

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.

Department of Agriculture and Markets

NOTICE OF ADOPTION

Agricultural and Farmland Protection Planning Grants

I.D. No. AAM-24-07-00002-A

Filing No. 840

Filing date: Aug. 13, 2007

Effective date: Aug. 29, 2007

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

Action taken: Amendment of Part 390 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, section 325

Subject: Agricultural and farmland protection planning grants.

Purpose: To include municipalities as eligible applicants in the Agricultural and Farmland Protection Planning Grant Program.

Text of final rule: Part 390 of Title 1 of the New York Code Rules and Regulations relating to Agricultural and Farmland Protection is hereby amended to read as follows: Section 390.1 is amended to read as follows:

This Part establishes the requirements for county *and municipal* agricultural and farmland protection plans, the procedures for development and approval of such plans and the application process for planning grants to assist counties *and municipalities* in the development of such plans.

Subdivision (f) of section 390.2 is amended to read as follows:

(f) Plan means the county *or municipal* agricultural and farmland protection plan, [as] prepared by [the] a county agricultural and farmland protection board *or a municipality*, as provided for in article 25-AAA of the Agriculture and Markets Law.

A new subdivision (h) of section 390.2 is added to read as follows:

(h) *Municipality means a city, town or village.*

Section 390.4 is renumbered section 390.5 and amended, and a new section 390.4 is added to read as follows:

Section 390.4 Municipal agricultural and farmland protection plans.

(a) *Plans. Municipalities may develop agricultural and farmland protection plans, in cooperation with cooperative extension and other organizations, including local farmers. These plans shall include at least the following elements:*

(1) *a statement of the municipality's goal(s) with respect to agricultural and farmland protection (e.g., to stabilize or enhance the agricultural economy of the municipality; preserve open space; abate land conversion pressure; maintain community goals with respect to development and growth; and protect natural resources such as air quality, watersheds, aquifers, or wildlife);*

(2) *an identification of the general location of any lands or other designation of areas that are proposed to be protected (e.g., the whole municipality, all agricultural district lands within the municipality, farms or farmlands in particular section of the municipality). Specific tracts of land or farms need not be identified. Maps are not mandatory but may be used at the discretion of the municipality to illustrate strategies or to explain the plan more completely;*

(3) *an analysis of the lands or areas to be protected, such as their value to the agricultural economy of the municipality, their open space value, the level of conversion pressure being experienced, and the consequences of possible conversion;*

(4) *a description of activities, programs and strategies intended to be used by the municipality to promote continued agricultural use, including how they are to be financed, and which may include but not be limited to revisions to the municipality's comprehensive plan pursuant to section 272-a subdivision 2(a) of the Town Law and land use regulations as defined in section 272-a subdivision 2(b) of the Town Law as appropriate; and*

(5) *a description or identification of other municipal and county planning and land use programs, if any, such as economic development, zoning and comprehensive land use planning, which may be shown to complement and be consistent with, the municipal agricultural and farmland protection plan, as well as identification of any municipal and county plans, policies or objectives which are inconsistent with or conflict with the plan.*

(b) *Planning and approval process. In developing an agricultural and farmland protection plan, the municipality shall follow the planning and approval process in sequence as follows:*

(1) *the municipality shall conduct at least one public hearing to solicit citizen views and recommendations;*

(2) *the municipality shall undertake specific efforts to involve members of the farm community in the planning process, and to assure that the final plan is made available to the farm community for comment before it is approved;*

(3) *the municipality shall consult with the department throughout the planning process;*

(4) *the municipality shall submit the proposed plan to the municipal legislative body and the agricultural and farmland protection board for the county in which the municipality is located for approval;*

(5) municipal legislative body approval of the plan shall be documented by a resolution;

(6) plans of work must be completed within 24 months to be eligible for State matching grants under this program, unless said period is extended by written agreement between the municipality and the department; however, the municipality legislative body need not approve the final plan within 24 months; and

(7) the municipality shall submit the plan to the commissioner for approval. The commissioner shall act upon the plan within 45 days of receipt of the document, and notify the municipality of the plan's approval or disapproval. A copy of the commissioner's decision shall be sent to the chair of the agricultural and farmland protection board for the county in which the municipality is located.

(c) Plan review process. The following criteria shall be used by the commissioner to determine the acceptability of a municipal agricultural and farmland protection plan:

(1) the consistency of the plan with State agricultural and farmland protection plans, policies and objectives; State environmental plans, policies, and objectives; and State comprehensive plans, policies, and objectives;

(2) the consistency of the plan with county and municipal plans, policies, and objectives which the plan could affect;

(3) the practicality of the plan (i.e., the extent to which it can reasonably be expected to meet the identified municipality goal[s] for agricultural and farmland protection);

(4) the extent to which the plan satisfies the analytical factors addressed under section 324-a of the Agriculture and Markets Law;

(5) the adequacy of substantiating data, information, and facts;

(6) the cost implications of the protection measures identified in the plan (i.e., what can be accomplished recognizing limited state/local funding mechanisms in view of the public benefit to be derived from protection of agriculture and agricultural lands); and

(7) whether the municipal legislative body has approved the plan.

Section 390.5 Planning Grants.

(a) Matching grants program. Subject to the availability of funds, the [Department of Agriculture and Markets] department shall maintain a matching grants program intended to assist counties and municipalities in the development of agricultural and farmland protection plans.

(b) Applications. Applications for State matching funds shall be submitted to the department by the county's agricultural and farmland protection board or two such boards acting jointly, or the municipality or two such municipalities acting jointly. Applications may be submitted to the department at any time. A county may not make application for funds until it has established its agricultural and farmland protection board and a chairperson for such board has been elected. A municipality may not make application for funds until the county in which the municipality is located has established its agricultural and farmland protection board and a chairperson for such board has been elected. All planning grant applications made to the department shall contain at least the following information:

(1) the name of the county or the municipality applying;

(2) the identification of the county agricultural and farmland protection board chair (name, address, and telephone number);

(3) the identification of an individual to be contacted concerning information contained within the application (name, address, and telephone number);

(4) a summary statement of the trends and conditions in the county or the municipality that warrant agricultural and farmland protection measures;

(5) a description of the agricultural setting in the county or the municipality including:

(i) the approximate number and types of farms in the area which is the subject of the plan;

(ii) the present and future prospect for farm viability in the county or the municipality; and

(iii) other indications of the economic conditions and importance of agriculture to the county or the municipality;

(6) a detailed description of the plan of work to be followed in developing the county or the municipal plan;

(7) the anticipated timeframe for completing the plan of work;

(8) a budget detailing the cost of developing the plan, including itemization of costs to be charged against State versus county or the municipal matching resources available to the board or the municipality by individual budget category;

(9) a description of in-kind services to be used for up to 80 percent of the required match;

(10) evidence of the availability of matching funds (such as a copy of a resolution, a copy of a portion of the county or the municipal budget that demonstrates that the matching funds have been earmarked for such activities, a letter from the county or the municipal executive that the county or the municipality has appropriated matching funds, or a copy of letter[s] from an external granting agency that funding is provided to the county or the municipality, or its agent, for the development of the plan);

(11) Signature of the chair of the county or the municipal legislative body; and

(12) the qualifications of the principals who will be developing the plan including experience in developing agricultural protection sections of comprehensive plans and land use regulations.

(c) Review and approval.

