shellfish, storage of shellfish, the identification and handling of shellfish by harvesters, and shellfish transportation criteria. The proposed amendments more logically and clearly communicate to the regulated industry the particular requirements that must be complied with according to the shellfish activities of the permit holder.

Text of proposed rule and any required statements and analyses may be obtained from: Thomas E. Drumm, Department of Environmental Conservation, 205 N. Belle Mead Rd., Suite 1, East Setauket, NY 11733, (631) 444-0494, e-mail: tedrumm@gw.dec.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 purpose of this proposed rulemaking is to amend 6 NYCRR Part 42, "Sanitary Control Over Shellfish," to conform to recent changes in the Environmental Conservation Law (Chapter 284, Laws of 2004) and to incorporate existing requirements of the federal U.S. Food and Drug Administration (FDA) and the National Shellfish Sanitation Program (NSSP) that were adopted since these regulations were last amended in 1998. The proposed amendments also reorganize Part 42 in an effort to make the regulations clearer and easier to understand for the regulated industry.

This rulemaking does not impose any new substantive requirements. Any new requirements incorporated in this rulemaking are already in effect through existing federal and state requirements. For example, Chapter 284 of the Laws of 2004, which took effect on January 1, 2005, amended Environmental Conservation Law § 13-0315, changing the permit classifications for shellfish dealers. The proposed rulemaking incorporates these new classifications which are already in effect under state law.

Because the proposed amendments are required pursuant to the amended state law, and federal requirements, the Department has determined that no person is likely to object to the adoption of this proposed rule as written. Therefore, the Department has proposed these amendments as a consensus rule.

Job Impact Statement

The Department of Environmental Conservation (Department) has determined that this rule will not have a substantial adverse impact on jobs and employment opportunities. Therefore, a job impact statement is not required.

The purpose of this proposed rulemaking is to amend 6 NYCRR Part 42, "Sanitary Control Over Shellfish," to conform to recent changes in the Environmental Conservation Law (Chapter 284, Laws of 2004) and to incorporate existing requirements of the federal U.S. Food and Drug Administration (FDA) and the National Shellfish Sanitation Program (NSSP) that were adopted since these regulations were last amended in 1998. The proposed amendments also reorganize Part 42 in an effort to make the regulations clearer and easier to understand for the regulated industry.

This rulemaking does not impose any new substantive requirements. Any new requirements incorporated in this rulemaking are already in effect through existing federal and state requirements. For example, Chapter 284 of the Laws of 2004, which took effect on January 1, 2005, amended Environmental Conservation Law § 13-0315, changing the permit classifications for shellfish dealers. The proposed rulemaking incorporates these new classifications which are already in effect under state law.

Because this rulemaking will not establish or impose any new requirements for the regulated industry, the Department has concluded that there

Department of Environmental Conservation

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

Sanitary Control Over Shellfish

I.D. No. ENV-37-05-00007-P

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 to amend Part 42 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 13-0309 and 13-0319

Subject: Sanitary control over shellfish.

Purpose: To provide adequate public health protection over shellfish in wholesale commerce in the State of New York.

Substance of proposed rule: The proposed amendments to 6 NYCRR Part 42, "Sanitary Control Over Shellfish," reflect changes recently made to the Environmental Conservation Law (ECL). Chapter 284 of the Laws of 2004 amended Environmental Conservation Law (ECL) Sections 13-0311 and 13-0315 relating to shellfish dealer permits and the activities of permittees. Certain classes of shellfish dealer permits that were formerly

will not be any substantial adverse impacts on jobs or employment opportunities as a consequence of these amendments.

Office of General Services

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Parking Regulations for Office of General Services (OGS) Parking Facilities

I.D. No. GNS-37-05-00002-P

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

Proposed action: Amendment of Part 296 of Title 9 NYCRR.

Statutory authority: Executive Law, section 200

Subject: Parking regulations for Office of General Services (OGS) parking facilities.

Purpose: To provide specific guidance concerning what is expected of a person who parks a vehicle in an OGS controlled parking lot.

Text of proposed rule:

PART 296

PARKING OF VEHICLES AT [PAID] PARKING FACILITIES

Section 296-1.1 is amended as follows:

SECTION 296-1.1 PARKING IN OGS [PAID] PARKING FACILITIES.

(a) Any State employee desiring to park in an OGS [paid] parking facility in the Albany area must register for such privilege with their agency employer and/or the OGS Bureau of Parking Services. Those State employees outside of the Albany area should contact the OGS building superintendent or the equivalent. [Registered employee permit holders must properly affix and display any issued tag/decals.] A registered State employee must conspicuously display his or her valid permit, tag, and/or decal in the vehicle as directed by the issuing office.

(b) The term State "employee" shall include all persons employed in State buildings, all persons employed by any State department, commission, board, office, authority or other State agency, State legislators, judges and their designated assistants, clerks and other administrative personnel. In addition, certain other individuals may, in the discretion of the commissioner or his designee, be deemed State employees for the purposes of this Part, where such individuals continuously and regularly conduct business or have dealings with the State of New York. Every employee shall be identified by State employee identification cards which they must possess at all times and which must be produced upon request.

Section 296-1.2 is amended as follows:

All of the rules in this Subchapter and all of the rules in Subchapter A of Chapter IV of this Subtitle [which]that pertain to vehicle parking, are applicable to State employees parking in OGS paid parking facilities managed by the Bureau of Parking Services.

Section 296-1.6 is amended as follows:

Those employees enjoying privileges at OGS [paid] parking facilities are required to notify the attendant at the facility if extended periods (one month or more) of absence from the facility should occur. In accordance with OGS policy, the employee will be responsible for payment of applicable fees during the first six months of absence, except where it results from approved medical leave. Permits will be held by OGS for up to six additional months at no charge to the employee.

Section 296-1.8 (b) is amended as follows:

(b) (7) change/add/delete car pool member; [or]

(8) assignment of a new or replacement employee identification card; or

[(8)](9) cancel payroll deduction.

Completed forms must be returned to the parking lot attendant or to the Bureau of Parking Services. Registration and update forms are available from [parking attendants] the OGS web site, the Bureau's Central Office or the agency Parking Coordinator. All forms must be submitted through the Bureau's [c]Central [o]Office.

