

RULE MAKING ACTIVITIES

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

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

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

Department of Civil Service

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-34-07-00004-A
Filing No. 1207
Filing date: Nov. 2, 2007
Effective date: Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the exempt class in the Department of Law.

Text was published in the notice of proposed rule making, I.D. No. CVS-34-07-00004-P, Issue of August 22, 2007.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-34-07-00005-A
Filing No. 1208
Filing date: Nov. 2, 2007
Effective date: Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the exempt class in the Department of Correctional Services.

Text was published in the notice of proposed rule making, I.D. No. CVS-34-07-00005-P, Issue of August 22, 2007.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-34-07-00006-A
Filing No. 1209
Filing date: Nov. 2, 2007
Effective date: Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.

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

Subject: Jurisdictional classification.

Purpose: To classify a position in the exempt class in the Executive Department.

Text was published in the notice of proposed rule making, I.D. No. CVS-34-07-00006-P, Issue of August 22, 2007.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification**I.D. No.** CVS-34-07-00007-A**Filing No.** 1210**Filing date:** Nov. 2, 2007**Effective date:** Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.**Statutory authority:** Civil Service Law, section 6(1)**Subject:** Jurisdictional classification.**Purpose:** To classify positions in the exempt class in the Office of Lieutenant Governor.**Text was published in the notice of proposed rule making, I.D. No.** CVS-34-07-00007-P, Issue of August 22, 2007.**Final rule compared with proposed rule:** No changes.**Text of rule may be obtained from:** Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us**Assessment of Public Comment**

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification**I.D. No.** CVS-34-07-00008-A**Filing No.** 1212**Filing date:** Nov. 2, 2007**Effective date:** Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.**Statutory authority:** Civil Service Law, section 6(1)**Subject:** Jurisdictional classification.**Purpose:** To classify a position in the exempt class in the Department of Mental Hygiene.**Text was published in the notice of proposed rule making, I.D. No.** CVS-34-07-00008-P, Issue of August 22, 2007.**Final rule compared with proposed rule:** No changes.**Text of rule may be obtained from:** Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us**Assessment of Public Comment**

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification**I.D. No.** CVS-34-07-00009-A**Filing No.** 1216**Filing date:** Nov. 2, 2007**Effective date:** Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.**Statutory authority:** Civil Service Law, section 6(1)**Subject:** Jurisdictional classification.**Purpose:** To delete positions in the exempt class and to classify positions in the exempt class in the Executive Department.**Text of final rule:** Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office for Technology," by deleting therefrom the position Deputy Director (2), by adding thereto the position of Counsel and by increasing the number of positions of NYS Deputy Chief Information Officer from 1 to 5.**Final rule compared with proposed rule:** Nonsubstantive changes were made: Paragraph should read: by deleting therefrom the position of Deputy Director (2), by adding thereto the position of Counsel and by increasing

the number of positions of NYS Deputy Chief Information Officer from 1 to 5.

Text of rule may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us**Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement**

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification**I.D. No.** CVS-34-07-00010-A**Filing No.** 1214**Filing date:** Nov. 2, 2007**Effective date:** Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.**Statutory authority:** Civil Service Law, section 6(1)**Subject:** Jurisdictional classification.**Purpose:** To delete a position from the exempt class in the Department of Public Service.**Text was published in the notice of proposed rule making, I.D. No.** CVS-34-07-00010-P, Issue of August 22, 2007.**Final rule compared with proposed rule:** No changes.**Text of rule may be obtained from:** Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us**Assessment of Public Comment**

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification**I.D. No.** CVS-34-07-00011-A**Filing No.** 1215**Filing date:** Nov. 2, 2007**Effective date:** Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.**Statutory authority:** Civil Service Law, section 6(1)**Subject:** Jurisdictional classification.**Purpose:** To delete a position from the exempt class in the Department of State.**Text was published in the notice of proposed rule making, I.D. No.** CVS-34-07-00011-P, Issue of August 22, 2007.**Final rule compared with proposed rule:** No changes.**Text of rule may be obtained from:** Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us**Assessment of Public Comment**

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification**I.D. No.** CVS-34-07-00012-A**Filing No.** 1213**Filing date:** Nov. 2, 2007**Effective date:** Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 of Title 4 NYCRR.**Statutory authority:** Civil Service Law, section 6(1)**Subject:** Jurisdictional classification.