(1) The commissioner shall review all requests for grant funding in consultation with the advisory council on agriculture. Criteria to be used by the commissioner in determining approval of applications are as follows:

(i) the responsiveness of the grant application to the analytical factors required under section 324 or section 324-a of the Agriculture and Markets Law;

(ii) the degree to which the need for agricultural protection by the county or the municipality is substantiated by facts and trends;

(iii) the adequacy of the plan of work (e.g., does it relate to the needs identified, is it logically constructed, and can it be accomplished within the timeframe predicted);

(iv) the qualifications of the principals who will be developing the plan;

(v) the reasonableness of the estimated cost of developing the plan versus the work to be performed;

(vi) overall compliance with procedural requirements of article 25-AAA of the Agriculture and Markets Law; and

(vii) the completeness of the application.

(2) The commissioner, in consultation with the advisory council on agriculture, shall determine whether or not an application shall receive funding within 90 days from the receipt of a complete application. The commissioner may negotiate the amount of funds awarded versus funds requested. The standard for determining the amount of funds awarded is the extent to which the plan meets the criteria set forth in paragraph (1) of this subdivision, as well as mutually acceptable modifications of the application and/or plan of work, and the availability of funds in relation to the number of eligible applications received.

(d) Eligible costs. The following costs shall be eligible for State reimbursement:

(1) personal services, including fringe benefits for professional, secretarial, and legal services related directly to the development of the plan;

(2) consultant services;

(3) travel;

(4) conducting public hearings;

(5) expendable supplies;

(6) printing; and

(7) communication.

State planning grant funds shall not be made available for the purchase of equipment, non-expendable supplies, or implementation of measures recommended in a plan.

(e) Funding limits and matching requirements. State grant funds shall not exceed \$50,000 to each county or \$100,000 to two counties applying jointly and shall not exceed 50 percent of the total cost of preparing a county agricultural and farmland protection plan, or \$25,000 to each municipality or \$50,000 to two municipalities applying jointly and shall not exceed 75 percent of the total cost of preparing a municipal agricultural and farmland protection plan. Sum total of State grants shall not exceed \$50,000 per county or \$25,000 per municipality regardless of whether that county or that municipality receives only one award or multiple awards. County funds must match State funds at least on a one-to-one basis and at least 20 percent of its contribution must be cash (i.e., for initial as well as each supplemental county funding). For example, 20% of 50% of \$50,000 equals a \$5,000 cash contribution from the county. Municipal funds must match state funds at least on a one-to-three basis and at least 20 percent of its contribution must be cash (i.e., for initial as well as each supplemental municipal funding). For example, 20% of 25% of \$25,000 total project cost equals a \$1,250 cash contribution from the municipality. In-kind services matches are acceptable for all eligible costs categories identified in subdivision (d) of this section, as well as for those

items set forth in the definition of in-kind services in section [372.2(g)] 390.2(g) of this Part. Indirect and overhead charges and volunteer services are not acceptable as match. Counties or the municipalities are authorized to use as a match any private or other public (non-State) funds obtained to develop a plan.

(f) Funding and reporting requirements. The department shall provide all funds to the county or the municipality through a written contract, [which shall be subject to approval by the State Comptroller and Attorney General,] and shall incorporate the plan of work and approved budget. All funds to the county or the municipality under the contract shall be paid only after submission of a State standard voucher by the county or the municipality, which shall be subject to approval by the State Comptroller and the availability of funds. At the commissioner's discretion, an advance of up to 25 percent of the total State funds awarded may be made under the contract to the county or the municipality to initiate plan development. Whether an advance will be made, and the amount of same, is based upon the county's or the municipality's written request for an advance and statement of need, including the percentage of the funds requested, and the commissioner's determination that the advance is necessary for the county or the municipality to initiate plan development. Thereafter, the remaining State funds will be provided on a reimbursement basis subject to the submission of quarterly progress reports. Ten percent of all State funds awarded shall be withheld until the commissioner verifies that the entire plan of work is completed.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 390.5(e).

Text of rule and any required statements and analyses may be obtained from: William Kimball, Director Agricultural Protection and Development Services, Department of Agriculture and Markets, 10B Airline Dr., Albany, NY 12235, (518) 457-7076, e-mail: bill.kimball@agmkt.state.ny.us

Job Impact Statement

Nonsubstantive changes were made in section 390.5(e) of Title 1 NYCRR. The Notice of Proposed Rule Making (AAM-24-07-00002-P) was filed to amend Part 390 of Title 1 NYCRR and should have included the words "total project costs" after the \$25,000 amount in the example provided.

The words "total project cost" have been added to section 390.5(e) as a clarification and the remaining text is unchanged. The rule making was undertaken as a consensus rule making and as such no Regulatory Impact Statement, Regulatory Flexibility Analysis and Rural Area Flexibility Analysis statements were required. This nonsubstantive change did not affect the Statement in Lieu of a Job Impact Statement.

Assessment of Public Comment

The Department received comments from the New York State Farm Bureau expressing support for the proposed amendments. The Department agrees with these comments.

Banking Department

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Anti-Money Laundering and Foreign Asset Control Compliance Programs

I.D. No. BNK-35-07-00003-P

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

Proposed action: Addition of Parts 115, 116, 416 and 417 to Title 3 NYCRR.

Statutory authority: Banking Law, sections 10, 14(1), 24, 26, 29, 37(3), 39, 44, 142, 143-a, 143-b, 201, 324, 367, 369, 370, 370-a, 371, 413, 450, 461, 513, 519, 601, 601-a, 601-b, 641, 646, 649 and 652-a

Subject: Anti-money laundering and foreign asset control compliance programs.

Purpose: To require banking organizations and certain licensees to demonstrate compliance with applicable anti-money laundering and foreign asset control programs.

Text of proposed rule:

Part 115

ANTI-MONEY LAUNDERING PROGRAMS FOR APPLICATIONS FOR CHARTERS, ACQUISITIONS AND MERGERS AND CHANGES OF CONTROL

Sec. 115.1 Anti-Money Laundering Programs

This Part is issued to assure ongoing compliance with the existing practice of the Superintendent of Banks (the "Superintendent") to require each applicant subject to sections 115.2 and 115.3, in order to guard against money laundering through their institutions, to demonstrate an anti-money laundering program that complies with applicable federal anti-money laundering laws (31 U.S.C. Chapter 53, Subchapter II), including a required customer identification program (31 U.S.C. 5318(l)), and regulations promulgated by the United States Department of Treasury (Section 103.120 of Title 31, Code of Federal Regulations, Parts 0 to 199 Money and Finance, Treasury (revised as of July 1, 2005)), and, as appropriate, regulations of the Board of Governors of the Federal Reserve Board (Sections 208.63 and 211.24 of Title 12, Code of Federal Regulations, Parts 200 to 219 Banks and Banking (revised as of January 1, 2006)), regulations of the Federal Deposit Insurance Corporation (Section 326.8 of Title 12, Code of Federal Regulations, Parts 300 to 499 Banks and Banking (Revised as of January 1, 2006)), and regulations of the National Credit Union Administration (Section 748.2 of Title 12, Code of Federal Regulations, Parts 600 to 899 Banks and Banking (Revised as of January 1, 2006)). In addition, the Department seeks to assure compliance with applicable Office of Foreign Assets Control regulations issued by the United States Department of the Treasury (Part 500 et. seq. of Title 31, Code of Federal Regulations, Parts 500-904 Money and Finance (revised as of July 1, 2005)) The referenced federal regulations are authored by the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the National Credit Union Administration, respectively, and are published by the United States Government Printing Office, Washington, DC 20402. Copies are available for public inspection and copying at the New York City office of the New York State Banking Department located at the address stated in Supervisory Policy G 1 of this Title.