Section 296-1.9 is amended as follows:

A permit may not be transferred to a vehicle [which]that is not registered with OGS. Transfer of permits may be made only in accordance with section 296-1.4 of this Subpart.

Section 296-1.10 State Employee Parking.

(a) State employees may park their vehicles in assigned parking areas provided that such vehicles are first registered with the OGS Bureau of Parking Services or other agency as provided in this section and section 302 and a valid parking permit for such vehicle has been issued. State employees may not park in areas other than those specifically assigned without the authorization of the OGS Bureau of Parking Services, i.e., parking areas that have been designated for visitors, handicapped employees or in pre-designated spaces marked by official signs.

(b) Whenever a vehicle is parked in an area set aside for State employees, a valid permit for such area must be conspicuously displayed in the vehicle as directed by the Office of General Services.

Section 296-1.10 is renumbered and amended as follows:

Section 296-1.[10]11 Parking in other facilities.

Unless approval is received from the Bureau of Parking Services, a permit holder may only park in [their specifically assigned] the OGS [paid] parking facility to which they have been specifically assigned.

Section 296-1.11 is renumbered and amended as follows:

Section 296-1.[11]12 Violations of rules: parking

(a) The owner and/or operator of any vehicle found in violation of this Part or the parking rules of the Division of Facilities Planning and Operation in Chapter IV, Subchapter B of this Subtitle will receive a parking citation for parking violation. [In addition, the procedures and penalties prescribed in Chapter IV, Subchapter B, section 302.4 of this Subtitle, shall be applicable to any violator of said rules.]

(b) [In addition to the instances prescribed in Chapter IV, Subchapter B, section 302.4, subdivision (c) of this Title.] Any vehicle that does not display a valid permit to park in an assigned permit area shall be subject to the installation of a "booting" device by the Office of General Services, in accordance with the following procedures:

(1) Upon the first violation, vehicle owners will be given written notice placed in a conspicuous location on the vehicle that the vehicle is not authorized to park in such area and that any future violation will result in the imposition of fines, the installation of a booting device, and towing of the vehicle without further notice.

(2) Any vehicle that has been the subject of a previous written notice of violation shall have a booting device installed on the vehicle, until such time as the vehicle can be later towed. If the vehicle operator arrives before the tow operator arrives, the OGS representative will remove the boot only upon payment of a \$50.00 service charge and any outstanding parking fees owed to the OGS.

(c) [t] The towing of vehicles is permissible when a vehicle is found park[ing]ed in a [paid] parking facility other than the one for which it has a permit (unless prior approval has been received from the Bureau of Parking Services).

(1) A vehicle may be removed to a garage, automobile pound or other place of safety under the following circumstances:

(i) when a vehicle is found unattended which constitutes an obstruction to traffic; or

(ii) when a vehicle is found stopped, standing or parked in violation of this Part; or

(iii) when a vehicle is found parked displaying an altered parking permit; or

(iv) when a vehicle is under suspension and found in violation of such suspension.

[(1)](2) The contents of all vehicles towed away by or on behalf of the appropriate OGS officials may be inventoried, and any contraband material found in the vehicle will be confiscated. The list of the contents of the vehicle will be signed by the tow-truck operator and the OGS official.

[(i)] Valuable items may be removed and secured and will be returned upon presentation of proper identification by the driver.]

[(ii)] Any contraband material found in the vehicle will be confiscated.]

[(2)](3) The owner or other person lawfully entitled to the possession of such vehicle may be charged a reasonable cost for its removal and storage, payable before the vehicle is released.

(d) Suspension of parking privileges (applicable to administrative citations only.)

(1) Persons who receive three citations for parking violations within a six-month period shall have their parking privileges suspended for a period not to exceed 30 calendar days.

(2) Any suspension will begin three days after service of a notice of suspension.

(3) Persons found in violation of suspension will receive a citation of parking violation and have their vehicle towed from the parking facility as described under section 296-1.12 (c).

(4) If, after the completion of a 30-day suspension period, a person receives three or more citations within a six-month period, that person will be suspended for a 45-day period.

(5) Any person subject to a third suspension within an 18-month period shall be considered a habitual violator and will be suspended for 60 days for such suspension and 60 days for all subsequent suspensions.

When a vehicle is found parked displaying an altered parking permit, the permit holder and/or operator of the vehicle shall have their parking privileges suspended for a period of 60 days beginning on the day the vehicle is found in violation. An altered parking permit is defined as any authorized parking permit which has been duplicated, or a portion of which has been altered, erased, obliterated, removed or covered in order to conceal its original design and purpose.

[(c)](e) For administrative citations or suspensions issued at OGS [paid] parking facilities, appeals may be made to the following officials in this order:

(1) In the Albany area, the supervisor of parking operations; outside the Albany area the OGS building superintendent or equivalent.

(2) Chief of parking services.

(3) Director, Division of [Special]Support Services.

Section 296-1.12]13 Parking permits for the disabled.

(a) Employees who are disabled and require special parking considerations due to their condition must take the following steps in order to obtain a special permit:

(1) The employee must complete the "Application for Medical Parking Permit" and the "Employee Health Service Release of Medical Information for Parking Eligibility."

[(1)](2) The employee must obtain a physician's statement outlining the disability.

[(2)](3) The employee must request his/her [personnel office] agency parking coordinator to arrange for an examination with the Employee Health Service.

[(3)](4) The employee must submit the physician's statement to the Employee Health Service at the examination.

(b) The Employee Health Service will then supply copies of their recommendation to the applicant's personnel office and the Bureau of Parking Services. If the Employee Health Service recommends special parking arrangements and the employer agency approves the application, the [Bureau of Parking Services] agency parking coordinator will contact the employee to coordinate the appropriate arrangements.

Sections 296-1.13, 296-1.14, and 296-1.15 are being renumbered.

Subpart 296-2 is being amended as follows:

SUBPART 296-2

VISITOR PARKING AT [PAID] PARKING FACILITIES

Section 296-2.1 Visitor parking in OGS [paid] parking facilities

(a) Parking areas for visitors are maintained by OGS at the Empire State Plaza in Albany and other locations throughout the State. Visitors may park only in areas designated specifically as visitor parking. In most instances there will be hourly or daily fees assessed for visitor parking. Fees will be conspicuously posted at the entrance of all visitor-parking areas. Use of the paid parking facilities operated by OGS is by invitation and temporary revocable permit, which may be rescinded or withheld, where an individual operator violates any applicable rule or fails to promptly remit payment of those fees imposed by OGS.