Purpose: To classify positions in the non-competitive class in the Executive Department.

Text was published in the notice of proposed rule making, I.D. No. CVS-34-07-00012-P, Issue of August 22, 2007.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-34-07-00013-A

Filing No. 1217

Filing date: Nov. 2, 2007

Effective date: Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 2 of Title 4 NYCRR.

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the non-competitive class in the Department of Environmental Conservation.

Text was published in the notice of proposed rule making, I.D. No. CVS-34-07-00013-P, Issue of August 22, 2007.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-34-07-00014-A

Filing No. 1211

Filing date: Nov. 2, 2007

Effective date: Nov. 21, 2007

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

Action taken: Amendment of Appendix(es) 1 and Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional classification.

Purpose: To classify a position in the exempt class and classify a position in the non-competitive class in the Department of Health.

Text was published in the notice of proposed rule making, I.D. No. CVS-34-07-00014-P, Issue of August 22, 2007.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-47-07-00004-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify a position in the exempt class in the Executive Department.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office for the Aging," by increasing the number of positions of Deputy Director from 2 to 3.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-47-07-00005-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify a position in the exempt class in the Department of Mental Hygiene.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Mental Hygiene under the subheading "Office of Alcoholism and Substance Abuse Services," by increasing the number of positions of Associate Counsel from 2 to 3.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-47-07-00006-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify a position in the exempt class in the Department of Environmental Conservation.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Environmental Conservation, by increasing the number of positions of Associate Counsel from 5 to 6.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00007-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify a position in the exempt class in the Department of Health.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Health under the subheading "Office of the Medicaid Inspector General," by increasing the number of positions of Special Assistant from 1 to 2.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00008-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the exempt class in the Insurance Department.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Insurance Department, by increasing the number of positions of Special Assistant from 5 to 11.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00009-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the exempt class in the Insurance Department.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Insurance Department, by adding thereto the positions of Assistant to Superintendent (2) and Deputy Superintendent for Public Information.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00010-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the exempt class in the Executive Department.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Board of Elections," by adding thereto the positions of Associate Attorney (2) and Investigative Auditor (2) and by increasing the number of positions of Special Assistant from 2 to 4.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00011-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the exempt class in the Executive Department.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Division of the Budget," by increasing the number of positions of Budget Fellow from 52 to 67.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00012-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To delete a position from and classify a position in the exempt class in the Department of Transportation.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Transportation, by decreasing the number of positions of Assistant Commissioner from 8 to 7 and by adding thereto the position of Counsel.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00013-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify a position in the non-competitive class in the Department of Audit and Control.

Text of proposed rule: Amend Appendix(es) 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Audit and Control, by adding thereto the position of Information Security Officer (1).

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00014-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify a position in the non-competitive class in the State University of New York.

Text of proposed rule: Amend Appendix(es) 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the State University of New York under the subheading "SUNY at Stony Brook," by increasing the number of positions of Recycling Specialist from 3 to 4.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00015-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the non-competitive class in the Department of Transportation.

Text of proposed rule: Amend Appendix(es) 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Transportation, by increasing the number of positions of Minority Business Specialist 1 from 4 to 6.

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00016-P

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

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

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

Subject: Jurisdictional classification.

Purpose: To delete a position from the non-competitive class in the Executive Department.

Text of proposed rule: Amend Appendix(es) 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Division of Alcoholic Beverage Control," by deleting therefrom the position of ϕ Affirmative Action Administrator 2 (1).

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

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

Jurisdictional Classification

I.D. No. CVS-47-07-00017-P

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

Proposed action: Amendment of Appendix(es) 1 and Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional classification.

Purpose: To classify positions in the exempt and non-competitive classes in the Executive Department.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office of General Services," by increasing the number of positions of Assistant Counsel from 1 to 2; and

Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Office of General Services," by adding thereto the position of ϕ Information Security Officer (1).