(a) For purposes of this Part, the required anti-money laundering program shall, at a minimum:

- 1) Provide for a system of internal controls to assure ongoing compliance;
- 2) Provide for independent testing for compliance to be conducted by bank personnel or by an outside party;
- 3) Designate an individual or individuals responsible for coordinating and monitoring day-to-day compliance; and
- 4) Provide training for appropriate personnel.

(b) The anti-money laundering program shall be in writing, approved by the institution's board of directors or equivalent body, and such approval shall be noted in the minutes of the board of directors or equivalent body.

(c) Applicants will also be required to demonstrate, as part of their anti-money laundering programs, a customer identification program that complies with applicable federal law.

(d) Applicants will further be required to demonstrate policies, procedures and practices reasonably designed to assure compliance with the regulations of the U.S. Department of Treasury's Office of Foreign Assets Control.

(e) Compliance with applicable federal requirements shall constitute compliance with this Part.

Sec. 115.2 Charter and License Applications

All applications submitted for approval by the Department to establish a bank or trust company, private banker, savings bank, savings and loan association, safe deposit company, investment company, credit union or to establish a branch or agency in New York State of a foreign banking corporation shall be accompanied by information demonstrating compliance with section 115.1.

Sec. 115.3 Merger, Purchase and Assumption, Acquisition and Change of Control Applications

All applications for approval by the Department to merge with, purchase and/or assume, or acquire control (as defined in the applicable provisions of the Banking Law) of, any bank or trust company, savings bank, savings and loan association, investment company, safe deposit company or credit union shall be accompanied by information demonstrating compliance with section 115.1.

Sec. 115.4 Waivers

In considering an application, the Department may determine, for good cause shown, that lack of compliance with any of the requirements of this Part does not necessarily preclude approval of the application.

Part 116

MAINTENANCE OF ANTI-MONEY LAUNDERING COMPLIANCE PROGRAMS BY BANKING ORGANIZATIONS AND FOREIGN BANKING CORPORATIONS LICENSED TO MAINTAIN A BRANCH OR AGENCY

Sec. 116.1 Covered Entities

(a) This Part shall apply to all "Banking Organizations" and "Foreign Banking Corporations."

(b) The term "Banking Organization" shall have the meaning ascribed to it in Section 2 of the New York Banking Law.

(c) The term "Foreign Banking Corporation" shall mean any branch or agency located in New York State of a foreign banking corporation licensed to maintain such a facility under Article V of the Banking Law.

Sec. 116.2 Anti-Money Laundering Programs

Every Banking Organization and every Foreign Banking Corporation, in order to guard against money laundering through their institutions, shall establish and maintain an anti-money laundering program that complies with applicable federal anti-money laundering laws (31 U.S.C. Chapter 53, subchapter II), including the obligation to file Suspicious Activity Reports ("SARS") (31 U.S.A.' 5318(g)) and a customer identification program (31 U.S.C. 5318(l)), and regulations promulgated by the United States Department of Treasury (Section 103.120 of Title 31, Code of Federal Regulations, Parts 0 to 199 Money and Finance, Treasury (revised as of July 1, 2005)) (revised as of January 1, 2003)), and, as appropriate, regulations of the Board of Governors of the Federal Reserve Board (Sections 208.63 and 211.24 of Title 12, Code of Federal Regulations, Parts 200 to 219 Banks and Banking (revised as of January 1, 2006)), the Federal Deposit Insurance Corporation (Section 326.8 of Title 12, Code of Federal Regulations, Parts 300 to 499 Banks and Banking (Revised as of January 1, 2006)) and the National Credit Union Administration (Section 748.2 of Title 12, Code of Federal Regulations, Parts 600 to 899 Banks and Banking (Revised as of January 1, 2006)). In addition, when ordered, such entities shall provide within 30 days a written report to the Superintendent of Banks (the "Superintendent") detailing the extent to which each institution has established such a program. The Department also seeks to assure compliance with applicable Office of Foreign Assets Control regulations issued by the United States Department of the Treasury (Part 500 et. seq. of Title 31, Code of Federal Regulations, Parts 500-904 Money and Finance (revised as of July 1, 2005)) The referenced federal regulations are authored by the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the National Credit Union Administration, respectively, and are published by the United States Government Printing Office, Washington, DC 20402. Copies are available for public inspection and copying at the New York City office of the New York State Banking Department located at the address stated in Supervisory Policy G 1 of this Title.

(a) For purposes of this Part, the required anti-money laundering program shall, at a minimum:

1) Provide for a system of internal controls to assure ongoing compliance;

2) Provide for independent testing for compliance to be conducted by bank personnel or by an outside party;

3) Designate an individual or individuals responsible for coordinating and monitoring day-to-day compliance; and

4) Provide training for appropriate personnel.

(b) The anti-money laundering program shall be in writing, approved by the institution's board of directors or equivalent body, and such approval shall be noted in the minutes of the board of directors or equivalent body.

(c) Every Banking Organization and every Foreign banking Corporation will also be required to demonstrate, as part of their anti-money laundering programs, a customer identification program that complies with applicable federal law.

(d) Every Banking Organization and every Foreign Banking Corporation will further be required to demonstrate policies, procedures and practices reasonably designed to assure compliance with the regulations of the U.S. Department of Treasury's Office of Foreign Assets Control.

(e) Every Banking Organization and every Foreign Banking Corporation shall file SARs in accordance with applicable federal law and regulations.

(f) Compliance with applicable federal requirements shall constitute compliance with this Part.

Sec. 116.3 Additional Reports

Every Banking Organization and every Foreign Banking Corporation shall provide such additional reports regarding its compliance with this Part as shall be directed by the Superintendent

Part 416

ANTI-MONEY LAUNDERING PROGRAMS FOR APPLICATIONS FOR LICENSES, BRANCHES AND ACQUISITIONS BY LICENSED CHECK CASHERS AND LICENSED MONEY TRANSMITTERS

Sec. 416.1 Anti-Money Laundering Programs.

This Part is issued to assure ongoing compliance with the existing practice of the Superintendent of Banks (the "Superintendent") to require each applicant for a licensed check casher license or licensed money transmitter license (each a "Licensee"), a branch office of a Licensee or to acquire a Licensee, in order to guard against money laundering through their institutions, to demonstrate an anti-money laundering program that complies with applicable federal anti-money laundering laws (31 U.S.C. Chapter 53, subchapter II) and regulations promulgated by the United States Department of the Treasury (Section 103.125 of Title 31, Code of Federal Regulations, Parts 0 to 199 Money and Finance, Treasury (revised as of July 1, 2005))(hereinafter referred to as "31 CFR Part 103"). In addition, the Superintendent seeks to assure compliance with applicable Office of Foreign Asset Control regulations issued by the United States Department of the Treasury (Part 500 et. seq. of Title 31, Code of Federal Regulations, Parts 500-904 Money and Finance (revised as of July 1, 2005)). The referenced federal regulations are authored by the Department of the Treasury and are published by the United States Government Printing Office, Washington, DC 20402. Copies are available for inspection and copying at the New York City Office of the New York State Banking Department located at the address stated in Supervisory Policy G 1 of this Title.

(a) For purposes of this Part, the required anti-money laundering program shall, at a minimum:

(1) Incorporate policies, procedures, and internal controls reasonably designed to assure compliance with 31 CFR Part 103, including:

(i) Policies, procedures, internal controls developed and implemented under this section shall include provisions for complying with the requirements of 31 CFR 103 including, to the extent applicable to the Licensee, requirements for:

(A) Verifying customer identification;

(B) Filing reports;

(C) Creating and retaining records; and

(D) Responding to law enforcement requests.

(ii) A Licensee that has an automated data processing system should integrate its compliance procedures with such systems.

