

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; or EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

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

Office of Children and Family Services

EMERGENCY RULE MAKING

Home Studies for Adoptive Placements; Child Abuse and Maltreatment Screening

I.D. No. CFS-16-07-00001-E

Filing No. 337

Filing date: March 28, 2007

Effective date: March 28, 2007

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

Action taken: Amendment of Parts 357, 421, 428, 430, 441 and 443 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 374-a and 378-(5)

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

Specific reasons underlying the finding of necessity: To enhance permanency for foster children by expediting the home study process and by requiring agencies to consider all viable placement options where a child may not return home, including out-of-state options. The regulations increase the frequency of caseworker visits of foster children placed outside of New York State and expand the options available for who may conduct

such visits. The regulations will enhance the health and well-being of former foster children by providing them with relevant available health and education information where the child is discharged to his or her own care. The regulations will also enhance the safety of foster and adoptive children by broadening the scope of screening prospective foster and adoptive parents and other adults residing in the home of the prospective foster or adoptive parents. The regulations are also necessary to satisfy Federal Title IV-E State Plan requirements that impact the availability of Federal funding for foster care and adoption assistance.

Subject: Home studies for adoptive and foster placements for out-of-state children and for inter-county placements; child abuse and maltreatment screening for prospective adoptive and foster parents.

Purpose: To implement the requirements of the Federal Safe and Timely Interstate Placement of Foster Children Act of 2006 (Public Law 109-239) which establishes timeframes for the completion and submission of home studies of prospective foster or adoptive parents who are being considered as potential resources for foster children from other states and for the frequency of casework visits of foster children placed outside of New York State, and provisions of the Federal Adam Walsh Child Protection and Safety Act of 2006 (Public Law 109-248) which requires that whenever a person applies for certification or approval as a foster or adoptive parent, or any other person over the age of 18 who resides in the home of such applicant who resided in another state or states in the five years preceding the application for certification or approval, be screened for requested child abuse and maltreatment information maintained by the previous state(s) of residence. Both laws took effect on Oct. 1, 2006.

Substance of emergency rule: Section 357.3 (Access to Medical and Education Records)

The amendment provides for access to education and medical information at no cost to a foster child who is discharged to his or her own care.

Part 421 (Standards of Practice for Adoption Services)

The amendment clarifies who may adopt a child. The amendment requires authorized agencies to seek child protective services information from other states regarding a person applying for approval as an adoptive parent and any other person who resides with the applicant where such applicant or other person resided in the other state within 5 years of the application for approval. The amendment establishes timeframes for the completion of home studies for a person seeking to be approved as an adoptive parent to receive a child from another state or social services district. The amendment also sets forth who may perform such home studies. The amendment clarifies that a social services district or a voluntary authorized agency may not delay or deny an application or the conducting of a home study of a person seeking to adopt a child in the custody of another authorized agency.

Sections 428.3, 428.5 and 428.6 (Standards for Uniform Case Recording)

The amendment addresses case recording requirements for foster children placed outside of New York State and reflects the change in standards for the frequency of casework visits with such children. The amendment clarifies that when reunification with the parent is not the child's permanency planning goal, the social services district or the voluntary authorized agency must document the reasonable efforts made to finalize the child's permanency plan, including the identification of both in-state and out-of-state placement options. The amendment provides that when concurrently planning for the permanency of a child in foster care, the social services district or the voluntary authorized agency must document the description of the alternative plan to achieve permanency for the child which must

include identification of appropriate in-state and out-of-state placements, if the child can not be safely returned home to his or her parents.

Section 430.11 (Appropriateness of Placement)

The amendment increases the frequency of caseworker visits of foster children placed outside of New York State from every 12 months to every six months. The amendment also expands the entities that may conduct such visits to include a private agency under contract with either the authorized agency in New York or the state in which the foster child is placed.

Section 430.12 (Diligence of Effort)

The amendment clarifies that if the child's permanency planning goal is adoption or placement in a permanent home other than that of the child's parent, the social services district or the voluntary authorized agency must document the reasonable efforts made to place the child in-state or out-of-state in a timely and orderly manner.

Section 441.22 (Health and Medical Services)

The amendment provides for access to health information at no cost to a foster child who is discharged to his or her own care.

Part 443 (Certification, Approval and Supervision of Foster Boarding Homes)

The amendment requires authorized agencies to seek child protective services information from other states regarding a person applying for certification or approval as a foster parent and any other person who resides with the applicant where the applicant or other person resided in another state within 5 years of the application for certification or approval. The amendment establishes timeframes for the completion of home studies for a person seeking to be certified or approved as a foster parent to receive a child from another state or social services district. The amendment also sets forth who may perform such home studies. The amendment clarifies that a social services district or a voluntary authorized agency may not delay or deny an application or the conducting of a home study of a person seeking to care for a foster child in the custody of another authorized agency. The amendment allows an emergency certified or approved foster parent to remain in the status of an emergency certified or an emergency approved foster parent pending the completion of the Statewide Central Register of Child Abuse and Maltreatment data-base check required by section 424-a of the Social Services Law.

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 June 25, 2007.

Text of emergency rule and any required statements and analyses may be obtained from: Public Information Office, Office of Children and Family Services, 52 Washington St., Rensselaer, NY 12144, (518) 473-7793

Regulatory Impact Statement

1. Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Office of Children and Family Services (OCFS) to establish rules and regulations to carry out its powers and duties pursuant to the provisions of the SSL.

Section 34(3)(f) of the SSL requires the Commissioner of OCFS to establish regulations for the administration of public assistance and care within the State.

Section 372-b(3) of the SSL requires OCFS to promulgate regulations to maintain enlightened adoption policies and to establish standards and criteria for adoption practices.

Section 374-a of the SSL sets forth the standards and procedures relating to the Interstate Compact on the Placement of Children (ICPC) that involve the placement of children from one state to another for the purpose of foster care or adoption.

Section 378(5) of the SSL authorizes OCFS to establish and amend regulations governing the issuance and revocation of a certificate to board foster children and to prescribe standards for the care of foster children.

Section 471(a) of the Social Security Act provides that in order for a state to be eligible for federal Title IV-E funding for foster care and adoptions assistance, the state must have a State Plan approved by the federal Department of Health and Human Services which reflects the standards set forth in such section.

2. Legislative objectives:

The regulations implement the requirements of the federal Safe and Timely Interstate Placement of Foster Children Act of 2006 (Interstate Placement Act) that took effect on October 1, 2006. The Interstate Placement Act establishes timeframes for the completion and submission of home studies of prospective foster or adoptive parents who are being

considered as potential resources for foster children from other states. The regulations impose standards on the content and timeframes for the completion of such home studies.

The regulations also implement federal requirements for the dissemination of the foster child's health and education records at no cost when the child is being discharged from care. Furthermore, the regulations implement federal requirements relating to the documentation of reasonable efforts to finalize a child's permanency plan, including consideration of both in-state and out-of-state placement options.

In addition, the regulations implement federal requirements relating to case recording requirements for foster children placed outside of New York and the frequency of casework visits with such children. The frequency of such visits is increased from every 12 months to every six months. The regulations also add the option that such visits may be made by a private agency under contract with either the authorized agency in New York with custody of the child or the state in which the foster child is placed.

The regulations implement the requirements of the federal Adam Walsh Child Protection Act of 2006 (Walsh Protection Act), parts of which also took effect on October 1, 2006. The Walsh Protection Act requires that whenever a person applies for certification or approval as a foster or adoptive parent, or any other person over the age of 18 who resides in the home of such applicant resided in another state or states in the five years preceding the application for certification or approval, the licensing or approving agency must request child abuse and maltreatment information maintained by the previous state(s) of residence.

3. Needs and benefits:

The regulations will enhance permanency for foster children by expediting the home study process and by requiring agencies to consider all viable placement options where a child may not return home. Currently, the ICPC does not set forth any timeframes for the conducting of home studies of persons seeking to be foster parents or adoptive parents of foster children. Regarding the consideration of out-of-state options for children in foster care, current regulatory standards do not expressly refer to out-of-state placement options.

The regulations establish that upon receipt of a referral, the social services district may conduct such home study directly or may use a voluntary authorized agency under contract with such district or a voluntary authorized agency under contract with the OCFS to conduct the home study, and that if the latter option is selected, the costs of the home study will be charged back to the district in which the prospective foster or adoptive parent(s) reside.

The regulations codify the policies regarding the time frames for completion of a home study and which entity is permitted to do a home study to apply to New York State inter-county placements, when an inter-county placement is sought for a foster child for the purposes of foster care in another county or to make an adoptive placement in another county.

The regulations will also enhance the safety and permanency of foster children placed outside of New York by increasing the frequency of caseworker visits of the child in the home or facility in which the child is placed.

The regulations will enhance the health and well-being of former foster children by providing them with relevant available health and education information where the child is discharged to his or her own care.

The regulations will also enhance the safety of foster and adoptive children by broadening the scope of screening prospective foster and adoptive parents and other adults residing in the home of the prospective foster or adoptive parents. It is possible that such persons may have a child abuse or maltreatment history in their prior state of residence. Such information is highly relevant to whether a foster or adoptive child may be safely cared for in such home. The regulations are necessary to satisfy federal Title IV-E State Plan requirements that impact the availability of federal funding for foster care and adoption assistance. Furthermore, the regulations allow an emergency certified or approved foster parent to remain in that status pending completion of the Statewide Central Register of Child Abuse and Maltreatment data-base check required by section 424-a of the SSL. A similar provision currently exists for the completion of the criminal history record check.

4. Costs:

Local social services districts or voluntary authorized agency under contract with social services districts are already required to complete a home study; therefore, this does not represent an additional workload. It is unknown if social services districts or voluntary authorized agency under contract with social services districts are currently completing the home study within 60 days (or 75 days in certain circumstances) of the receipt of

the request. Therefore, to facilitate compliance with the timeframes, OCFS will issue a request for applications in order to make available the services of one or more voluntary agencies to conduct the home study.

Minimal costs are expected related to the requirements to check with the appropriate child welfare agency in any state where the applicant(s) or other persons over the age of 18 in the household resided within the previous five years for any child abuse or maltreatment history in such states. It is expected that this activity will be completed through routine correspondence to such state(s).

The regulations also increase the frequency of caseworker visits and reports for foster children placed outside of New York State from every 12 months to every six months. In general, such visits and reports are already requested and conducted within these timeframes, and in many cases are done more frequently. To facilitate this activity, the regulations expand the entities that may conduct such visits to include a private agency under contract with either the authorized agency in New York or the state in which the foster child is placed. In accordance with the ICPC, such reports and visits often are done by the state where the child is placed and are typically completed within these timeframes. As a result, it is anticipated that there will be no significant cost impact on local social services districts for this activity.

There is no additional cost anticipated for the dissemination of health and education records when the child is being discharged from foster care since this activity is the current practice.

There is no cost related to any of the documentation requirements contained in these regulations since this information will be recorded in the CONNECTIONS where this functionality already exists or is under development.

5. Local government mandates:

When the ICPC office of OCFS receives a request from another state seeking to place a foster child from the other state with a person in New York State as a foster or adoptive parent, the social services district or voluntary authorized agency under contract with the social services district is required to commence and complete a home study within 60 days of the receipt of such request. An additional 15 days to complete the home study is allowed for circumstances outside of the control of the social services district or voluntary authorized agency if a timely request for such documentation was made by the district or agency.

Currently, social services districts and voluntary authorized agencies are required pursuant to 18 NYCRR 357.3 to provide a foster child with the child's comprehensive health history when the foster child is discharged to his or her own care. The regulations clarify that this history must be provided at no cost and include the child's current health providers. The regulations also require the provision of the child's education record at the time of the child's discharge to his or her own care, also at no cost to the child.

Social services districts are currently required to assess the appropriateness of placement of children in foster care pursuant to 18 NYCRR 430.11. Each foster child must have periodic assessments performed to address the issue of permanency. The regulations require the social services district to expressly document the consideration of out-of-state placement options if the child will not be returned to his or her parent.

Current law and regulations in section 424-a of the SSL and 18 NYCRR Parts 421 and 443 require data base checks of New York's Statewide Central Register of Child Abuse and Maltreatment for all persons applying for certification or approval as foster or adoptive parents and for any other persons over the age of 18 who reside in the home of such applicants. The regulations expand the requirements to check with the appropriate child welfare agency in any state where the applicant(s) or other persons over the age of 18 in the household resided within the previous five years for any child abuse or maltreatment history in such states.

6. Paperwork:

The regulations require the specific documentation of the consideration of out-of-state placement as an option for foster children who do not have the permanency goal of return to the parent. Such documentation will be recorded in the CONNECTIONS system.

Documentation relating to home studies for the certification or approval of a foster or adoptive parent will be maintained in the state's CONNECTIONS system. This reflects current standards.

Documentation of health information is already mandated by OCFS regulations 18 NYCRR 357.3 and 441.22. Documentation of educational information is already mandated by OCFS regulation 18 NYCRR 428.5.

The regulations require the documentation of requests to appropriate child welfare agencies in the prior state(s) of residence (5 years preceding

the date of the application for certification or approval) of prospective foster or adoptive parents and/or any other persons over the age of 18 who resides in the home of the applicant and the results of such requests. As is currently required for in-State inquiries made pursuant to section 424-a of the SSL, if the agency decides to certify or approve an applicant where there is a history of abuse or maltreatment, the agency must document the basis for making such decision.

7. Duplication:

The regulations do not duplicate other State requirements.

8. Alternatives:

These regulations are necessary to comply with federal statutory mandates. Therefore, there are no alternatives to these regulations.

9. Federal standards:

The regulations are required to implement the federal Safe and Timely Interstate Placement of Foster Children Act of 2006 and the federal Adam Walsh Child Protection Act of 2006 and to maintain compliance with federal Title IV-E State Plan requirements.

10. Compliance schedule:

Compliance with the regulations must begin immediately upon emergency filing.

Regulatory Flexibility Analysis

1. Effect of Rule:

Social services districts will be affected by the regulations. There are 58 social services districts and the St. Regis Mohawk Tribe which is authorized by section 371(10)(b) of the Social Services Law to provide child welfare services pursuant to its State/Tribal Agreement with the Office of Children and Family Services (OCFS). Most voluntary foster care and adoption agencies also will be affected by portions of the regulations. There are approximately 114 voluntary agencies operating foster care programs. Of those, 68 such agencies operate foster boarding home programs. There are 119 voluntary agencies authorized that operate adoption programs, including 19 agencies located out-of-state and approved to do adoptions in New York State pursuant to Article 13 of the Not-For-Profit Corporation Law.

2. Compliance Requirements:

When the Interstate Compact on the Placement of Children (ICPC) office of OCFS receives a request from another state seeking to place a foster child from the other state with a person in New York State as a foster or adoptive parent, the social services district or voluntary authorized agency under contract with the social services district or under contract with OCFS is required to commence and complete a home study within 60 days of the receipt of such request. An additional 15 days to complete the home study is allowed for circumstances outside of the control of the social services district or voluntary authorized agency if a timely request for such documentation was made by the district or agency.

