

# RULE MAKING ACTIVITIES

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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.

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## Banking Department

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### NOTICE OF ADOPTION

#### Electronic Banking Facilities

**I.D. No.** BNK-01-07-00005-A  
**Filing No.** 467  
**Filing date:** May 8, 2007  
**Effective date:** May 23, 2007

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

**Action taken:** Amendment of Part 73 of Title 3 NYCRR.

**Statutory authority:** Banking Law, sections 14(1), 105-a, 240-a and 396-a

**Subject:** Establishment of electronic banking facilities (*i.e.*, ATMs, point-of-sale terminals, and similar facilities at which banking business may be conducted).

**Purpose:** To streamline the application and approval process for banking institutions when establishing electronic facilities.

**Text or summary was published** in the notice of proposed rule making, I.D. No. BNK-01-07-00005-P, Issue of January 3, 2007.

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

**Text of 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

#### Assessment of Public Comment

One comment was received from an industry association of New York financial institutions. While the association supported the goal of the current proposal to streamline the application and approval process for electronic facilities, it requested that further consideration be given to eliminating the prior approval requirement for electronic facilities, at least for banking organizations with a CRA rating of “satisfactory” or better.

The Department had originally taken this approach in amendments to Part 73 that were proposed in April, 2005 as part of a larger package of applications streamlining measures.

The State Assembly Regulations Review Commission objected to that earlier proposal. Specifically, the Assembly Commission objected to the alteration of the pre-notice and non-objection process in order that banking institutions may establish ATM facilities. The Commission represented the legislative intent of sections 105-a, 240-a and 396-a of the Banking Law is to ensure the Superintendent’s review of a banking institution’s performance in meeting the CRA standards prescribed by section 28-b of the Banking Law, as a pre-condition to obtain approval to establish a new facility. After considering the views of the Assembly Commission, the Department determined not to proceed with the proposal to amend Part 73 at that time.

The Department has no reason to believe that the known objections of the Assembly Commission to moving to an after-the-fact notice procedure for well rated banks have altered or diminished in the two years since it was initially proposed by the Department. It has therefore determined to adopt the amendments to Part 73 in the form proposed.

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## Department of Correctional Services

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### NOTICE OF ADOPTION

#### Inmate Grievance Program

**I.D. No.** COR-11-07-00004-A  
**Filing No.** 465  
**Filing date:** May 8, 2007  
**Effective date:** May 23, 2007

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

**Action taken:** Amendment of sections 701.5(a)(2), (b)(4)(i), (c), 701.6(a), (f)(1) and (i)(2) of Title 7 NYCRR.

**Statutory authority:** Correction Law, sections 112 and 139

**Subject:** Inmate Grievance Program.

**Purpose:** To correct citations and punctuation.

**Text or summary was published** in the notice of proposed rule making, I.D. No. COR-11-07-00004-P, Issue of March 14, 2007.

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

**Text of rule and any required statements and analyses may be obtained from:** Anthony J. Annucci, Deputy Commissioner and Counsel,

Department of Correctional Services, Bldg. 2, State Campus, Albany, NY 12226-2050, (518) 457-4951, e-mail: AJAnnucci@docs.state.ny.us

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Inmate Grievance Program Modification Plan**

**I.D. No.** COR-11-07-00005-A

**Filing No.** 466

**Filing date:** May 8, 2007

**Effective date:** May 23, 2007

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

**Action taken:** Amendment of sections 702.4(a)(4), (b)(1), (2), (c)(1) and (2) and addition of sections 702.5, 702.6 and 702.7 to Title 7 NYCRR.

**Statutory authority:** Correction Law, section 139

**Subject:** Inmate Grievance Program modification plan.

**Purpose:** To amend timeframes, citations and add sections in order to provide consistency with 7 NYCRR Part 701.

**Text or summary was published** in the notice of proposed rule making, I.D. No. COR-11-07-00005-P, Issue of March 14, 2007.

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

**Text of rule and any required statements and analyses may be obtained from:** Anthony J. Annucci, Deputy Commissioner and Counsel, Department of Correctional Services, Bldg. 2, State Campus, Albany, NY 12226-2050, (518) 457-4951, e-mail: AJAnnucci@docs.state.ny.us

**Assessment of Public Comment**

The agency received no public comment.

application or apply within the State of New York any architectural coating manufactured on or after January 1, 2005 which contains volatile organic compounds in excess of the limits specified in the following Table of Standards. Limits are expressed in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases. 'Manufacturer's maximum recommendation' means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.

The remainder of section 205.3(a) remains unchanged.

Sections 205.3(b) through 205.3(f) remain unchanged.

New Section 205.3(g) is added to read as follows:

(g) 'Sell Through of Coatings.' A coating manufactured prior to January 1, 2005, or previously granted an exemption pursuant to Section 205.7, may be sold, supplied, or offered for sale until May 15, 2007, so long as the coating complied with standards in effect at the time the coating was manufactured.

Sections 205.4 through 205.7(e) remain unchanged.

Section 205.7 (f) is amended to read as follows:

(f) Any exemption granted under subdivision (d) of this section may remain in effect no later than December 31, [2007] 2006.

Section 205.7(g) is deleted.

Section 205.7(h) is renumbered as follows:

[(h)](g) Limited exemptions for small AIM coatings manufacturers as approved by the director, Division of Air Resources, Department of Environmental Conservation under this Part, will be submitted to the EPA as State Implementation Plan revisions for approval.

Section 205.8 remains unchanged.

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously published a notice of proposed rule making, I.D. No. ENV-49-06-00015-P, Issue of November 21, 2006. The emergency rule will expire July 6, 2007.

**Text of emergency rule and any required statements and analyses may be obtained from:** Daniel S. Brinsko, Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, NY 12233-3251, (518) 402-8396, e-mail: 205aim@gw.dec.state.ny.us

**Additional matter required by statute:** Pursuant to article 8 of the (State Environmental Quality Review Act), a short environmental assessment form, a negative declaration and a coastal assessment form have been prepared and are on file.

**Summary of Regulatory Impact Statement**

New York faces a significant public health challenge from ground-level ozone, which causes health effects ranging from respiratory disease to death. In response to this public health problem, New York has enacted a series of regulations designed to control ozone and its chemical precursors which include volatile organic compounds (VOCs). Among other regulatory actions, New York has promulgated regulations designed to limit the VOCs emitted by various paints, stains, and sealers also known as architectural and industrial maintenance coatings (AIM coatings).

The Department now proposes to revise Part 205 to implement two rule changes. First, the Department proposes to modify the provision in section 205.7 whereby small manufacturers could apply for and obtain an exemption from VOC content limits through December 31, 2007, with the option to apply to renew the exemption for an additional three years. This exemption is otherwise known as the small manufacturer's exemption or "SME." By adoption of this regulation on an emergency basis, the Department ended the SME effective December 31, 2006. Second, the Department proposes to include a "sell-through" end date provision so that products manufactured prior to January 1, 2005, or granted a SME, which do not meet Part 205 VOC content limits, cannot be sold indefinitely. Together, these modifications will ensure that the State achieves the VOC emission reductions from AIM coatings needed to address the emission shortfall identified by EPA for the NYCMA in connection with the one-hour ozone NAAQS and that the State can make immediate progress towards attaining the eight-hour ozone NAAQS statewide (although EPA's implementing regulations were vacated by the court, the eight-hour standard is still valid and is a health based standard, so the Department is still obligated under the Clean Air Act to implement measures to meet the NAAQS as expeditiously as practicable).

In 2005, the Department granted SMEs to twenty small manufacturers for specific AIM coatings. The Department has analyzed the information submitted in connection with the SME applications, and has now determined that the SMEs account for approximately 4 tons of VOC emission reductions per ozone season day (tpd) out of the 14 tpd of reductions that

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## Department of Environmental Conservation

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**EMERGENCY  
RULE MAKING**

**Architectural and Industrial Maintenance Coatings**

**I.D. No.** ENV-49-06-00015-E

**Filing No.** 464

**Filing date:** May 8, 2007

**Effective date:** May 8, 2007

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

**Action taken:** Amendment of Part 205 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0301 and 19-0305

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

**Specific reasons underlying the finding of necessity:** To achieve the reductions of emissions of volatile organic compounds necessary to demonstrate attainment with the ozone national ambient air quality standards. Attainment of this standard is necessary to protect the public health and welfare.

**Subject:** Architectural and industrial maintenance coatings.

**Purpose:** To end the small manufacturer exemption on Dec. 31, 2006 and establish a sell-through end date of May 15, 2007 to eliminate the unlimited sell-through of non-complying coatings manufactured before Jan. 1, 2005.

**Text of emergency rule:** Sections 205.1 through 205.2 remain unchanged.

Section 205.3 (a) is amended to read as follows:

Section 205.3 Standards. (a) 'VOC content limits.' Except as provided in [subdivision] subdivisions (b) and (g) of this section, no person shall manufacture, blend, or repackage for sale within the State of New York, supply, sell, or offer for sale within the State of New York or solicit for

were anticipated to be achieved when the VOC content limits in Part 205 took effect in 2005. One of the objectives of this rulemaking is to recover for the 2007 ozone season and thereafter the 4 tpd of VOC emission reductions that were not achieved as a result of the SMEs. In addition to the VOC emission reductions lost due to the SMEs, the Department is concerned about the VOC emissions lost from the continued sale of AIM coatings produced prior to the January 1, 2005 compliance date in Part 205. The VOC content limits in Part 205 do not apply to products manufactured prior to January 1, 2005, only products manufactured on or after that date. In discussions with AIM coatings manufacturers, the Department has learned that some pre-2005 product is still being sold. The Department proposes to add a "sell-through" end date of May 15, 2007, after which all AIM products sold in New York State must comply with the low VOC content limits in Part 205. By eliminating the SMEs and establishing a "sell-through" end date, the Department will be able to demonstrate progress towards attaining both the one-hour and the eight-hour NAAQS for ozone.

The Department is filing an emergency adoption to make these rule revisions effective immediately. Under these revisions, the SMEs ended on December 31, 2006. Manufacturers will have until May 15, 2007 to sell non-compliant products that were manufactured before January 1, 2005 or were granted a SME. The Department realizes, however, that manufacturers granted one or more SMEs will need time to shift their production to compliant coatings. Both large and small manufacturers who were selling non-compliant coatings manufactured before the new VOC standards took effect need time to liquidate their existing inventories or transfer those inventories to states outside of the Ozone Transport Region with less stringent AIM coatings regulations. The adoption of these revisions on an emergency basis ensures that manufacturers have significant advance notice to react to these rule changes in a timely manner and achieve compliance with Part 205 by the "sell-through" end date.

The promulgation of these Part 205 amendments is authorized by the following sections of the Environmental Conservation Law which, taken together, clearly empower the Department to establish and implement the Program: Section 1-0101; Section 3-0301; Section 19-0103; Section 19-0105; Section 19-0301 and Section 19-0305.

The 2003 amendments to Part 205 included the SME provision that allowed the Department to grant an exemption to a small AIM coatings manufacturer in order to allow more time for the manufacturer to acquire the technology to comply with the new VOC content limits. Twenty-two small manufacturers applied for and twenty received SMEs pursuant to section 205.7. Revised Part 205 was estimated to achieve VOC emission reductions of 14 tons per ozone season day (tpd) and the Department has determined that as a result of granting the SMEs, 4 tpd of VOC emission reductions that had been anticipated were not realized. These emission reductions are essential to the Department's strategy to bring NYCMA into attainment with the NAAQS for ozone. In a letter dated January 27, 2006 from Raymond Werner, Chief, Air Programs Branch, USEPA Region 2 Office, to Dave Shaw, Director Division of Air Resources of DEC, EPA requested an accounting of the shortfall measures to meet the 42 tpd VOC emission reduction shortfall. New York cannot make this demonstration unless it is able to take credit for all of the emission reductions anticipated through implementation of the six "shortfall measures", which included the 14 tpd from Part 205, the AIM Coatings rule.