(2) Designate a person to assure day to day compliance with the program and 31 CFR Part 103. The responsibilities of such person shall include assuring that:

(i) Each Licensee properly files reports, and creates and retains records, in accordance with applicable requirements of 31 CFR Part 103;

(ii) The compliance program is updated as necessary to reflect current requirements of 31 CFR Part 103, and related guidance issued by the Department of the Treasury; and

(iii) Each Licensee provides appropriate training and education in accordance with 31 CFR Part 103.

(3) Provide education and/or training of appropriate personnel concerning their responsibilities under the program, including training in the detection of suspicious transactions to the extent that the entity is required to report such transactions under applicable federal law and regulations; and

(4) Provide for independent review to monitor and maintain an adequate program.

(b) The anti-money laundering program shall be in writing and each Licensee shall make copies of the anti-money laundering program available for inspection by the Superintendent as appropriate.

(c) Each Licensee will further be required to demonstrate policies, procedures and practices reasonably designed to assure compliance with the regulations of the U.S. Department of Treasury's Office of Foreign Assets Control.

(d) Compliance with applicable federal requirements shall constitute compliance with the provisions of this Part.

Sec. 416.2 License Applications

All applications submitted for prior approval of the Superintendent to become a Licensed Check Casher or Licensed Money Transmitter shall be

accompanied by information demonstrating compliance with the requirements set forth in section 416.1.

Sec. 416.3 Branching Applications

All applications submitted for the prior approval of the Superintendent to establish a branch or branches by any Licensed Check Casher shall be accompanied by information demonstrating compliance with the requirements set forth in section 416.1.

Sec. 416.4 Acquisition Applications

All applications submitted for the prior approval of the Superintendent to merge with, purchase and/or assume, or acquire control (as defined in the applicable provisions of the Banking Law) of, any Licensed Check Casher or Licensed Money Transmitter shall in every case be accompanied by information demonstrating compliance with, or a plan that would comply with, section 416.1.

Sec. 416.5 Waivers

In considering an application subject to this Part, the Superintendent may determine, for good cause shown, that the lack of compliance with any of the requirements of this Part does not necessarily preclude approval of the application.

Part 417

MAINTENANCE OF ANTI-MONEY LAUNDERING COMPLIANCE PROGRAMS BY LICENSED CHECK CASHERS AND LICENSED MONEY TRANSMITTERS

Sec. 417.1 Covered Entities

This Part shall apply to all Licensed Check Cashers and Licensed Transmitters of Money (each a "Licensee").

Sec. 417.2 Anti-Money Laundering Programs

Each Licensee, in order to guard against money laundering through their businesses, shall establish an anti-money laundering program that complies with applicable federal anti-money laundering law (31 U.S.C. Chapter 53, subchapter II), including the obligation to file Suspicious Activity Reports ("SARS") (31 U.S.C. § 5318(g)), and regulations promulgated by the Department of Treasury (Section 103.125 of Part 103 of Title 31, Code of Federal Regulations, Parts 0 to 199 Money and Finance, Treasury (revised as of July 1, 2005))(hereinafter referred to as "31 CFR Part 103"), and, when ordered, such entities shall provide within 30 days a written report to the Superintendent of Banks (the "Superintendent") detailing the extent to which each such institution has established such a program. In addition, the Superintendent seeks to assure compliance with applicable Office of Foreign Assets Control regulations issued by the United States Department of the Treasury (Part 500 et. seq. of Title 31, Code of Federal Regulations, Parts 500-904 Money and Finance (revised as of July 1, 2005)). The referenced federal regulations are authored by the Department of the Treasury and are published by the United States Government Printing Office, Washington, DC 20402. Copies of these federal regulations are available for public inspection and copying at the New York City office of the New York State Banking Department located at the address stated in Supervisory Policy G 1 of this Title.

(a) For purposes of this Part, the required anti-money laundering program shall, at a minimum:

(1) Incorporate policies, procedures, and internal controls reasonably designed to assure compliance with this 31 CFR Part 103, including;

(i) Policies, procedures, internal controls developed and implemented under this section shall include provisions for complying with the requirements of 31 CFR Part 103 including, to the extent applicable to the money services business, requirements for:

- (A) Verifying customer identification;
- (B) Filing reports;
- (C) Creating and retaining records; and
- (D) Responding to law enforcement requests.

(ii) Every Licensee that has an automated data processing system should integrate its compliance procedures with such systems.

(2) Designate a person to assure day to day compliance with the program and 31 CFR Part 103. The responsibilities of such person shall include assuring that:

(i) The Licensee properly files reports, and creates and retains records, in accordance with applicable requirements of 31 CFR Part 103;

(ii) The compliance program is updated as necessary to reflect current requirements of 31 CFR Part 103, and related guidance issued by the Department of the Treasury; and

(iii) The Licensee provides appropriate training and education in accordance with 31 CFR Part 103.

(3) Provide education and/or training of appropriate personnel concerning their responsibilities under the program, including training in the detection of suspicious transactions to the extent that the entity is required

to report such transactions under applicable federal law and regulations; and

(4) Provide for independent review to monitor and maintain an adequate program.

(b) The anti-money laundering program shall be in writing and each Licensee shall make copies of the anti-money laundering program available for inspection as appropriate by the Superintendent.

(c) Each Licensee will further be required to demonstrate policies, procedures and practices reasonably designed to assure compliance with the regulations of the U.S. Department of Treasury's Office of Foreign Assets Control.

(d) Every Licensee shall file SARS in accordance with applicable federal law and regulations.

(e) Compliance with applicable federal requirements shall constitute compliance with the provisions of this Part.

Sec. 417.3 Additional Reports

Each Licensee shall provide such additional reports regarding its compliance with this Part as shall be directed by the Superintendent.

Text of proposed rule and any required statements and analyses may be obtained from: Sam L. Abram, Secretary to the Banking Board, Banking Department, One State St., New York, NY 10004-1417, (212) 709-1658, e-mail: sam.abram@banking.state.ny.us

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

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

Regulatory Impact Statement

1. Statutory Authority:

Part 115 - (Sections 10, 14(1), 24, 26, 29, 39, 44, 142, 143-a, 143-b, 201, 324, 367, 369, 370, 371, 413, 450, 461, 513, 519, 601, 601-a, 601-b, 641, 646, 649 and 652-a): Banking Law Section 10 sets forth the policy of New York State with respect to the supervision of banking in this State, including that it is to be supervised in a manner "to protect the public interest"; Section 14(1) sets forth the general powers of the Banking Board, including the power to promulgate regulations; Section 24 provides the Superintendent with broad authority to investigate applications to charter banking organizations; Section 26 gives the Superintendent similar authority to investigate foreign banking corporations seeking to license branches and agencies in New York; Section 29 sets forth the power of the Superintendent to approve branch offices of banking organizations; Section 39 grants the Superintendent authority to issue orders regarding various practices of banking institutions and bank related institutions; Section 44 provides authority for the imposition of penalties for various violations; Section 142 provides the Superintendent with authority to process various applications involving a "bank holding company" under New York Law; Section 143-a grants the Superintendent similar authority with respect to applications involving the acquisition of the capital stock of various banking organizations; Section 143-b provides the Superintendent with similar authority with respect to various other applications for control of banking institutions under New York Law; Section 201 provides authority to the Superintendent with respect to applications by foreign banking corporations to establish licensed branches and agencies in New York; Section 324 provides the Superintendent with broad authority to investigate applications for change of control of safe deposit companies; Section 413 relates to the Superintendent's authority to approve interstate acquisitions involving savings and loan associations; Section 450 provides for the formation of credit unions; Section 519 provides for the approval of a change of control of an investment company; and Section 601, 601-a and 601-b all relate to the approval of mergers and purchase and assumption agreements involving banking institutions.