Text of proposed rule and any required statements and analyses may be obtained from: Shirley LaPlante, Department of Civil Service, Albany, NY 12239, (518) 473-6598, e-mail: shirley.laplante@cs.state.ny.us

Data, views or arguments may be submitted to: Judith I. Ratner, Deputy Commissioner and Counsel, Department of Civil Service, Albany, NY 12239, (518) 473-2624, e-mail: judith.ratner@cs.state.ny.us

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

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

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

Office of General Services

NOTICE OF ADOPTION**Public Access to Records**

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

Filing No. 1219

Filing date: Nov. 6, 2007

Effective date: Nov. 21, 2007

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

Action taken: Amendment of Subpart 330-1 of Title 9 NYCRR.

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

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

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

Text or summary was published in the notice of proposed rule making, I.D. No. GNS-35-07-00001-P, Issue of August 29, 2007.

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

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

Assessment of Public Comment

The agency received no public comment.

**Division of Housing and
Community Renewal**

NOTICE OF ADOPTION

Rent Stabilization Code and Emergency Tenant Protection Regulations

I.D. No. HCR-31-07-00010-A

Filing No. 1206

Filing date: Nov. 2, 2007

Effective date: Nov. 21, 2007

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

Action taken: Amendment of Parts 2502 and 2522 of Title 9 NYCRR.

Statutory authority: Rent Stabilization Law, section 26-511(b); and Emergency Tenant Protection Act, section 10a

Subject: Rent Stabilization Code (RSC) and Emergency Tenant Protection Regulations (TPR).

Purpose: To clarify that housing previously under governmental regulation is not, per se, entitled to an initial rent adjustment based on "unique and peculiar circumstances" (U&P).

Text or summary was published in the notice of proposed rule making, I.D. No. HCR-31-07-00010-P, Issue of August 1, 2007.

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

Text of rule and any required statements and analyses may be obtained from: Maurice Jamison, Special Assistant to the Deputy Commissioner, Division of Housing and Community Renewal, Office of Rent Administration, 92-31 Union Hall St., Jamaica, NY 11433, (718) 262-4816, e-mail: mjamison@dhcr.state.ny.us

Assessment of Public Comment

The following assessment specifies the major substantive ISSUES raised in submissions on the amendments to the RSC and the TPR, SIGNIFICANT ALTERNATIVES suggested, and sets forth DHCR's COMMENTARY in response thereto (which includes statements as to why any significant alternatives were not incorporated).

Public hearings on these proposed regulatory amendments were conducted on September 24, 2007, in Manhattan, White Plains and Mineola. A total of 60 individuals testified at these hearings: 35 in Manhattan; 17 in Mineola; and 8 in White Plains. 59 of these 60 individuals gave their strong support for the proposed regulatory amendments; only one individual testified in opposition to the proposed amendments. DHCR also received numerous written comments, most of which were submitted at the public hearings and the overwhelming majority of which provided strong, unqualified support for the proposed amendments. DHCR only received three written submissions which opposed the proposed regulatory amendments.

The period for the submission of public comments on these amendments ended on October 1, 2007, and the assessment of comments received through that date is as follows:

Issue: These amendments would have the effect of precluding a specific class of property owners, those whose buildings were previously supervised and regulated under the Mitchell-Lama program, from applying for rent adjustments under the "unique and peculiar" (U&P) provisions after the owners fulfilled all of their obligations under that program and entered rent stabilization.

Significant Alternative: Generally, there were no significant alternatives suggested, other than that DHCR should not promulgate this rule change.

Commentary: The proposed amendments in no way preclude owners from applying for initial rent adjustments, but instead, clarify the parameters of the initial rent adjustment remedy contained in Section 26-513a of the New York City Rent Stabilization Law (RSL) and Section 2502.3 of the TPR.

Issue: By precluding owners from seeking this rent adjustment remedy under the U&P provisions, owners would be obligated to seek relief under the hardship provisions. However, the hardship relief is inadequate, and thus, owners would be compelled to remain in the Mitchell-Lama program.

Significant Alternative: Generally, there were no significant alternatives suggested, other than that DHCR should not promulgate this rule change.

Commentary: Again, these proposed amendments do not preclude owners from applying for this remedy. They merely state that previous regulation under the PHFL or any other State or Federal law does not, in and of itself, constitute a U&P circumstance. Owners have successfully utilized the remedy available under the hardship provisions when changes in economic circumstances have occurred.

Issue: These amendments constitute a major reversal of housing policy as the U&P provisions have existed as a matter of law for over 30 years, and their use has been upheld by the Court of Appeals as recently as two years ago in *KSLM-Columbia Apartments, Inc. v. DHCR*.