Currently, social services districts and voluntary authorized agencies are required pursuant to 18 NYCRR 357.3 to provide a foster child with his or her comprehensive health history when the foster child is discharged to his or her own care. The regulations clarify that this history must include the child's current health providers and clarify that there is no cost to the child for these records. The regulations also require the provision of the child's education record at the time of the child's discharge to his or her own care, also at no cost to the child.

Social services districts are currently required to assess the appropriateness of placement of children in foster care pursuant to 18 NYCRR 430.11. Each foster child must have periodic assessments performed to address the issue of permanency, including whether the child will be returned home or to another placement resource (see section 409-e of the SSL and 18 NYCRR Part 428). The regulations require the social services district to expressly document the consideration of out of state placement options if the child will not be returned to his or her parent.

When a foster child is placed outside of New York State, the child must be visited periodically by a caseworker pursuant to 18 NYCRR 430.11(c)(2)(ix) and the visits must be recorded in the child's case record. The regulations increase the frequency of such visits from every 12 months to every six months. The regulations also authorize that such visits may be conducted by a private agency under contract with the either the authorized agency in New York with custody of the child or the state in which the foster child is placed.

Current law and regulations in section 424-a of the SSL and 18 NYCRR Parts 421 and 443 require data base checks of New York's Statewide Central Register of Child Abuse and Maltreatment for all persons applying for certification or approval as foster or adoptive parents and for any other persons over the age of 18 who reside in the home of such applicants, irrespective of how long such persons resided in New York

State. The regulations expand the requirements to check with the appropriate child welfare agency in any state where the applicant(s) or other persons over the age of 18 in the household resided within the previous five years for any child abuse or maltreatment history in such states. Furthermore, the regulations allow an emergency certified or approved foster parent to remain in that status pending completion of the Statewide Central Register of Child Abuse and Maltreatment data-base check required by section 424-a of the SSL. A similar provision currently exists for the completion of the criminal history record check.

3. Professional Services:

The regulations would not require social services districts or voluntary authorized agencies to hire additional staff in order to implement them. Current training programs will be enhanced to emphasize the casework support that these amendments bring. In addition, OCFS will issue a request for applications in order to make available the services of one or more voluntary authorized agencies to conduct home studies for out-of-state placements or inter-county placements, in accordance with these regulations.

4. Compliance Costs:

Local social services districts or voluntary authorized agency under contract with social services districts are already required to complete a home study; therefore, this does not represent an additional workload. It is unknown if social services districts or voluntary authorized agency under contract with social services districts are currently completing the home study within 60 days (or 75 days in certain circumstances) of the receipt of the request. Therefore, to facilitate compliance with the timeframes, OCFS will issue a request for applications in order to make available the services of one or more voluntary agencies to conduct the home study.

Minimal costs are expected related to the requirements to check with the appropriate child welfare agency in any state where the applicant(s) or other persons over the age of 18 in the household resided within the previous five years for any child abuse or maltreatment history in such states. It is expected that this activity will be completed through routine correspondence to such state(s).

The regulations also increase the frequency of caseworker visits and reports for foster children placed outside of New York State from every 12 months to every six months. In general, such visits and reports are already requested and conducted within these timeframes, and in many cases are done more frequently. To facilitate this activity, the regulations expand the entities that may conduct such visits to include a private agency under contract with either the authorized agency in New York or the state in which the foster child is placed. In accordance with the ICPC, such reports and visits often are done by the state where the child is placed and are typically completed within these timeframes. As a result, it is anticipated that there will be no significant cost impact on local social services districts for this activity.

There is no additional cost anticipated for the dissemination of health and education records when the child is being discharged from foster care since this activity is the current practice.

There is no cost related to any of the documentation requirements contained in these regulations since this information will be recorded in the CONNECTIONS where this functionality already exists or is under development.

5. Economic and Technological Feasibility:

The regulations will not impose additional economic or technological burdens on social services districts or voluntary authorized agencies.

6. Minimizing Adverse Impact:

The aforementioned request for applications will be issued by OCFS in order to provide an additional resource to the field for the purpose of conducting home studies in accordance with these regulations, including meeting the new timeframes prescribed by the federal law.

7. Small Business and Local Government Participation:

The timeframes prescribed by the federal legislation precluded the participation of small businesses in the development of these regulations. They are being filed on an emergency basis in order to meet the federal timeframes; those affected will have an opportunity to comment upon publication of a Notice of Proposed Rule Making in the *State Register*.

Rural Area Flexibility Analysis

1. Types and Estimated Numbers of Rural Areas:

The regulations will affect the 44 social services districts that are in rural areas and the St. Regis Mohawk Tribe, which is authorized by section 371(10)(b) of the Social Services Law to provide child welfare services pursuant to its State/Tribal Agreement with the Office of Children and Family Services (OCFS). Those voluntary authorized agencies in rural areas contracting with social services districts to provide foster care and

adoption services also will be affected by the proposed regulations. Currently, there are approximately 85 such agencies.

2. Reporting, Recordkeeping and Other Compliance Requirements; and Professional Services:

When the Interstate Compact on the Placement of Children (ICPC) office of OCFS receives a request from another state seeking to place a foster child from the other state with a person in New York State as a foster or adoptive parent, the social services district or voluntary authorized agency under contract with the social services district or under contract with OCFS is required to commence and complete a home study within 60 days of the receipt of such request. An additional 15 days to complete the home study is allowed for circumstances outside of the control of the social services district or voluntary authorized agency if a timely request for such documentation was made by the district or agency.

Currently, social services districts and voluntary authorized agencies are required pursuant to 18 NYCRR 357.3 to provide a foster child with his or her comprehensive health history when the foster child is discharged to his or her own care. The regulations clarify that this history must include the child's current health providers and clarify that there is no cost to the child for these records. The regulations also require the provision of the child's education record at the time of the child's discharge to his or her own care, also at no cost to the child.

Social services districts are currently required to assess the appropriateness of placement of children in foster care pursuant to 18 NYCRR 430.11. Each foster child must have periodic assessments performed to address the issue of permanency, including whether the child will be returned home or to another placement resource (see section 409-e of the SSL and 18 NYCRR Part 428). The regulations require the social services district to expressly document the consideration of out-of-state placement options if the child will not be returned to his or her parent.

When a foster child is placed outside of New York State, the child must be visited periodically by a caseworker pursuant to 18 NYCRR 430.11(c)(2)(ix) and the visits must be recorded in the child's case record. The regulations increase the frequency of such visits from every 12 months to every six months. The regulations also authorize that the caseworker visit may be performed by a private agency under contract with either the authorized agency in New York with custody of the child or the state in which the foster child is placed.

Current law and regulations in section 424-a of the SSL and 18 NYCRR Parts 421 and 443 require data base checks of New York's Statewide Central Register of Child Abuse and Maltreatment for all persons applying for certification or approval as foster or adoptive parents and for any other persons over the age of 18 who reside in the home of such applicants, irrespective of how long such persons resided in New York State. The regulations expand the requirements to check with the appropriate child welfare agency in any state where the applicant(s) or other persons over the age of 18 in the household resided within the previous five years for any child abuse or maltreatment history in such states. Furthermore, the regulations allow an emergency certified or approved foster parent to remain in that status pending completion of the Statewide Central Register of Child Abuse and Maltreatment data-base check required by section 424-a of the SSL. A similar provision currently exists for the completion of the criminal history record check.

3. Professional Services:

The regulations would not require social services districts or voluntary authorized agencies to hire additional staff in order to implement them. Current training programs will be enhanced to emphasize the casework support that these amendments bring. In addition, OCFS will issue a request for applications in order to make available the services of one or more voluntary agencies to conduct home studies for out-of-state placements or inter-county placements, in accordance with these regulations.

4. Costs:

Local social services districts or voluntary authorized agency under contract with social services districts are already required to complete a home study; therefore, this does not represent an additional workload. It is unknown if social services districts or voluntary authorized agency under contract with social services districts are currently completing the home study within 60 days (or 75 days in certain circumstances) of the receipt of the request. Therefore, to facilitate compliance with the timeframes, OCFS will issue a request for applications in order to make available the services of one or more voluntary agencies to conduct the home study.

Minimal costs are expected related to the requirements to check with the appropriate child welfare agency in any state where the applicant(s) or other persons over the age of 18 in the household resided within the previous five years for any child abuse or maltreatment history in such

states. It is expected that this activity will be completed through routine correspondence to such state(s).

The regulations also increase the frequency of caseworker visits and reports for foster children placed outside of New York State from every 12 months to every six months. In general, such visits and reports are already requested and conducted within these timeframes, and in many cases are done more frequently. To facilitate this activity, the regulations expand the entities that may conduct such visits to include a private agency under contract with either the authorized agency in New York or the state in which the foster child is placed. In accordance with the ICPC, such reports and visits often are done by the state where the child is placed and are typically completed within these timeframes. As a result, it is anticipated that there will be no significant cost impact on local social services districts for this activity.

There is no additional cost anticipated for the dissemination of health and education records when the child is being discharged from foster care since this activity is the current practice.

There is no cost related to any of the documentation requirements contained in these regulations since this information will be recorded in the CONNECTIONS where this functionality already exists or is under development.

5. Minimizing Adverse Impact:

The aforementioned request for applications will be issued by OCFS in order to provide an additional resource to the field for the purpose of conducting home studies in accordance with these regulations, including meeting the new timeframes prescribed by the federal law.

6. Rural Area Participation:

The timeframes prescribed by the federal legislation precluded the participation of small businesses in the development of these regulations. They are being filed on an emergency basis in order to meet the federal timeframes; those affected will have an opportunity to comment upon publication of a Notice of Proposed Rule Making in the *State Register*.

Job Impact Statement

A full job statement has not been prepared for the regulations implementing the federal Safe and Timely Interstate Placement of Foster Children Act of 2006, and portions of the federal Adam Walsh Child Protection Act of 2006. The regulations would not have a substantial adverse impact on jobs or employment opportunities and in fact would not result in the loss of any jobs. This finding is based upon the fact that the regulations prescribe additional duties for child welfare staff. In addition, these regulations allow for a potential increase in jobs based upon the contracting authority granted by these regulations, if the social services district so chooses to contract for certain activities.

EMERGENCY RULE MAKING

National Criminal History Record Checks

I.D. No. CFS-16-07-00002-E

Filing No. 338

Filing date: March 28, 2007

Effective date: March 28, 2007

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

Action taken: Amendment of Parts 421 and 443 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d) and 378-a(2); and L. 2006, ch. 668, section 3

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

Specific reasons underlying the finding of necessity: Adoption of these regulations on an emergency basis is necessary for the preservation of the health, safety and welfare of foster children needing foster and adoptive placement. New Federal and State statutes require a national criminal history record check through the Federal Bureau of Investigation (FBI) of persons applying for certification or approval as foster or adoptive parents and new State statute requires a national criminal history record check through the FBI of other persons over the age of 18 who reside in the home of such applicants.

The current criminal history record check authorized by section 378-a(2) of the Social Services Law (SSL) and Office of Children and Family Services (OCFS) regulations 18 NYCRR Parts 421 and 443 only authorize a check of the data base maintained by the Division of Criminal Justice Services (DCJS). The DCJS data base generally does not reflect crimes committed outside of the State of New York. Therefore, authorized agen-

cies to which persons apply for certification or approval as a foster or adoptive parent would not be aware of whether an applicant or another person over the age of 18 residing in the home of an applicant has a criminal history in another state, which could present a health and safety issue for foster children placed in the applicant's home. The regulations enable authorized agencies to conduct a national criminal history record check on such persons, thereby enhancing the safety of children placed in such foster or adoptive homes.

Subject: National criminal history record checks through the FBI of prospective foster or adoptive parents and persons over the age of 18 residing in the homes of such individuals.

Purpose: To implement the requirements of chapter 668 of the Laws of 2006 that amended section 378-a (2) of the SSL to require a national criminal history record check through the FBI of all persons applying for certification or approval as foster or adoptive parents and all other persons over the age of 18 who reside in the homes of such applicants; and implement the requirements of the Federal Adam Walsh Child Protection Act of 2006 (P.L. 109-248) that require states to conduct a national criminal history record check on all persons applying for certification or approval as foster or adoptive parents, irrespective of whether Federal Title IV-E funding is being sought for the placement of a foster child in the home of such a person. Compliance with the Federal act is required for New York to have a compliant Title IV-E State Plan and to satisfy Federal safety requirements for individual foster care placements.

Substance of emergency rule: Section 421.11 (First Contact With Prospective Adoptive Parents)

The regulations require authorized agencies that operate an adoption program to inform a person applying to be an approved adoptive parent of the requirement that the applicant and each person over the age of 18 who resides in the home of the applicant be fingerprinted for the purpose of conducting a national criminal history record check through the Federal Bureau of Investigation (FBI).

In addition, the regulations require that a voluntary authorized agency must notify a person applying for approval as an adoptive parent that the applicant and each person over the age of 18 who resides in the home of the applicant will be asked to sign a consent for the release to the voluntary authorized agency of crime specific information provided to the Office of Children and Family Services (OCFS) by the FBI. The voluntary authorized agency must also advise the applicant that the refusal to sign the consent is a basis, in and of itself, to deny the person's application.

Section 421.15 (Adoption Study Process)

The regulations require authorized agencies that operate an adoption program to inform the applicant at the initial appointment or meeting with the authorized agency that a national criminal history record check through the FBI must be performed before the conclusion of the applicant's home study.

Section 421.19 (Foster Parents)

The regulations require voluntary authorized agencies to inform a person who is currently a certified or approved foster parent and who applies to such agency for approval as an adoptive parent that the applicant and each person over the age of 18 who resides in the home of the applicant will be asked to sign a consent for the release of crime specific information received by OCFS from the FBI and that the refusal to provide such a consent is a basis, in and of itself, for denial of the person's application.

The regulations require authorized agencies that operate an adoption program to perform a national criminal history record check through the FBI of a foster parent seeking approval as an adoptive parent and each person over the age of 18 who resides in the home of such person.

Section 421.27 (Criminal History Record Review)

The regulations require that authorized agencies perform a national criminal history record check through the FBI for each person seeking approval as an adoptive parent and each person over the age of 18 who resides in the home of the applicant. The regulations set forth the process for collecting and processing fingerprints for the national criminal history record check and the standards for the review and dissemination to authorized agencies of criminal history record information received by OCFS from the FBI.

The regulations provide that a voluntary authorized agency must deny an application when the applicant or other person over the age of 18 who resides in the home of the applicant has a criminal conviction or open charge reported to OCFS by the FBI for a crime committed outside of New York State and such person thereafter refuses to consent to disclosure of the specific crime or crimes when requested to do so by the voluntary authorized agency.