Part 116 - (Sections 10, 37(3), 39, 44 and Section 513): In addition to the authority provided by Sections 10, 39 and 44 (discussed above), Section 37(3) of the Banking Law provides the Superintendent with broad discretion to require various banking organizations, licensed check cashers and licensed money transmitters to make reports to the Superintendent. Section 513 also provides the Superintendent with authority to request special reports from investment companies.

Part 416 - Sections 10, 39, 44, 367, 369, 370, 370-a, 371, 641, 646 and 652-a): In addition to the authority provided by Sections 10, 39 and 44 (discussed above), Sections 367, 369, 371 and 370-a provide the Superintendent with broad authority to impose restrictions on the operations of licensed check cashers, including a change of control with respect to such entities. Similarly, Sections 641, 646, 649 and 652-a set out the Superintendent's authority with respect to licensing, change of control and operating requirements for licensed transmitters of money.

Part 417 - (Sections 10, 37(3), 39, 44, 371, 646 and 649.) In addition to the authority provided by Sections 10, 37(3), 39, 44, 371 and 646 (discussed above), Section 649 provides general authority for the Superintendent to make rules and regulations, including by imposing reporting requirements, for licensed money transmitters.

2. Legislative Objective:

In enacting the above-cited provisions, the legislature intended the Superintendent of Banks to have broad discretion to adopt requirements for the chartering and licensing of banking and other financial services organizations.

3. Needs and Benefits:

Currently, the Department requests information from applicants regarding their compliance with AML requirements, but these requests are informal. In the period since September 11, 2001, federal and state regulators have moved to increase their scrutiny of regulated entities in the anti-money laundering ("AML") context. The AML requirements are intended to protect the financial system from abuse by criminal organizations and terrorist groups. New York does not currently have formal application or compliance requirements in this area, although it does generally require applicants to demonstrate compliance with AML requirements and does examine for such compliance after chartering or licensing. The proposed regulations would simply convert these current practices into regulatory requirements.

The purpose of Part 115 would be to require applicants seeking to charter or license banks, trust companies, savings banks, savings and loan associations, private bankers, investment companies, safe deposit companies, credit unions and foreign bank branches or agencies to demonstrate their ability to comply with existing federal AML requirements. Proposed Part 115 also would impose similar requirements on applications to acquire such entities chartered under New York Law. The purpose of Part 116 would be to impose these requirements on entities already chartered or licensed as banking institutions.

Part 416 would require applicants seeking a license to establish a check casher or money transmitter to make a similar showing to that required by Part 115 with respect to compliance with federal AML requirements. Part 417 would impose on existing licensed check cashers and money transmitters requirements similar to those imposed by Part 116 on banking institutions.

Adoption of these regulations will increase the Department's ability to mandate compliance in what is considered an extremely important area. It will also increase the Department's ability to take enforcement action against entities found to be in violation of AML requirements.

All of these institutions are subject to a federal AML requirement and will be able to demonstrate compliance with these new rules by evidencing compliance with their existing federal requirements. No additional showing will be required.

4. Costs:

All institutions subject to these new rules are already subject to a federal AML requirement. Since entities will be able to demonstrate compliance with these new regulations by demonstrating that they meet the federal AML requirement to which they are subject, any new costs imposed will be nominal. Entities not subject to the federal AML requirements will not be affected by these rules.

5. Local Government Mandates:

The proposed rules impose no burdens on local governments.

6. Paperwork:

Paperwork and reporting requirements for institutions subject to this new rules are expected to be modest. Only entities already subject to federal AML requirements will have to demonstrate compliance with these new rules. Moreover, compliance with federal rules will constitute compliance with these rules. Both banking organizations and licensees will demonstrate compliance in the application process by submitting copies of their proposed or existing AML and foreign asset control policies. Ongoing compliance will be confirmed as it is now through the Department's examination processes.

7. Duplication:

While the requirements imposed by these proposed regulations are identical to existing requirements imposed by the federal government, the impact of such duplication will be minimal since compliance with existing federal requirements will constitute compliance with the proposed rules. Only institutions subject to existing federal AML requirements will be subject to the requirements imposed by Parts 115, 116, 416 and 417.

8. Alternatives:

The Department considered not implementing the proposed rules, but after review it was determined that AML compliance is of such importance

to the public safety and the safety of the financial services industry that increasing the Department's ability to review and enhance such compliance through adoption of the regulations was appropriate.

9. Federal Standards:

As discussed above, the proposed regulations would only apply to entities with existing federal AML compliance obligations. Compliance with existing federal requirements would constitute compliance with these new requirements.

10. Compliance Schedule:

Compliance with the proposed regulations would be required immediately upon their becoming effective, but, as noted, compliance would require only a showing that the applicant is in compliance with the federal AML requirements to which it is already subject.

Regulatory Flexibility Analysis

The proposed rules will not have a material impact on small businesses and do not affect local governments. Specifically, the proposed rules require persons or entities seeking to charter banks, trust companies, savings banks, savings and loan associations, investment companies, private bankers, credit unions, safe deposit companies and foreign banking corporations seeking a branch or agency license in New York and persons and entities seeking licenses for licensed check cashers and licensed money transmitters to demonstrate compliance with applicable federal anti-money laundering ("AML") requirements as part of their chartering or licensing applications to this Department. Similar requirements are imposed on acquisition applications involving banks, trust companies, savings banks, savings and loan associations, investment companies, private bankers, credit unions, safe deposit companies, money transmitters and licensed check cashers. Finally, the proposals impose ongoing compliance obligations on these same entities to demonstrate their compliance with federal AML requirements. These new requirements are satisfied by a showing that the covered entity is in compliance with applicable federal AML requirements. As is the Department's current practice, this will be accomplished by the entity filing a copy of its federal AML compliance program with the Department in the case of new applications, and in the case of existing entities through the Department's existing examination procedures. Hence, no new regulatory compliance initiatives are required by these proposals, and, accordingly, the new rules will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses and local governments.

Rural Area Flexibility Analysis

The proposed rules will not have a material impact on public or private entities in rural areas. Specifically, the proposed rules require persons or entities seeking to charter or license banks, trust companies, savings banks, savings and loan associations, investment companies, private bankers, credit unions, safe deposit companies, foreign banking corporation branches and agencies, check cashers and licensed money transmitters to demonstrate compliance with applicable federal anti-money laundering ("AML") requirements as part of their chartering or licensing applications to this Department. Similar requirements are imposed on acquisition applications involving banks, trust companies, savings banks, savings and loan associations, investment companies, private bankers, credit unions, safe deposit companies, money transmitters and licensed check cashers. Finally, the proposals impose an ongoing compliance obligation on these same entities to demonstrate their compliance with federal AML requirements. Compliance with existing federal AML requirements will satisfy these requirements. Hence, no new regulatory compliance initiatives are required by these proposals, and the new rules will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

A job impact statement is not submitted because the proposed rule has no effect on the creation or elimination of jobs. The rule requires covered entities (banks, trust companies, savings banks, savings and loan associations, private bankers, investment companies, credit unions, safe deposit companies, foreign banking corporations, check cashers and money transmitters seeking a charter or license to operate in New York) to demonstrate compliance with applicable federal anti-money laundering ("AML") requirements as part of their applications to operate in New York. The new rules also require any such existing entities to also demonstrate ongoing compliance with applicable federal AML requirements. No new compliance initiatives are mandated by these proposed rules. Accordingly, these new rules are not expected to have any appreciable impact on job creation or elimination in this State.