In addition to evaluating the SME provision, the Department also reviewed a provision that was considered during the last rulemaking but not included in the final adopted rule in 2003. Prior to the emergency adoption of revisions on November 7, 2006, Part 205 allowed the sale of all AIM coatings manufactured prior to January 1, 2005 to continue indefinitely. Because the Department believed that AIM coatings moved quickly through the market (based upon discussions with industry during the rulemaking process), it was believed that there was not a need for a cut-off date. Since adoption of the final rule in 2003, the Department has discovered that some of these products do have long shelf lives and have remained in the market for periods sometimes exceeding two years. Moreover, the Department has also been advised that some manufacturers stockpiled AIM coatings manufactured prior to the rule implementation date of January 1, 2005 to ensure that they could continue to sell 2004 formulations after the revised rule took effect. As a result, it is important to establish a "sell-through" end date to ensure that the entire 14 tpd of VOC emission reductions are realized as soon as possible. The Department now concludes that if a "sell-through" end date is not invoked then noncompliant products will continue to be sold for a long time, and New York State will not realize the full potential of the VOC emission reductions expected during the rulemaking process. The Department's selection of May 15,

2007 as a "sell-through" end date effectively provides the regulated community with a "sell-through" period nearly two and a half years. Also, May 15th corresponds to the beginning of the ozone season, so removing these higher VOC products from the market before the start of the ozone season will improve New York's ability to attain the ozone NAAQS.

There are two types of ozone, stratospheric and ground level ozone. Ozone in the stratosphere is naturally occurring and is desirable because it shields the earth from harmful ultraviolet rays from the sun which may cause skin cancer. Ozone at ground level causes throat irritation, congestion, chest pains, nausea and labored breathing. It aggravates respiratory conditions like chronic lung and heart diseases, allergies and asthma. Ozone damages the lungs and may contribute to lung disease. Even exercising healthy adults can experience 15 percent to 20 percent reductions in lung function from exposure to low levels of ozone over several hours. Children are most at risk from exposure to ozone. Because their respiratory systems are still developing, they are more susceptible than adults. This problem is exacerbated because ozone is a summertime phenomenon. Children are outside playing and exercising more often during the summer which results in children being exposed to ozone more than adults. Outdoor workers are also more susceptible to lung damage because of their increased exposure to ozone.

Implementation of the Part 205 revisions will, in concert with similar regulations adopted by other States and other measures undertaken by New York, lower levels of ozone in New York State and will decrease the adverse public health and welfare effects described above.

The cost of the proposed regulations will mostly affect the twenty SME manufacturers to whom the Department granted a SME. There may be some cost to other manufacturers that still have supplies of AIM coatings manufactured before January 1, 2005, but Department staff expects this to be minor. Large manufacturers who have existing inventories of product manufactured prior to January 1, 2005 will have to ensure that the product is sold before the "sell-through" end date or moved out of New York State for sale in other states which do not have an AIM coatings rule.

Small manufacturers may have increased costs associated with the production of compliant AIM coatings and may experience a reduction in profits to the extent that their sales increased during the SME as a result of their ability to make and sell higher VOC products. These manufacturers must now make and sell complying coatings and accordingly their production costs may increase slightly and they may sell less product. Since compliant formulations are available for all AIM coating categories, however, the Department expects that the financial effects of this rule are beneficial to the overall market since all manufacturers must meet the same VOC content limits.

It should be noted that the impact to consumers is expected to be minimal since there are already a large amount of complying coatings on store shelves (produced by manufacturers that did not receive a SME). Competition from these existing complying coatings will likely constrain any price increases as manufacturers will not be able to pass on all of their costs to the consumers. This is likely to control any actual retail price increases.

The Department evaluated several alternatives and determined that the most preferable alternative was to end the SME in December 2006 and the "sell-through" in May 2007. This option provides time for the manufacturers who have products granted a SME or products manufactured prior to January 1, 2005 to "sell-through" any remaining inventory. In particular, ending the "sell-through" by May 15, 2007 allows manufacturers time to liquidate inventory while ensuring that sale of non-complying products is curtailed by the 2007 ozone season. This is the preferred option because it ensures New York can realize the necessary VOC emission reductions.

EPA approved Part 205 into New York's State Implementation Plan on December 13, 2004. As a result of EPA's action, the VOC content limits in Part 205 represent the Federal standards for AIM coatings in New York. EPA has asked New York to demonstrate compliance with the ozone NAAQS. To do this, the Department needs to demonstrate 42 tpd of VOC emission reductions identified by EPA as the shortfall. In order to achieve the 42 tpd of shortfall reductions, the Department adopted six VOC control measures including the Part 205 AIM coatings rule. The AIM coatings rule was expected to produce 14 tpd of the VOC shortfall emission reductions but because of the SME and the unlimited sell-through provisions the Department is not able to make its shortfall demonstration to EPA. These revisions will allow the Department to comply with that federal mandate.

#### **Regulatory Flexibility Analysis**

New York faces a significant public health challenge from ground-level ozone, which causes health effects ranging from respiratory disease to death. In response to this public health problem, New York has enacted

a series of regulations designed to control ozone and its chemical precursors which include volatile organic compounds (VOCs). Among other regulatory actions, New York has promulgated regulations designed to limit the VOCs emitted by various paints, stains, and sealers also known as architectural and industrial maintenance coatings (AIM coatings).

On July 18, 1997, the EPA promulgated the eight-hour ozone national ambient air quality standard (NAAQS). In June of 2004, EPA designated several areas within New York State to be in nonattainment with the eight-hour NAAQS. However, in December 2006, the United States Circuit Court of Appeals for the District of Columbia vacated EPA's eight-hour ozone implementation rule. Based upon that Court decision, New York State is still required to meet the requirements related to the one-hour ambient air quality standard for ozone. Federal regulations require New York State to develop and implement enforceable strategies to get nonattainment areas into attainment by 2007. Since attainment is determined over a three-year period, VOC emission reductions are needed immediately in order to demonstrate attainment in 2007.

The Department of Environmental Conservation (the Department) proposes to revise Part 205 to implement two rule changes. First, the Department proposes to modify the provision in section 205.7 whereby small manufacturers could apply for and obtain an exemption from VOC content limits through December 31, 2007, with the option to apply to renew the exemption for an additional three years. This exemption is otherwise known as the small manufacturer's exemption or "SME." By adoption of this regulation on an emergency basis, the Department ended the SME effective December 31, 2006. Second, the Department proposes to include a "sell-through" provision so that products manufactured prior to January 1, 2005, or granted a SME, and which do not meet Part 205 VOC content limits cannot be sold indefinitely. Together, these modifications will ensure that the State achieves the VOC emission reductions from AIM coatings needed to address the emission shortfall identified by EPA for the NYCMA in connection with the one-hour ozone NAAQS and that the State can make immediate progress towards attaining the eight-hour ozone NAAQS statewide (although EPA's implementing regulations were vacated by the court, the eight-hour standard is still valid and is a health based standard, so the Department is still obligated under the Clean Air Act to implement measures to meet the NAAQS as expeditiously as practicable).

In 2005, the Department granted a SME to twenty small manufacturers for specific AIM coatings. The Department has analyzed the information submitted in connection with the SME applications, and has now determined that the SMEs account for 4 tons per ozone season day (tpd) out of the 14 tpd of VOC emission reductions that were anticipated to be achieved when the VOC content limits in Part 205 took effect in 2005. One of the objectives of this rulemaking is to recover the 4 tpd of VOC emission reductions that were not achieved as a result of the SMEs. In addition to the VOC emission reductions lost due to the SMEs, the Department is concerned about the VOC emissions lost from AIM coatings produced prior to the January 1, 2005 compliance date in Part 205. The VOC content limits in Part 205 do not apply to products manufactured prior to January 1, 2005, only products manufactured on or after that date. In discussions with AIM coatings manufacturers, the Department has learned that some pre 2005 product is still being sold. The Department proposes to add a "sell-through" end date of May 15, 2007 which would require that only VOC compliant coatings be sold after that date. By eliminating the SMEs and establishing a "sell-through" end date, the Department will be able to demonstrate progress in its efforts to attain both the one-hour and the eight-hour NAAQS for ozone.

The Department has filed an emergency adoption that made these rule revisions effective immediately. Under these revisions, the SMEs ended effective December 31, 2006. Manufacturers will have until May 15, 2007 to sell non-compliant products that were manufactured before January 1, 2005 or were granted a SME. The Department realizes, however, that manufacturers granted one or more SMEs will need time to shift their production to compliant coatings. Both large and small manufacturers who were selling non-compliant coatings manufactured before the new VOC standards took effect need time to liquidate their existing inventories or transfer those inventories to states outside of the OTR with less stringent AIM coatings regulations. The adoption of these revisions on an emergency basis ensures that manufacturers have significant advance notice to react to these rule changes in a timely manner and achieve compliance with Part 205 by the "sell-through" end date.

1. Effects on Small Businesses and Local Governments. No local governments will be directly affected by the revisions to 6 NYCRR Part 205, the Architectural and Industrial Maintenance (AIM) Coatings regula-

tion. Small businesses that manufacture AIM coatings for sale pursuant to a small manufacturer exemption (SME) provision for certain products under section 205.7 had a three year exemption that would have ended on December 31, 2007. With these rule revisions, the SME ended on December 31, 2006. In addition, as a result of the new sell through provision, AIM coatings manufacturers will have until May 15, 2007 to sell products which were grandfathered or received a SME.

2. Compliance Requirements. Local governments are not directly affected by the revisions to 6 NYCRR Part 205. Small businesses which were not granted a SME will face no additional requirements. Manufacturers who were granted a SME will have to comply with the low VOC content limits of Part 205, which may involve reformulating some of their coatings. Contractors and retailers who use or sell AIM simply need to continue to purchase compliant coatings.

3. Professional Services. Local governments are not directly affected by the revisions to 6 NYCRR Part 205. It is not anticipated that small businesses that manufacture architectural coatings will need to contract out for professional services to comply with this regulation. In the few cases where small manufacturers do not already have compliant formulations to replace those SME products complying formulations are available at little or no cost from both the solvent and the raw material suppliers to this industry. See Chemidex.com on the web.

4. Compliance Costs. There are no additional compliance costs for small businesses and local governments as a result of this rule except for the 11 New York State manufacturers granted a SME. Since there are compliant coatings now available in all AIM categories, small businesses and local governments that previously purchased AIM coatings that received a SME, they are not expected to see a price increase for the purchase of compliant AIM coatings.

There may be some cost to other manufacturers that still have supplies of AIM coatings manufactured before January 1, 2005, but the Department expects this to be minor. Manufacturers that have existing inventories of product manufactured before January 1, 2005 will need to ensure that the product is sold before the "sell-through" end date or moved out of New York State for sale in other states which do not have an AIM coatings rule.