Significant Alternative: Generally, there were no significant alternatives suggested, other than that DHCR should not promulgate this rule change.

Commentary: No such major reversal of housing policy has occurred as DHCR has never issued an order approving building-wide initial rent adjustment increases under the U&P provisions based solely upon the fact that the building was previously under governmental regulation. Again, the remedy under the U&P provisions has not been eliminated, but merely clarified.

Issue: The initial legal regulated rents of former Mitchell-Lama units are inadequate to cover the full tax, mortgage and other obligations which are imposed on owners when exiting the Mitchell-Lama program. It is precisely the U&P provisions which have been and should continue to be used to enable owners to fulfill their obligations under rent stabilization.

Significant Alternative: Generally, there were no significant alternatives suggested, other than that DHCR should not promulgate this rule change.

Commentary: Owners have made a conscious business decision to voluntarily leave and forego the benefits of the Mitchell-Lama program. Again, DHCR has never awarded across the board initial rent adjustment increases under the U&P provisions to every apartment in a building solely due to its former Mitchell-Lama status. Owners can utilize the hardship remedy for changes in economic status.

Issue: The proposed amendments are of questionable legality and a poor substitute for an affordable rental housing policy.

Significant Alternative: Generally, there were no significant alternatives suggested, other than that DHCR should not promulgate this rule change.

Commentary: The regulatory changes contemplated do not contravene any existing statute or judicial ruling. They are policy determinations

which reflect what DHCR believes to be a proper balance among the legitimate concerns of tenants, owners and the public.

Issue: As a result of a 2005 unanimous Court of Appeals ruling that the U&P provisions were available to owners who withdrew from the Mitchell-Lama program, owners filed 24 separate applications seeking rent adjustments to almost 5,000 apartments based on U&P circumstances. DHCR has exceeded its rule making authority and is attempting through this administrative fiat to enact a wholesale change in the rules which the providers of rental housing have relied upon in their business determinations, and to reverse the Court of Appeals decision by precluding the owner's applications.

Significant Alternative: Generally, there were no significant alternatives suggested, other than that DHCR should not promulgate this rule change.

Commentary: Again, the proposed amendments do not preclude owners from applying for the remedy under the U&P provisions and in no way contravene the Court of Appeals decision in *KSLM-Columbus Apartments, Inc. v. DHCR*, 5 N.Y.3d 303, 835 N.E.2d 643, 801 N.Y.S.2d 783 (June 14, 2005). No wholesale change in rules has occurred. Rather, due to the large number of buildings leaving the Mitchell-Lama program and the uncertainty and anxiety existing among tenants, owners and the public as to the scope of the remedy under the U&P provisions, it was necessary for the DHCR to promulgate this regulatory clarification.

Issue: The proposed regulations are counterproductive because, by eliminating rent adjustments under the U&P provisions, property owners and investors will be dissuaded from participating in government-subsidized housing programs.

Significant Alternative: Generally, there were no significant alternatives suggested, other than that DHCR should not promulgate this rule change.

Commentary: The initial rent adjustment remedy under the U&P provisions has not been eliminated. Government-subsidized housing programs contain significant tax and financing advantages of which owners have consistently applied for and enjoyed.

Issue: The proposed amendments are a violation of the separation of powers because they allow the executive to amend legislation by administrative and executive fiat rather than requiring the legislative process be utilized.

Significant Alternative: Generally, there were no significant alternatives suggested, other than that DHCR should not promulgate this rule change.

Commentary: No separation of powers violation has occurred because no statute is being amended. Instead, the proposed amendments provide much needed regulatory clarification to a statutory remedy. Such is the very purpose of regulations.

Issue: To avoid the possibility of facing \$500 per room rent increases, the residents of two former Mitchell-Lama developments signed rent adjustment settlements with their owners.

Significant Alternative: The proposed amendments should be made retroactive to include the residents of all former Mitchell-Lama buildings.

Commentary: These settlements resulted in the issuance of final agency orders which cannot now be rescinded.