(b) In the case of special visitors and/or group visitors (workshop participants, etc.) appropriate arrangements must be made for temporary parking privileges. Applications must be made in advance with the OGS Bureau of Parking Services.

Section 296-2.2 is being amended as follows:

All of the rules in this Subpart and all of the rules in section 302 of Subchapter A of Chapter IV of this Subtitle [which]that pertain to vehicle parking, are applicable to visitor [patrons] parking in [paid] parking facilities managed by the Office of General Services.

Paragraphs (b) and (d) of Section 296-2.3 are amended as follows:

(b) Accounts that are unpaid for more than seven days are referred for collection. If an account [includes fees for three or more separate visits] remains unpaid, the vehicle registrant may be subject to having their vehicle immobilized and impounded if found in any OGS parking facility, prior to payment of the outstanding account.

(d) Where payment of visitor parking fees is made by personal check, any returned check will subject the visitor [patron] to an additional fee of \$20.00. In addition, the Bureau of Parking Services reserves the right to refuse to accept personal checks from persons issuing two or more checks, which are returned for insufficient funds.

Section 296-2.4 is amended as follows:

All persons entering designated visitor [patron] lots or change areas established for evening or weekend usage, who do not possess an appropriate tag/decals authorizing parking without charge, must pay the posted charge, prior to lot entry.

Section 296-2.6 is amended as follows:

If a visitor is injured or their vehicle is damaged in a State operated parking area, they must report the details of the incident on forms available at any parking attendant station, as soon as possible. In the event a parking attendant is not on duty the visitor [patron] should contact the [Capital]State Police or local police agency.

Text of proposed rule and any required statements and analyses may be obtained from: Paula B. Hanlon, Office of General Services, Corning Tower, Empire State Plaza, 41st Fl., Albany, NY 12242, (518) 474-0571, e-mail: paula.hanlon@ogs.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.

Regulatory Impact Statement

STATUTORY AUTHORITY:

Executive Law Section 200 allows the Office of General Services, to adopt, amend or rescind rules and regulations.

LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the statutory authority conferred by the above statute and will assist the agency in its responsibility to control motor vehicle activity on state parking areas.

NEEDS AND BENEFITS:

Section 296 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR") provides for the safe and efficient usage of agency controlled parking facilities. These regulations describe in a detailed, yet clear manner, the parking procedures and responsibilities for employees and visitors who park their vehicles in agency controlled parking areas and also to assist agency employees who are assigned to monitor agency parking areas. The current regulations have been revised in order to provide specific guidance concerning what is expected of a person who parks his or her vehicle in an agency controlled parking area. Certain changes ensure that this regulation is also applicable to non-paid parking lots.

The regulations make clear that there are certain procedures necessary to register a vehicle with the agency for purposes of obtaining a valid parking permit. The regulations also remind employees that use of agency controlled parking areas is a privilege that can be lost if an employee does not adhere to agency parking policies.

COSTS:

(A) Cost to state government: The proposed amendment will not impose any additional cost on State government, including the Office of General Services.

(B) Cost to local government: The proposed amendment will not impose any costs on local government.

(C) Cost to private regulated parties. The proposed amendment will not impose any additional costs on private regulated parties.

(D) Cost to the regulatory agency: As stated above in Costs to State Government, the amendment does not impose additional costs on the Office of General Services.

LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any program, service duty or responsibility upon local government.

PAPERWORK:

The proposed amendment will not increase paperwork requirements for regulated parties.

DUPLICATION:

The proposed amendment does not duplicate other existing Federal or State requirements.

ALTERNATIVES:

One alternative would be to leave the current regulations unchanged. However, this alternative was dismissed so that current parking policies could be placed into regulation. This would give the general public notice as to what those policies are.

FEDERAL STANDARDS:

The rules are consistent with Federal requirements.

COMPLIANCE SCHEDULE:

It is anticipated that the regulated persons will be able to comply with the rule immediately.

Regulatory Flexibility Analysis

The proposed amendment will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments as the amendment relates only to the parking regulations enforced by the Office of General Services at agency controlled parking areas. No additional documents will need to be created. It is evident from the nature of the regulation that it does not affect small businesses, nor does this require any action on the part of local governments, and, therefore, no further steps were needed to ascertain any impact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required and one has not been prepared.

Rural Area Flexibility Analysis

This action will not impose any adverse impact, reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The regulations simply require State employees and visitors to conduct themselves appropriately while using OGS controlled parking areas, and these regulations are neither burdensome, time consuming or costly to any private entity. Because it was evident from the nature of the regulation that it does not affect public or private entities in rural areas, no further steps were needed to ascertain that fact and none were taken. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

Job Impact Statement

The Office of General Services projects there will be no substantial adverse impact on jobs or employment opportunities in the State of New York as a result of this rule. The regulation is being amended to further clarify the agency's parking rules for State employees and visitors who utilize parking areas managed by the agency. There will be no change in the number of agency employees as a result of these regulations. Since nothing in the proposed regulations will increase or decrease the number of jobs in New York State, have an adverse impact on any specific region in New York State, and no adverse impact is anticipated on jobs in New York State, no further steps were needed to ascertain these facts and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

provisions of the statute can be implemented, the sooner the statutory goal of simplifying Medicaid enrollment and recertification will be achieved, with a consequent benefit to public health in terms of easier access to necessary health care. Therefore, complying with the normal rule making requirements would be contrary to the public interest, and the immediate adoption of the rule is necessary.

Subject: Self attestation of resources for Medicaid applicants and recipients.

Purpose: To allow an applicant or recipient to attest to the amount of his or her resources unless the applicant or recipient is seeking Medicaid payment for long term care services.