The proposed regulations will mostly affect the eleven New York urban/suburban businesses that received an SME for certain products. Some of manufacturers may have increased costs associated with the production of compliant AIM coatings. The Department is aware of some small manufacturers who, after having been granted a SME, were able to increase sales and market share of their products. These manufacturers will now be required to produce compliant coatings which will have to compete in the market place with the compliant coatings of other manufacturers. Consequently, they might experience reduced profits to the extent they cannot maintain the same level of sales with compliant VOC coatings as they did with their higher VOC content coatings. Compliant formulations are available for all coating categories, however, so all manufacturers should be able to access that technology going forward. Department staff believe that the financial effects of this rule are beneficial to the overall market since this rule would no longer provide a market advantage to those companies that received the SMEs or had large inventories of products manufactured before January 2005.

It should be noted that the impact to consumers is expected to be minimal since there are already large amounts of complying coatings on store shelves (produced by manufacturers that did not receive a SME). Competition from these existing complying coatings will likely constrain any price increases as manufacturers will not be able to pass on all of their costs to the consumers. This is likely to control any actual retail price increases.

5. Minimizing Adverse Impact. Local governments are not directly affected by the revisions to 6 NYCRR Part 205. The emergency adoption of these revisions ensures that manufacturers have significant advance notice to react to these rule changes in a timely manner and achieve compliance with Part 205 by the "sell-through" end date. The Department has provided four months advance notice of the end of the SME and almost nine months notice of the sell through end date. This will provide manufacturers time to liquidate their existing inventories, or transfer those inventories to non-OTR states.

6. Small Business and Local Government Participation. Since local governments are not directly affected by this regulation, the Department did not contact local governments directly. On September 21, 2005 the Department notified all the manufacturers who had been granted a SME of its intent to end the SME by December 31, 2006, with no extensions. Only two (one New York company) of the twenty companies with SMEs responded and also that those responses were many months after the initial

notification. While the one New York company indicated that they would like to see the SME provision remain as well as the ability to sell non-complying manufactured before January 1, 2005, indications are that they now have the ability to reformulate their products to comply with Part 205. The Department has also given official notice of this rulemaking to each of the twenty companies with SMEs.

7. Economic and Technological Feasibility. Local governments are not directly affected by the revisions to 6 NYCRR Part 205. Compliant products are available in all coating categories statewide to meet all consumer needs. The VOC content limits adopted in 2003 were based in large part on the 2000 California Air Resources Boards (CARB) suggested control measure (SCM) for AIM coatings. The SCM is a model AIM coatings rule that is used as a template by the California Air Districts for their AIM coatings regulations. The SCM is based on a 1998 AIM coatings survey by CARB in which they determined the technical feasibility of VOC content limits for each AIM coating category. In effect, the availability of products in a particular coating category at or below a specific VOC content limit indicated the feasibility of that category establishing a standard at that content limit. Since inception of the SCM VOC content limits into California in 2003, there have been no known complaints by small businesses with regards to compliance with the new AIM coatings standards. Likewise, according to CARB, there have been no known small manufacturers to go out of business as a result of the new AIM coatings regulations. By eliminating the SMEs and invoking a "sell-through" end date, this will keep New York State consistent with California as well as the other OTC states that don't have an SME provision.

#### **Rural Area Flexibility Analysis**

New York faces a significant public health challenge from ground-level ozone, which causes health effects ranging from respiratory disease to death. In response to this public health problem, New York has enacted a series of regulations designed to control ozone and its chemical precursors which include volatile organic compounds (VOCs). Among other regulatory actions, New York has promulgated regulations designed to limit the VOCs emitted by various paints, stains, and sealers also known as architectural and industrial maintenance coatings (AIM coatings). See 6 NYCRR Part 205.

On July 18, 1997, the EPA promulgated the eight-hour ozone national ambient air quality standard (NAAQS). In June of 2004, EPA designated several areas within New York State to be in nonattainment with the eight-hour NAAQS. However, in December 2006, the United States Circuit Court of Appeals for the District of Columbia vacated EPA's eight-hour ozone implementation rule. Based upon that Court decision, New York State is still required to meet the requirements related to the one-hour ambient air quality standard for ozone. Federal regulations require New York State to develop and implement enforceable strategies to get nonattainment areas into attainment by 2007. Since attainment is determined over a three-year period, VOC emission reductions are needed immediately in order to demonstrate attainment in 2007.

The Department of Environmental Conservation (the Department) proposes to revise Part 205 to implement two rule changes. First, the Department proposes to modify the provision in section 205.7 whereby small manufacturers could apply for and obtain an exemption from VOC content limits through December 31, 2007, with the option to apply to renew the exemption for an additional three years. This exemption is otherwise known as the small manufacturer's exemption or "SME." By adoption of this regulation on an emergency basis, the Department ended the SME effective December 31, 2006. Second, the Department proposes to include a "sell-through" provision so that products manufactured prior to January 1, 2005, or granted a SME, and which do not meet Part 205 VOC content limits cannot be sold indefinitely. Together, these modifications will ensure that the State achieves the VOC emission reductions from AIM coatings needed to address the emission shortfall identified by EPA for the NYCMA in connection with the one-hour ozone NAAQS and that the State can make immediate progress towards attaining the eight-hour ozone NAAQS statewide (although EPA's implementing regulations were vacated by the court, the eight-hour standard is still valid and is a health based standard, so the Department is still obligated under the Clean Air Act to implement measures to meet the NAAQS as expeditiously as practicable).

In 2005, the Department granted a SME to twenty small manufacturers for specific AIM coatings. The Department has analyzed the information submitted in connection with the SME applications, and has now determined that the SMEs account for 4 tons per ozone season day (tpd) out of the 14 tpd of VOC emission reductions that were anticipated to be achieved when the VOC content limits in Part 205 took effect in 2005. One

of the objectives of this rulemaking is to recover the 4 tpd of VOC emission reductions that were not achieved as a result of the SMEs. In addition to the VOC emission reductions lost due to the SMEs, the Department is concerned about the VOC emissions lost from AIM coatings produced prior to the January 1, 2005 compliance date in Part 205. The VOC content limits in Part 205 do not apply to products manufactured prior to January 1, 2005, only products manufactured on or after that date. In discussions with AIM coatings manufacturers, the Department has learned that some pre 2005 product is still being sold. The Department proposes to add a "sell-through" end date of May 15, 2007 which would require that only VOC compliant coatings be sold after that date. By eliminating the SMEs and establishing a "sell-through" end date, the Department will be able to demonstrate progress in its efforts to attain both the one-hour and the eight-hour NAAQS for ozone.

The Department is filing an emergency adoption to make these rule revisions effective immediately. Under these revisions, the SMEs ended effective December 31, 2006. Manufacturers will have until May 15, 2007 to sell non-compliant products that were manufactured before January 1, 2005 or were granted a SME. The Department realizes, however, that manufacturers granted one or more SMEs will need time to shift their production to compliant coatings. Both large and small manufacturers who were selling non-compliant coatings manufactured before the new VOC standards took effect need time to liquidate their existing inventories or transfer those inventories to states outside of the OTR with less stringent AIM coatings regulations. The adoption of these revisions on an emergency basis ensures that manufacturers have significant advance notice to react to these rule changes in a timely manner and achieve compliance with Part 205 by the "sell-through" end date.

1. Types and estimated numbers of rural areas: Rural areas are not particularly affected by the revisions. Part 205 will continue to apply on a statewide basis. This is due in large part to the fact that only eleven of the twenty manufacturers granted SMEs are located in New York State. Of the eleven, nine manufacturers are located in NYCMA, and the other two are located in upstate New York in urban/suburban communities. None of the eleven manufacturers are located in rural communities. The impact to rural consumers, if any, is expected to be minimal since there are already a large number of compliant AIM coatings available for retail sale throughout the state.

2. Reporting, recordkeeping and other compliance requirements: Part 205 will continue to apply on a statewide basis. Rural areas are not particularly affected by the revisions. Reporting, record keeping, and labeling requirements are essentially unchanged since January 2005 when the Part 205 revisions went into effect. Eleven of the twenty SMEs are for businesses located in New York urban or suburban communities. Rural area businesses are not expected to be effected by these revisions. Professional services are not anticipated to be necessary to comply with this rule.

3. Costs: The cost of the proposed regulations will mostly affect the eleven New York urban/suburban businesses that received an SME for certain products. There may be some cost to other manufacturers that still have supplies of AIM coatings manufactured before January 1, 2005, but the Department expects this to be minor. Manufacturers that have existing inventories of product manufactured prior to January 1, 2005 will need to ensure that the product is sold before the "sell-through" end date or moved out of New York State for sale in other states which do not have an AIM coatings rule.

It is expected that the small manufacturers may have increased costs associated with the production of compliant AIM coatings. The Department is aware of some small manufacturers who, after having been granted a SME, were able to increase sales and market share of their products. These manufacturers will now be required to produce compliant coatings which will have to compete in the market place with the compliant coatings of other manufacturers. Consequently, they might experience reduced profits to the extent they cannot maintain the same level of sales with compliant VOC coatings as they did with their higher VOC content coatings. Compliant formulations are available for all coating categories, however, so all manufacturers should be able to access that technology going forward. Department staff believe that the financial effects of this rule are beneficial to the overall market since this rule would no longer provide a market advantage to those companies that received the SMEs or had large inventories of products manufactured before January 2005.

It should be noted that the impact to consumers is expected to be minimal since there are already large amounts of compliant coatings on store shelves (produced by manufacturers that did not receive a SME). Competition from these existing compliant coatings will likely constrain any price increases as manufacturers will not be able to pass on all of their

costs to the consumers. This is likely to control any actual retail price increases. Since eleven of the twenty SMEs are for businesses located in New York urban or suburban communities, rural area businesses are not expected to be effected by these revisions.

4. Minimizing adverse impact: Part 205 was not anticipated to have an adverse effect on rural areas when it was promulgated in 2003 and took effect in January 2005. To date, the Department is unaware of any particular adverse impacts experienced by rural areas as a result of the promulgation of Part 205 in 2003. Rather, the rule is intended to create air quality benefits for the entire state, including rural areas, through the reduction of ozone forming pollutants. These revisions are not expected to adversely impact on rural areas since many of the products affected are currently not sold in rural areas and compliant products are available in all coating categories statewide to meet all consumer needs. Ending the SMEs by December 31, 2006 and establishing a May 15, 2007 "sell-through" end date ensures a fair and level playing field for all AIM coatings manufacturers and, more importantly, that the State, as a whole, can achieve compliance with the NAAQS for ozone in a timely manner.

5. Rural area participation: Rural areas are not particularly affected by the revisions. Eleven of the twenty SMEs were granted to businesses located in New York, all of which are located in urban or suburban communities and non are located in rural areas. Consequently, the Department did not see a need to reach out to rural communities.

#### **Job Impact Statement**

##### 1. Nature of impact:

The Department of Environmental Conservation (the Department) proposes to revise Part 205 to implement two rule changes. First, the Department proposes to modify the provision in section 205.7 whereby small manufacturers could apply for and obtain an exemption from VOC content limits through December 31, 2007, with the option to apply to renew the exemption for an additional three years. By adoption of this regulation on an emergency basis, the Department ended the small manufacturers exemption (SME) effective December 31, 2006. These businesses needed to stop manufacturing non-complying products by December 31st and had to reformulate their AIM coatings to comply with the content limits in Part 205 if they did not already have compliant formulations. The Department is aware that some manufacturers already had compliant formulations and thus were able to make this transition easily. Second, the Department proposes to include a "sell-through" provision so that products manufactured before January 1, 2005, or granted a SME, and which do not meet Part 205 VOC content limits cannot continue to be sold indefinitely. Companies will have until May 15, 2007 to liquidate their existing inventory or move it out of the State. In most cases, manufacturers have already sold all products manufactured before 2005 or will be able to sell such products before May 15, 2007 and will therefore, not be adversely impacted by this rule.