In addition, the regulations provide that if an application for approval is denied, the authorized agency must include within its notice of denial a description of the record review process available through the FBI.

Section 443.2 (Authorized Agency Operating Requirements)

The regulations require authorized agencies that operate a foster boarding home program to inform a person applying for certification or approval as a foster parent of the requirement that the applicant and each person over the age of 18 who resides in the home of the applicant must be fingerprinted for the purpose of conducting a national criminal history record check through the FBI.

The regulations require that each applicant for certification or approval as a foster parent and each person over the age of 18 who resides in the home of the applicant must submit completed fingerprint cards for a national criminal history check performed by the FBI.

In addition, the regulations provide that if an application for certification or approval is denied, the authorized agency must include within its notice of denial a description of the record review process available through the FBI.

The regulations clarify that the records maintained by the authorized agency must include such criminal history responses from OCFS to reflect that both FBI and DCJS checks have been completed.

Section 443.7 (Agency Procedures for Certification or Approval of Potential Emergency Foster Homes and Emergency Relative Foster Homes)

The regulations provide that when a foster child is placed in a foster home that is certified or approved on an emergency basis that the authorized agency placing the child must secure fingerprints from the foster parent and each person over the age of 18 who resides in the home of the foster parent for the purpose of conducting a national criminal history record check through the FBI.

Section 443.8 (Criminal History Record Review)

The regulations require that authorized agencies perform a national criminal history record check through the FBI for each person applying for certification or approval as a foster parent and each person over the age of 18 who resides in the home of the applicant. The regulations set forth the process for collecting and processing fingerprints for the national criminal history record check and the standards for the review and dissemination to authorized agencies of criminal record information received by OCFS from the FBI.

The regulations require that when a person applies for certification or approval to a voluntary authorized agency that the voluntary authorized agency must notify the applicant that the applicant and each person over the age of 18 who resides in the home of the applicant will be asked to sign a consent for the release of crime specific information provided to OCFS by the FBI and that the voluntary authorized agency must advise the applicant that the refusal to sign the consent is a basis, in and of itself, to deny the person's application.

The regulations provide that a voluntary authorized agency must deny an application when the applicant or other person over the age of 18 who resides in the home of the applicant has a criminal conviction or open charge reported to OCFS by the FBI for a crime committed outside of New York State and such person thereafter refuses to consent to disclosure of the specific crime or crimes when requested to consent by the authorized agency.

Section 443.10 (Annual Renewal of Certified and Approved Foster Homes)

The regulations require that an authorized agency that operates a foster boarding home program must, at the time of renewal of the certification or approval of a foster home, conduct a national criminal history record check through the FBI of any person over the age of 18 who currently resides in such foster home, other than the foster parent, who has not previously had a national criminal record check completed pursuant to 18 NYCRR Part 443.

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 June 25, 2007.

Text of emergency rule and any required statements and analyses may be obtained from: Public Information Office, Office of Children and Family Services, 52 Washington St., Rensselaer, NY 12144, (518) 473-7793

Regulatory Impact Statement

1. Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Office of Children and Family Services (OCFS) to establish rules and regulations to carry out its duties pursuant to the provisions of the SSL.

Section 378-a (2) of the SSL requires criminal history record checks be made on foster and adoptive parent applicants and other persons over the age of 18 who reside with such applicants.

2. Legislative objectives:

The regulations implement the requirements of Chapter 668 of the Laws of 2006 that amended section 378-a(2) of the SSL to require a national criminal history record check through the Federal Bureau of Investigation (FBI) for all persons applying for certification or approval as foster or adoptive parents and all other persons over the age of 18 who reside in the home of the applicants.

The regulations also implement the requirements of the federal Adam Walsh Child Protection Act of 2006 (P. L. 109-248) that requires states to conduct a national criminal history record check on all persons applying for certification or approval as foster or adoptive parents, irrespective of whether or not the social services district seeks federal Title IV-E funding for the placement. Compliance with the federal act is required for the state to have a compliant Title IV-E State Plan and to satisfy federal safety requirements for individual foster care placements.

The requirements for a national criminal history record check set forth in the regulations are in addition to the existing provisions in section 378-a(2) of the SSL that require a New York State criminal history record check to be conducted through the New York State Division of Criminal Justice Services (DCJS). In addition, the applicant must provide a sworn statement attesting to any criminal convictions of any applicable family member in New York State or any other jurisdiction.

By enacting Chapter 668 of the Laws of 2006, the legislature sought to enhance the scope of the criminal background checks performed by social services districts and voluntary authorized agencies by requiring that fingerprints also be checked through the FBI, thus allowing officials to corroborate information and gain a more accurate picture about any crimes committed nationally, including arrests and/or convictions.

3. Needs and benefits:

Both federal and State lawmakers enacted new laws requiring national criminal background checks to determine the complete criminal history of applicants to be foster or adoptive parents and adults who reside in their households. It is important that foster and adoptive parents not be fully certified or approved without taking into account all applicable criminal records, and where such records are found, doing a safety assessment as prescribed by OCFS. These new requirements should afford a safer environment for foster children placed in foster homes or for the purpose of adoption.

4. Costs:

The federal and State statutory provisions requiring national criminal history background checks, which are being implemented through these regulations, will result in increased costs to the State. Based on the current statistics for conducting State criminal history background checks, it is projected that 17,000 persons will be subject to the new required national criminal history records checks during the first year of implementation. Based on that projection, OCFS estimates that the total costs associated with the national criminal history database check process during the first year of implementation will be approximately \$875,000. The estimate includes \$408,000 to cover the \$24 fee that must be paid to the FBI for processing each set of fingerprints, as well as \$467,000 for the costs to enhance OCFS' criminal history review administrative and legal units and the OCFS criminal history computer system to process the national criminal history database checks.

It is anticipated that approximately \$188,125 in federal reimbursement under Title IV-E of the federal Social Security Act will be available for the annual costs of conducting the national criminal history record checks. The remaining cost of \$686,875 will be State share.

5. Local government mandates:

The regulations require social services districts and voluntary authorized agencies that certify or approve foster and/or adoptive parents, to include as part of the licensing process conducting national criminal history background checks through the FBI in order to compile a complete criminal record on applicants and other adults residing in their household and take any such record into account by performing the OCFS prescribed safety assessment, prior to fully certifying or approving the home.

6. Paperwork:

Social services districts and voluntary authorized agencies will need to review all results of the national criminal background checks as they currently must review the results of the state criminal background checks.

Where a criminal record exists, safety assessments must be documented. Pertinent information must be recorded on the State's SACWIS system, CONNECTIONS.

7. Duplication:

The regulations do not duplicate other State requirements.

8. Alternatives:

There are no alternatives to imposing these regulations, as they are required by both State and federal statutes.

9. Federal standards: The aforementioned Adam Walsh Child Protection Act of 2006, contains comparable standards and requirements to Chapter 668 of the Laws of 2006.

10. Compliance schedule:

Compliance with the regulations must begin upon the effective date of Chapter 668 of the Laws of 2006, January 11, 2007.

Regulatory Flexibility Analysis

1. Effect of Rule:

Social services districts will be affected by the regulations. There are 58 social services districts and the St. Regis Mohawk Tribe which is authorized by section 371(10)(b) of the Social Services Law to provide child welfare services pursuant to its State/Tribal Agreement with the Office of Children and Family Services (OCFS). Most voluntary foster care and adoption agencies also will be affected by the regulations. There are approximately 68 voluntary agencies operating foster care programs that include foster boarding home programs. There are 119 voluntary agencies authorized that operate adoption programs, including 19 agencies located out-of-state and approved to do adoptions in New York State pursuant to Article 13 of the Not-For-Profit Corporation Law.

2. Compliance Requirements:

The regulations require social services districts and voluntary authorized agencies that certify or approve foster and/or adoptive parents, to include as part of the licensing process conducting national criminal history background checks through the Federal Bureau of Investigation (FBI) in order to compile a complete criminal record on applicants and other adults residing in their household and take any such record into account by performing the OCFS prescribed safety assessment, prior to fully certifying or approving the home.

3. Professional Requirements:

The regulations would not require social services districts or voluntary agencies to hire additional staff in order to implement them. Existing staff will be able to procedurally accommodate the minimal changes on the business process these regulations entail.

4. Compliance Costs:

The federal and State statutory provisions requiring national criminal history background checks, which are being implemented through these regulations, will result in increased costs to the State. Based on the current statistics for conducting State criminal history background checks, it is projected that 17,000 persons will be subject to the new required national criminal history records checks during the first year of implementation. Based on that projection, OCFS estimates that the total costs associated with the national criminal history database check process during the first year of implementation will be approximately \$875,000. The estimate includes \$408,000 to cover the \$24 fee that must be paid to the FBI for processing each set of fingerprints, as well as \$467,000 for the costs to enhance OCFS' criminal history review administrative and legal units and the OCFS criminal history computer system to process the national criminal history database checks.

It is anticipated that approximately \$188,125 in federal reimbursement under Title IV-E of the federal Social Security Act will be available for the annual costs of conducting the national criminal history record checks. The remaining cost of \$686,875 will be State share.

5. Economic and Technological Feasibility:

The regulations will not impose additional economic or technological burdens on social services districts or voluntary authorized agencies.

6. Minimizing Adverse Impact:

OCFS will use card scan, which will enable social services districts and voluntary authorized agencies to continue to submit a single fingerprint card per person. Card scan allows OCFS to electronically send fingerprint cards to the Division of Criminal Justice Services (DCJS). DCJS then electronically sends the fingerprint cards to the FBI. This process reduces the timeframe for the receipt of results from weeks to days, consequently allowing for more timely approval or certification decisions.

7. Small Business and Local Government Participation:

The timeframes prescribed by the State and federal legislation precluded the participation of small businesses and local governments in the

development of these regulations. They are being filed on an emergency basis in order to meet the State and federal timeframes; those affected will have an opportunity to comment upon publication of a Notice of Proposed Rule-Making in the *State Register*.

Rural Area Flexibility Analysis

1. Types and Estimated Numbers of Rural Areas:

The regulations will affect the 44 social services districts that are in rural areas and the St. Regis Mohawk Tribe, which is authorized by section 371(10)(b) of the Social Services Law to provide child welfare services pursuant to its State/Tribal Agreement with the Office of Children and Family Services (OCFS). Those voluntary authorized agencies in rural areas contracting with social services districts to provide foster care and adoption services also will be affected by the proposed regulations. Currently, there are approximately 85 such agencies.

2. Reporting, Recordkeeping and Other Compliance Requirements; and Professional Services:

The regulations require social services districts and voluntary authorized agencies that certify or approve foster and/or adoptive parents, to include as part of the licensing process conducting national criminal history background checks through the Federal Bureau of Investigation (FBI) in order to compile a complete criminal record on applicants and other adults residing in their household and take any such record into account by performing the OCFS prescribed safety assessment, prior to fully certifying or approving the home.

3. Professional Services:

The regulations do not require social services districts or voluntary authorized agencies to hire additional staff in order to implement them. Existing staff will be able to procedurally accommodate the minimal changes to the business process these regulations entail.

4. Costs:

The federal and State statutory provisions requiring national criminal history background checks, which are being implemented through these regulations, will result in increased costs to the State. Based on the current statistics for conducting State criminal history background checks, it is projected that 17,000 persons will be subject to the new required national criminal history records checks during the first year of implementation. Based on that projection, OCFS estimates that the total costs associated with the national criminal history database check process during the first year of implementation will be approximately \$875,000. The estimate includes \$408,000 to cover the \$24 fee that must be paid to the FBI for processing each set of fingerprints, as well as \$467,000 for the costs to enhance OCFS' criminal history review administrative and legal units and the OCFS criminal history computer system to process the national criminal history database checks.

It is anticipated that approximately \$188,125 in federal reimbursement under Title IV-E of the federal Social Security Act will be available for the annual costs of conducting the national criminal history record checks. The remaining cost of \$686,875 will be State share.

5. Minimizing Adverse Impact:

OCFS will utilize card scan which will enable social services districts and voluntary authorized agencies to continue to submit a single fingerprint card per person. Card scan allows OCFS to electronically send fingerprint cards to the Division of Criminal Justice Services (DCJS). DCJS in turn electronically sends then to the FBI. This process reduces the timeframe for the receipt of results from weeks to days, consequently allowing for more timely licensing decisions.

6. Rural Area Participation:

The timeframes prescribed by the State and federal legislation precluded the participation of small businesses in the development of these regulations. They are being filed on an emergency basis in order to meet the State and federal timeframes; those affected will have an opportunity to comment upon publication of a Notice of Proposed Rule-Making in the *State Register*.

Job Impact Statement

A full job statement has not been prepared for the proposed regulation implementing portions of the federal Adam Walsh Child Protection Act of 2006 and Chapter 668 of the Laws of 2006. The regulations will not have a substantial adverse impact on jobs or employment opportunities and in fact will not result in the loss of any jobs. This finding is based upon the fact that the regulations prescribe small additional duties for child welfare staff.

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-16-07-00004-P

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

Proposed action: Amendment of the Rules for the Classified Service in Appendix 1 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional classification.

Purpose: To delete a position from the exempt class in the Department of Agriculture and Markets.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Agriculture and Markets, by decreasing the number of positions of Assistant Commissioner from 2 to 1.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, State Campus, Albany, NY 12239, (518) 457-6203, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Brian S. Reichenbach, Counsel, Department of Civil Service, State Campus, Albany, NY 12239, (518) 473-2624, e-mail: brian.reichenbach@cs.state.ny.us

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

The proposed rule is subject to consolidated statements and analyses printed in the issue of January 10, 2007 under the notice of proposed rule making I.D. No. CVS-02-07-00003-P.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-16-07-00005-P

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

Proposed action: Amendment of Appendix(es) 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional classification.

Purpose: To classify a position in the non-competitive class in the Department of Labor.

Text of proposed rule: Amend Appendix(es) 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Labor, by adding thereto the position of Director of Workforce Development and Training (1).

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, State Campus, Albany, NY 12239, (518) 457-6203, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Brian S. Reichenbach, Counsel, Department of Civil Service, State Campus, Albany, NY 12239, (518) 473-2624, e-mail: brian.reichenbach@cs.state.ny.us

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

The proposed rule is subject to consolidated statements and analyses printed in the issue of January 10, 2007 under the notice of proposed rule making I.D. No. CVS-02-07-00003-P.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-16-07-00006-P

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

Proposed action: Amendment of Appendix(es) 1 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional classification.

Purpose: To delete a position from the exempt class in the Department of State.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of State, by deleting therefrom the position of Confidential Stenographer.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, State Campus, Albany, NY 12239, (518) 457-6203, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Brian S. Reichenbach, Counsel, Department of Civil Service, State Campus, Albany, NY 12239, (518) 473-2624, e-mail: brian.reichenbach@cs.state.ny.us

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

The proposed rule is subject to consolidated statements and analyses printed in the issue of January 10, 2007 under the notice of proposed rule making I.D. No. CVS-02-07-00003-P.