Text of emergency rule: Paragraph (3) of subdivision (c) of Section 360-2.3 is amended to read as follows:

(3) Verification of resources. (i) *The applicant may attest to the amount of his or her resources, unless the applicant is seeking coverage for long-term care services. For purposes of this paragraph, long-term care services shall include those services defined in subparagraph (ii) of this paragraph, with the exception of short-term rehabilitation as defined in subparagraph (iii) of this paragraph.* The applicant must provide documentation of all available or potentially available resources when applying for long-term care services. The social services district must record the documentation provided and determine the availability of such resources.

(ii) *Long-term care services shall include, but not be limited to care, treatment, maintenance, and services: provided in a nursing facility licensed under article twenty-eight of the public health law; provided in an intermediate care facility certified under article sixteen of the mental hygiene law; provided in a residential treatment facility certified by the Commissioner of Mental Health pursuant to Section 31.02(a)(4) of mental hygiene law; provided in a developmental center operated by the Office of Mental Retardation and Developmental Disabilities; provided by a home care services agency, certified home health agency or long-term home health care program as defined in section thirty-six hundred two of the public health law; provided by an adult day health care program in accordance with regulations of the department of health; provided by a personal care provider licensed or regulated by any other state or local agency; provided in a hospital that is equivalent to the level of care provided in a nursing facility; and provided by an assisted living program in accordance with regulations of the department of health. Long-term care services also shall include: private duty nursing; limited licensed home care services; hospice services including services provided by the hospice residence program in accordance with the regulations of the department of health; services provided in accordance with the consumer directed personal assistance program; services provided by the managed long-term care program; personal emergency response services; and care, services or supplies provided by the Care at Home Waiver program, Traumatic Brain Injury Waiver program, or Office of Mental Retardation and Developmental Disabilities Home and Community-Based Waiver program.*

(iii) *Short-term rehabilitation means one period of certified home health care, up to a maximum of 29 consecutive days, and/or one period of nursing home care, up to a maximum of 29 consecutive days, commenced within a twelve-month period.*

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 November 21, 2005.

Text of emergency rule and any required statements and analyses 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

Regulatory Impact Statement

Statutory Authority:

Section 206(1)(f) of the Public Health Law requires the Department of Health (Department) to enforce the provisions of the Medical Assistance program, pursuant to titles eleven, eleven-A, and eleven-B of the Social Services Law (SSL). Section 363-a(2) of the SSL requires the Department to establish such regulations as may be necessary to implement the program of medical assistance for needy persons (Medicaid). Section 366-a(2)(a) of the SSL provides that a Medicaid applicant must provide information and documentation necessary for the determination of initial and ongoing eligibility. A new section 366-a(2)(b) of the SSL, as enacted by the Health Care Reform Act of 2002, provides that an applicant may attest to the amount of his or her resources, unless the applicant is seeking Medicaid coverage of long-term care services. An exception is made for

Department of Health

EMERGENCY RULE MAKING

Self Attestation of Resources for Medicaid Applicants and Recipients

I.D. No. HLT-37-05-00001-E

Filing No. 925

Filing date: Aug. 24, 2005

Effective date: Aug. 24, 2005

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

Action taken: Amendment of section 360-2.3(c)(3) of Title 18 NYCRR.

Statutory authority: Social Services Law, section 366-a(2)

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

Specific reasons underlying the finding of necessity: Chapter 1 of the Laws of 2002 provides that Medicaid applicants and recipients seeking coverage of long-term care services, other than short-term rehabilitation, must provide adequate documentation to verify the amount of their accumulated resources. Persons who are not seeking coverage of long-term care services, or who are seeking coverage of short-term rehabilitation services, as defined by the Commissioner of Health, are allowed to attest to the amount of their resources.

The proposed regulation would provide the definition of the term "short-term rehabilitation" required by Chapter 1 of the Laws of 2002 and necessary to implement the provisions of such Chapter. The sooner the

short-term rehabilitation. For purposes of this provision, section 366-a(2)(b) of the SSL references the long-term care services described in paragraph (b) of section 367-f(1) of the SSL and authorizes the Commissioner of the Department to define the term "short-term rehabilitation".

Legislative Objectives:

Section 363-a of the SSL designates the Department as the single State agency responsible for implementing the Medicaid program in this State, and requires the Department to promulgate any necessary regulations which are consistent with federal and State law. The proposed regulatory amendment is necessary to define long-term care services and short-term rehabilitation for purposes of attestation of resources.

Needs and Benefits:

The purpose of the proposed regulatory amendment is to revise section 360-2.3(c)(3) of the Medicaid regulations concerning verification of resources. Currently, in determining whether an applicant is financially eligible for Medicaid, the applicant must provide documentation of all available or potentially available resources. A new subdivision (2) of section 366-a of the SSL, as enacted by the Health Care Reform Act of 2002, allows an applicant to attest to the amount of his or her resources, unless the applicant is seeking Medicaid coverage of long-term services. The section also allows an applicant to attest to the amount of his or her resources if Medicaid coverage is needed for short-term rehabilitation. The proposed regulatory amendment to section 360-2.3(c)(3) allows certain applicants to attest to the amount of their resources and to define the long-term care services for which resource documentation will still be required. Short-term rehabilitation means one period of certified home health care, up to a maximum of 29 consecutive days, and/or one period of nursing home care, up to a maximum of 29 consecutive days, commenced within a twelve-month period.

As required by section 366-a(2)(b) of the SSL, the proposed regulatory amendment includes in the definition of long-term care services, those services described in section 367-f(1)(b) of the SSL. These services include care, treatment, maintenance and services: provided in a nursing facility licensed under article twenty-eight of the public health law; provided by a home care services agency, certified home health agency or long term home health care program, as defined in section thirty-six hundred two of the public health law; provided by an adult day health care program in accordance with regulations of the Department of Health; or provided by a personal care provider licensed or regulated by any other state or local agency. In addition, the proposed regulatory amendment designates as long-term care services, for purposes of resource attestation, the following: a level of care provided in a hospital which is equivalent to the level of care provided in a nursing facility ("alternate level of care"); services provided in an intermediate care facility certified under article sixteen of the mental hygiene law; services provided in a residential treatment facility certified by the Commissioner of Mental Health pursuant to Section 31.02(a)(4) of the mental hygiene law; services provided in a developmental center operated by the Office of Mental Retardation and Developmental Disabilities; services provided by an assisted living program; private duty nursing; limited licensed home care services; hospice care including the hospice residence program; services provided in accordance with the consumer directed personal assistance program; services provided by the managed long-term care program; personal emergency response services; and care, services or supplies provided by the Care at Home Waiver program, Traumatic Brain Injury Waiver program, or Office of Mental Retardation and Developmental Disabilities Home and Community-Based Waiver program.