These revisions are not expected to have an adverse impact on jobs and employment opportunities in the State. Part 205 has applied Statewide since it was promulgated in 2003 and it will continue to apply on a statewide basis. Since the VOC content limits went into effect on January 1, 2005, there has been no evidence of an adverse impact on employment as a result of regulating AIM coatings. If anything, these revisions will have a positive economic impact in terms of placing all AIM manufacturers on a level economic playing field.

2. Categories and numbers affected: This rule will affect eleven in-State and nine out-of-State small manufacturers who were granted a SME by the Department. In addition, the rule will affect manufacturers who have remaining inventories of AIM coatings manufactured prior to January 1, 2005 that does not comply with Part 205 VOC content limitations.

3. Regions of adverse impact: The Department does not expect there to be regions of adverse impact in the State. The VOC emission limits in Part 205 have applied state-wide since January 1, 2005, and there has been no resulting adverse impact on any particular region of the State. Of the eleven in-state manufacturers who were granted a SME, nine are located in the New York City Metropolitan Area (NYCMA). The Department, however, expects that these coatings manufacturers will be able to readily reformulate their products through the purchase of commercially available technology and that there will be no adverse impact on employment as a result of this rulemaking.

4. Minimizing adverse impact: The Department has provided advance notice of these rule revisions to the regulated community so that companies have sufficient time to take the necessary steps to come into compliance with Part 205. These steps include reformulating products and ensuring that existing inventories of non-complying products are sold prior to May 15, 2007, or moved out of the State. Compliant formulations are available

for all AIM coating categories and are currently being sold throughout the State. The Department, therefore, does not anticipate any adverse impacts on employment from the adoption of these rule revisions. The Department, moreover, believes that this rule will have a positive economic impact on the AIM coatings market because all manufacturers will be operating on a level playing field. Competition will likely constrain manufacturers from passing on production costs to consumers. In sum, the Department does not expect this regulation to have an adverse effect on employment in the State.

5. Self employment opportunities: not applicable.

#### **Assessment of Public Comment**

The agency received no public comment since publication of the last assessment of public comment.

## **NOTICE OF ADOPTION**

### **Architectural and Industrial Maintenance Coatings**

**I.D. No.** ENV-49-06-00015-A

**Filing No.** 463

**Filing date:** May 8, 2007

**Effective date:** 30 days after filing

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

**Action taken:** Amendment Part 205 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0301 and 19-0305

**Subject:** Architectural and industrial maintenance coatings.

**Purpose:** To end the small manufacturer exemption on Dec. 31, 2006 and establish a sell-through end date of May 15, 2007 to eliminate the unlimited sell-through of non-complying coatings manufactured before Jan. 1, 2005.

**Text or summary was published** in the notice of proposed rule making, I.D. No. ENV-49-06-00015-P, Issue of December 6, 2006.

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

**Text of rule and any required statements and analyses may be obtained from:** Daniel S. Brinsko, Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, NY 12233-3251, (518) 402-8396, e-mail: 205aim@gw.dec.state.ny.us

**Additional matter required by statute:** Pursuant to article 8 of the State Environmental Quality Review Act, a short environmental assessment form, a negative declaration and a coastal assessment form have been prepared and are on file. This rule was approved by the Environmental Board.

#### **Assessment of Public Comment**

The agency received no public comment.

## **Higher Education Services Corporation**

### **EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED**

#### **New York State Math and Science Teacher Incentive Program**

**I.D. No.** ESC-21-07-00004-EP

**Filing No.** 462

**Filing date:** May 8, 2007

**Effective date:** May 8, 2007

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

**Action taken:** Addition of section 2201.10 to Title 8 NYCRR.

**Statutory authority:** Education Law, sections 653, 655 and 669-d

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

**Specific reasons underlying the finding of necessity:** The emergency rule is necessary because compliance with the normal proposal process will delay the awarding of scholarships to eligible individuals.

**Subject:** New York State Math and Science Teacher Incentive Program.

**Purpose:** To implement the New York State Math and Science Teacher Incentive Program.

**Text of emergency/proposed rule:** New section 2201.10 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.10 New York State Math and Science Teaching Incentive Program

(a) Definitions.

(1) "Academic Year" shall mean one calendar year beginning July 1st and ending on June 30th.

(2) "Corporation" shall mean the New York State Higher Education Services Corporation.

(3) "Program" shall mean the New York State Math and Science Teaching Incentive Program codified in section 669-d of the education law.

(4) "Rank" shall mean the sum of an applicant's cumulative undergraduate and graduate grade point average ("GPA") plus total undergraduate and graduate credit hours successfully completed.

(5) "Secondary education" shall mean grades 7 through 12.

(6) "Successful completion of an academic year" shall mean that at the end of any academic year, the applicant: maintained full-time status; completed at least 27 credit hours or its equivalent in a course of study leading to a teaching degree in the fields of math or science; with a minimum GPA of 2.5; and possesses a cumulative GPA of 2.5 or higher for all academic years of undergraduate and graduate study. Applicants may complete less than 27 credit hours if they are in their last year and fewer than 27 credit hours are necessary to complete their course of study. In this case, the award amount shall be pro-rated by credit hour.

(7) "Teach in the classroom on a full-time basis" shall mean a New York State certified teacher, teaching a math or science curriculum in secondary education, providing classroom instruction for 10 continuous months, each school year, for a number of hours to be determined by either the school district, school board or school, the by-laws thereof, the labor contract between the teacher and employer, or if none of the above apply, the chief administrator of the school. Verification may be requested by the Corporation and may consist of a written, signed certification from the school board, superintendent or principal.

(b) Eligibility: In addition to the requirements of section 669-d of the education law, these additional requirements shall apply in the selection of the Program recipients:

(1) Applications for the Program shall be postmarked or electronically transmitted to the Corporation no later than February 1st of each year, provided that this deadline may be extended at the discretion of the Corporation.

(2) Applications shall be filed on forms prescribed by the Corporation.

(3) The pool of applicants shall be those who have successfully met the filing deadline.

(4) The applicant shall have a cumulative GPA of 2.5 or higher for all undergraduate and graduate study at the time of the application.

(5) Successful applicants shall execute a service contract prescribed by the Corporation.

(6) Successful applicants, who have executed a service contract, shall apply for payment each year on forms specified by the Corporation.

(c) Priorities: If there are more applicants than available funds, the following provisions shall apply:

(1) First priority shall be given to applicants who have received payment of an award pursuant to section 669-d of the education law for the academic year immediately preceding the academic year for which payment is sought and have successfully completed the academic year for which payment is sought.

(2) Second priority shall be given to applicants who have received payment of an award pursuant to section 669-d of the education law in any prior academic year and have successfully completed the academic year for which payment is sought.

(3) Third priority shall be given to applicants, including re-applicants, who have never received an award, and have successfully completed the academic year for which payment is sought, according to rank and who otherwise meet the minimum eligibility requirements.

(4) In the event of a tie within any given priority, recipients shall be chosen by random selection. Random selection shall be conducted by lottery.

(d) Disqualifications: In addition to the provisions of section 669-d, as well as the restrictions of section 661(6) of the education law, the applicant shall be disqualified from receiving an award for any of the following conditions:

(1) The applicant fails to meet any statutory or regulatory requirement necessary to obtain a teaching certificate in math or science, or necessary to become a math or science teacher in secondary education.

(2) The applicant breaches the terms of the written service contract with the Corporation and fails to remedy such breach in a timely manner consistent with the terms and conditions of such contract.

(3) The award is duplicative of another state and/or federal award that the applicant currently receives.

(4) The applicant has a service obligation owed to any other state and/or federal program.

(5) The applicant is in default on a federally guaranteed student loan.

(e) Disbursements: Payment shall be made directly to the eligible institutions, on behalf of applicants, within a reasonable time upon the successful completion of the academic year subject to the verification and certification by the institution of the applicant's GPA and other eligibility requirements.

(f) Penalty: In addition to the requirements of section 669-d(5) of the education law, the following requirements shall apply in converting the award to a loan:

(1) All award monies received shall convert to a 10-year student loan plus interest for recipients who fail to meet the statutory, regulatory, contractual, administrative or other requirements of this Program.

(2) Interest for the life of the loan shall be fixed and equal to that published annually by the U.S. Department of Education for FFELP PLUS parent loans pursuant to the terms of the service contract.

(3) Interest accrues from the day each award payment is disbursed.

(4) Interest shall be capitalized on the day the award recipient violates the service contract or on the date the Corporation deems the recipient was no longer able or willing to perform the terms of the service contract.

**This notice is intended** to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire August 5, 2007.

**Text of rule and any required statements and analyses may be obtained from:** Cheryl B. Fischer, Associate Attorney, Higher Education Services Corporation, 99 Washington Ave., Rm. 1350, Albany, NY 12255, (518) 473-1581, e-mail: cfischer@hesc.com

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

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

#### Regulatory Impact Statement

Statutory authority:

The New York State Higher Education Services Corporation's ("HESC") statutory authority to promulgate regulations and administer the New York State Math and Science Teaching Incentive Program ("Program") is codified within Article 14 of the Education Law. In particular, Chapter 58 of the Laws of 2006 created the Program by adding new subdivision 7-a to Education Law section 605, and new section 669-d to the Education Law. Subdivision 6 of section 669-d of the Education Law authorizes HESC to promulgate regulations for the purpose of administering this Program.

Pursuant to Education Law § 652(2), HESC was established for the purpose of improving the post-secondary educational opportunities of eligible students through the centralized administration of New York State financial aid programs and coordinating the State's administrative effort in student financial aid programs with those of other levels of government.

In addition, Education Law § 653(9) empowers HESC's Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation including the promulgation of rules and regulations.

HESC's President is authorized, under Education Law § 655(4), to propose rules and regulations, subject to approval by the Board of Trustees, governing, among other things, the application for and the granting and administration of student aid and loan programs, the repayment of loans or the guarantee of loans made by HESC; and administrative functions in support of state student aid programs. Also, consistent with Education Law § 655(9), HESC's President is authorized to receive assistance from any Division, Department or Agency of the State in order to properly carry out his powers, duties and functions. Finally, Education Law § 655(12) provides HESC's President with the authority to perform such

other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of HESC.

**Legislative objectives:**

The Education Law was amended to add a new section 669-d to create the "New York State Math and Science Teaching Incentive Program" (Program). This is a competitive award Program aimed at increasing the number of secondary school math and science teachers in New York State.

The near term objective of the Program is to increase the number of math and science teachers working in secondary education in New York State. Such an increase should result in an overall increase and interest by students in secondary education in the fields of math and science. It is anticipated that such efforts will result in an increase in the number of mathematicians, engineers and scientists necessary to meet the increasing, critical need for those skills in New York State's economy. Ultimately, a pipeline will be created that will feed engineers, mathematicians and scientists into New York State's economy.