Department of Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Criminal History Record Check

I.D. No. HLT-16-07-00027-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 repeal section 400.23 and amend sections 763.13(b) and 766.11(f) of Title 10 NYCRR; and amend section 505.14(d)(4)(i) of Title 18 NYCRR.

Statutory authority: Public Health Law, sections 201, 2800, 2803, 2812, 3600 and 3612; and Social Services Law, section 363-a

Subject: Criminal history record check.

Purpose: To repeal and amend the above sections because provisions were repealed by operational law.

Text of proposed rule: Section 400.23 to Title 10 NYCRR is hereby repealed.

Subdivision (b) of section 763.13 of Title 10 NYCRR is amended to read as follows:

(b)(i) that qualifications as specified in section 700.2 of this Title are met; and

(ii) a criminal history record check to the extent required by [section 400.23] *Part 402* of this Title.

Subdivision (f) of section 766.11 of Title 10 NYCRR is amended to read as follows:

(f)(i) that prior to patient contact, employment history from previous employers, if applicable, and recommendations from other persons unrelated to the applicant if not previously employed, are verified; and

(ii) a criminal history record check to the extent required by [section 400.23] *Part 402* of this Title.

Subparagraph (v), section 505.14(d)(4) of Title 18 NYCRR is amended to read as follows:

(d) Providers of personal care services.

(4) The minimum criteria for the selection of all persons providing personal care services shall include, but are not limited to, the following:

* * *

(v) a criminal history record check to the extent required by 10 NYCRR [400.23] *Part 402*.

Text of proposed 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

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

Statutory Authority:

The statutory authority for these regulations is contained in sections 201, 2800, 2803, 2812, 3600, and 3612 of the Public Health Law which authorize the State Hospital Review and Planning Council to adopt and amend rules and regulations, subject to the approval of the commissioner and section 363-a of the Social Services Law.

Basis:

Chapter 769 of the Laws of 2005, as amended by Chapter 331 of the Laws of 2006, created a new Article 28-E entitled Review of Criminal History Information Concerning Prospective Employees of Nursing Homes and Home Care Services Agencies. This new law requires nursing homes licensed under Public Health Law Article 28, and Certified Home Health Care Agencies, Licensed Home Health Care Services Agencies and Long Term Home Health Care Programs licensed or certified under Public Health Law Article 36 to request of the Department of Health (DOH) a criminal history record check for any prospective employee covered under the statute.

The regulations at 10 NYCRR section 400.23, "Criminal history record check for certain applicants for employment in certain health care facilities and programs," were promulgated prior to enactment of Chapters 769 and 331 under general state authority using a program design authorized by federal statute in the absence of specific state authorizing legislation. Public Health Law section 2899-a (12) provides that any pre-existing regulations of the department requiring criminal history record checks of prospective employees of nursing homes or home health care agencies contemplated by the statute are superseded. Therefore, this legislation explicitly repeals the regulations at 10 NYCRR section 400.23. Regulations authorized by the new statute, 10 NYCRR Part 402, "Criminal History Record Check", were adopted on an emergency basis on September 1, 2006, November 29, 2006 and February 26, 2007. Removing the text of section 400.23 and amending cross references to it to refer to Part 402 will avoid confusion for those providers subject to regulations implementing the new law. References to section 400.23 also appear in Department of Health and Department of Social Services regulations at 10 NYCRR sections 763.13(b) and 766.11(f), 18 NYCRR section 505.14(d)(4) and are corrected by this rulemaking.

Job Impact Statement

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have a substantial adverse impact on jobs and employment opportunities. The Criminal History Record Check Program implemented under section 400.23 of Title 10 is no longer in effect. Anyone seeking employment subsequent to September 1, 2006 is subject to 10 NYCRR Part 402, filed as an emergency regulation on September 1, 2006 and first published on September 20, 2006 with subsequent filings.

Insurance Department

**EMERGENCY
RULE MAKING**

Market Stabilization Mechanisms for Individual and Small Group Market

I.D. No. INS-16-07-00008-E
Filing No. 341
Filing date: March 30, 2007
Effective date: March 30, 2007

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

Action taken: Amendment of sections 361.5 and 361.7(a), renumbering of sections 361.6-361.7 to sections 361.7-361.8 and addition of new section 361.6 (Regulation 146) to Title 11 NYCRR.

Statutory authority: Insurance Law, sections 201, 301, 1109, 3233; and L. 1992, ch. 501 and L. 1995, ch. 504

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

Specific reasons underlying the finding of necessity: The first filing for the new pooling methodology is Nov. 10, 2006, and the second filing is Jan. 31, 2007.

Subject: Market stabilization mechanisms for individual and small group market.

Purpose: To create a new market stabilization process in the individual and small group market, to share among plans substantive cost variations attributable to high cost medical claims.

Text of emergency rule: The title of Section 361.5 is amended to read as follows:

Section 361.5 Pooling of variations in costs attributable to variations in specified medical conditions (SMC) beginning in 1999 through 2006.

Section 361.5 is hereby amended to add a new subdivision (k) to read as follows:

(k) Reporting requirements, payments to the pools, or collections from the pools under this section shall not be required in 2005 or 2006.

Sections 361.6 and 361.7 are hereby renumbered 361.7 and 361.8 and a new section 361.6 is added to read as follows:

361.6 Pooling of variations of costs attributable to high cost claims beginning in 2006 for individual and small group policies, other than Medicare supplement and Healthy New York policies.

(a) In each pool area a risk adjustment pool is established in connection with individual and small group health insurance policies, other than Medicare supplement insurance policies and Healthy New York health insurance policies. Each pool shall operate independently; that is, all calculations and payments described below are made for each pool independently of any other pool.

(b) The annual funding amount for all pool areas combined is as follows:

- (1) \$80,000,000 for 2007;
- (2) \$120,000,000 for 2008; and
- (3) \$160,000,000 for 2009 and each calendar year thereafter.

(c) The annual funding amount for each pool area is in proportion to the annualized premiums in that pool area. For 2007, the amounts are as specified in the table below. For 2008 and each calendar year thereafter, each pool participant shall provide to the superintendent annualized premium information on or before January 31. The superintendent shall advise carriers of the funding amount for each pool area within sixty days of receipt of annualized premium information from all carriers.

Pool Area	Percentage of Premiums	2007 Pool Area Funding Amount
Albany	5.5%	\$ 4,400,000
Buffalo	7.4%	\$ 5,920,000
Mid-Hudson	5%	\$ 4,000,000
NYC	69.5%	\$55,600,000
Rochester	5.1%	\$ 4,080,000
Syracuse	4.8%	\$ 3,840,000
Utica/Watertown	2.7%	\$ 2,160,000
Total	100%	\$80,000,000

(d)(1) Each carrier's share of the total funding payable to or from the pools shall be determined based on the carrier's high cost claims in its areas of operation.

(2) In order to implement the phase in of the new specified medical condition pooling process, on or before November 10, 2006 each carrier shall report to the superintendent its annualized premium amount as of December 31, 2005 and its cumulative calendar year claims paid in 2005 for individual standardized direct payment health maintenance organization policies, individual standardized direct payment point of service policies, all other individual health insurance policies, and small group health insurance policies, using the form in subdivision (h) of this section for each pool area. The superintendent will provide carriers with an estimate of potential pool receivables or liabilities using this 2005 data for advisory purposes only.

(3) Each following year, beginning in 2007, on or before January 31, each carrier shall report to the superintendent its annualized premium amount as of December 31 of the preceding year and its cumulative calendar year claims paid in the preceding year for individual standardized direct payment health maintenance organization policies, individual standardized direct payment point of service policies, all other individual health insurance policies, and small group health insurance policies, using the form in subdivision (h) of this section for each pool area. In 2007, the superintendent will provide carriers with a second estimate of potential pool receivables or liabilities using 2006 data, for advisory purposes only. Payments to the pools, or collections from the pools, shall be required beginning in 2008 and shall be based upon the data from the preceding calendar year.

(4) Cumulative calendar year claims paid shall include the total of all claim payments on behalf of an insured individual from January 1 through December 31 of the preceding year, regardless of when the services were provided.

(5) Cumulative calendar year claims paid shall include payments for hospital and medical services, prescription drug payments, capitation payments, and regional covered lives assessments paid pursuant to section 2807-t of the Public Health Law or percentage surcharges paid pursuant to section 2807-j or section 2807-s of the Public Health Law. Carriers that include the covered lives assessments shall convert the family covered lives assessment into a per member assessment component in order to be included with claims expenses attributable to any one member.

(6) Cumulative calendar year claims paid shall not include amounts paid in satisfaction of the 24 percent surcharge requirement set forth in section 2807-j(2)(b)(i)(B) of the Public Health Law or interest paid out by a carrier pursuant to section 3224-a(c) of the Insurance Law.

(7) Each carrier's submission shall be signed by an officer of the carrier certifying that the information is accurate.

(8) If a carrier makes a submission after January 31 and the carrier is a pool payer, the carrier's payment into the pool will be increased by one percent interest per month. If a carrier makes a submission after January 31 and the carrier is a pool receiver, the carrier's distribution will be reduced by one percent per month.

(e) The superintendent shall calculate each carrier's share of the total funding payable to or from the pools pursuant to the example in subdivision (i) of this section for each pool area as follows:

(1) Identify the total claims paid by each carrier for the following types of policies: individual standardized direct payment health maintenance organization policies, individual standardized direct payment point of service policies, all other individual health insurance policies, and small group health insurance policies, other than Medicare supplement and Healthy New York insurance policies.

(2) Identify the total claims paid in excess of \$20,000 for each insured by type of policy.

(3) For each carrier for each type of policy, divide the claims paid in excess of \$20,000 by the total claims paid (the amount specified in paragraph (2) of this subdivision divided by the amount specified in paragraph (1) of this subdivision) to determine the high cost claim ratio.

(4) Calculate the average high cost claim ratio for all carriers for all types of policies combined and multiply that ratio by the total claims paid for each carrier for each type of policy (a carrier's amount specified in paragraph (1) of this subdivision multiplied by the average high cost claim amount specified in paragraph (3) of this subdivision.)

(5) Subtract the amount calculated in paragraph (4) of this subdivision from the amount in paragraph (2) of this subdivision for each carrier for each type of policy to determine the adjustment needed to equalize high cost claims and determine if the carrier is a net contributor or receiver.

(6) Sum the net contributions of all carriers who are net contributors in the pool area to determine the total net contribution.

(7) Divide the pool area funding amount by the total of paragraph (6) of this subdivision and multiply by the amount identified for each carrier for each type of policy in paragraph (5) of this subdivision to determine the carrier's net pool contribution or distribution.

(f) Billings will be done by the superintendent beginning in 2008 within thirty days of receipt of submissions from all carriers, and payments will be due from carriers within five business days from the date billed. Payments made after the due date shall include interest at a rate of one percent per month. Subsequent to the billing date, but within the calendar year, carrier data that formed the basis of the billing will be audited. In the event audits necessitate post-billing adjustments, such adjustments will be charged or credited in the next year's billing or distribution. Additional payments due from any carrier whose data errors caused it to underpay shall include a one percent interest charge from the original due date.

(g) A carrier shall, with respect to distributions from the pools attributable to each type of policy, as determined in paragraph (7) of subdivision (e) of this section, without reduction for contributions owed on other types of policies:

(1) refund the distributions directly to insureds based upon the type of policy that caused the payments to be received without consideration of minimum loss ratio provisions; or

(2) submit a detailed plan to the superintendent for approval:

(i) demonstrating how the distribution will be applied to reduce future premium rates for the type of policy whose insureds caused the payments to be received, or

(ii) providing a detailed explanation as to how the distribution was considered in the development of premium rates for that year.

(h) Claim Submission Form.

Claims Paid From January 1 - December 31, ()

Carrier: _____

Pool Area: _____

Total annualized premium for individual standardized direct payment health maintenance organization (HMO) policies, individual standardized direct payment point of service (POS) policies, other individual health insurance policies, and small group policies: _____

Cumulative Total Claims Paid Above Listed Amounts (Attachment Point)	Direct Payment HMO	Direct Payment POS	Direct Payment Other	Small Group	Total
ZERO					
\$ 10,000					
\$ 15,000					
\$ 20,000					
\$ 25,000					
\$ 30,000					
\$ 35,000					
\$ 40,000					
\$ 45,000					
\$ 50,000					
\$ 60,000					
\$ 70,000					
\$ 80,000					
\$ 90,000					
\$100,000					

Instruction:

* Do not include Medicare Supplement Policies or Healthy New York Policies.

** For each insured determine the cumulative claims paid from January 1 through December 31 and report the total claims paid for all insureds for each type of policy listed above.

*** At each dollar level (Attachment Point), report all claims paid over that attachment point level amount from January 1 through December 31 for any insured. Cumulative total claims paid above the ZERO attachment point level would equal the total claims paid by the carrier for all insureds for the period. At the \$10,000 attachment point level, the amount would equal the sum of all claim amounts exceeding the \$10,000 attachment point level for any insured from January 1 through December 31. (Example: For an insured with \$17,000 of cumulative total claims paid in the calendar year, \$17,000 would be included in the zero level attachment

point total, \$7,000 would be included in the \$10,000 level attachment point total, and \$2,000 would be included in the \$15,000 attachment point total.)

(i) Chart for calculation of pool amounts.

	1	2	3	4	5	6
			High Cost Claim Ratio (Column 2 Divided by Column 1)	Claims Paid Multiplied by Average High Cost Claim Ratio (Column 1 Multiplied by Column 3 Average)	Adjustment To Equalize High Cost Claims (Column 2 Minus Column 4)	Pool Amount Owed or Receivable (Predetermined Total Pool Amount Divided by Column 5 Total Net Contributions of All Net Contributors Multiplied by Column 3)
Albany Region	Total Claims Paid	Claims Paid in Excess of \$20,000				
Carrier A						
Dir Pay HMO						
Dir Pay POS						
Dir Pay Other						
Small Group						
Carrier A Net						
Contribution or Distribution						
Carrier B						
Dir Pay HMO						
Dir Pay POS						
Dir Pay Other						
Small Group						
Carrier B Net						
Contribution or Distribution						
Total Net						
Contribution All Net Contributors						
Total Net						
Distributions All Net Receivers						

Section 361.6 is renumbered to be 361.7 and the opening paragraph of subsection (a) is amended to read as follows:

361.7(a) The pools shall be administered either directly by the superintendent, or in conjunction with a firm, performing at least the following functions:

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 June 27, 2007.