Section 366-a(2)(b) of the SSL allows attestation of resources by applicants seeking Medicaid coverage of short-term rehabilitation as defined by the Commissioner of the Department. Short-term rehabilitation means one period of certified home health care, up to a maximum of 29 consecutive days, and/or one period of nursing home care, up to a maximum of 29 consecutive days, commenced within a twelve-month period.

Costs:

There should be no additional costs associated with this regulatory amendment. An analysis of several eligibility simplification proposals was performed in 2001 and it was concluded that while a fiscal impact could occur if applicants provided inaccurate information about their resources, this was unlikely. Since neither the Child Health Plus (CHP) nor the Family Health Plus (FHP) program have resource tests, it was determined that those Medicaid applicants who had excess resources would most likely still be eligible for either CHP or FHP. Therefore, this proposal has been considered to be cost neutral.

Local Government Mandates:

The proposed regulatory amendment does not impose any new mandates. The amendment would remove the requirement that a Medicaid applicant submit proof of his or her resources for purposes of determining Medicaid eligibility, if the applicant is not seeking Medicaid coverage of long-term care services. The change simplifies the documentation requirements for local departments of social services administering the Medicaid program at the county level.

Paperwork:

No reporting requirements, forms, or other paperwork are necessitated by this proposed regulatory amendment. Currently, in determining Medicaid eligibility for long-term care services, social services districts must review resource documentation.

Duplication:

The proposed regulatory amendment does not duplicate any existing State or federal requirements.

Alternatives:

Section 366-a(2)(b) of the SSL requires that the services specifically listed in Section 367-f(1)(b) of the SSL be included in the definition of long-term care services. No alternatives were considered to the inclusion of these services in the definition.

In addition, in accordance with the authority granted in Section 367-f(1)(b) of the SSL, the proposed regulatory amendment designates a number of services as long-term care services for purposes of resource attestation: hospice care; private duty nursing; alternate level of care in a hospital; assisted living program; intermediate care facility; residential treatment facility; developmental center; the Care at Home Waiver program; the Traumatic Brain Injury Waiver program; the Office of Mental Retardation and Developmental Disabilities Home and Community-Based Waiver program; limited licensed home care services; personal emergency response services; and the consumer directed personal assistance program. Alternatives were considered with respect to the inclusion or exclusion of particular services in this list. However, given the nature, duration, and cost of these services, as well as the fact that many of these services are delivered by the same providers who furnish the long-term care services specifically listed in SSL Section 367-f(1)(b), the Department determined that the best alternative was to require documentation of resources by applicants seeking coverage of these services.

For purposes of defining short-term rehabilitation, the Department formed a work group with representatives from local social services districts and solicited feedback from the local social services districts' provider community. It was reported that there is no durational difference between inpatient and community-based short-term rehabilitation. Therefore, the workgroup recommended that short-term rehabilitation not be defined solely by type of service. The workgroup recommended defining short-term rehabilitation as receipt of one annual episode of services lasting less than 30 days, because 30 days was the median length of stay for rehabilitation purposes according to information gathered from providers, and because this would eliminate cases that are subject to spousal impoverishment budgeting, which is not viewed as short-term care.

The workgroup recommended that alternate level of care in a hospital not be included in the definition, because the average alternate level of care stay extends beyond 30 days and because none of the providers viewed this as a short-term rehabilitation situation. Similarly, investigation by Department staff indicated that personal care services are provided to individuals who are chronically ill and require care on a long-term basis. Consequently, these services were not included in the definition of short-term rehabilitation.

Federal Standards:

The proposed regulatory amendment complies with federal statute.

Compliance Schedule:

Social services districts will be advised of the change when the amendment becomes effective.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis is not required. The proposed amendment would not impose any adverse impact on businesses, either large or small, nor will the proposal impose any new reporting, recordkeeping or other compliance requirements on a business.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for this proposed action is not required. As mentioned in the regulatory impact statement, the proposed amendment would allow certain Medicaid applicants to attest to the amount of their resources for purposes of determining Medicaid eligibility. This provision would not affect rural areas any more than non-rural areas. The proposed amendment does not impose any new reporting, recordkeeping or any other new compliance requirements on rural or non-rural areas.

Job Impact Statement

A Job Impact Statement is not required. The proposal will not have an adverse impact on jobs and employment opportunities. The proposed rule is required to allow certain Medicaid applicants to attest to the amount of their resources for purposes of determining eligibility for Medicaid.

NOTICE OF ADOPTION**Perinatal Regionalization**

I.D. No. HLT-21-04-00011-A

Filing No. 926

Filing date: Aug. 24, 2005

Effective date: Sept. 14, 2005

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

Action taken: Amendment of sections 405.21, 407.14, 708.2, 708.5 and 711.4 and addition of Part 721 to Title 10 NYCRR.

Statutory authority: Public Health Law, sections 2500, 2800, 2803 and 2803-j

Subject: Perinatal regionalization.

Purpose: To update standards for perinatal designation of obstetrical hospitals and consolidate standards for perinatal regionalization.

Text or summary was published in the notice of proposed rule making, I.D. No. HLT-21-04-00011-P, Issue of May 26, 2004.

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

Revised rule making(s) were previously published in the State Register on May 18, 2005.

Text of rule and any required statements and analyses 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

Summary of the Assessment of Public Comment

A total of 35 organizations, institutions and individuals provided written comments including: 27 midwife associations, individual midwives and midwifery advocates, including one member of the NYS Assembly; Physicians, Regional Perinatal Center (RPC) Coordinators or Nurses from 5 RPCs; Physicians and nurses from one Level I and from one Level II perinatal hospital; and Healthcare Association of New York State.

There were relatively few new comments as most of the commenters resubmitted the same comments, taking issue with the determinations made regarding the comments submitted during the initial round of comments. The additional information and/or opinions provided were not sufficient justification to reverse the initial determinations.