**Needs and benefits:**

According to recent trends, foreign countries are graduating far more engineers, mathematicians and scientists than the United States. New York State is falling even further behind by graduating fewer than 4,000 new engineers each year. In order for New York State to compete in the global, high-tech economy, more emphasis must be placed in promoting math and science. Studies have shown that student interest in math and science drops sharply during secondary education. To achieve an increase in the number of graduates with these critical skills, more math and science teachers will be required in order to meet the increasing needs of New York State. However, these efforts face stiff competition from the private sector for graduates with a degree in math and science.

The Program is aimed at increasing the number of secondary math and science teachers in New York State. Eligible recipients may receive annual awards for not more than four academic years of undergraduate and one academic year of graduate full-time study while matriculated in an approved program leading to permanent certification as a secondary education teacher in mathematics or science in New York State.

The maximum amount of the award is equal to the annual tuition charged to New York State resident students attending an undergraduate program at the State University of New York (SUNY) or actual tuition, whichever is less. However, the award may be used to pay for tuition, cost of attendance or both. The current maximum annual award for the 2006-07 academic year is \$4,350. Payments will be made directly to schools on behalf of students upon certification of their successful completion of the academic year for which the student seeks payment.

Students receiving a New York State Math and Science Teaching Incentive award must sign a service agreement and agree to teach math or science for five years on a full-time basis at a secondary school located within New York State. Recipients who do not fulfill their service obligation will have the value of their awards converted to a student loan and be responsible for interest.

**Costs:**

a. It is anticipated that there will be no costs to the agency for the implementation of, or continuing compliance with this rule, except for programmatic administration costs.

b. The maximum cost of the program to the State is \$2.175 million in the first year based upon an average 2006-07 SUNY tuition of \$4,350.00 awarded to the statutory number of recipients which is five hundred (500). This maximum projection will be mitigated by the fact that the award is limited to the SUNY average or actual tuition, whichever is less. It is anticipated that there will be no costs to Local Governments for the implementation of, or continuing compliance with, this rule.

c. The source of the cost data in (b) above is derived from statutory language limiting the amount of the award to the cost of SUNY tuition and limiting the number of awards to no more than 500. As set forth in Education Law § 669-d(2), up to five hundred awards may be made to new recipients annually.

**Local government mandates:**

No program, service, duty or responsibility will be imposed by this rule upon any county, city, town, village, school district, fire district or other special district.

**Paperwork:**

This proposal will require applicants to file an application for each year they wish to receive an award up to and including five years of eligibility. However, electronic application processing may be available for the 2007-08 academic year, at which time paper applications may not be necessary. Recipients are required to sign a contract for services in exchange for an

award. Recipients must submit annual status reports until a final disposition is reached in accordance with the written contract.

**Duplication:**

No relevant rules or other relevant requirements duplicating, overlapping, or conflicting with this rule were identified.

**Alternatives:**

The proposed regulation is the result of HESC's outreach efforts. Since the enactment of section 669-d of the Education Law, HESC has discussed the Program with the New York State Business Council who had advocated for the legislation that establishes the Program. In preparing this regulation, HESC discussed implementation issues with the Business Council and provided them with an opportunity to review and comment on the regulation.

In addition, HESC provided outreach to financial aid professionals with regard to this Program via workshops held across New York State. Workshops were held in Buffalo, Syracuse, Long Island, New York City and other locations throughout New York State. Fact sheets and Q&A's are available on HESC's website. Additionally, HESC's website encourages people to email any comments or questions.

Several alternatives were considered in the drafting of this regulation. For example, several alternatives were considered in defining terms/phrases used in the regulation such as, "teach in the classroom on a full-time basis." This term is not standard for all teachers and, in most instances, the full-time status of a teacher is determined by a collective bargaining agreement and include normal summer breaks as well. The proposed definition attempts to balance the realities of the workplace with the desired result and intent of the legislation.

Given the statutory language as set forth in section 669-d of the Education Law, a "no action" alternative was not an option.

**Federal standards:**

This proposal does not exceed any minimum standards of the Federal Government, and efforts were made to align it with similar federal subject areas as evidenced by the adoption of the federal PLUS Parent loan rate in the event that the award reverts into a student loan.

**Compliance schedule:**

The agency will be able to comply with the regulation immediately upon its adoption.

**Regulatory Flexibility Analysis**

This statement is being submitted pursuant to subdivision (3) of section 202-b of the State Administrative Procedure Act and in support of New York State Higher Education Services Corporation's Notice of Emergency Adoption and Proposed Rule Making, seeking to add new section 2201.10 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This agency finds that this rule will not impose any compliance requirements or adverse economic impact on small businesses or local governments. Rather, it may have a positive effect inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who promise to teach math and science in secondary schools anywhere in New York State for at least five years.

**Rural Area Flexibility Analysis**

This statement is being submitted pursuant to subdivision (4) of section 202-bb of the State Administrative Procedure Act and in support of New York State Higher Education Services Corporation's Notice of Emergency Adoption and Proposed Rule Making, seeking to add new section 2201.10 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse impact on rural areas. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who promise to teach math or science anywhere within New York State, including rural areas. Rural economies could realize short term benefits from the incentive program if teachers decide to work in those areas, and possible long term benefits when the rural schools start to graduate the math and science majors that are needed by New York State.

This agency finds that this rule will not impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas.

**Job Impact Statement**

This statement is being submitted pursuant to subdivision (2) of section 201-a of the State Administrative Procedure Act and in support of New York State Higher Education Services Corporation's Notice of Emergency Adoption and Proposed Rule Making seeking to add a new section 2201.10

to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not have any negative impact on jobs or employment opportunities. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who promise to teach math or science in New York state. Teachers will be rewarded for remaining and working in New York, while the long term impact of their work could produce engineers and scientists to meet the needs of the United States and the State of New York for those skilled workers.

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## Insurance Department

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

#### Homeowners Insurance Disclosure Information and other Notices I.D. No. INS-21-07-00001-P

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

**Proposed action:** Amendment of Part 74 (Regulation 159) of Title 11 NYCRR.

**Statutory authority:** Insurance Law, sections 201, 301, 3425, 3445 and 5403

**Subject:** Homeowners insurance disclosure information and other notices.

**Purpose:** To set forth the minimum notification requirements pertaining to the notices required by sections 3425(e) and 5403(d).

**Text of proposed rule:**

The Title of Part 74 is hereby amended as follows:

[HOMEOWNER'S] HOMEOWNERS INSURANCE DISCLOSURE INFORMATION AND OTHER NOTICES

Section 74.0 is amended to read as follows:

Section 74.0 Introduction and purpose.

(a)(1) Chapter 44 of the Laws of 1998 enacted a new section 3445 of the Insurance Law, requiring the Superintendent to establish by regulation disclosure requirements with respect to the operation of any deductible in a [homeowner's] homeowners insurance policy or dwelling fire personal lines policy [which] that applies as the result of a windstorm. Further, section 3445 requires such regulation to prescribe the form of a notice to be provided by an insurer to an insured and provides that the notice shall explain in clear and plain language the amount of the deductible, the circumstances under which the deductible applies and any other matters which the Superintendent, in his or her discretion, shall deem necessary or appropriate.

[(b)] (2) [The purpose of this] This Part [is to set] sets standards for the uniform display of windstorm deductibles, which consist of hurricane and non-hurricane deductibles, in the policy declarations; and [to provide] provides the minimum provisions to be contained in the policyholder disclosure notice, which will explain the purpose and operation of the hurricane deductible, and must accompany new and renewal policies containing such deductibles.

(b)(1) Chapter 162 of the Laws of 2006 amended section 3425(e) of the Insurance Law to direct the Superintendent to establish by regulation standards for notices of cancellation, nonrenewal, and conditional renewal for certain homeowners policies as defined in section 2351(a) of the Insurance Law where the property is located in an area served by a market assistance program established by the Superintendent for the purpose of facilitating placement of homeowners insurance. Chapter 162 also added a new section 5403(d), which directs the New York Property Insurance Underwriting Association (NYPIUA) to notify policyholders that may be eligible for coverage in the market assistance program of the availability of coverage.

(2) This Part establishes the minimum requirements pertaining to the notices required by Chapter 162.

New Sections 74.2 and 74.3 are added to read as follows:

*Section 74.2 Insurer cancellation, nonrenewal and conditional renewal notices.*

*Every notice of cancellation, nonrenewal or conditional renewal issued on or after November 23, 2006 for a homeowners insurance policy as defined in section 2351(a) of the Insurance Law insuring property that may be eligible for participation in a market assistance program established by the Superintendent for the purpose of facilitating placement of homeowners insurance shall advise the insured of the availability of the market assistance program and the availability of coverage through NYPIUA for insurance. The notice shall be conspicuous and provide sufficient information on how to apply to the market assistance program and to NYPIUA, including the name, address, telephone number and Web site address of the administrator of the market assistance program and of NYPIUA.*

*Section 74.3 NYPIUA notices.*

*On and after November 23, 2006, with respect to a NYPIUA policyholder whose insured property is located in an area served by a market assistance program established by the Superintendent for the purposes of facilitating placement of homeowners insurance, upon issuance or renewal of the policy, NYPIUA shall provide the notice required by section 5403(d) of the Insurance Law and this section. The notice shall be conspicuous and provide sufficient information on how to apply to the market assistance program including the name, address, telephone number and Web site address of the administrator of the market assistance program.*

**Text of proposed rule and any required statements and analyses may be obtained from:** Andrew Mais, Insurance Department, 25 Beaver St., New York, NY 10004, (212) 480-5587, e-mail: amais@ins.state.ny.us

**Data, views or arguments may be submitted to:** Buffy Cheung, Insurance Department, 25 Beaver St., New York, NY 10004, (212) 480-5587, e-mail: bcheung@ins.state.ny.us

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

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

**Regulatory Impact Statement**

1. Statutory authority: Sections 201, 301, 3425, 3445, and 5403 of the Insurance Law.

Sections 201 and 301 authorize the Superintendent to prescribe regulations interpreting the Insurance Law as well as effectuating any power granted to the Superintendent under the Insurance Law and to prescribe forms or otherwise make regulations.

Section 3425 governs cancellation and renewal provisions of certain property/casualty insurance policies.

Section 3445 authorizes the Superintendent to prescribe regulations regarding disclosure requirements for windstorm insurance.

Section 5403 provides the procedures for the New York Property Insurance Underwriting Association (NYPIUA).

2. Legislative objectives: The Legislature, in enacting Chapter 162 of the Laws of 2006, intended to improve public awareness of market assistance programs, such as the Coastal Market Assistance Program (CMAP), that may be available to homeowners in New York, and of NYPIUA. Chapter 162 requires that when a policyholder receives a notice of cancellation, nonrenewal or conditional renewal for a homeowners insurance policy as specified in Section 3425(e) of the Insurance Law, on property located in an area served by a market assistance program established by the Superintendent for the purpose of facilitating placement of homeowners insurance, that the policyholder is also notified by the insurer of possible eligibility for coverage through the market assistance program or through NYPIUA. In addition, Chapter 162 requires NYPIUA to notify its policyholders whose properties are located in an area served by a market assistance program to be notified of their possible eligibility for coverage through the market assistance program. In the Senate bill memorandum in support of Chapter 162, it was stated that many consumers who were eligible for CMAP were unaware of its existence. By ensuring that consumers who may be eligible for CMAP or other market assistance programs that may be established are made aware of the availability of the program, CMAP or other programs would be used to their fullest potential and more insureds would have access to more complete coverage than that offered by NYPIUA. In order to implement Chapter 162, the Legislature required the Superintendent to promulgate regulations governing the notices required by Chapter 162.