Text of emergency rule and any required statements and analyses may be obtained from: Andrew Mais, Insurance Department, 25 Beaver St., New York, NY 10004, (212) 480-2285, e-mail: Amais@ins.state.ny.us

Regulatory Impact Statement

1. Statutory authority: The Superintendent's authority for the fifth amendment to 11 NYCRR 361 is derived from Sections 201, 301, 1109, 3233 and Chapter 501 of the Laws of 1992 and Chapter 504 of the Laws of 1995.

Sections 201 and 301 of the Insurance Law authorize the Superintendent to prescribe regulations interpreting the provisions of the Insurance Law, as well as effectuate any power given to him under the provisions of the Insurance Law to prescribe forms or otherwise make regulations.

Section 1109 authorizes the Superintendent to promulgate regulations to effectuate the purposes and provisions of the Insurance Law and Article 44 of the Public Health Law with respect to contracts between a health maintenance organization and its subscribers.

Section 3233 authorizes the Superintendent to promulgate regulations to create a pooling process involving insurer contributions to, or receipts from, a fund designed to share the risk of or equalize high cost claims with respect to individual and small group health insurance.

Chapter 501 of the Laws of 1992 amended the insurance law and public health law to require: that individual and small group health insurance be made available on an open enrollment basis; community rating of individual and small group health insurance policies; portability of health insurance coverage; continuation of hospital, surgical or medical expense insurance; and requiring the Superintendent to promulgate regulations to assure an orderly implementation and ongoing operation of open enrollment and community rating.

Chapter 504 of the Laws of 1995 amended the insurance law and the public health law to establish standardized direct payment contracts for individual health insurance and to provide that regulations promulgated by the Superintendent shall include only reinsurance or a pooling process involving insurer or health maintenance organization contributions to, or receipts from, a fund which shall be designed to share the risk of high cost claims or the claims of high cost persons.

2. Legislative objectives: The statutory sections cited above provide a framework for the establishment of a market stabilization process in the individual and small group health insurance market. The proposed amendment to Regulation 146 is consistent with legislative objectives in that it would effectuate the Legislature's direction in Section 3233 to establish a pooling process involving health maintenance organization and insurer contributions to, or receipts from, a fund which shall be designed to share

the risk of or equalize high cost claims or claims of high cost persons, and to protect insurers and health maintenance organizations from disproportionate adverse risks of offering coverage to all applicants.

3. Needs and benefits: This amendment is the result of comments and suggestions received by the Department in relation to the current market stabilization pool. The current market stabilization pool is being phased-out. Payments, collections and data reports were not required in 2005, and the new pooling methodology established by the proposed amendment was established in 2006 and will become fully operational in 2008 to ensure a prospective application. The proposed amendment will modify the pooling methodology established in the Fourth Amendment to Regulation 146 (11 NYCRR 361.5) to provide a simplified approach and to increase uniformity and consistency in the methodologies used by insurers and health maintenance organizations when determining their contributions and/or distributions from the pools, and should help insurers and health maintenance organizations avoid reporting errors. The proposed amendment is needed because of the widely differing methodologies used by insurers and health maintenance organizations and the inconsistencies and resulting confusion as to how to apply the distributions and/or contributions to premium rates.

4. Costs: This amendment imposes no compliance costs upon state or local governments. The amendment does not impose any significant additional compliance costs to insurers or health maintenance organizations. Insurers and health maintenance organizations may have to modify their internal policies and procedures for compliance with the new pooling methodology, and if insurers or HMOs fail to comply with statutory or regulatory pooling requirements a penalty could be imposed. In addition, similar to the previous pooling methodology, insurers and HMOs with healthier lives will have to pay money into the market stabilization pool and those with unhealthy lives will receive money from the pool. There will be a cost to insurers and HMOs with healthier lives; however, the purpose of any market stabilization mechanism is to share risk and equalize claim costs. There should be no additional costs to the Insurance Department, as existing personnel are available to assist insurers and health maintenance organizations with the transition to the new market stabilization process.

5. Local government mandates: The proposed amendment imposes no new programs, services, duties or responsibilities on local government.

6. Paperwork: The proposed amendment imposes new reporting requirements. However, insurers and health maintenance organizations are currently reporting similar information to the Superintendent for the pooling requirements set forth in the specified medical condition pools established by the Fourth Amendment to Regulation 146 (11 NYCRR 361.5). Therefore, this proposed amendment should not create more paperwork for the insurers and health maintenance organizations than is currently in place.

7. Duplication: Section 3233 directs the Superintendent of Insurance to promulgate regulations to create a pooling process to establish stabilization in the individual and small group market. There is no duplication with federal or state laws.

8. Alternatives: The Insurance Department has been meeting with the Health Plan Association and the Conference of BlueCross BlueShield Plans to discuss this amendment. A suggestion was made to take payments from the Direct Payment Stop Loss Pools into consideration when determining amounts owed or received under the new pooling methodology. The pooling methodology established by the Fourth Amendment to Regulation 146 (11 NYCRR 361.5) in the existing regulation does not take these direct payment stop loss recoveries into consideration. The Department researched this alternative in conjunction with this Fifth Amendment and determined that the standardized individual direct payment health maintenance organization policies would be adversely impacted if the stop loss recoveries were taken into consideration. A suggestion was also made to increase the claim threshold from \$20,000 to \$100,000. The Insurance Department researched this alternative as well and found that the risk sharing and market stabilization would be significantly diminished and that legislative goals would not be accomplished.

9. Federal standards: There are no minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: The provisions of this amendment will take effect immediately. Insurers and health maintenance organizations were expected to submit initial reports to the Superintendent by November 10, 2006 and January 31, 2007, for advisory purposes only, and payments under the new pooling process will be made in 2008. The Insurance Department has had several meetings with representatives of insurers and health maintenance organizations to discuss this amendment, and insurers

and health maintenance organizations should be aware of the requirements established by this amendment.

Regulatory Flexibility Analysis

1. Effect of the rule: This amendment will affect all health maintenance organizations (HMOs) and insurers licensed to do business in New York State. Based upon information provided by these companies in annual statements filed with the Insurance Department, HMOs and insurers licensed to do business in New York do not fall within the definition of small business found in Section 102(8) of the State Administrative Procedures Act because none of them are both independently owned and have under 100 employees. This amendment may indirectly affect small businesses because it simplifies the market stabilization process for the individual and small group health insurance market, established by the Fourth Amendment to Regulation 146. This amendment does not apply to or affect local governments.

2. Compliance requirements: This amendment will not impose any reporting, recordkeeping, or other compliance requirements on small businesses or local governments.

3. Professional services: Small businesses or local governments should not need professional services to comply with the amendment.

4. Compliance costs: This amendment will not impose any compliance costs upon small businesses or local governments.

5. Economic and technological feasibility: Small businesses or local governments should not incur an economic or technological impact as a result of the amendment.

6. Minimizing adverse impact: This amendment simplifies the market stabilization methodology for individual and small group coverage established by the Fourth Amendment to Regulation 146. The same requirements will apply uniformly to individual and small group insurance coverage offered by HMOs and insurers, similar to the Fourth amendment to Regulation 146, and should not impose any adverse or disparate impact.

7. Small business and local government participation: These regulations are directed at HMOs and insurers licensed to do business in New York State, none of which fall within the definition of small business as found in Section 102(8) of the State Administrative Act. Notice of the proposal was previously published in the Insurance Department's Regulatory Agenda. This notice was intended to provide small businesses with the opportunity to participate in the rule making process. Interested parties were also consulted through direct meetings during the development of the proposed regulations.

Rural Area Flexibility Analysis

The amendment will not have any adverse impact on rural areas and does not impose reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. Insurers and health maintenance organizations to which the amendment applies do business in all counties of the state, including rural areas as defined under State Administrative Procedure Act Section 102(13). Since the amendment applies to the insurance market throughout New York, not only to rural areas, the same regulation will apply to regulated entities across the state. Therefore, there is no adverse impact on rural areas as a result of this amendment.

Job Impact Statement

This amendment to Regulation 146 will not adversely impact job or employment opportunities in New York. The proposed amendment is likely to have no measurable impact on jobs. Insurers and health maintenance organizations will need to annually report to the Superintendent their annualized premium amount and their cumulative calendar year claims paid. However, it is anticipated that such responsibilities will be handled by existing personnel because these reporting requirements are similar to the existing reporting requirements set forth in the Fourth Amendment to Regulation 146 (11 NYCRR 361.5). Costs to the Insurance Department will also be minimal, as existing personnel are available to assist insurers and health maintenance organizations in implementing the new pooling methodology.

Department of Labor

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Public Employee Occupational Safety and Health Standards

I.D. No. LAB-16-07-00003-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 section 800.3 of Title 12 NYCRR.

Statutory authority: Labor Law, section 27-a.4(a)

Subject: Public employee occupational safety and health standards.

Purpose: To incorporate by reference into New York State occupational safety and health standards, those safety and health standards adopted by the U.S. Department of Labor, Occupational Safety and Health Administration, as of Feb. 14, 2007.

Substance of proposed rule (Full text is not posted on a State website): The proposed rule amends Section 800.3 of Title 12 of the Official Compilation of Codes, Rules and Regulations of the State of New York, which sets forth those standards of the Occupational Safety and Health Administration which are incorporated by reference into state regulations. It is amended so as to incorporate those standards revised as of January 18, 2006.

The material incorporated by reference in Part 800.3 contains the following parts of Title 29 of the Code of Federal Regulations, revised as of the dates following the title of each part:

Part 1910 - General Industry Standards; July 1, 1988 edition

Part 1915 - Shipyard Employment Standards; July 1, 1988 edition

Part 1917 - Marine Terminal Standards edition; July 1, 1988 edition

Part 1918 - Longshoring Standards; July 1, 1988 edition

Part 1926 - Construction Standards; July 1, 1988 edition

Part 1928 - Agricultural Standards; July 1, 1988 edition

Certain revisions to these standards, published in the Federal Register through August 24, 2006, have been adopted previously.

Since the standards were last updated, the Department of Labor has obtained one additional standard:

1. Updating OSHA Standards based on National Consensus Standards; General, Incorporation by Reference; Electrical Standard; Final Rule, 72 Federal Register, 7135-7221.

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

This amendment is necessary because Section 27-a(4)(a) of the Labor Law directs the Commissioner to adopt by rule, for the protection of the safety and health of public employees, all safety and health standards promulgated under the U.S. Occupational Safety and Health Act of 1970, and to promulgate and repeal such rules and regulations as may be necessary to conform to the standards established pursuant to OSHA. This insures that public employees will be afforded the same safeguards in their workplaces as are granted to employees in the private sector.

Job Impact Statement

As the proposed action does not affect jobs and employment opportunities but simply affords workplace safety and health guidelines to improve job performance and safety, a job impact statement is not submitted.

Long Island Power Authority

NOTICE OF ADOPTION

Tariff for Electric Service

I.D. No. LPA-04-07-00006-A

Filing date: March 28, 2007

Effective date: March 28, 2007

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

Action taken: Long Island Power Authority adopted a proposal to revise the authority's tariff for electric service in order to accommodate a change to the start and end dates of daylight saving time (DST).

Statutory authority: Public Authorities Law, section 1020-f(z) and (u)

Subject: Tariff for electric service.

Purpose: To adopt revisions to the authority's tariff for electric service relating to commercial service classifications with rate codes having time differentiated rate periods.

Text or summary was published in the notice of proposed rule making, I.D. No. LPA-04-07-00006-P, Issue of January 24, 2007.

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

Text of rule and any required statements and analyses may be obtained from: Richard M. Kessel, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 222-7700, e-mail: rkessel@lipower.org

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.

Office of Mental Health

EMERGENCY RULE MAKING

Child and Family Clinic Plus Program

I.D. No. OMH-16-07-00007-E

Filing No. 339

Filing date: April 2, 2007

Effective date: April 2, 2007

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

Action taken: Amendment of Part 587 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09(b) and 31.04(a)

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

Specific reasons underlying the finding of necessity: These amendments provide authority to establish Child and Family Clinic Plus, a program authorized by the 2006-2007 enacted budget. Failure to initiate this program immediately would result in children and their families being without services necessary to their health, safety and general welfare.

Subject: Child and Family Clinic Plus.

Purpose: To establish the Child and Family Clinic Plus Program.

Text of emergency rule: Part 587 is amended as follows:

Subdivision (b) of Section 587.4 is amended to add a new definition (1) and existing definitions (1) through (5) are renumbered (2) through (6) to read as follows:

587.4 (b) Program definitions.

(1) *Child and Family Clinic Plus provider is a licensed clinic that has been approved by the Office of Mental Health to provide Child and Family Clinic Plus services.*

(2) Off-site locations, for purposes of providing outpatient services and reimbursement, are any sites in the community where a recipient may require services.

[(2)] (3) Program capacity shall mean the number of recipients who can be on site at a given time.

[(3)] (4) Program space means discrete space dedicated to the purpose of the outpatient program and includes all space used by recipients enrolled in the program.

[(4)] (5) Provider of service means the entity which is responsible for the operation of a program. Such entity may be an individual, partnership, association or corporation. For purposes of this Part, unless otherwise noted, the term also applies to a psychiatric center or institute operated by the Office of Mental Health.

[(5)] (6) Satellite location of a primary program means a physically separate adjunct site to a certified clinic treatment program, continuing day treatment program, day treatment program serving children or intensive psychiatric rehabilitation treatment program provides either a full or partial array of outpatient services on a regularly and routinely scheduled basis (full or part time).

Subdivision (c) of Section 587.4 is amended to add new definitions (5), (7), (10), (13) and (16), and to renumber existing definitions (5) as (6), (6) as (8), (7) as (9), (8) as (11), (9) as (12), (10) as (14), (11) as (15) and (12) through (29) as (17) through (34) respectively, to read as follows:

587.4 (c) Service definitions.

(1) Activity therapy means therapy designed to assist a recipient in developing the functional skills and social and environmental supports needed to function more successfully in current or intended life environments (i.e., living, learning, working and social). Such therapy should provide an opportunity for a recipient to practice the skills and build or sustain the supports needed to improve functioning.

(2) Assessment is the continuous clinical process of identifying an individual's behavioral strengths and weaknesses, problems and service needs, through the observation and evaluation of the individual's current mental, physical and behavioral condition and history. The assessment shall be the basis for establishing a diagnosis, treatment plan or psychiatric rehabilitation service plan.

(3) Case management services are the process of linking the individual to the service system and monitoring the provision of services with the objective of continuity of care and service. Case management includes the following components:

(i) Linking. The process of referring the individual to all required services and supports as specified in the individual service plan.

(ii) Case-specific advocacy. The process of interceding on behalf of the individual to gain access to needed services and supports.

(iii) Monitoring. The process of observing the individual to assure that needed services and supports are received.