Office of General Services

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Public Access to Records

I.D. No. GNS-35-07-00001-P

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

Proposed action: This is a consensus rule making to amend Subpart 330-1 of Title 9 NYCRR.

Statutory authority: Executive Law, section 200; Public Officers Law, section 87

Subject: Public access to records of the Office of General Services.

Purpose: To update the title of the person designated as the records access officer.

Text of proposed rule: Paragraph (1) of Subdivision 330-1.2(a) is amended to read as follows:

(1) [Assistant Commissioner of Public Affairs] *Director of Public Information.*

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

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

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

Consensus Rule Making Determination

This rule is being proposed as a consensus rule because, in accordance with State Administrative Procedure Act § 102(11)(b), it is non-controversial and simply updates the title of the person at OGS who is designated as the public records officer pursuant to 9 NYCRR 330-1.2(a).

Executive Law § 200 authorizes the Commissioner of General Services to “adopt, amend, or rescind rules and regulations relating to the discharge of his functions and duties and those of the office of general services as prescribed by law”. In accordance with Public Officers Law § 87, all state agencies are charged with “promulgating rules and regulations” regarding access to public records including “the persons from whom such records may be obtained.” The proposed consensus rule amendment will update the title of the person that the Commissioner of General Services designates as the records access officer. No one is likely to object to this update.

Job Impact Statement

The Office of General Services projects no substantial adverse impact on jobs or employment opportunities in the State of New York as a result of the amendment of this rule. The amendment simply updates the title of the person at the Office of General Services who is designated as the records access officer under 9 NYCRR 330-1.2(a). There will be no change in the number of agency employees as a result of these regulations. Nothing in the proposed regulations will increase or decrease the number of jobs in New York State, have an adverse impact on specific regions in New York State or negatively impact jobs in New York State.

Office of Mental Health

NOTICE OF ADOPTION

Comprehensive Psychiatric Emergency Program Rates

I.D. No. OMH-26-07-00007-A

Filing No. 839

Filing date: Aug. 14, 2007

Effective date: Aug. 29, 2007

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

Action taken: Amendment of Part 591 of Title 14 NYCRR.

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

Subject: Comprehensive Psychiatric Emergency Program (CPEP) rates.

Purpose: To increase the Medicaid reimbursement rates associated with CPEP programs.

Text or summary was published in the notice of emergency/proposed rule making, I.D. No. OMH-26-07-00007-EP, Issue of June 27, 2007.

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

Text of rule and any required statements and analyses may be obtained from: Joyce Donohue, Office of Mental Health, 44 Holland Ave., 8th Fl., Albany, NY 12229, (518) 474-1331, e-mail: coebjdd@omh.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Extension of Deadline for Pole Audit

I.D. No. PSC-35-07-00004-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 request for extension of time for completion of pole audits as required by the commission’s order issued on Aug. 6, 2004.

Statutory authority: Public Service Law, sections 77(1) and 94(2)

Subject: Extension of deadline for pole audit.

Purpose: To consider extension of deadline for pole audit as set out in Aug. 6, 2004 order in Case 03-M-0432.

Substance of proposed rule: The Commission is considering a request for extension of time for completion of pole audits as required by the Commission’s order issued on August 6, 2004.

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: Jaelyn 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-M-0432SA6)

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

Measuring, Limiting and Reporting Electric Commodity Price Volatility by Consolidated Edison Company of New York, Inc., et al.

I.D. No. PSC-35-07-00005-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 the plans of Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc. (O&R), as detailed in a letter dated July 27, 2007, for measuring, limiting and reporting electric commodity price volatility through the structuring of their commodity supply portfolios, in conformance with an order issued April 19, 2007 in Case 06-M-1017.

Statutory authority: Public Service Law, sections 5(1)(b), 64, 65(1), 66(1), (5), (9), (10) and (12)

Subject: Plans of Con Edison and O&R for measuring, limiting and reporting electric commodity price volatility.

Purpose: To consider the plans of Con Edison and O&R for measuring, limiting and reporting electric commodity price volatility.

Substance of proposed rule: The Public Service Commission is considering the plans of Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc. (O&R), as detailed in a letter dated July 27, 2007, for measuring, limiting and reporting electric commodity price volatility through the structuring of their commodity supply portfolios, in conformance with an Order issued April 19, 2007 in Case 06-M-1017. The Commission may adopt, reject or modify, in whole or in part, the plans 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-M-1017SA4)

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

Measuring, Limiting and Reporting Electric Commodity Price Volatility by Niagara Mohawk Power Corporation d/b/a National Grid USA

I.D. No. PSC-35-07-00006-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 the plans of Niagara Mohawk Power Corporation d/b/a National Grid USA (National Grid), as detailed in a letter dated July 27, 2007, for measuring, limiting and reporting electric commodity price volatility through the structuring of its commodity supply portfolio, in conformance with an order issued April 19, 2007 in Case 06-M-1017.

Statutory authority: Public Service Law, sections 5(1)(b), 64, 65(1), 66(1), (5), (9), (10) and (12)

Subject: Plans of National Grid measuring, limiting and reporting electric commodity price volatility.

Purpose: To consider the plans of National Grid for measuring, limiting and reporting electric commodity price volatility.

Substance of proposed rule: The Public Service Commission is considering the plans of Niagara Mohawk Power Corporation d/b/a National Grid USA (National Grid), as detailed in a letter dated July 27, 2007, for

measuring, limiting and reporting electric commodity price volatility through the structuring of its commodity supply portfolio, in conformance with an Order issued April 19, 2007 in Case 06-M-1017. The Commission may adopt, reject or modify, in whole or in part, the plans 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-M-1017SA5)

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

Measuring, Limiting and Reporting Electric Commodity Price Volatility by Central Hudson Gas & Electric Corporation

I.D. No. PSC-35-07-00007-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 the plans of Central Hudson Gas & Electric Corporation (Central Hudson), as detailed in a letter dated July 27, 2007, for measuring, limiting and reporting electric commodity price volatility through the structuring of its commodity supply portfolio, in conformance with an order issued April 19, 2007 in Case 06-M-1017.

Statutory authority: Public Service Law, sections 5(1)(b), 64, 65(1), 66(1), (5), (9), (10) and (12)

Subject: Plans of Central Hudson for measuring, limiting and reporting electric commodity price volatility.

Purpose: To consider the plans of Central Hudson for measuring, limiting and reporting electric commodity price volatility.

Substance of proposed rule: The Public Service Commission is considering the plans of Central Hudson Gas & Electric Corporation, as detailed in a letter dated July 27, 2007, for measuring, limiting and reporting electric commodity price volatility through the structuring of its commodity supply portfolio, in conformance with an Order issued April 19, 2007 in Case 06-M-1017. The Commission may adopt, reject or modify, in whole or in part, the plans 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-M-1017SA6)

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

Measuring, Limiting and Reporting Electric Commodity Price Volatility by New York State Electric & Gas Corporation, et al.

I.D. No. PSC-35-07-00008-P

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

Proposed action: The Public Service Commission is considering the plans of New York State Electric & Gas Corporation (NYSEG) and Rochester Gas and Electric Corporation (RG&E), as detailed in a letter dated July 27, 2007, for measuring, limiting and reporting electric commodity price volatility through the structuring of their commodity supply portfolios, in conformance with an order issued April 19, 2007 in Case 06-M-1017.

Statutory authority: Public Service Law, sections 5(1)(b), 64, 65(1), 66(1), (5), (9), (10) and (12)

Subject: Plans of NYSEG and RG&E for measuring, limiting and reporting electric commodity price volatility.

Purpose: To consider the plans of NYSEG and RG&E for measuring, limiting and reporting electric commodity price volatility.