Office of Mental Retardation and Developmental Disabilities

NOTICE OF ADOPTION

Management of Personal Allowance

LD. No. MRD-29-07-00022-A

Filing No. 1218

Filing date: Nov. 6, 2007

Effective date: Jan. 1, 2008

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

Action taken: Repeal of sections 633.14 and 633.15; addition of new section 633.15 and amendment of sections 633.99, 635-9.1 and 635-99.1 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00

Subject: Management of personal allowance.

Purpose: To consolidate, reorganize and update the current requirements into a regulation to make it easier to use; place more of an emphasis on consumer choice; and add new features such as electronic recordkeeping, money management assessments, personal expenditure planning and person-owned bank accounts.

Substance of final rule: Applies to all residential facilities certified or operated by OMRDD, including family care homes, and non-residential programs which accept responsibility for handling personal allowance of residents of residential facilities.

Adheres to the intent of Section 131-o of the Social Services Law with regard to the management and use of personal allowance funds.

Consolidates the old Sections 633.14 and 633.15 into one new regulation.

Generally maintains current regulatory requirements. Significant changes are noted in this summary.

Eliminates “training accounts” and introduces “person-owned” bank accounts for which a person shall exercise independent control consistent with his/her money management assessment.

Specifically allows for the use of electronic ledger cards.

Adds a requirement for personal expenditure planning for each person receiving personal allowance. This is a process that includes a personal expenditure plan which is developed by a personal expenditure planning team. The plan includes a description of a person’s resources and anticipated spending on an annual and/or monthly basis. It also includes spending options which reflect a person’s needs, preferences and choices, and general parameters for personal spending.

Requires that a copy of the personal expenditure plan be maintained in the residential record.

Adds a requirement for a money management assessment to be completed by each person’s expenditure planning team for each person receiving personal allowance. The money management assessment must indicate the person’s ability to manage funds to which they have independent access, the amount of funds the person can manage without receipts, and the frequency with which the funds are provided.

Includes specific parameters for receipts which require receipts when any purchase is made by staff and family care providers and for purchases made by persons that are over \$15, except when there is a cash distribution directly to the person.

Includes a record retention requirement of four years.

Includes requirements for non-residential providers who accept responsibility for handling personal allowance monies transferred to it by residential providers. These requirements necessitate developing policies and procedures, maintaining a ledger, obtaining receipts for certain expenditures, and assuring that use of funds benefit the person and are in accordance with the personal expenditure plan.

Establishes a requirement for annual random internal agency audits of at least 25% of the personal allowance accounts.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 633.15(b)(1), (2), (4), (6), (24), (g)(1)(ii), (h)(1)(ii), (iii), (2), (i), (ii), (iii), (3), (i), (ii), (iii), (iv), (i)(4), (7)(iii), and (j)(3)(i)(a).

Text of rule and any required statements and analyses may be obtained from: Barbara Brundage, Director, Regulatory Affairs Unit, Office of Mental Retardation and Developmental Disabilities, 44 Holland Ave., Albany, NY 12229, (518) 474-1830; e-mail: barbara.brundage@omr.state.ny.us

Additional matter required by statute: Pursuant to the requirements of the State Environmental Quality Review Act (SEQRA) and in accordance with 14 NYCRR Part 622, OMRDD has on file a negative declaration with respect to this action. Thus, consistent with the requirements of 6 NYCRR Part 617, OMRDD, as lead agency, has determined that the action described herein will not have a significant effect on the environment, and an environmental impact statement will not be prepared.

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

A Revised Regulatory Impact Statement, Revised Regulatory Flexibility Analysis, Revised Rural Area Flexibility Analysis and Revised Job Impact Statement is not being submitted because the non-substantive changes to the originally proposed text do not necessitate revisions to the information provided in the original Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

The minor non-substantive changes were made to remove an inaccurate term used in the text.