(4) Carved-out services are those specialized services that are not included in the benefit package of a managed care provider, other than a duly authorized managed special care provider, for all current and future managed care enrollees, regardless of aid category. Such services are long term services for individuals with chronic illnesses and include the following:

(i) Day Treatment Programs;

(ii) Continuing Day Treatment Programs;

(iii) Intensive Psychiatric Rehabilitation Programs;

(iv) Partial Hospitalization;

(v) Comprehensive Medicaid Case Management (CMCM);

(vi) Rehabilitation services provided to a resident of OMH rehabilitation treatment services and family based treatment programs;

(vii) Services provided to children with serious emotional disturbances in designated clinics.

(5) *Child and Family Plus Services are Mental Health Screening, Comprehensive Assessment, In-Home Services and Evidence-Based Treatment.*

(6) Clinical support services are services provided to collaterals, by at least one therapist, with or without recipients for the purpose of providing resources and consultation for goal oriented problem solving, assessment of treatment strategies and provision of skill development to assisting the recipient in management of his or her illness.

(7) *Comprehensive Assessment is an assessment that follows the American Academy of Child and Adolescent Psychiatry practice parameters for comprehensive assessment and includes the regular and methodical use of psychometric tools. This will include collecting the recipient's mental health history, and any current signs and symptoms of mental illness or emotional disturbance, identification of child and family*

strengths, and the assessment of the data to determine the recipient's mental health status and need for treatment.

[(6)](8) Crisis intervention services are activities and interventions, including medication and verbal therapy, designed to address acute distress and associated behaviors when the individual's condition requires immediate attention.

[(7)](9) Discharge planning is the process of planning for termination from a program or identifying the resources and supports needed for transition of an individual to another program and making the necessary referrals, including linkages for treatment, rehabilitation and supportive services based on assessment of the recipient's current mental status, strengths, weaknesses, problems, service needs, the demands of the recipient's living, working and social environment, and the client's own goals, needs and desires.

[(10)](10) Evidence-Based Treatment is the application of therapeutic and or psychopharmacological approaches that have been scientifically proven to be effective in the treatment of specific emotional disturbances.

[(8)](11) Family treatment means therapeutic interventions designed to treat the recipient's psychiatric condition (whether the recipient is an adult or a minor) to address family issues that have a direct impact on the symptoms experienced by the recipient, and to promote successful problem solving, communication, and understanding between a recipient and family members as it relates to the recipient's symptoms, treatment, and recovery.

[(9)](12) Health screening service is the gathering of data concerning the recipient's medical history and any current signs and symptoms, and the assessment of the data to determine his or her physical health status and need for referral for noted problems. The data may be provided by the recipient or obtained with his or her participation. The assessment of the data shall be done by a nurse practitioner, physician, physician's assistant, psychiatrist or registered professional nurse. The assessment of physical health status shall be integrated into the patient's treatment plan.

[(13)](13) In-Home Services are clinic services of a minimum duration of 30 minutes provided by a qualified mental health professional to a child and/or his or her family, pursuant to his or her treatment plan, within the child's or family's living environment.

[(10)](14) Medication therapy means prescribing and/or administering medication, reviewing the appropriateness of the recipient's existing medication regimen through review of records and consultation with the recipient and/or family or caregiver, and monitoring the effects of medication on the recipient's mental and physical health.

[(11)](15) Medication education means providing recipients with information concerning the effects, benefits, risks and possible side effects of a proposed course of medication.

[(16)](16) Mental Health Screening is a broad-based approach to identify children and adolescents with emotional disturbances and intervene at the earliest possible opportunity.

[(12)](17) Pre-admission screening is the initial face-to-face process of contacting, interviewing and evaluating a potential recipient of mental health services to determine the individual's need for services.

[(13)](18) Psychiatric rehabilitation goal setting is the process by which a recipient selects a specific environment in which he or she intends to live, work, learn, and/or socialize. The psychiatric rehabilitation goal identifies a specific environment, specific time frames, and is mutually agreed upon by the recipient and the staff.

[(14)](19) Psychiatric rehabilitation treatment means therapeutic interventions designed to increase the functioning of a person with psychiatric disabilities so that he or she can succeed in a community environment of living, working, learning and social relationships.

[(15)](20) Psychiatric rehabilitation functional and resource assessment is the process by which the recipient and practitioner develop an understanding of the skills the recipient can and cannot perform and the social and environmental resources that are available related to achieving the recipient's psychiatric rehabilitation goals.

[(16)](21) Psychiatric rehabilitation readiness determination means an interview and observation process which evaluates rehabilitation readiness based on a recipient's perceived need, motivation, and awareness of the process involved in making a change in his or her life.

[(17)](22) Psychiatric rehabilitation service planning is the process of designing and continuously revising an individualized program to assist the patient in obtaining and maintaining a psychiatric rehabilitation goal.

[(18)](23) Psychiatric rehabilitation skills and resource development is the process of improving a recipient's use of skills and arranging for or adapting social and environmental resources necessary to achieve a psychiatric rehabilitation goal.

[(19)](24) Psychiatric rehabilitation support services are consultation and technical assistance services provided to collaterals, by at least one therapist, with or without recipients. The purpose of this service is to enhance the capacity of the collateral to serve as a resource in assisting the recipient to achieve or maintain his or her psychiatric rehabilitation goal.

[(20)](25) Referral means a post-assessment planning activity with the objective of referring or directing an individual to a program providing the appropriate services.

[(21)](26) Rehabilitation readiness development is the process of building a recipient's skills to proceed with the rehabilitation goal setting process. This service might include confidence building activities, self-awareness activities, or trial visits to various environments.

[(22)](27) Social training is an activity whose purpose is to assist a child in the acquisition or development of age-appropriate social and interpersonal skills.

[(23)](28) Socialization is an activity whose purpose is to develop, improve or maintain a child's capacity for social or recreational involvement by providing age-appropriate opportunities for development, application and practice of social or recreational skills.

[(24)](29) Supportive skills training is the development of physical, emotional and intellectual skills needed to cope with mental illness and the performance demands of personal care and community living activities. Such training is provided through direct instruction techniques including explanation, modeling, role playing and social re-enforcement interventions.

[(25)](30) Symptom management, as a service for adults, means the development and provision of appropriate skills and techniques specific to the individual recipient's condition to enable him or her to recognize the onset of psychiatric symptoms and engage in activities designed to prevent, manage, or reduce such symptoms.

[(26)](31) Symptom management, as a service for children, means a set of skill building interventions, adjunct to verbal therapy.

[(27)](32) Task and skill training is a nonvocational activity whose purpose is to enhance a child's age-appropriate skills necessary for functioning in home, school and community settings. Task and skill training activities shall include, but not be limited to, personal care, budgeting, shopping, transportation, use of community resources, time management, and study skills.

[(28)](33) Treatment planning is the process of developing, evaluating and revising an individualized course of treatment based on an assessment of the recipient's diagnosis, behavioral strengths and weaknesses, problems, and service needs.

[(29)](34) Verbal therapy means providing goal oriented therapy including psychotherapy, behavior therapy, family and group therapy and other face-to-face contacts between staff and recipients designed to address the specific dysfunction of the recipient as identified in his or her treatment plan. As a service in a program serving children with a diagnosis of emotional disturbance, play therapy and expressive art therapy may also be included.

Section 587.9 is amended to add a new paragraph (f), and existing paragraphs (f) through (k) are renumbered (g) through (l), to read as follows:

(f) A clinic treatment program that has been approved to be a Children and Family Clinic Plus provider shall also provide the following services:

(1) *Mental Health Screening.* Such services shall be provided in a community setting, and shall be provided with the prior written consent of the child's parent or legal guardian.

(2) *Comprehensive Assessment.* A comprehensive assessment can be performed over the course of not more than three (3) visits per client, and is intended to determine the presence and nature of any emotional disturbance and to develop a treatment plan where appropriate.

(3) *In-Home Services.*

(4) *Evidence-Based Treatment.*

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 June 30, 2007.

Text of emergency rule and any required statements and analyses may be obtained from: Dan Odell, Assistant Director, Bureau of Policy, Legislation and Regulation, Office of Mental Health, 44 Holland Ave., Albany, NY 12229, (518) 474-1331, e-mail: dodell@omh.state.ny.us

Regulatory Impact Statement

1. Statutory Authority: Subdivision (b) of Section 7.09 of the Mental Hygiene Law grants the Commissioner of the Office of Mental Health the

authority and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

Subdivision (a) of Section 31.04 of the Mental Hygiene Law empowers the Commissioner to issue regulations setting standards for licensed programs for the provision of services for persons with mental illness.

Chapter 54 of the Laws of 2006 provides funding appropriations in support of the Child and Family Clinic Plus Program.

2. Legislative Objectives: Articles 7 and 31 of the Mental Hygiene Law reflect the Commissioner's authority to establish regulations regarding mental health programs.

3. Needs and Benefits: Clinic treatment has been the foundation of the public mental health system for over thirty years. Each year, nearly 100,000 children and families are served in clinic treatment. This presents New York with a unique opportunity to demonstrate the impact that a transformation in State policy, financing and regulation, can make. The structure and financing of the clinic treatment program have remained constant and have not kept pace with findings generated by decades of scientific study in the recognition, diagnosis and treatment of childhood mental illness.

Currently, clinic services are very structured, designed to be delivered within an office-based setting, and require children and families to self-identify. To effectively address the mental health needs of children and their families in a timely manner, services need to be readily available and provided in a larger variety of settings, like the home. In order to achieve this shift in service provision, OMH recognizes the need for changes to be made to current clinic service structure and funding to improve access to effective and flexible services. Building on the knowledge that early and effective intervention increases the likelihood of positive outcomes; the OMH also recognizes the need to systematically identify childhood mental illness early through screening activities and to improve services by incorporating evidenced-based practices. Additionally, the President's New Freedom Commission's goal to address disparities in mental health services must be considered. These disparities are readily seen through the lenses of culture, race, age and gender. The opportunity to reduce these disparities in the children's mental health system is within our grasp. When taken together, these actions are expected to result in the transformation of the children's mental health system into one that more effectively addresses the needs of the children and families of New York State.

By this rulemaking, and as funded and authorized by the 2006-07 enacted State Budget, OMH is seeking to transform local mental health clinics from a passive program waiting for clients to present, to an active program that will intervene earlier in a child's developmental trajectory. Through Child and Family Clinic-Plus, the children's mental health system will adopt a public health approach to the early recognition and treatment of health concerns. With this new approach, children will be screened for emotional disturbance in their natural environment each year. Children in need of treatment will have access to a comprehensive assessment that utilizes the practice parameters from the American Academy of Child and Adolescent Psychiatry as well as evidence-based tools and scales. Children and families requiring treatment will find that Clinic-Plus brings improved access, in-home services, and treatments that have been shown through science to work. The initiative calls for the expansion of clinic services, creating greater access for children and their families receiving clinic treatment and in-home treatment services.

Each Child and Family Clinic-Plus provider will collaborate with their respective County or the City of New York to conduct systematic early recognition activities for the identified priority populations; demonstrate skill in engaging families in treatment; offer a range of evidence-based treatments that are individually determined and family focused; and will provide a constellation of support services in the home and community that lead to skill mastery for the child and family. Each Clinic-Plus will be licensed by the OMH as an outpatient clinic and will receive Medicaid and State Aid enhancements.

The primary components of Child and Family Clinic-Plus include:

- Broad-based screening in natural environments
- Comprehensive assessment
- Expanded clinic capacity
- In-home services
- Evidence Based Treatment

Numerous research studies document the lack of adequate identification and treatment for children with serious emotional disturbance. In what was perhaps the largest epidemiological study of its kind, Kessler *et al.* shows that the age of onset for serious mental illness in adulthood occurs in early adolescence, yet identification and treatment are often delayed for

years. The age of onset is much earlier than once thought and has profound implications for children's mental health. There is a long and rich scientific history substantiating the fact that there is a developmental progression to behavioral/emotional problems among young children. Emotional or behavioral problems unrecognized in childhood can cascade into full blown psychiatric disorders with serious debilitating consequences in adolescence or adulthood. Furthermore, there is a strong gradient of risk, such that problems left unrecognized and untreated can become far more severe and intractable illnesses in adulthood. In fact, the continuity of young children's behavioral or emotional disorders into later problems in adolescence or adulthood is among the strongest and most unequivocal of scientific findings.

Decades of research, support the following:

- (1) mental health problems can be recognized as early as preschool;
- (2) risk factors for development of mental health problems can be identified in childhood and many are modifiable;
- (3) failure to identify and to intervene can have life-long and often devastating effects;
- (4) scientifically-validated tools for early recognition exist; and
- (5) a range of effective intervention service programs exist and they have a strong scientific base.

4. Costs:

(a) Costs to private regulated parties: There will be no mandated unreimbursed costs to the regulated parties.

(b) Costs to state and local government: The annual state cost for the program is estimated to be \$21,500,000.00. There is no local Medicaid share or other costs for this program.

(c) The cost projection was calculated as follows:

Screening for approximately 235,000 children	\$ 1,881,000
New clinic admissions for approximately 23,500*	11,679,000
In-home services (17,500)	7,940,000
Total	\$ 21,500,000

* Includes comprehensive assessments and clinic expansion

5. Local Government Mandates: These regulatory amendments will not involve or result in any additional imposition of duties or responsibilities upon county, city, town, village, school or fire districts.

6. Paperwork: This rule should not substantially increase the paperwork requirements of affected providers.

7. Duplication: These regulatory amendments do not duplicate existing State or federal requirements.

8. Alternatives: A. Alternatives to providing authorization for Child and Family Clinic Plus.

The only alternative would be inaction. As this program, Child and Family Clinic Plus, has been established and funded in statute, this alternative was considered as contrary to the intent of the legislation.

9. Federal Standards: The regulatory amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule: The authority to establish and fund the Child and Family Clinic Plus program is effective on the filing date of this rulemaking.

Regulatory Flexibility Analysis

Regulatory Flexibility Analysis for Small Businesses and Local Governments is not being submitted with this notice because the amended rule will not impose a significant negative economic impact on small businesses, or local governments. The clinic expansion associated with Child and Family Clinic Plus contains no local government share of Medicaid. The establishment of the Child and Family Clinic Plus Program is required by the enacted 2006-2007 state budget.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not being submitted with this notice because the amended rules will have no negative impact on services and programs serving residents of rural counties. Child and Family Clinic Plus is an expansion of existing clinic services creating increased access for children and families statewide. Children and families in the 44 counties designated as rural counties by the New York State Legislature, as well as non-rural counties will benefit from the establishment of this new statewide program.

Job Impact Statement

This rulemaking establishes a new program: Child and Family Clinic Plus which will involve new employment opportunities for staff providing these services. It will not have any negative impact on jobs and employment activities.

NOTICE OF ADOPTION

Operation of Acute Psychiatric Crisis Residence

I.D. No. OMH-05-07-00003-A

Filing No. 340

Filing date: April 2, 2007

Effective date: April 18, 2007

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

Action taken: Amendment of Subpart 589-2 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09(b) and 31.04(a)

Subject: Operation of acute psychiatric crisis residence.