Substance of proposed rule: The Public Service Commission is considering the plans of New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation, as detailed in a letter dated July 27, 2007, for measuring, limiting and reporting electric commodity price volatility through the structuring of its commodity supply portfolios, in conformance with an Order issued April 19, 2007 in Case 06-M-1017. The Commission may adopt, reject or modify, in whole or in part, the plans 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-M-1017SA7)

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

Rehearing of Order by Cable Telecommunications Association of New York, Inc.

I.D. No. PSC-35-07-00009-P

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

Proposed action: The commission is considering whether to grant or deny, in whole or in part, a petition for rehearing filed on July 20, 2007 by the Cable Telecommunications Association of New York, Inc. (CTANY) of the commission's June 20, 2007 order in Case 07-E-0383 concerning Central Hudson Gas & Electric Corporation's pole attachment rate.

Statutory authority: Public Service Law, section 22

Subject: Rehearing of June 20, 2007 order regarding Central Hudson Gas & Electric Corporation's pole attachment rate.

Purpose: To consider a petition for rehearing filed by CTANY.

Substance of proposed rule: The Commission is considering whether to grant or deny, in whole or in part, a petition for rehearing filed on July 20, 2007 by the Cable Telecommunications Association of New York, Inc. (CTANY) of the Commission's June 20, 2007 order in Case 07-E-0383 concerning Central Hudson Gas & Electric Corporation's pole attachment rate.

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-0383SA2)

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

Deployment of Niagara Mohawk Power Corporation's Customer Service System by National Grid

I.D. No. PSC-35-07-00010-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, modify or reject, in whole or in part, a petition by Niagara Mohawk Power Corporation d/b/a National Grid to use its New York customer service system for its New England utility affiliates.

Statutory authority: Public Service Law, section 70

Subject: Migration of the National Grid's New England utility affiliates onto Niagara Mohawk's customer service system.

Purpose: To consider whether to approve the deployment of the Niagara Mohawk's customer service system to National Grid's New England utility affiliates.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a petition filed by Niagara Mohawk Power Corporation d/b/a National Grid for approval of the deployment of the Niagara Mohawk Customer Service System to National Grid's New England utility affiliates. This deployment will result in a consolidation such that both Niagara Mohawk and National Grid's New England utility affiliates will utilize a common system. The Commission will also consider the appropriate ratemaking treatment for such a transaction.

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-M-0943SA1)

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

Initial Tariff Schedule by The Meadows at Hyde Park Water-Works Corp.

I.D. No. PSC-35-07-00011-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, or modify, The Meadows at Hyde Park Water-Works Corp.'s initial tariff schedule, P.S.C. No. 1—Water, to become effective Dec. 1, 2007.

Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1) and 89-e(2)

Subject: Initial tariff schedule—electronic filing.

Purpose: To approve an initial tariff schedule, P.S.C. No. 1—Water for The Meadows at Hyde Park Water-Works Corp. which sets forth the initial rates, charges, rules and regulations under which the company will operate.

Substance of proposed rule: On August 1, 2007, The Meadows at Hyde Park Water-Works Corp. (Meadows Water or the company) filed an elec-

tronic initial tariff schedule, P.S.C. No. 1—Water, which sets forth the rates, charges, rules and regulations under which the company will operate, to become effective December 1, 2007. Meadows Water will serve The Meadows at Hyde Park, a single-family (74 homes) subdivision located in the Town of Hyde Park, Dutchess County. The proposed rates in the initial tariff are designed to generate, at full development, approximately \$79,920 in total operating revenues and a pre-tax rate of return of approximately 11% on a rate base of \$254,000. The proposed service charge would be \$180 per quarter plus a rate per 1,000 gallons of \$6. The estimated annual bill for an average annual usage of 60,000 gallons would be \$1,080. In addition, the company proposes a Repair and Maintenance Escrow Account which will be funded by a customer surcharge of no more than \$20 per quarter and have a maximum balance of \$7,500, not including accrued interest. The tariff defines when a bill will be considered delinquent and establishes a late payment charge of 1-1/2 percent per month, compounded monthly and a returned check charge equal to the bank charge plus a handling fee of \$5. The restoration of service charge is \$50 during normal business hours Monday through Friday, \$75 outside of normal business hours Monday through Friday, and \$100 on weekends and public holidays. Meadows Water's tariff is available on the Commission's Home Page on the World Wide Web (www.dps.state.ny.us) located under Commission Documents. The Commission may approve or reject, in whole or in part, or modify the company'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-W-0915SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Issues of Stock, Bonds and other Forms of Indebtedness; Charges by Chaffee Water Works Company

I.D. No. PSC-35-07-00012-P

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

Proposed action: The commission is considering the petition of Chaffee Water Works Company (the company) to amend its order in Case 06-W-1160 approving a higher loan amount with the Environmental Facilities Corporation. Additionally, the company requests it be allowed to increase its annual surcharge to customers from \$12,727 to \$16,848.

Statutory authority: Public Service Law, sections 89-f and 89-c(10)

Subject: Issues of stock, bonds and other forms of indebtedness; charges.

Purpose: To allow Chaffe Water Works Company to enter into a loan agreement and increase charges.

Substance of proposed rule: The Commission is considering whether to approve, reject or modify the petition of Chaffee Water Works Company (the company) to amend its recent Order in Case 06-W-1160 which approved the company's loan with the Environmental Facilities Corporation for \$381,806. The company wants to borrow \$505,848 and requests that it be allowed to increase the customer surcharge from \$12,727 to \$16,848 annually in order to pay for the larger loan. General cost increases and the need for additional main installations are making the project more expensive.

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-W-0928SA1)

Urban Development Corporation

EMERGENCY RULE MAKING

Economic Development and Job Creation throughout New York State

I.D. No. UDC-35-07-00002-E

Filing No. 836

Filing date: Aug. 9, 2007

Effective date: Aug. 9, 2007

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

Action taken: Amendment of Part 4242 of Title 21 NYCRR.

Statutory authority: Urban Development Corporation Act, section 5(4); L. 1968, ch. 174; L. 1994, ch. 169; L. 2001, ch. 471

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

Specific reasons underlying the finding of necessity: Effective provision of economic development assistance in accordance with the enabling legislation (including recent amendments thereto) requires the addition of new forms of assistance to the rule.

Subject: Economic development and job creation throughout New York State.

Purpose: To provide the framework for administration of the JOBS Now Program, evaluation criteria, terms and conditions, and the application and evaluation process; and expand the type of program assistance available and makes the JOBS Now Program assistance in accordance with the requirements of the enabling legislation for the Dairy Assistance Program.

Substance of emergency rule: The JOBS Now program (the "Program") was created pursuant to Chapter 309 of the Laws of 1996 (the "Enabling Legislation"). The general purpose of the Program is to promote the economic health of New York State (the "State") and increase economic activity within the State by encouraging the expansion of business within the State and the attraction of businesses to the State.