Assessment of Public Comment

OMRDD received a total of six sets of comments regarding this proposed rule making. Comments were received from one provider association and five providers of services. There were positive comments made including:

- The efforts to streamline the regulation are helpful as agency staff now need only consult one set of regulations to obtain necessary information to assist in proper money management.
- The emphasis on incorporating consumer choice into the regulation illustrates the commitment to developing a more person centered approach to service delivery.
- Permitting electronic record keeping will help staff maintain accurate financial information, the percentage of math errors will be greatly minimized, and computer savvy consumers and staff will appreciate the ability to process information electronically.
- Including personal expenditure planning and money management assessments will facilitate a more systematic approach to enhancing skill development, safeguard finances, encourage responsible spending, and ensure appropriate oversight of consumer funds.
- The shift of terminology from training accounts to person owned accounts emphasizes the importance of actualizing the “people first” philosophy.
- The parameters for obtaining receipts provide helpful guidance to staff and allow for greater independence for consumers. Consumers will appreciate the ability to handle cash consistent with their capabilities without having to obtain receipts for some purchases.
- The requirement mandating annual auditing of personal allowance is prudent and demonstrates a commitment by OMRDD to implementing corporate compliance procedures. The 25% audit requirement seems manageable and reasonable.

Comments requiring OMRDD responses are as follows:

1. Comment: A service provider suggested the personal expenditure plan be an optional document.

Response: OMRDD does not agree that the personal expenditure plan should be optional. The previous regulation always implied that planning would be occurring regarding individual spending. OMRDD audits found that planning was not occurring and many problems were found as a result. OMRDD subsequently instituted a policy requiring the DDSOs to implement personal expenditure planning. OMRDD found that, as a result, the planning enhanced the use of personal allowance funds and reduced the number of excess resource problems that occurred.

2. Comment: A service provider noted group purchasing to be complicated and problematic and they did not support group purchasing for non-consumable items.

Response: As group purchasing is allowed by the Social Security Administration, OMRDD has decided to accommodate this in this regulation.

3. Comment: A service provider noted that, with regard to person-owned accounts, that a person “shall exercise independent control” consistent with his/her money management assessment may be applied up to and including 100% staff assistance.

Response: OMRDD agrees that this is a correct interpretation of the regulation.

4. Comment: A service provider recommended removing the requirement that non-residential facilities must provide copies of relevant records to the residential facility as it would add confusion to record keeping systems.

Response: This requirement is among those that OMRDD includes to build accountability into the regulation to assure that documentation of expenditures occurs. This resolves what historically has been an ongoing accountability issue with regard to the handling of personal allowance funds by nonresidential facilities.

5. Comment: A provider association noted that mandating nonresidential providers to maintain records on personal allowance funds and develop policies and procedures if they accept this responsibility, which was not previously required, might place a burden and serve as a deterrent for them to accept responsibility for personal allowance expenditures.

Response: The intent of the requirements for nonresidential providers included in the regulation is to build accountability into the regulation to assure that documentation of personal allowance transactions occurs. This resolves what historically has been an ongoing accountability issue with regard to the handling of personal allowance funds by nonresidential facilities.

6. Comment: A service provider found that there was a potential liability to attach the ledger to the personal expenditure plan as it would not be a secure document if this were to occur.

Response: OMRDD agrees with the concern about the security of the actual ledger. However, the language in the regulation is carefully written to permit the use of a separate document other than the ledger to simply acknowledge the individual's acceptance of the transactions contained in a given month's ledger.

7. Comment: A provider association noted that the wording in the regulation with regard to the maximum amount of cash allowed to be maintained per person at a residence was cumbersome and unclear without researching Social Services Law 131-o and they requested the terms be revised into more user friendly language.

Response: OMRDD staff spent a great deal of time developing this language that both accommodate all persons regardless of residential setting and future increases in personal allowance. The actual maximum amount will be included in OMRDD's annual notice to providers regarding their cost of living adjustments and it will be included on the OMRDD website each year.

8. Comment: A provider association suggested that the use of the word "account" interchangeably in the regulation to mean, for example, "bank account" or "record," can be confusing and requested a change in terms used.

Response: OMRDD used these terms in the previous regulation and does not wish to change that which has become familiar to providers.

9. Comment: A provider association noted that the regulation requires the management of personal allowance be in accordance with Social Services Law 131-o. They suggest a statement be added to the regulation indicating that its components incorporate the requirements of the law.

Response: OMRDD agrees that the components of the regulation are based on the requirements of the law and it so states this in several places in the regulation.

10. Comment: A provider association notes that it appears that persons who do not have an income will not have a personal allowance. Clarification was requested.

Response: OMRDD agrees that if an individual has no income there is no obligation for personal allowance unless the individual is in family care.