Purpose: To correct an error in the title of the Subpart.

Text or summary was published in the notice of proposed rule making, I.D. No. OMH-05-07-00003-P, Issue of January 31, 2007.

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

Text of rule and any required statements and analyses may be obtained from: Dan Odell, Assistant Director, Bureau of Policy, Legislation and Regulation, Office of Mental Health, 44 Holland Ave., Albany, NY 12229, (518) 474-1331, e-mail: dodell@omh.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

NOTICE OF WITHDRAWAL

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

The following rule makings have been withdrawn from consideration:

I.D. No.	Publication Date of Proposal
PSC-19-05-00014-P	July 6, 2005
PSC-39-06-00011-P	September 27, 2006
PSC-43-06-00015-P	October 25, 2006
PSC-45-06-00009-P	November 8, 2006
PSC-49-06-00006-P	December 6, 2006
PSC-49-06-00007-P	December 6, 2006
PSC-49-06-00008-P	December 6, 2006
PSC-49-06-00009-P	December 6, 2006
PSC-07-07-00009-P	February 14, 2007

NOTICE OF ADOPTION

Submetering of Electricity by Herbert E. Hirschfeld, P.E. on behalf of Bay Park One

I.D. No. PSC-44-06-00015-A

Filing date: April 3, 2007

Effective date: April 3, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order in Case 06-E-1176 approving the petition filed by Herbert E. Hirschfeld, P.E. to submeter electricity at Bay Park One, 2750-2770 W. 33rd St., and 3325 Neptune Ave., Brooklyn, NY.

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

Subject: Submetering of electricity.

Purpose: To submeter electricity at Bay Park One, 2750-2770 W. 33rd St., and 3325 Neptune Ave., Brooklyn, NY.

Substance of final rule: The Commission approved a request by Herbert E. Hirschfeld, P.E. to submeter electricity at Bay Park One, 2750-2770 West 33rd Street, and 3325 Neptune Avenue, Brooklyn, New York, located 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.

(06-E-1176SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Herbert E. Hirschfeld on behalf of Surf 21

I.D. No. PSC-44-06-00016-A

Filing date: April 2, 2007

Effective date: April 2, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order in Case 06-E-1178 approving the petition filed by Herbert E. Hirschfeld, P.E. to submeter electricity at Surf 21, 2930 and 2940 W. 21st St., Brooklyn, NY.

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

Subject: Submetering of electricity.

Purpose: To submeter electricity at Surf 21, 2930 and 2940 W. 21st St., Brooklyn, NY.

Substance of final rule: The Commission approved a request by Herbert E. Hirschfeld, P.E. to submeter electricity at Surf 21, 2930 and 2940 West 21st Street, Brooklyn, New York, located 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.

(06-E-1178SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Herbert E. Hirschfeld on behalf of Riverview

I.D. No. PSC-44-06-00017-A

Filing date: April 2, 2007

Effective date: April 2, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order in Case 06-E-1179 approving the petition filed by Herbert E. Hirschfeld, P.E. to submeter electricity at Riverview, 1600 Sedgwick Ave., Bronx, NY.

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

Subject: Submetering of electricity.

Purpose: To submeter electricity at Riverview, 1600 Sedgwick Ave., Bronx, NY.

Substance of final rule: The Commission approved a request by Herbert E. Hirschfeld, P.E. to submeter electricity at Riverview, 1600 Sedgwick Avenue, Bronx, New York, located 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.

(06-E-1179SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Herbert E. Hirschfeld, P.E. on behalf of Bay Park Two

I.D. No. PSC-44-06-00018-A

Filing date: April 3, 2007

Effective date: April 3, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order in Case 06-E-1180 approving the petition filed by Herbert E. Hirschfeld, P.E. to submeter electricity at Bay Park Two, 3395, 3405 and 3415 Neptune Ave., Brooklyn, NY.

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

Subject: Submetering of electricity

Purpose: To submeter electricity at Bay Park Two, 3395, 3405 and 3415 Neptune Ave., Brooklyn, NY.

Substance of final rule: The Commission approved a request by Herbert E. Hirschfeld, P.E. to submeter electricity at Bay Park Two, 3395, 3405 and 3415 Neptune Avenue, Brooklyn, New York, located 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.

(06-E-1180SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Bay City Metering Company, Inc.

I.D. No. PSC-49-06-00010-A

Filing date: April 3, 2007

Effective date: April 3, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order in Case 06-E-1391 approving the petition filed by Bay City Metering Company, Inc., on behalf of 430 Realty Company, LLC to submeter electricity at 430 E. 86th St., New York, NY.

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

Subject: Submetering of electricity.

Purpose: To submeter electricity at 430 E. 86th St., New York, NY.

Substance of final rule: The Commission approved a request by Bay City Metering Company, Inc., on behalf of 430 Realty Company, LLC to submeter electricity at 430 East 86th Street, New York, New York, located 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.

(06-E-1391SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Red Hook Stores, LLC

I.D. No. PSC-50-06-00009-A

Filing date: April 3, 2007

Effective date: April 3, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order Case 06-E-1422 approving the petition filed by Red Hook Stores, LLC to submeter electricity at 500 Van Brunt St., Brooklyn, NY.

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

Subject: Submetering of electricity.

Purpose: To submeter electricity at 500 Van Brunt St., Brooklyn, NY.

Substance of final rule: The Commission approved a request by Red Hook Stores, LLC, to submeter electricity at 500 Van Brunt Street, Brooklyn, New York, located 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.

(06-E-1422SA1)

NOTICE OF ADOPTION

Submetering of Electricity by Avalon Bay Communities, Inc.

I.D. No. PSC-02-07-00005-A

Filing date: April 2, 2007

Effective date: April 2, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order in Case 06-E-1535 approving the petition filed by Avalon Bay Communities, Inc. to submeter electricity at 27 Memorial Hwy., New Rochelle, NY.

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

Subject: Submetering of electricity.

Purpose: To submeter electricity at 27 Memorial Hwy., New Rochelle, NY.

Substance of final rule: The Commission approved a request by Avalon Bay Communities, Inc. to submeter electricity at 27 Memorial Highway, New Rochelle, New York, located 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.

(06-E-1535SA1)

NOTICE OF ADOPTION

Transfer of Water Plant Assets and Electronic Tariff Filing by Donald E. Mulligan

I.D. No. PSC-03-07-00012-A
Filing date: March 30, 2007
Effective date: March 30, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order approving Donald E. Mulligan's request to transfer the water plant assets formerly owned by Standard Stone Construction Corporation, and presently owned and operated under an individual proprietorship, to Terrell Hills Water Company, Inc.

Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1) and 89-h

Subject: Transfer of water plant assets and electronic tariff filing.

Purpose: To transfer the water plant assets formerly owned by Standard Stone Construction Corporation, and presently operated under an individual proprietorship, to Terrell Hills Water Company, Inc., and approve an electronic tariff schedule, P.S.C. No. 1—Water.

Substance of final rule: The Commission adopted an order approving Donald E. Mulligan's request to transfer the water plant assets formerly owned by Standard Stone Construction Corporation, and presently owned and operated under an individual proprietorship, to Terrell Hills Water Company, Inc., and approved the electronic tariff schedule, P.S.C. No. 1—Water effective April 1, 2007, 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.
 (06-W-1549SA1)

NOTICE OF ADOPTION

Issuance of Common Stock by Corning Natural Gas Corporation

I.D. No. PSC-04-07-00015-A
Filing date: April 2, 2007
Effective date: April 2, 2007

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

Action taken: The commission, on March 21, 2007, approved the petition of Corning Natural Gas Corporation to have increased flexibility in the terms by which it was previously authorized to issue common stock including attaching warrants to the shares.

Statutory authority: Public Service Law, section 69

Subject: Issuance of common stock.

Purpose: To allow increased flexibility in the terms to issue the common stock already authorized in a prior order issued on Jan. 23, 2003.

Substance of final rule: The Commission adopted an order approving the petition of Corning Natural Gas Corporation to allow increased flexibility in the terms to issue common stock already authorized in a prior order issued on January 23, 2003, subject to the terms and conditions of 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-1106SA3)

NOTICE OF ADOPTION

Annual Reconciliation of Gas Expenses and Gas Cost Recoveries by Corning Natural Gas Corporation

I.D. No. PSC-04-07-00016-A
Filing date: March 30, 2007
Effective date: March 30, 2007

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

Action taken: The commission, on March 21, 2007, adopted an order approving Corning Natural Gas Corporation's (Corning) request to revise the annual reconciliation rates to go into effect on April 1, 2007.

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

Subject: Annual reconciliation of gas expenses and gas cost recoveries.

Purpose: To approve Corning's filing regarding the reconciliation of gas costs issued Dec. 22, 2006 and all other related matters.

Substance of final rule: The Commission adopted an order approving Corning Natural Gas Corporation's request to revise the annual reconciliation of gas costs that will go into effect on April 1, 2007.

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.
 (06-G-1581SA1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED**Interconnection Agreement between TVC Albany Inc. d/b/a Tech Valley Communications and Verizon New York Inc.**

I.D. No. PSC-16-07-00009-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a modification filed by TVC Albany Inc. d/b/a Tech Valley Communications and Verizon New York Inc. to revise the interconnection agreement effective on Jan. 8, 1999.

Statutory authority: Public Service Law, section 94(2)

Subject: Intercarrier agreement to interconnect telephone networks for the provisioning of local exchange service.

Purpose: To amend the TVC Albany Inc. d/b/a Tech Valley Communications and Verizon New York Inc. interconnection agreement.

Substance of proposed rule: The Commission approved an Interconnection Agreement between TVC Albany Inc. d/b/a Tech Valley Communications and Verizon New York Inc. in January 2000. The companies subsequently have jointly filed amendments to clarify the provisions regarding intercarrier compensation of Internet traffic and Reciprocal Compensation traffic. The Commission is considering these changes.

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. Brillling, 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.
(99-C-0190SA2)

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

Interconnection Agreement between Lightship Telecom, LLC and Verizon New York Inc.

I.D. No. PSC-16-07-00010-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a modification filed by Lightship Telecom, LLC and Verizon New York Inc. to revise the interconnection agreement effective on July 28, 2000.

Statutory authority: Public Service Law, section 94(2)

Subject: Inter-carrier agreement to interconnect telephone networks for the provisioning of local exchange service.

Purpose: To amend the Lightship Telecom, LLC and Verizon New York Inc. interconnection agreement.

Substance of proposed rule: The Commission approved an Interconnection Agreement between Lightship Telecom, LLC and Verizon New York Inc. in December 2000. The companies subsequently have jointly filed amendments to clarify the provisions regarding issues raised in the A.R.C. Complaint Proceeding and wish to amend their interconnection agreement to reflect certain billing and related matters. The Commission is considering these changes.

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. Brillling, 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.
(00-C-1637SA3)

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

Interconnection Agreement between CTC Communications Corporation and Verizon New York Inc.

I.D. No. PSC-16-07-00011-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a modification filed by CTC Communications Corporation and Verizon New York Inc. to revise the interconnection agreement effective on March 8, 2001.

Statutory authority: Public Service Law, section 94(2)

Subject: Inter-carrier agreement to interconnect telephone networks for the provisioning of local exchange service.

Purpose: To amend the CTC Communications Corporation and Verizon New York Inc. interconnection agreement.

Substance of proposed rule: The Commission approved an Interconnection Agreement between CTC Communications Corporation and Verizon New York Inc. in August 2001. The companies subsequently have jointly filed amendments to clarify the provisions regarding issues raised in the A.R.C. Complaint Proceeding and wish to amend their interconnection

agreement to reflect certain billing and related matters. The Commission is considering these changes.

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. Brillling, 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.

(01-C-0329SA5)

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

Interconnection Agreement between Conversent Communications of New York, LLC and Verizon New York Inc.

I.D. No. PSC-16-07-00012-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a modification filed by Conversent Communications of New York, LLC and Verizon New York Inc. to revise the interconnection agreement effective on June 14, 2001.

Statutory authority: Public Service Law, section 94(2)

Subject: Inter-carrier agreement to interconnect telephone networks for the provisioning of local exchange service.

Purpose: To amend the Conversent Communications of New York, LLC and Verizon New York Inc. interconnection agreement.

Substance of proposed rule: The Commission approved an Interconnection Agreement between Conversent Communications of New York, LLC and Verizon New York Inc. in September 2001. The companies subsequently have jointly filed amendments to clarify the provisions regarding issues raised in the A.R.C. Complaint Proceeding and wish to amend their interconnection agreement to reflect certain billing and related matters. The Commission is considering these changes.

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. Brillling, 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.

(01-C-0810SA3)

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

Interconnection Agreement between Access Point, Inc. and Verizon New York Inc.

I.D. No. PSC-16-07-00013-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a modification filed by Access

Point, Inc. and Verizon New York Inc. to revise the interconnection agreement effective on Sept. 7, 2001.

Statutory authority: Public Service Law, section 94(2)

Subject: Inter-carrier agreement to interconnect telephone networks for the provisioning of local exchange service.

Purpose: To amend the Access Point, Inc. and Verizon New York Inc. interconnection agreement.

Substance of proposed rule: The Commission approved an Interconnection Agreement between Access Point, Inc. and Verizon New York Inc. in February 2002. The companies subsequently have jointly filed amendments to clarify the provisions regarding Unbundled Network Elements (UNEs). The Commission is considering these changes.

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. Brillling, 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.

(01-C-1828SA2)

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

Interconnection Agreement between Covad Communications Company and Verizon New York Inc.

I.D. No. PSC-16-07-00014-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal and modification filed by Covad Communications Company and Verizon New York Inc. for approval of an interconnection agreement executed on Feb. 2, 2007.

Statutory authority: Public Service Law, section 94(2)

Subject: Interconnection of networks for local exchange service and exchange access.

Purpose: To review the terms and conditions of the negotiated agreement.

Substance of proposed rule: Covad Communications Company and Verizon New York Inc. have reached a negotiated agreement whereby Covad Communications Company and Verizon New York Inc. will interconnect their networks at mutually agreed upon points of interconnection to provide Telephone Exchange Services and Exchange Access to their respective customers. The Agreement establishes obligations, terms and conditions under which the parties will interconnect their networks lasting for the term of an underlying agreement.

The companies have subsequently filed amendments to clarify the provision regarding issues raised in the A.R.C. Complaint Proceeding and wish to amend their interconnection agreement to reflect certain billing and related matters. The Commission is considering these changes.

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. Brillling, 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.

(02-C-1175SA1)

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

Interconnection Agreement between XO Communications Services, Inc. and Verizon New York Inc.

I.D. No. PSC-16-07-00015-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a modification filed by XO Communications Services, Inc. and Verizon New York Inc. to revise the interconnection agreement effective on July 24, 2003.