3. Needs and benefits: The rule, which is required by Chapter 162, is necessary to set forth certain minimum notification requirements to assure that policyholders that may be eligible for a market assistance program or NYPIUA are notified of this including information necessary to apply for coverage. This notification would make information on how to apply for

an insurance policy from a market assistance program or from NYPIUA more readily available to the policyholders.

4. Costs: This rule imposes no compliance costs on state or local governments. There will be no additional costs incurred by the Insurance Department. The rule requires specific information to be included in notices of cancellation, nonrenewal or conditional renewal issued for a homeowners insurance policy as defined in Section 2351 of the Insurance Law. There will be costs associated with the insurers adding the specific information onto the homeowners notices specified in Section 3425(e) of the Insurance Law. However, the notice requirement is mandated by Section 3425 and not by this regulation, which implements the statutory requirement. These costs should be minimal as the insurers are already issuing the cancellation, nonrenewal or conditional renewal notices and the rule only requires that the insurance companies add the specific information to the notices. Insurers are not required to, nor should they need to, hire new personnel to comply with the new notification requirements.

In addition, NYPIUA is required to notify policyholders who may be eligible, of the availability of coverage in a market assistance program. There will be costs associated with NYPIUA issuing these new notices. However, the notice is required by Section 5403(d) and not by this regulation, which implements the statutory requirement.

5. Local government mandates: None.

6. Paperwork: Insurers will incur additional paperwork associated with adding the specific information required by the rule to the cancellation, nonrenewal, and conditional renewal notices specified in Section 3425(e) of the Insurance Law. However, the paperwork should be minimal as the insurers are adding the required language to notices already being issued by the company. Moreover, this notice is required by Section 3425 and not by this regulation.

NYPIUA will incur additional paperwork in notifying policyholders that may be eligible of the availability of coverage in a market assistance program. However, this notice is required by Section 5403(d) and not by this regulation.

7. Duplication: None.

8. Alternatives: The Department considered requiring the names and contact information of the insurers participating in market assistance programs to be included in the notice. However, because a market assistance program is voluntary, there could be additional market assistance programs established, and the list of participating insurers could change frequently, it was determined that this requirement should not be included in the rule.

The Department did outreach with various trade organizations. One of the trade organizations expressed concern that insurers may have problems complying with the November 23, 2006 effective date. The Department has no discretion in setting the date as it was set forth by Chapter 162 of the Laws of 2006. In addition, as long as the information required by the rule is part of the cancellation, nonrenewal, or conditional renewal notice and the information is conspicuous, the information required by the rule may be on a separate page of the notice.

The trade organization requested that the Department consider exempting, from the market assistance plan notice requirement, cancellation notices issued for non payment of premium or issued at the request of the insured. Chapter 162 does not provide exceptions to the notice requirements.

9. Federal standards: None.

10. Compliance schedule: The effective date of the enabling legislation, Chapter 162 of the Laws of 2006, was November 23, 2006. The rule provided that every notice of cancellation, nonrenewal or conditional renewal issued on or after November 23, 2006 for a homeowners policy as specified in Section 3425(e) of the Insurance Law to be in compliance. On or after November 23, 2006, NYPIUA was required to provide the notice required by Section 5403(d) of the Insurance Law upon issuance or renewal of a policy.

#### **Regulatory Flexibility Analysis**

The Insurance Department finds that this rule would not impose reporting, recordkeeping or other requirements on small businesses. The rule is directed at property/casualty insurers. The Insurance Department has reviewed/or monitored Reports on Examination and Annual Statements of property/casualty insurers and believes that none of them fall within the definition of "small business" contained in section 102(8) of the State Administrative Procedure Act, because there are none which are independently owned and have under 100 employees.

The Insurance Department finds that this rule will not impose reporting, recordkeeping or other compliance requirements on local govern-

ments. The basis for this finding is that this rule is directed at insurance companies, none of which are local governments.

#### **Rural Area Flexibility Analysis**

The Insurance Department finds that this rule does not impose any additional burden on persons located in rural areas, and the Insurance Department finds that it will not have an adverse impact on rural areas. The rule applies uniformly to parties that do business in both rural and nonrural areas of New York State.

#### **Job Impact Statement**

This rule should not have any adverse impact on jobs and employment opportunities in this state since the rule merely sets forth minimum notification requirements pertaining to the notices required by Insurance Law Sections 3425(e) and 5403(d). Insurers are not required to, nor should they need to, hire new personnel to comply with the new notification requirements.

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## Public Service Commission

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

#### **Current/Voltage Transformer Reclassification and Calibration System by Schneider Electric**

**I.D. No.** PSC-21-07-00005-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 whether to approve, reject or modify, in whole or in part, an application by Schneider Electric for the approval of the current/voltage transformer reclassification and calibration system. The utilization of this device will allow for the performance reclassification of instrument current and voltage transformers without removing them from service.

**Statutory authority:** Public Service Law, section 67(9)

**Subject:** Approve new types of electricity meters, transformers, and auxiliary devices - Case 279.

**Purpose:** To permit electric utilities in New York State to use the Schneider Electric units for the reclassification of instruments and voltage transformers that are used for revenue metering purposes.

**Substance of proposed rule:** The Commission will consider a request from Schneider Electric for the approval to use the Current/Voltage Transformer Reclassification and Calibration System device to reclassify instrument current and voltage transformers in New York State. The instrument transformer device can provide different functions and is known as Current Transformer Verification (CTV), Current Transformer Reclassification (CTR), Voltage/Potential Transformer Verification (VT/PT V) and Voltage/Potential Transformer Reclassification (VT/PT R). According to Schneider Electric, these devices allow for reclassification of existing transformers used in revenue metering applications, and have been accepted by the Institute of Electrical and Electronics Engineers — IEEE.

In accordance with 16 NYCRR Part 93, National Grid New York has submitted a letter of intent to use the Schneider Electric transformer reclassification line in its industrial customer billing and metering applications, if approved.

**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-0086SA1)

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

**Submetering of Electricity by Belkin, Burden, Wenig & Goldman, LLP**

**I.D. No.** PSC-21-07-00006-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 whether to grant, deny or modify, in whole or part, the petition filed by Belkin, Burden, Wenig & Goldman, LLP, on behalf of 219 East 69th Street, LLC, to submeter electricity at 219 E. 69th 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 219 E. 69th St., New York, NY.

**Substance of proposed rule:** The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by Belkin, Burden, Wenig & Goldman, LLP, on behalf of 219 East 69th Street, LLC, to submeter electricity at 219 East 69th Street, New York, New York.

**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-0488SA1)

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

**Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation**

**I.D. No.** PSC-21-07-00007-P

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

**Proposed action:** The commission is considering whether to approve, reject, or modify, in whole or in part, the filing made by Corning Natural Gas Corporation (Corning) to revise its natural gas supply and acquisition plan pursuant to the commission's May 22, 2006 order (appendix II, other commission ordering clauses, clause 7) in Case 05-G-1359.

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

**Subject:** Rates, charges, rules and regulations of Corning Natural Gas Corporation for gas service.

**Purpose:** To consider the filing of Corning regarding its natural gas supply and acquisition plan.

**Substance of proposed rule:** The Commission is considering whether to approve, reject, or modify, in whole or in part, the filing made by Corning Natural Gas Corporation (Corning) to revise its Natural Gas Supply and Acquisition Plan pursuant to the Commission's May 22, 2006 Order (Appendix II, Other Commission Ordering Clauses, Clause 7) in Case 05-G-1359.

**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-G-1359SA3)

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

**Incremental Revenues by Corning Natural Gas Corporation**

**I.D. No.** PSC-21-07-00008-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 whether to approve, modify, or reject, in whole or in part, the filing made by Corning Natural Gas Corporation (Corning) requesting clarification or, in the alternative, amendment of the commission's May 22, 2006 order in Cases 05-G-1359, 05-G-1268, and 04-G-1032. The requested amendment would permit Corning to retain incremental revenues from interconnection and transportation of local gas production and also any savings produced by the purchase of local production for service to the company's sales customers.

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

**Subject:** Clarification or, in the alternative, amendment, of the Public Service Commission order issued May 22, 2006 in Cases 05-G-1359, 05-G-1268, and 04-G-1032 involving the rates, charges, rules and regulations of Corning.

**Purpose:** To permit Corning to retain incremental revenues from interconnection and transportation of local gas production and any savings produced by the purchase of local production for service to the company's sales customers.

**Substance of proposed rule:** In the May 22, 2006 Rate Order adopted by the Public Service Commission in Cases 05-G-1359, 05-G-1268, and 04-G-1032, the Commission adopted a Joint Proposal which included a provision that required Corning Natural Gas Corporation (Corning) to credit customers for any revenues generated from the receipt of local production gas during the rate year ended September 30, 2007. Corning requests that the Commission clarify or, in the alternative, amend that provision to permit the Company to retain any revenues generated from the receipt of local production gas during the rate year.

Corning also requests that the Commission permit the Company to also retain any savings generated by the purchase of local production gas for supply to the Company's customers. These savings, absent the requested Commission permission, would otherwise inure to the benefit of the Company's sales service customers through the operation of the Gas Adjustment Clause.

**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-G-1359SA4)

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

**Romet RM38000 DCID Temperature Compensated Rotary Meter by Consolidated Edison Company of New York, Inc.**

**I.D. No.** PSC-21-07-00009-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, reject or modify, in whole or in part, an application by Consolidated Edison Company of New York, Inc. for the approval of the Romet RM38000 DCID temperature compensated of New York, Inc. for the approval of the Romet RM38000 DCID temperature compensated rotary meter. The Romet RM38000 DCID may be equipped with an instrument drive module for use in commercial and industrial applications.

**Statutory authority:** Public Service Law, section 67(1)

**Subject:** Case 6480—16 NYCRR Part 227, approval of types of gas meters and accessories.

**Purpose:** To utilize the Romet RM380000 DCID temperature-compensated meters in New York State.

**Substance of proposed rule:** The Commission will consider a request from Consolidated Edison Company of New York, Inc. (Con Edison) for the approval to use the Romet RM38000 DCID temperature-compensated rotary meter in New York State. The RM38000 DCID is equipped with an instrument drive module, that will be used as an alternative to turbine meters having a capacity of 18,000 to 49,000 cubic feet per hour. The RM38000 DCID has many advantages to turbine meters in measuring low end accuracy, reduced operation costs, and lower purchasing costs. According to Con Edison, the Romet RM38000 DCID meters will be used in commercial and industrial applications, and maintain measurement accuracy compliant to the American National Standards Institute, ANSI B109.3.

**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-G-0485SA1)

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

**Rider B—Gas Rates by Orange and Rockland Utilities, Inc.**

**I.D. No.** PSC-21-07-00010-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 proposal filed by Orange and Rockland Utilities, Inc. to make various changes in the rates, charges, rules and regulations contained in its schedule for gas service, P.S.C. No. 4—Gas, to become effective Nov. 1, 2007.

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

**Subject:** Rider B—gas rates for commercial and industrial distributed generation facilities.

**Purpose:** To increase the Rider B gas delivery service rates applicable to commercial and industrial customer-generators using natural gas to fuel on-site distributed generation facilities.