Twenty-seven of the commenters focused almost exclusively on the concerns of licensed midwives engaged in homebirths and their relationship to hospitals. The comments were identical or nearly identical to the comments submitted during the initial comment period. In effect, the commenters are seeking to apply regulations to homebirths. As such, their comments exceed the scope of this particular rulemaking which is intended to revise and update the regulation of hospital-based births. Two comments were received in opposition to one of the key requests made on behalf of midwives.

One comment questioned the criteria for neonates to be delivered at Level II hospitals and another objected to excluding Level Is from being able to enter into transfer agreements with Level II hospitals. The guidelines in the proposed regulations adhere to advice received from a diverse working group that advised the Department in the development of designation guidelines and criteria.

Two RPCs suggested that the requirement that induction of labor be initiated after a determination that induction is medically necessary is inconsistent with an ACOG practice bulletin. After discussing the issue with ACOG, the BWH has concluded that the regulation is consistent with the bulletin and therefore no change has been made.

Other comments related to the RPC's lack of an authoritative role in overseeing transfer agreements and consultations between lower level hospitals and Level III hospitals. And another RPC made suggestions regarding the scope of quality of care reviews by RPCs. None of these changes were made as they would have weakened the flexibility that has been incorporated into the proposed regulations flexibility regarding criteria in affiliation agreements and quality improvement reviews that was requested during the initial round of public comments.

Two RPCs commented that the Impact statement does not correctly address the fiscal impact of the regulations on the RPCs and the implica-

tions if the current level of funding awarded to the RPCs is terminated. RPC status is strictly voluntary and all the RPCs vigorously pursued RPC status during the perinatal re-designation process. To date RPCs have received annual grants to compensate them at least in part of any added costs they incur and the intent is to continue awarding these funds to the RPCs. RPCs, to the extent they receive high risk newborn transfers, also receive added reimbursement associated with the daily care of these high-risk newborns.

**NOTICE OF CONTINUATION
NO HEARING(S) SCHEDULED****Review Criteria for Therapeutic Radiology**

I.D. No. HLT-12-05-00003-C

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

The notice of proposed rule making, I.D. No. HLT-12-05-00003-P was published in the *State Register* on March 23, 2005.

Subject: Review criteria for therapeutic radiology.

Purpose: To revise the review criteria for therapeutic radiology.

Substance of rule: The proposed amendments would introduce the public need criteria for therapeutic radiology services to reflect the current status of radiation technology and oncological medicine as well as recent changes in the health care system in New York State. In addition, the proposed amendments would repeal appropriateness review regulations for therapeutic radiology or radiation oncology which are outdated or duplicate operational standards for therapeutic radiology services found elsewhere in New York regulations.

Changes to rule: No substantive changes.

Expiration date: March 23, 2006.

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.

**Niagara Frontier
Transportation Authority**

NOTICE OF ADOPTION**Procurement Guidelines**

I.D. No. NFT-20-05-00022-A

Filing No. 922

Filing date: Aug. 25, 2005

Effective date: Sept. 14, 2005

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

Action taken: Amendment of Part 1159 of Title 21 NYCRR.

Statutory authority: Public Authorities Law, sections 1299-e(5) and 1299-t

Subject: Procurement guidelines.

Purpose: To amend the NFTA's procurement guidelines to make technical corrections and conform to State law.

Text or summary was published in the notice of proposed rule making, I.D. No. NFT-20-05-00022-P, Issue of May 18, 2005.

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

Text of rule and any required statements and analyses may be obtained from: Ruth A. Keating, Niagara Frontier Transportation Authority, 181 Ellicott St., Buffalo, NY 14203, (716) 855-7398, e-mail: Ruth_Keating@nfta.com

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

NOTICE OF ADOPTION

Issuance of Securities by Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York

I.D. No. PSC-34-03-00020-A

Filing date: Aug. 24, 2005

Effective date: Aug. 24, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 03-M-1057 authorizing The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York (Brooklyn Union) to issue and sell up to \$187 million of tax-exempt securities.

Statutory authority: Public Service Law, section 69

Subject: Issuance of securities.

Purpose: To authorize the issuance of securities.

Substance of final rule: The Commission authorized The Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York to issue and sell up to \$187 million of Refunding Securities in one or more transactions, not later than December 31, 2006, 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.

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.

(03-M-1057SA1)

NOTICE OF ADOPTION

Petition for the Issuance of Debt by Niagara Mohawk Power Corporation

I.D. No. PSC-40-04-00007-A

Filing date: Aug. 25, 2005

Effective date: Aug. 25, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 04-M-1046 approving a petition by Niagara Mohawk Power Corporation for authority to issue, through Dec. 31, 2007, up to \$1,500,000,000 of long-term indebtedness.

Statutory authority: Public Service Law, section 69

Subject: Issuance of long-term debt.

Purpose: To approve the issuance of long-term debt.

Substance of final rule: The Commission approved Niagara Mohawk Power Corporation's (the company) request to issue, through December 31, 2007, up to \$1,500,000,000 of long-term debt for the refinancing of maturing and/or redeemed issues of debt and/or preferred stock, and to finance the capital needs of the company, 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.

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-M-1046SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Main Mill Investments, LLC

I.D. No. PSC-49-04-00003-A

Filing date: Aug. 26, 2005

Effective date: Aug. 26, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 04-E-1436 approving the petition of Main Mill Street Investments, LLC (Main Mill) to submeter electricity at 94 Main Mill St., Plattsburgh, NY.

Statutory authority: Public Service Law, sections 2, 4(1), 65(1), 66(1) and 67(1)

Subject: Request to submeter electricity.

Purpose: To grant Main Mill authorization to submeter electricity.

Substance of final rule: The Commission approved a request by Main Mill Street Investments, LLC to submeter electricity at 94 Main Mill Street, Plattsburgh, New York, in the territory of the Plattsburgh Municipal Lighting Department.

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.

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-E-1436SA1)

NOTICE OF ADOPTION

Water Rates and Charges by United Water New Rochelle Inc.

I.D. No. PSC-07-05-00023-A

Filing date: Aug. 24, 2005

Effective date: Aug. 24, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 04-W-1221 approving United Water New Rochelle Inc.'s (UWNR) request to make various changes in the rates, charges, rules and regulations contained in its tariff schedule, P.S.C. No. 1—Water.