The Enabling Legislation creates Section 16-h of the New York State Urban Development Corporation Act (the "UDC Act") which governs the Program. The Enabling Legislation requires the New York State Urban Development Corporation d/b/a the Empire State Development Corporation (the "Corporation") to promulgate rules and regulations for the Program (the "Rules") in accordance with the provisions of the State Administrative Procedure Act ("SAPA"). The Rules set forth the framework for the eligibility, evaluation criteria, application and project process and administrative procedures of the Program as follows:

1. Program Assistance:

a) Job Creation Grants to eligible businesses undertaking eligible projects, which grant may be used by the recipient to defray its State or local tax liability for any taxable period beginning on or after the date such grant is approved by ESD.

b) Worker training grants to eligible businesses undertaking eligible projects as full or partial reimbursement of the cost incurred by such businesses in conducting programs of worker training in connection with the eligible expansion or attraction project, including, without limitation,

programs of recruitment, skills training and/or upgrading, productivity enhancement and total product/service quality improvement.

c) Capital loans and grants to eligible businesses undertaking eligible projects to finance, in connection with such projects, the acquisition of land, buildings, and machinery and equipment, or an interest therein; new construction, renovation or leasehold improvements; infrastructure improvements, including, without limitation, drainage systems, sewer systems, access roads, parking areas, sidewalks, docks, wharves, water supply systems and demolition and site clearance, preparation and improvement; and costs related to the above including, without limitation, legal expenses, appraisal costs, brokerage commissions, interest costs, survey expenses, design, architectural and engineering fees and expenses, site preparation expenses and relocation expenses; provided, however, that Program funds shall not be awarded for consultant costs relating to the preparation of an application for Program assistance.

d) Interest Subsidy Grants for the benefit of eligible businesses undertaking eligible projects to offset debt service costs associated with loans made to such businesses by a private lending institution, either directly or through an intermediary such as an industrial development agency of the State, to finance, in connection with such projects, the acquisition of land, building, or machinery and equipment, or an interest therein; new construction, renovation or leasehold improvements; and infrastructure improvements, as set forth in paragraph C. above.

e) Working capital loans and loan guarantees to or for the benefit of eligible businesses undertaking eligible projects to finance capital-related expenses such as, without limitation, accounts receivable and inventory, provided that such expenses are necessary to upgrade and reconfigure the business's competitive position. Working capital assistance shall be provided primarily in the form of loan guarantees; working capital loans shall be provided only under limited circumstances, as determined in ESD's sole discretion.

The proposed amended Rule expands the types of assistance available under the Program. Specifically, the proposed Section 4242.11 allows for payments to producers of milk to assist the dairy farmers of New York State and their industry in a time of great need and to prevent further loss of the dairy industry and its infrastructure which are critical to New York State's agricultural economy.

This notice is intended to serve only as a notice of emergency adoption. This agency does not intend to adopt the provisions of this emergency rule as a permanent rule. The rule will expire November 6, 2007.

Text of emergency rule and any required statements and analyses may be obtained from: Antovk Pidedjian, Urban Development Corporation d/b/a Empire State Development Corporation, 633 Third Ave., 37th Fl., New York, NY 10017, (212) 803-3792

Regulatory Impact Statement

1. Statutory Authority:

Chapter 57 of the laws of 2007 created Article 21-D of the Agricultural Markets Law and amended Section 16-h of the New York State Urban Development Corporation Act to permit the Commissioner of Agriculture and Markets (the "Commissioner") and the New York State Urban Development Corporation, d/b/a Empire State Development Corporation (the "Corporation") to implement the Dairy Assistance Program (the "Program") to promote economic development in the State by assisting the dairy producers of New York State in a time of great need and to prevent further loss in the dairy industry and its infrastructure which are critical to the State's agricultural economy.

2. Legislative Objective:

The objective of the statute authorizing the Program is to promote the economic health of New York State by facilitating the creation or retention of jobs or increasing business activity within municipalities or regions of the State.

3. Needs and Benefits:

The Program's legislation assists job creation throughout the State by providing the following types of assistance:

a) The Program pays eligible producers the difference between target prices to be established by the Commissioner and the combined announced Northeast Federal Order Statistical Uniform Price plus the amount of the Milk Income Loss Contract X payment rate on a per-hundredweight basis. Further, other factors may be used by the Commissioner in determining payment to producers for milk.

1. Evaluation Criteria – The Corporation, will review and act upon information provided to the Corporation by the Commissioner with respect to applications for assistance provided by applicants to the Commissioner and the Commissioner's determinations pursuant to Article 21-D of the

Agricultural and Markets Law regarding eligibility requirements and award criteria.

2. Application procedure – Approval of applications shall be made only upon a determination by the Corporation after consultation with the Commissioner and based upon the information provided by the Commissioner.

4. Costs:

The changes should not increase costs for the Program.

The funding source is appropriation funds. Savings will occur as a result of the use of standard applications by the Commissioner which allow Department of Agriculture and Markets staff to efficiently assist in the application process and for UDC staff to efficiently process information provided by the Commissioner for prompt payment of Program assistance to applicants determined to be eligible by the Commissioner based on amounts determined by the Commissioner.

5. Local Government Mandates:

There is no imposition of any mandates upon local governments by the amended rule.

6. Paperwork:

There are no additional reporting or paperwork requirements as a result of this amended rule. Standard applications used by the Department of Agriculture and Markets will be employed.

7. Duplication:

There are no duplicative, overlapping or conflicting rules or legal requirements, either federal or state.

8. Federal Standards:

There are no applicable federal government standards which apply. However, the Commissioner of the Department of Agriculture and Markets shall request the United States Department of Agriculture's Farm Service Agency to provide production data for producers and assist the Department of Agriculture and Markets in administering the Program.

9. Alternatives:

This Program was created by the Legislature in our representative form of government. The Corporation is implementing this legislation. It is not for the Corporation to say what harm would be caused by doing nothing. With respect to implementing legislation, doing nothing is NOT an option.

10. Compliance Schedule:

No significant time will be needed for compliance.

Regulatory Flexibility Analysis

1. Effect of Rule:

The amended Rule will improve the accessibility of the program to eligible entities throughout the State and enable the Corporation to more effectively administer the Program. The goal of such improvements is to better achieve the Program's objectives, including assisting the State's dairy producers, the retention and creation of employment opportunities, and to otherwise contribute to the economic health of New York State.

The proposed amended Rule expands the types of assistance available under the Program. Specifically, the proposed Section 4242.11 allows for payments to producers of milk to assist the dairy farmers of New York State and their industry in a time of great need and to prevent further loss of the dairy industry and its infrastructure which are critical to New York State's agricultural economy.

This should not affect the Program's accessibility to small business.

2. Compliance Requirement:

No affirmative acts will be needed to comply.

3. Professional Services:

No professional services will be needed to comply.

4. Compliance Costs:

No initial costs will be needed to comply with the amended rule.

5. Economic and Technological Feasibility:

The Rule makes assistance feasible for small businesses that are dairy producers, by expressly stating that all producers shall be reimbursed for up to four million eight hundred thousand pounds of milk until such time as thirty million dollars in state funding is expended. The Rule is also economically feasible for local governments to coordinate their respective economic development and job retention and attraction efforts with the program. There are no aspects of the Rule that make the assistance or the Rule technologically infeasible for small business or local government.

6. Minimizing Adverse Impact:

The revised rule will have no adverse economic impact on small business or local governments.

7. Small Business and Local Government Participation:

The Program is a product of the legislative process and, thereby, has had the input of all small businesses participating in the representative process of government. The Program emphasizes the effective provision of

economic development throughout New York State. Small business may participate by requesting assistance when the requisite eligibility criteria are met. Pursuant to the enabling legislation, the Corporation will work with the Commissioner of Agriculture and Markets who will work with local entities to make the assistance available.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis Statement is not submitted because the amended rule will not impose any adverse economic impact, reporting requirements, recordkeeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

A JIS is not submitted because it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on jobs and employment opportunities. In fact, the proposed amended rule should have a positive impact on job creation because it will facilitate administration of and access to the JOBS Now program for providing assistance to dairy producers pursuant to the Dairy Assistance Program, which should improve the opportunities to maintain and create of jobs throughout the State by encouraging the continuation of the State's dairy industry.