**Substance of proposed rule:** The Commission is considering Orange and Rockland Utilities, Inc.'s (O&R) request to revise its gas tariff, P.S.C. No. 4 - Gas, to increase its Rider B gas delivery service rates applicable to commercial and industrial customer-generators using natural gas to fuel

on-site distributed generation facilities. The Commission may approve, reject or modify, in whole or in part, O&R'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-G-0528SA1)

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**Office of Real Property  
Services**

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**PROPOSED RULE MAKING  
HEARING(S) SCHEDULED**

**License Fees**

**I.D. No.** RPS-21-07-00002-P

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

**Proposed action:** Amendment of section 190-3.2(c)(2) of Title 9 NYCRR.

**Statutory authority:** Real Property Tax Law, section 202(1)(l); State Finance Law, section 97-kk

**Subject:** License fees for school district users of Office of Real Property Services.

**Purpose:** To amend the annual license fee charged to school district users of the Real Property System.

**Public hearing(s) will be held at:** 2:30 p.m., June 7, 2007 at Office of Real Property Services, 16 Sheridan Ave., Albany, NY.

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

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

**Text of proposed rule:** § 1. Section 190-3.2(c)(2) is amended to read as follows:

(2) School districts wishing to purchase RPS software will be charged an annual licensing fee equal to the [highest] lowest licensing fee listed in 9 NYCRR 190-3.2(b).

§ 2. This amendment shall first apply to annual fees imposed on or after April 1, 2007.

**Text of proposed rule and any required statements and analyses may be obtained from:** James J. O'Keefe, General Counsel, Office of Real Property Services, 16 Sheridan Ave., Albany, NY 12210-2714, (518) 474-8821, e-mail: internet.legal@orps.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: Section 202(1)(l) of the Real Property Tax Law (RPTL) authorizes the State Board of Real Property Services to adopt such rules "as may be necessary for the exercise of its powers and the performance of its duties."

Section 97-kk of the State Finance Law directs that all revenue received by the Office of Real Property Services (ORPS) from fees for

services related to the Real Property System (RPS) be deposited in the Local Services Account within the Miscellaneous Special Revenue Fund.

2. Legislative Objectives: The proposal will further the legislative objective of recovering a portion of the expenses incurred by ORPS in providing technical services to local governments, including software, for the improvement of real property tax administration.

3. Needs and Benefits: Section 190-3.2 of Title 9 provides that ORPS shall provide certain technical services for local governments. Included among these services is a set of software and procedures commonly known as RPS. Section 190-3.2 further provides that each local government that uses RPS must pay an annual license fee to defray the costs of ongoing software development, maintenance, documentation and distribution. The amount paid by a particular local government depends upon the number of parcels in the assessing unit. At present approximately 95% of the county, city and town assessing units in the State use RPS.

At its November 14, 2006, meeting, the State Board adopted by Resolution 06-30 (Item II-B) amendments making changes to the schedule of annual fees paid by users of RPS. That amendment included a revision to 190-3.2(c)(2) changing the fee for school district licensees to the highest rather than the lowest municipal charge. This change was based upon the assumption that there were no school licensees. During the period for public comment it was discovered that in fact there are five such school subscribers. This proposal would restore the previous language that placed schools at the lowest fee, preventing an increase of \$1,700 for each district and replacing that with an increase of \$250.

4. Costs: (a) To State Government: \$7250 in license fees from the five districts.

(b) To local governments: None.

(c) To school districts: None. The five schools would experience an increase of \$250, rather than the increases of \$1,700 that would result under the 2006 amendment.

(d) To private regulated parties: There are no private regulated parties in this program. Private purchasers of RPS will continue to pay \$2,500.

(e) Basis of cost estimates: The existing fee schedule.

5. Local Government Mandates: None. Use of RPS is optional with local governments.

6. Paperwork: The proposal would impose no additional paperwork on the State or local governments.

7. Duplication: There are no comparable State or Federal requirements.

8. Alternatives: The proposal could have imposed a greater or lesser fee on users of RPS. The increase imposed has been negotiated.

9. Federal Standards: There are no Federal regulations concerning this subject.

10. Compliance Schedule: The new, lower increase would first occur in fiscal 2007-2008.

**Regulatory Flexibility Analysis**

The amendment proposed would not impose any adverse economic conditions or any reporting, recordkeeping or other compliance requirements on small businesses. The rule will decrease the annual fee for school districts that use RPS.

**Rural Area Flexibility Analysis**

A rural area flexibility analysis is not required for this rule making because the amendment would not impose any adverse economic conditions, any reporting, recordkeeping or compliance requirements on public or private entities in rural areas. It provides for a revised fee schedule that reduces the fee for school district subscribers wherever located.

**Job Impact Statement**

A job impact statement is not required for this rule making because the amendment only concerns the annual license fee paid by school districts subscribers to RPS. The increase these districts would experience in 2007 is reduced from \$1,700 to \$250 for five school districts. It is highly unlikely this will have any effect on job opportunities.

**PROPOSED RULE MAKING HEARING(S) SCHEDULED**

**Training for Assessors and County Directors**

**I.D. No.** RPS-21-07-00003-P

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

**Proposed action:** Amendment of Part 188 of Title 9 NYCRR.

**Statutory authority:** Real Property Tax Law, sections 202(1)(l), 310(5), 318 and 1532

**Subject:** Training for assessors and county directors.

**Purpose:** To revise the basic course of training for assessors and directors of county real property tax service agencies.

**Public hearing(s) will be held at:** 2:00 p.m., June 7, 2007 at Office of Real Property Services, 16 Sheridan Ave., Albany, NY; 11:00 a.m., June 8, 2007 at Office of Real Property Services, 263 Rte. 17K, Newburgh, NY; and 1:00 p.m., June 25, 2007 at Office of Real Property Services, 401 S. Salina St., Syracuse, NY.

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

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

**Text of proposed rule:** Section one. Section 188-1.1 is amended by adding a new subdivision c to read as follows:

(c) *Subpart 188-8 of this Part applies to all assessors employed by the City of New York as provided in section 188-8.1.*

Section 2. The heading of subpart 188-2 is amended to read as follows: ASSESSORS (*outside of New York City*)

Section 3. Section 188-2.1 is amended to read as follows:

188-2.1 Certification requirement for assessors, generally. (a) For purposes of the training and certification of assessors, there shall be no classification of assessing units. *For purposes of the training and certification of assessors, Subpart 188-2 applies to assessors outside the City of New York, except as prescribed in Subpart 188-1. Assessors employed in New York City are covered by requirements prescribed in Subpart 188-8.*

(b) Each assessor must attain certification as a State certified assessor within three years of beginning his or her initial term of office. An assessor who begins a new term of office without having attained certification during a prior term of office must attain certification within 12 months of beginning this new term, but in no event shall any assessor be required to attain certification in less than 36 months of time in office, subject to the interim certification requirements of section 188-2.7 of this Subpart.

(c) A State certified assessor must be recertified upon a reappointment or reelection *by successfully completing the ethics component within one year.*

(d)[where] *Where there has been an interruption of continuous service of at least [two] four years, a state certified assessor must be recertified upon an appointment or election [Such recertification must be attained following reappointment or reelection] by attending the orientation seminar [or the assessment administration course] within one month, if practicable, of the commencement of his or her certification requirement, but in no event any later than February 1 of the year succeeding commencement of that requirement and satisfying the certification criteria as provided in sections 188-2.2, 188-2.6 and 188-2.7 of this Subpart within three years of returning to office.*

[(d)](e) *For an individual appointed to fill a vacancy in an elective office of assessor, the commencement of his or her certification requirement is the next January 1 following that appointment.*

[(e)](f) *Any uncertified assessor serving during [1997] 2007 whose training requirement has commenced [is not required to complete the introduction to income property valuation course and may substitute "introduction to appraisal approaches" for "introduction to real estate appraisal", and may substitute "introduction to the income approach" for "valuation principles and procedures".]may substitute the introduction to real estate appraisal component, the valuation principles and procedures component and the introduction to income valuation component to satisfy the cost, market and income approach to value component. In addition, the introduction to mass appraisal component, successfully completed prior to 2008 may be accepted for the introduction to mass appraisal component. The introduction to farm appraisal component successfully completed prior to 2008 may be accepted for the introduction to farm appraisal component. Successful completion of the assessment administration and fundamentals of exemption administration component prior to 2008 will constitute satisfaction of the assessment administration component.*

[(f)](g) *Notwithstanding the provisions of subdivision (b) of this section, [An]an uncertified assessor serving in a term which commenced prior to [January 1, 2001] October 1, 2007 is required to complete the certification requirements [that were in place when he or she commenced his or her initial term of office] prescribed in section 188-2.6. An uncertified assessor must attain certification within three years and is subject to the interim certification requirements prescribed in 188-2.7 of this subpart.*

(h) *In no event will successful completion of the assessment administration component be accepted if it was completed more than four years prior*

to the date that the assessor became subject to the provisions of this Subpart.

(i) An individual may successfully complete an approved ethics component training session prior to his or her reappointment or reelection to office. In no event will any ethics training be accepted that was completed more than one year prior to his or her reappointment or reelection to office, except as stated in 188-2.1(j) of this section.

(j) If ethics training was successfully completed by an assessor fulfilling a basic certification component and the assessor is reappointed or reelected before attaining basic certification, the ethics component does not need to be repeated if it was successfully completed more than one year but less than three years prior to reelection or reappointment.

(k) An assessor subject to the requirements of this Subpart shall not be required to take any additional training solely because of his or her appointment or election as assessor in another assessing unit, except as provided in 188-2.6(b)(6).

Section 4. Subdivisions a, b and d of section 188-2.6 is amended to read as follows: 188-2.6 Basic course of training. (a) Orientation. (1) ORPS shall establish an orientation seminar to provide a general summary of the responsibilities of an assessor. The county director shall forward to the assessor a certificate of attendance at this seminar as soon as practicable after attendance.

(2) A State certified assessor must be recertified upon a reappointment or reelection by successfully completing the ethics component within one year.

(3) [where]Where there has been an interruption of continuous service of at least [two] four years, a state certified assessor must be recertified upon an appointment or election [Such recertification must be attained following reappointment or reelection] by attending the orientation seminar [or the assessment administration course] within one month, if practicable, of the commencement of his or her certification requirement, but in no event any later than February 1 of the year succeeding commencement of that requirement and satisfying the certification criteria as provided in sections 188-2.2, 188-2.6 and 188-2.7 of this Subpart within three years of returning to office.

[(2)](4) Every assessor who has not attained certification and every State Certified Assessor who must be recertified pursuant to section 188-2.1(d) of this Subpart must successfully complete the ethics component within one year and attend an orientation seminar, [or the assessment administration course] within one month, if practicable, of the commencement of his or her certification or recertification requirement, but in no event any later than February 1 of the year succeeding the commencement of that requirement.

(b) The basic course of training shall include the following components:

- (1) assessment administration;
- (2) fundamentals of data collection;
- (3) ethics [introduction to real estate appraisal];
- (4) cost, market and income approach to value [valuation principles and procedures];

- (5) [fundamentals of exemption administration;
- (6) introduction to income property valuation;
- (7)] introduction to mass appraisal; and

[(8)] (6) introduction to farm appraisal for an assessor in an assessing unit within which:

(i) at least 10 percent of the total acreage is classified agricultural on the assessment roll; or

(ii) at least ten agricultural assessments have been granted pursuant to Article 25-AA of the Agriculture and Markets Law; or

(iii) at least 10 percent of the total acreage lies within an agricultural district, [or a portion thereof], created pursuant to Article 25-AA of the Agriculture and Markets Law [lies within the assessing unit].