Statutory authority: Public Service Law, section 89-c(10)

Subject: Four-year rate plan for UWNR.

Purpose: To approve a four-year rate plan for UWNR.

Substance of final rule: The Commission approved the terms of a four-year rate plan for United Water New Rochelle Inc. and directed the company to file necessary tariff amendments to put the rate plan into effect, 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.

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-W-1221SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Herbert E. Hirschfeld, P.E. for Greenpark Essex

I.D. No. PSC-15-05-00021-A
Filing date: Aug. 29, 2005
Effective date: Aug. 29, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 05-E-0251 approving the petition of Greenpark Essex to submeter electricity at 143-09, 143-11, 143-23 and 143-29 Barclay Ave., Queens, NY.

Statutory authority: Public Service Law, sections 2, 4(1), 65(1), 66(1), (2), (3), (4), (5), (12) and (14)

Subject: Request to submeter electricity.

Purpose: To approve the petition of Greenpark Essex to submeter electricity.

Substance of final rule: The Commission approved a request by Herbert E. Hirschfeld on behalf of Greenpark Essex to submeter electricity at Greenpark Essex, 143-09, 143-11, 143-23 and 143-29 Barclay Avenue, Queens, New York, in the territory of the Consolidated Edison Company of New York, Inc.

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.

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.
 (05-E-0251SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Herbert E. Hirschfeld, P.E. for Greenpark Sussex

I.D. No. PSC-15-05-00022-A
Filing date: Aug. 29, 2005
Effective date: Aug. 29, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 05-E-0252 approving the petition of Greenpark Sussex to submeter electricity at 143-06 and 143-16 Barclay Ave., Queens, NY.

Statutory authority: Public Service Law, sections 2, 4(1), 65(1), 66(1), (2), (3), (4), (5), (12) and (14)

Subject: Request to submeter electricity.

Purpose: To grant Greenpark Sussex authorization to submeter electricity.

Substance of final rule: The Commission approved a request by Herbert E. Hirschfeld on behalf of Greenpark Sussex to submeter electricity at 143-06 and 143-16 Barclay Avenue, Queens, New York, in the territory of Consolidated Edison Company of New York, Inc.

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.

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.
 (05-E-0252SA1)

NOTICE OF ADOPTION

Electric Customer Service Performance Mechanism by Orange and Rockland Utilities, Inc.

I.D. No. PSC-16-05-00011-A
Filing date: Aug. 26, 2005
Effective date: Aug. 26, 2005

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

Action taken: The commission, on July 20, 2005, adopted an order in Case 03-E-0797 approving the proposal by Orange and Rockland Utilities, Inc. (O&R) to modify its electric customer service performance mechanism.

Statutory authority: Public Service Law, sections 43, 65(1), 66(1) and (12)

Subject: Electric customer service performance mechanism.

Purpose: To approve revisions to O&R's electric customer service performance mechanism.

Substance of final rule: The Commission approved a request by Orange and Rockland Utilities, Inc. to modify the complaint rate target contained in its electric customer service incentive mechanism, 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.

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.
 (03-E-0797SA2)

NOTICE OF ADOPTION

Gas Customer Service Quality Mechanism by Orange and Rockland Utilities, Inc.

I.D. No. PSC-16-05-00012-A
Filing date: Aug. 26, 2005
Effective date: Aug. 26, 2005

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

Action taken: The commission, on July 20, 2005, adopted an order in Case 02-G-1553 approving the proposal by Orange and Rockland Utilities, Inc. (O&R) to modify its gas customer service performance mechanism.

Statutory authority: Public Service Law, sections 43, 65(1), 66(1) and (12)

Subject: Gas customer service performance mechanism.

Purpose: To approve revisions to O&R's gas customer service performance mechanism.

Substance of final rule: The Commission approved a request by Orange and Rockland Utilities, Inc. to modify the complaint rate target contained in its gas customer service incentive mechanism, 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.

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.
 (02-G-1553SA5)

NOTICE OF ADOPTION

Submetering of Electricity by Neighborhood Housing Associates, LLC

I.D. No. PSC-16-05-00013-A
Filing date: Aug. 29, 2005
Effective date: Aug. 29, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 05-E-0369 approving the petition of Neighborhood Housing Associates, LLC (Neighborhood Housing) to submeter electricity at 50, 80 and 100 Riverdale Ave., Yonkers, NY.

Statutory authority: Public Service Law, sections 2, 4(1), 65(1), 66(1), (2), (3), (4), (5), (12) and (14)

Subject: Request to submeter electricity.

Purpose: To grant Neighborhood Housing authorization to submeter electricity.

Substance of final rule: The Commission approved a request by Neighborhood Housing Associates, LLC to submeter electricity at 50, 80 and 100 Riverdale Avenue, Yonkers, New York, in the territory of Consolidated Edison Company of New York, Inc.

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.

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. (05-E-0369SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Octagon, L.P.

I.D. No. PSC-25-05-00009-A
Filing date: Aug. 29, 2005
Effective date: Aug. 29, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 05-E-0621 approving the petition of Octagon Development LLC to submeter electricity at Octagon Park Apartments, 888 Main St., Roosevelt Island, NY 10044.

Statutory authority: Public Service Law, sections 2, 4(1), 65(1), 66(1), (2), (3), (4), (5), (12) and (14)

Subject: Request to submeter electricity.

Purpose: To grant Octagon Development LLC authorization to submeter electricity.

Substance of final rule: The Commission approved a request by Octagon Development LLC to submeter electricity at Octagon Park Apartments, 888 Main Street, Roosevelt Island, NY 10044 in the territory of Consolidated Edison Company of New York, Inc.

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.

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. (05-E-0621SA1)

NOTICE OF ADOPTION

Rider N—Emergency Service by Consolidated Edison Company of New York, Inc.

I.D. No. PSC-26-05-00013-A
Filing date: Aug. 24, 2005
Effective date: Aug. 24, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 05-E-0695 approving amendments to Consolidated Edison Company of New York, Inc.’s (Con Edison) schedule for electric service—P.S.C. No. 9.

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

Subject: Tariff filing by Con Edison.

Purpose: To approve Con Edison’s tariff filing.