Statutory authority: Public Service Law, section 94(2)

Subject: Inter-carrier agreement to interconnect telephone networks for the provisioning of local exchange service.

Purpose: To amend the XO Communications Services, Inc. and Verizon New York Inc. interconnection agreement.

Substance of proposed rule: The Commission approved an Interconnection Agreement between XO Communications Services, Inc. and Verizon New York Inc. in November 2003. The companies subsequently have jointly filed amendments to clarify the provisions regarding issues raised in the A.R.C. Complaint Proceeding and wish to amend their interconnection agreement to reflect certain billing and related matters. The Commission is considering these changes.

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. Brillling, 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-C-1234SA3)

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

Interconnection Agreement between Neutral Tandem-New York, LLC and Verizon New York Inc.

I.D. No. PSC-16-07-00016-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a modification filed by Neutral Tandem-New York, LLC and Verizon New York Inc. to revise the interconnection agreement effective on Jan. 8, 2007.

Statutory authority: Public Service Law, section 94(2)

Subject: Inter-carrier agreement to interconnect telephone networks for the provisioning of local exchange service.

Purpose: To amend the Neutral Tandem-New York, LLC and Verizon New York Inc. interconnection agreement.

Substance of proposed rule: The Commission approved an Interconnection Agreement between Neutral Tandem-New York, LLC and Verizon New York Inc. in March 2007. The companies subsequently have jointly filed amendments to clarify the provisions regarding the Unitary Rate Amendment. The Commission is considering these changes.

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.

(07-C-0022SA2)

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

Interconnection Agreement between Broadband Centric, Inc. and Verizon New York Inc.

I.D. No. PSC-16-07-00017-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by Broadband Centric, Inc. and Verizon New York Inc. for approval of an interconnection agreement executed on Nov. 30, 2006.

Statutory authority: Public Service Law, section 94(2)

Subject: Interconnection of networks for local exchange service and exchange access.

Purpose: To review the terms and conditions of the negotiated agreement.

Substance of proposed rule: Broadband Centric, Inc. and Verizon New York Inc. have reached a negotiated agreement whereby Broadband Centric, Inc. and Verizon New York Inc. will interconnect their networks at mutually agreed upon points of interconnection to provide Telephone Exchange Services and Exchange Access to their respective customers. The Agreement establishes obligation, terms and conditions under which the parties will interconnect their networks lasting until July 31, 2009, or as extended.

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.

(07-C-0350SA1)

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

Interconnection Agreement between ClearEnd, LLC and Verizon New York Inc.

I.D. No. PSC-16-07-00018-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by ClearEnd, LLC and Verizon New York Inc. for approval of an interconnection agreement executed on Feb. 12, 2007.

Statutory authority: Public Service Law, section 94(2)

Subject: Interconnection of networks for local exchange service and exchange access.

Purpose: To review the terms and conditions of the negotiated agreement.

Substance of proposed rule: ClearEnd, LLC and Verizon New York Inc. have reached a negotiated agreement whereby ClearEnd, LLC and Verizon New York Inc. will interconnect their networks at mutually agreed upon points of interconnection to provide Telephone Exchange Services and Exchange Access to their respective customers. The Agreement establishes obligations, terms and conditions under with the parties will interconnect their networks lasting until February 11, 2009, or as extended.

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.

(07-C-0353SA1)

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

Interconnection Agreement between Cost Plus Communications, LLC and Verizon New York Inc.

I.D. No. PSC-16-07-00019-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by Cost Plus Communications, LLC and Verizon New York Inc. for approval of an interconnection agreement executed on March 26, 2007.

Statutory authority: Public Service Law, section 94(2)

Subject: Interconnection of networks for local exchange service and exchange access.

Purpose: To review the terms and conditions of the negotiated agreement.

Substance of proposed rule: Cost Plus Communications, LLC and Verizon New York Inc. have reached a negotiated agreement whereby Cost Plus Communications, LLC and Verizon New York Inc. will interconnect their networks at mutually agreed upon points of interconnection to provide Telephone Exchange Services and Exchange Access to their respective customers. The Agreement establishes obligations, terms and conditions under which the parties will interconnect their networks lasting until March 25, 2009, or as extended.

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.

(07-C-0355SA1)

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

Interconnection Agreement between Citizens Telecommunications Company of New York, Inc. and Pac-West Telecomm of New York
I.D. No. PSC-16-07-00020-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by Citizens Telecommunications Company of New York, Inc. and Pac-West Telecomm of New York for approval of an interconnection agreement executed on Nov. 16, 2006.

Statutory authority: Public Service Law, section 94(2)

Subject: Interconnection of networks for local exchange service and exchange access.

Purpose: To review the terms and conditions of the negotiated agreement.

Substance of proposed rule: Citizens Telecommunications Company of New York, Inc. and Pac-West Telecomm of New York have reached a negotiated agreement whereby Citizens Telecommunications Company of New York, Inc. and Pac-West Telecomm of New York will interconnect their networks at mutually agreed upon points of interconnection to provide Telephone Exchange Services and Exchange Access to their respective customers. The Agreement establishes obligations, terms and conditions under which the parties will interconnect their networks lasting until November 16, 2007, or as extended.

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. Brillling, 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.

(07-C-0364SA1)

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

NYPA Economic Development Power by New York State Electric & Gas Corporation, et al.

I.D. No. PSC-16-07-00021-P

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

Proposed action: The commission is considering a petition from New York State Electric & Gas Corporation (NYSEG), the New York Power Authority (NYPA), and other signatory parties for approval of a joint proposal on new allocations of power up to a total of 100 MW under NYPA's economic development programs for delivery in NYSEG's service territory.

Statutory authority: Public Service Law, sections 5, 65(1) and 66(1)

Subject: Joint proposal on new allocations of NYPA economic development power for delivery by NYSEG.

Purpose: To consider approval of a joint proposal on new allocations of NYPA economic development power for delivery by NYSEG.

Substance of proposed rule: The Commission is considering a petition from New York State Electric & Gas Corporation (NYSEG), the New York Power Authority (NYPA), and other Signatory Parties for approval of a Joint Proposal on new allocations of power up to a total of 100 MW under NYPA's economic development programs for delivery in NYSEG's service territory. The Commission may adopt, modify or reject, in whole or in part, the relief requested.

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. Brillling, 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-E-1222SA6)

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

Liability-Compensation Amounts and Limits by Consolidated Edison Company of New York, Inc.

I.D. No. PSC-16-07-00022-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison or the company) to make various changes in the rates, charges, rules and regulations contained in its schedule for electric service, P.S.C. No. 9—Electricity, to become effective July 1, 2007.

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

Subject: Liability—compensation amounts and limits.

Purpose: To modify Con Edison's liability provision by increasing the compensation amounts and limits on claims and to specify that Con Edison will reimburse residential users for medicine spoiled due to lack of refrigeration.

Substance of proposed rule: The Commission is considering Consolidated Edison Company of New York, Inc.'s (Con Edison or the company) request to change the compensation amounts and limits on claims by electric users for losses relating to perishable items sustained as a result of power failures attributable to malfunctions in the company's local distribution system. The proposed filing has an effective date of July 1, 2007. The Commission may approve, reject or modify, in whole or in part, Con Edison's request.

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. Brillling, 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.

(06-E-0894SA5)

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

Pole Attachment Rates by Central Hudson Gas & Electric Corporation

I.D. No. PSC-16-07-00023-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by Central Hudson

Gas & Electric Corporation (Central Hudson) to make various changes in the rates, charges, rules and regulations contained in its schedule for electric service, P.S.C. No. 15—Electricity, to become effective July 1, 2007.

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

Subject: Pole attachment rates.

Purpose: To update the pole attachment rates applicable to cable system operators and telecommunication carriers to reflect 2006 actual data.

Substance of proposed rule: The Commission is considering Central Hudson Gas & Electric Corporation's (Central Hudson) request to update its electric tariff, P.S.C. No. 15, to reflect a new annual pole attachment rate applicable to cable system operators and telecommunication carriers. Central Hudson is proposing to increase the annual pole attachment rate from \$10.98 to \$12.47 per equivalent pole based on 2006 data. The proposed filing has an effective date of July 1, 2007. The Commission may approve, reject or modify, in whole or in part, Central Hudson's request.

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. Brillling, 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.

(07-E-0383SA1)

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

Rider U—Distribution Load Relief Program by Consolidated Edison Company of New York, Inc.

I.D. No. PSC-16-07-00024-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison) to make various changes in the rates, charges, rules and regulations contained in its schedule for electric service, P.S.C. No. 9—Electricity, to become effective July 1, 2007.

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

Subject: Rider U—Distribution Load Relief Program.

Purpose: To modify Rider U—Distribution Load Relief Program to enhance participation in the program.

Substance of proposed rule: The Commission is considering Consolidated Edison Company of New York, Inc.'s (Con Edison) request to modify Rider U – Distribution Load Relief Program to enhance participation in the program. Con Edison is proposing to add a summer period reservation payment to this program and to include an option to participate through aggregation. Among the issues to be considered by the Commission are the attributes needed in a demand response program to improve distribution system reliability. The proposed filing has an effective date of July 1, 2007. The Commission may approve, reject or modify, in whole or in part, Con Edison's request.

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. Brillling, 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.

(07-E-0392SA1)

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

Gas Curtailment Policies and Procedures

I.D. No. PSC-16-07-00025-P

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

Proposed action: As described in an order commencing additional proceedings issued March 26, 2007 in Case 06-G-0059, the Public Service Commission is considering modifications to existing gas curtailment policies and procedures for the allocation of gas supply during periods of gas shortages.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1)-(3), 66(1), (2), (2-a), (3), (8), (12) and 66-a

Subject: Gas curtailment policies and procedures for the allocation of gas supply during periods of gas shortages.

Purpose: To consider modifications to gas curtailment policies and procedures for the allocation of gas supply during periods of gas shortages.

Substance of proposed rule: As described in an Order Commencing Additional Proceedings issued March 26, 2007 in Case 06-G-0059, the Public Service Commission is considering modifications to existing gas curtailment policies and procedures for the allocation of gas supply during periods of gas shortages. The Commission may adopt, reject or modify, in whole or in part, the relief proposed.

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. Brillling, 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.

(06-G-0059SA2)

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

Non-Residential Distributed Generation Firm Sales Service by Rochester Gas and Electric Corporation

I.D. No. PSC-16-07-00026-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposal filed by Rochester Gas and Electric Corporation (RG&E) to make various changes in the rates, charges, rules and regulations contained in its schedule for gas service, P.S.C. No. 16—Gas, to become effective July 1, 2007.

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

Subject: Service Classification No. 6—non-residential distributed generation firm sales services and Service Classification No. 7—firm gas transportation service for distributed generation facilities less than 50 MW.

Purpose: To file updated distributed generation rates for commercial and industrial customers.

Substance of proposed rule: The Commission is considering Rochester Gas and Electric Corporation's (RG&E) request to revise its gas tariff, P.S.C. No. 16—Gas, to update its distributed generation rates for its S.C. No. 6—Non-Residential Distributed Generation Firm Gas Sales Service and S.C. No. 7—Firm Gas Transportation Service for Distributed Genera-

tion Facilities. The filing is being made in compliance with the Commission's April 24, 2003 order in Case 02-M-0515. The Commission may approve, reject or modify, in whole or in part, RG&E's request.

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.

(02-M-0515SA17)

7. Project Sponsor: Lancaster County Solid Waste Management Authority. Project Facility: Frey Farm and Creswell Landfills, Manor Township, Lancaster County, Pa. Modification of consumptive water use approval (Docket No. 20061208).
 8. Project Sponsor: Delta Borough. Project Facility: Delta Ridge Subdivision, Peach Bottom Township, York County, Pa. Application for groundwater withdrawal of up to 0.032 mgd.
- Public Hearing – Projects Rescinded:
1. Project Sponsor and Facility: Frito-Lay, Inc. (Docket No. 20020201), Johnson City, Broome County, NY.
 2. Project Sponsor: Corning Incorporated. Project Facility: Erwin Park Photonics (Docket No. 20031002), Town of Erwin, Steuben County, NY.
 3. Project Sponsor and Facility: Union Township Municipal Authority (Docket No. 19920701), Union Township, Clearfield County, Pa.
- Public Hearing - Enforcement Action Tabled:
1. Project Sponsor: South Slope Development Corporation (Docket No. 19991103). Project Facility: Song Mountain Ski Resort, Town of Preble, Cortland County, NY.
- AUTHORITY: P.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.
Dated: March 28, 2007.
Thomas W. Beauduy,
Deputy Director.

Susquehanna River Basin Commission

Notice of Actions Taken at March 14, 2007 Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Commission Actions.

SUMMARY: At a public hearing held on March 14, 2007 in Altoona, Pa., the Susquehanna River Basin Commission approved certain water resources projects and rescinded three docket approvals identified in the Supplementary Information section below. In addition, the Commission tabled a show cause enforcement proceeding and rescheduled the proceeding for the June 2007 Commission meeting. In other meeting action, the Commission adopted a 2007 Water Resources Program pursuant to Section 14.2 of the Susquehanna River Basin Compact and approved revisions to its FY 2008 budget, Pub. L. 91-575. For further meeting details, visit the Commission's web site at www.srbc.net.

DATE: March 14, 2007.

ADDRESS: Susquehanna River Basin Commission, 1721 N. Front Street, Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423; ext. 306; fax: (717) 238-2436; e-mail: rcairo@src.net or Deborah J. Dickey, Secretary to the Commission, telephone: (717) 238-0423, ext. 301; fax: (717) 238-2436; e-mail: ddickey@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: At a public hearing on March 14, 2007, the Susquehanna River Basin Commission took the following actions:

Public Hearing – Projects Approved:

1. Project Sponsor and Facility: Osram Sylvania Products, Inc., Towanda Borough, Bradford County, Pa. Modification of consumptive water use approval (Docket No. 19970502).
2. Project Sponsor and Facility: Conyngham Borough Authority, Conyngham Borough, Luzerne County, Pa. Application for groundwater withdrawal of up to 0.216 mgd.
3. Project Sponsor: The County of Lycoming. Project Facility: Lycoming County Resource Management Services, Brady Township, Lycoming County, Pa. Application for consumptive water use of up to 0.105 mgd.
4. Project Sponsor and Facility: Mount Union Municipal Authority, Wayne Township, Mifflin County, Pa. Application for groundwater withdrawal of up to 0.432 mgd.
5. Project Sponsor and Facility: Commonwealth Environmental Systems, L.P., Foster Township, Schuylkill County, Pa. Application for consumptive water use of up to 0.030 mgd.
6. Project Sponsor and Facility: Shippensburg Borough Authority, Southampton Township, Cumberland County, Pa. Application for groundwater withdrawal of up to 2.000 mgd.