(7) for an assessor in an assessing unit not meeting the criteria of paragraph (6) of this Subpart, one of the following electives:

- (i) introduction to farm appraisal
- (ii) forest valuation
- (iii) commercial and industrial valuation

[(9)] (8) A State certified assessor who is appointed or elected in an assessing unit meeting the criteria in paragraph (6) [(8)] of this subdivision must, within a year of taking office, satisfy the introduction to farm appraisal component.

(d) An individual who has successfully completed a training session not conducted by ORPS, which presented topics similar to those in one or more of the components of the basic course of training, may request that this session be accepted as satisfaction of such component or components.

The individual must submit the same supporting material as required by section 188-[2.15]2.8 of this Subpart for obtaining continuing education credit.

Section 5. Section 188-2.7 is amended to read as follows:

188-2.7 Interim certification. (a) In addition to the orientation seminar and the ethics component, an assessor must [satisfy two or more components] satisfy the assessment administration component of the basic course of training by the end of the first year of a term of office. If the assessor has satisfied the assessment administration component prior to commencing his or her first year of a term in office, the assessor must successfully complete another component of the basic course of training by the end of the first year of a term of office in order to receive an interim certificate. [and four or more components] The assessor must successfully complete the cost, market and income component of the basic course of training by the end of the second year of a term of office in order to receive an interim certificate [for each year]. In no event shall an interim certificate remain in effect more than one year after its date of issuance or beyond the date by which the assessor must attain certification.

Section 6. Section 188-4.1 is amended to read as follows:

188-4.1 Certification and orientation requirement for county directors, generally. (a) A county director must be certified and file his or her certificate with the clerk of the county for which he or she serves within four years after he or she commences his or her term of office, subject to the interim certification requirements of section 188-4.7 of this Subpart.

(b) A county director must be recertified upon a reappointment by successfully completing the ethics component within one year. [where]Where there has been an interruption of continuous service of at least [two] four years, a state certified county director must be recertified upon a reappointment by attending the orientation seminar and satisfying the certification criteria as provided in sections 188-4.2, 188-4.3, 188-4.6 and 188-4.7 of this Subpart within four years of returning to office.

(c) Notwithstanding the provisions of subdivision (a) of this section [An] an uncertified county director serving in a term of office which commenced prior to [January 1, 2001] October 1, 2007 is required to complete the certification requirements [that were in place when he or she commenced his or her initial term of office] prescribed in section 188-4.6. An uncertified county director must attain certification within four years and is subject to the interim certification requirements prescribed in 188-4.7 of this subpart.

(d) Any uncertified county director serving during 2007 whose training requirement has commenced may substitute the introduction to real estate appraisal component, the valuation principles and procedures component and the introduction to income valuation component to satisfy the cost, market and income approach to value component. In addition, the introduction to mass appraisal component, successfully completed prior to 2008 may be accepted for the introduction to mass appraisal component. The introduction to farm appraisal component successfully completed prior to 2008 may be accepted for the introduction to farm appraisal component. The fundamentals of tax mapping component successfully completed prior to 2008 may be accepted for the fundamentals of tax mapping. The fundamentals of tax collection and enforcement successfully completed prior to 2008 may be substituted for the fundamentals of tax collection and enforcement. Successful completion of the assessment administration, fundamentals of exemption administration and fundamentals of equalization components prior to 2008 will constitute satisfaction of the assessment administration component.

(e) In no event will successful completion of the assessment administration component be accepted if it was completed more than four years prior to the date that the county director became subject to the provisions of this Subpart.

(f) An individual may successfully complete an approved ethics component training session prior to his or her reappointment to office. In no event will any ethics training be accepted that was completed more than one year prior to his or her reappointment to office, except as stated in 188-4.1(g) of this section.

(g) If ethics training was successfully completed by a county director fulfilling a basic certification component and the county director is reappointed before attaining basic certification, the ethics component does not need to be repeated if it was successfully completed more than one year but less than four years prior to reappointment.

(h) A county director subject to the requirements of this Subpart shall not be required to take any additional training solely because of his or her appointment as county director in another county.

Section 7. Subdivisions a and b of section 188-4.6 are amended to read as follows:

188-4.6 Basic course of training. (a) ORPS shall establish a one-day orientation seminar to provide a general summary of the responsibilities of the county director. ORPS shall forward to the county director a certificate of attendance at the orientation seminar as soon as practicable.

(b) The basic course shall include, but not be limited to, the following components:

- (1) assessment administration;
- (2) fundamentals of data collection;
- (3) *ethics* [fundamentals of equalization;
- (4) fundamentals of exemption administration;
- (5) introduction to real estate appraisal;
- (6) valuation principles and procedures;
- (7) introduction to income property valuation including industrial valuation concepts;]
- (4) *cost, income and market approach to value;*
- (5) *introduction to mass appraisal;*
- (6) *commercial and industrial valuation;*
- (7) *fundamentals of tax collection and enforcement;*
- (8) fundamentals of tax mapping;
- (9) [introduction to mass appraisal;
- (10) fundamentals of tax collection and enforcement; and
- (11)] introduction to farm appraisal[if one or more assessing units in the County meet the criteria set forth in 188-2.6(b)(8)].

Section 8. Section 188-4.7 is amended to read as follows:

188-4.7 Interim certification. In addition to the orientation seminar *and the ethics component*, a county director must satisfy two or more components of the basic course of training during the first year after appointment, or five or more components in any two consecutive years after appointment in order to receive an interim certification in each year. In no event shall an interim certificate remain in effect for more than one year after its date of issuance or more than four years after the county director's date of appointment.

**Text of proposed rule and any required statements and analyses may be obtained from:** James J. O'Keefe, General Counsel, Office of Real Property Services, 16 Sheridan Ave., Albany, NY 12210-2714, (518) 474-8821, e-mail: internet.legal@orps.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: Section 202(1)(l) of the Real Property Tax Law authorizes the State Board of Real Property Services to adopt such rules "as may be necessary for the exercise of its powers and the performance of its duties."

Sections 310 (5) and 318 of the Real Property Tax Law require assessors outside of New York City, Nassau and Tompkins County and the Cities of Buffalo, Rochester, Syracuse, Albany and Yonkers to obtain certification from the State Board of Real Property Services.

Section 1532 of the Real Property Tax Law requires directors of county real property tax services agencies to obtain certification from the State Board of Real Property Services.

2. Legislative Objectives: The training and certification of assessors and county directors.

3. Needs and Benefits: Under Title 2 of Article 3 of the Real Property Tax Law, the State Board of Real Property Services has the responsibility for the training and certification of local assessment personnel outside of the assessing units of New York City, Nassau County, Buffalo, Rochester, Syracuse, Albany and Yonkers. The program governs assessors in almost 1000 assessing units ranging from Brookhaven in Suffolk County with over 181,000 parcels to Red House in Cattaraugus with 314. The Town of Wayland, Steuben County, is the median assessing unit by parcels with 2210. Section 1532 establishes a similar program for directors of county real property tax services agencies. The combined program entails the qualifications, certification and continuing education of the individuals holding 812 appointive assessor positions and 55 county directors of real property tax service agencies, the certification of 457 elective assessor positions, and the qualifications and certification of 96 candidates for assessor and 44 real property appraisers. Part 188 of Title 9 contains the various standards and requirements for minimum qualifications, certification and continuing education. The Board is also authorized to enforce these requirements through proceedings to remove from office those not in compliance.

The training program for assessors and county directors was first instituted by Chapter 957 of the Laws of 1970. Certification for both assessors and directors involves successful completion of a basic course of training.

Over the years the basic course for assessors has grown from two week-long components to 7 or 8 components (assessors in certain communities must take the Farm Appraisal component as part of their basic course) that can involve over 33 days of training. The basic course for directors contains 11 components involving 37 days of training. Assessors must gain certification in three years, directors have four years.

Directors and appointed assessors serve statutory six-year terms. The current terms expire on September 30, 2007. The last changes to the basic courses were in 2000. There have been suggestions to revisit the basic courses and institute any changes in time for the beginning of the next statutory term on October 1, 2007. In 2004, the Assessment Administration Training Governance Group ([www.orps.state.ny.us/assessor/training/governance/governance.htm](http://www.orps.state.ny.us/assessor/training/governance/governance.htm)) was chartered to, among other things, review the training requirements and suggest changes. The group is made up of agency staff, assessors, directors and at-large members with particular expertise in areas, such as adult education, appraisal, etc., that the Group deems useful to its goals. This proposal contains the recommendations of the Group.

In recent years the valuation components of both basic courses have consisted of courses offered as part of the Department of State certification program for State Certified Real Estate Appraisers. These components would be replaced by a single valuation component currently being developed by the Institute of Assessing Officers designed to address appraisal issues faced by assessors. The Department of State courses could still serve as equivalents. The Assessment Administration component is currently being revised to, among other things, incorporate the existing Fundamentals of Exemption Administration and Fundamentals of Equalization components. The requirements for completing the Farm Appraisal component would be revised for both assessors and directors. The new standards would reduce the number of assessing units in which assessors would be required to take this component from 814 to 778. Conversely, under the existing standards only the director for Hamilton County is exempt from the Farm Appraisal requirement. The proposal would remove this de facto exception. Assessors not subject to the Farm Appraisal requirement would have to take one of three enumerated electives.

The most significant addition to the basic courses is an Ethics component. Recent assessment scandals have not been limited to the well publicized situation New York City. Not only would new assessors and directors be required to take this component, but all assessors and directors would be required to take the component as a "recertification" requirement upon commencing a new term of office.

The proposal would apply beginning with the statutory term commencing October 1, 2007. The new requirements would apply to all uncertified assessors and directors. The rules provide for equivalencies for those uncertified assessors currently serving who would be starting new terms. There would be no additional training required for certified assessors and directors other than the new Ethics component.

4. Costs: (a) To State Government: None. This proposal involves minor changes to an ongoing program without increasing the agency workload.

(b) To local governments: None. Actual and necessary expenses incurred in satisfying these requirements are reimbursed by the State.

(c) To private regulated parties: None. There are no private regulated parties in this program.

(d) Basis of cost estimates: This proposal involves minor changes to an ongoing program. While the amendments entail increased training, it is estimated that any potential increased costs can be avoided by efficiencies in program delivery such as increased use of web-based training That would offset possible increases in State reimbursement or other State or local expenses.

5. Local Government Mandates: None. This is proposal involves minor changes to an existing program.

6. Paperwork: This proposal does not increase existing paperwork requirements.

7. Duplication: There are no comparable State or Federal requirements.

8. Alternatives: Less relevant training for assessors and county directors.

9. Federal Standards: There are no Federal regulations concerning this subject.

10. Compliance Schedule: The new program would be in place for the next statutory term that begins October 1, 2007.

**Regulatory Flexibility Analysis**

The amendment proposed would not impose any adverse economic conditions or any reporting, recordkeeping or other compliance requirements on small businesses. This proposal has no effect on small business.

This proposal has no direct effect on local governments. This proposal will require assessors and county directors to take an ethics course at least once every four or six years, depending on their statutory terms.

***Rural Area Flexibility Analysis***

A rural area flexibility analysis is not required for this rule making because the proposal will not impose any adverse impact on rural areas or reporting, recordkeeping or other requirements on public or private entities in rural areas. It merely revises an existing program that applies to local officials in rural and non-rural areas without placing any additional burdens on the local governments those officials serve.

***Job Impact Statement***

A job impact statement is not required for this rule making because the amendment only concerns elected and appointed local officials whose offices are mandated by statute. The proposal has no effect on job opportunities in the private or public sector.