Substance of final rule: The Commission approved Consolidated Edison Company of New York, Inc.’s tariff filing to revise Rider N – Emergency Service, to permit customers to negotiate arrangements for service that would allow them to supply, maintain, transport and operate generators, themselves.

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.

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. (05-E-0695SA1)

NOTICE OF ADOPTION

Gas Supply Charge by Rochester Gas and Electric Corporation

I.D. No. PSC-26-05-00014-A
Filing date: Aug. 24, 2005
Effective date: Aug. 24, 2005

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

Action taken: The commission, on Aug. 24, 2005, adopted an order in Case 05-G-0680 approving amendments to Rochester Gas and Electric Corporation’s (RG&E) schedule for gas service—P.S.C. No. 16.

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

Subject: Tariff filling by RG&E.

Purpose: To approve RG&E’s tariff filing.

Substance of final rule: The Commission approved Rochester Gas and Electric Corporation’s tariff revisions to prorate its monthly Gas Supply Charge when applying the gas adjustment charge to customer bills and allow for the correction of the estimated cost of gas.

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.

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. (05-G-0680SA1)

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

Steam Business Development Plan by the Steam Business Development Task Force

I.D. No. PSC-37-05-00004-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 a Steam Business Development Plan filed by the Steam Business Development Task Force in the Consolidated Edison Company of New York, Inc. (Con Edison) steam rate case. The commission may approve, reject, or modify, in whole or in part, the recommendations and proposed implementation plans set forth therein, and it may require Con Edison to implement some or all of the action items described in the implementation plans. The commission may also consider other related issues.

Statutory authority: Public Service Law, sections 2, 5, 79 and 80

Subject: Steam business development plan.

Purpose: To consider approving, rejecting, or modifying, in whole or in part, the steam business development plan requiring Con Edison to implement the action items set forth therein, and other related issues.

Substance of proposed rule: In its September 27, 2004 Order setting new steam rates for Consolidated Edison Company of New York, Inc. (Con Edison), the Public Service Commission (Commission) established a Steam Business Development Task Force (Task Force) to, in part, create a Steam Business Development Plan (Plan) that examines issues that could contribute to the growth of Con Edison's steam business.

On August 26, 2005, the Task Force filed the Plan. The document contains analyses of the steam market in New York City, the advantages and disadvantages of steam, potential additional products and markets, customer attraction and retention opportunities and issues, governmental and regulatory issues affecting steam, marketing and sales strategies, and plans for implementing the recommendations emanating from the analyses.

The Commission may approve, reject or modify, in whole or in part, the Plan. The Commission may also require Con Edison to implement some or all of the action items described in the implementation section of the Plan, and it may consider other, related issues.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Central Operations, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-2500

Data, views or arguments may be submitted to: Jaclyn A. Brillig, 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.

(03-S-1672SA3)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Electric Transmission Lines and Gas Transmission Lines 10 or More Miles Long

I.D. No. PSC-37-05-00005-P

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 to amend Subpart 85-2 of Title 16 NYCRR.

Statutory authority: Public Service Law, sections 4(1) and 20(1)

Subject: Electric transmission lines and gas transmission lines 10 or more miles long.

Purpose: To bring the regulatory provisions into conformance with art. VII of the Public Service Law and with 16 NYCRR Part 4 (as amended since Subpart 85-2 was adopted in 1984), repeal obsolete provisions and make technical corrections to an address and other regulatory provisions.

Substance of proposed rule (Full text is posted at the following State website: www.dps.state.ny.us): The proposed rule will bring 16 NYCRR

Subpart 85-2 into conformance with Article VII of the Public Service Law and with 16 NYCRR Part 4 as amended since Subpart 85-2 was amended in 1984, repeal obsolete provisions and make technical corrections to an address and other regulatory provisions. Subpart 85-2 implements the provisions of Article VII of the Public Service Law relating to the review of applications for all electric transmission lines and gas transmission lines ten or more miles long.

Text of proposed rule and any required statements and analyses may be obtained from: Central Operations, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-2500

Data, views or arguments may be submitted to: Jaclyn A. Brillig, Acting 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.

Consensus Rule Making Determination

This amendment is being proposed as a Consensus Rule because no objection to the rule as written is expected. The proposed changes will bring Commission regulations contained in 16 NYCRR Subpart 85-2 into conformance with Article VII of the Public Service Law and with 16 NYCRR Part 4 (as amended since Subpart 85-2 was added in 1984), repeal obsolete regulatory provisions and make technical corrections to an address and other regulatory provisions.

Job Impact Statement

The agency has determined that the rule will not have an adverse impact on jobs or employment opportunities in the State.

(05-M-0679SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Telecommunications Issues

I.D. No. PSC-37-05-00006-P

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

Proposed action: Revision of policies related to telecommunication rates and other matters.

Statutory authority: Public Service Law, sections 5, 90, 91(1), 92, 94, 97, 99, 100, 101, 105, 110 and 119-a

Subject: Telecommunications issues.

Purpose: To review telecommunications policies.

Substance of proposed rule: The Commission will conduct a broad review of its telecommunications policies, practices and rules in light of the fast changing telecommunications environment. The Commission will examine rates, service quality, infrastructure, corporate structure, rules on affiliated transactions, directory, ownership and asset and stock transfers, pole attachments, and level playing field issues and related matters, and may order changes in the manner in which it approaches these issues, waive various regulations, change rates or other aspects of service, or take other actions designed to effectuate its policy objectives.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Central Operations, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-2500

Data, views or arguments may be submitted to: Jaclyn A. Brillig, 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-0616SA2)

Office of Temporary and Disability Assistance

NOTICE OF ADOPTION

Federal Poverty Lines

I.D. No. TDA-26-05-00001-A

Filing No. 929

Filing date: Aug. 30, 2005

Effective date: Sept. 14, 2005

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

Action taken: Amendment of sections 352.7(g)(3)(vii), 370.3(b)(2) and 372.2(a)(2) of Title 18 NYCRR.

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

Subject: Federal poverty lines.

Purpose: To refer to the correct Federal agency that establishes the Federal poverty lines.

Text or summary was published in the notice of proposed rule making, I.D. No. TDA-26-05-00001-P, Issue of June 29, 2005.

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

Text of 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

Assessment of Public Comment

The agency received no public comment.