11. Comment: A provider association notes that the regulation requires some financial information be maintained regardless of whether or not the agency is the representative payee. They also note that for individuals who do not choose the agency as representative payee: 1) individuals are reluctant to share financial information; 2) because of this reluctance it will be difficult for the agency to maintain a personal allowance record; 3) it might be difficult for the agency to assist individuals in using countable income to make provider payments if the agency cannot access the finances.

Response: No changes have been made from the previous regulation. The regulation covers only funds that are physically under the control of the agency, either because the agency is the representative payee or the individual or his/her payee has put money in the hands of the agency. Therefore the agency only needs to keep ledgers on money under its control.

12. Comment: A provider association notes that the regulation indicates that the agency is responsible for restitution in all instances of loss of cash maintained at the residence or at the nonresidential program prior to distribution to the individual. Although this has typically been followed in the residential program, this may prove difficult if the residential and nonresidential providers responsible for personal allowance are different agencies. The association seeks clarification as to who is responsible for restitution should there be a loss of funds.

Response: The agency that controls the cash at the time of the theft is responsible for the restitution. If the nonresidential agency, for example, has accepted responsibility for maintaining personal allowance and a loss of cash occurs, they are responsible for the restitution.

13. Comment: A provider association noted that it will be very difficult to monitor, as required by this regulation, an individual's funds, accounts and expenditures so that they do not exceed the amounts in the personal expenditure plan when the individuals are independent. This requirement may set the stage for restricting an individual's level of independence.

Response: Monitoring an individual's funds and assisting them in reporting to benefit paying agencies when he or she acts as their own payee was a requirement in the previous regulations. This requirement is among those that OMRDD includes to build accountability into the regulation to assure that individual eligibility for benefits continues appropriately.

14. Comment: A provider association noted that, in an effort to ensure that consumer funds are adequately managed and protected, OMRDD has included a provision in this regulation requiring an internal agency audit of 25% of all personal allowance accounts to be completed annually. The association asks if OMRDD will begin auditing against this requirement.

Response: OMRDD will begin to review the 25% annual internal audit at some point after the implementation date of this regulation.

15. Comment: A provider association asks if OMRDD intends to provide a standardized template for the personal expenditure plan.

Response: OMRDD will not mandate a template; however, it will supply a suggested format to providers.

16. Comment: A provider association commented that the personal expenditure plan will add a significant component to the treatment planning process. The concept of formalizing the money management process is understandable and beneficial; however it will require agencies to develop a process for assessment and planning. The association wants to know if it would be more appropriate to include the personal expenditure plan as a section within the ISP since there is an annual and semi-annual review requirement for that.

Response: OMRDD does not find it appropriate that the personal expenditure plan be a section of the ISP. Although there is an annual review and development requirement for the personal expenditure plan, OMRDD does not want to mandate that the personal expenditure plan be tied to any other planning process. Rather, OMRDD leaves this to the discretion of the provider of services and therefore finds that the personal expenditure plan should be a separate document.

17. Comment: A provider association notes that by allowing the personal expenditure plan to be distributed to other interested parties, aside from the consumer and the planning team, that this may be an invasion of privacy. They ask if providing only a summary is possible.

Response: The regulations do not require the inclusion of sensitive, detailed personal identifying account information or account numbers in the personal expenditure plan. The plan should be made available to involved parties where necessary.

18. Comment: A provider association noted that the personal expenditure plan appears to be a document that could potentially require frequent revision and considerable ongoing attention to ensure flexible spending, updated priorities, and remain accurate and functional. This may prove difficult to maintain accurately given the myriad of staff responsibilities.

Response: OMRDD's intention is not to have the personal expenditure plan continuously updated. The document is meant to be revised only when there is a significant event that occurs.

19. Comment: A provider association notes that the elimination of the need for receipts when personal allowance money is spent by the individual in accordance with their PEP is normalizing and helpful. However, for those instances where consumers do not submit receipts for some expenditures, what actions would be acceptable?

Response: There has been no change in the regulation with regard to this issue. If the consumer is spending personal allowance funds after they sign the ledger acknowledging acceptance of those funds, there is no receipt necessary and the regulation does not require they bring a receipt back.

20. Comment: One provider suggested that the term "local bank" be changed to "financial institution" as accounts may be established in credit unions, for example, in addition to banks.

Response: OMRDD agrees with this suggestion and will revise this term as indicated where it appears in the text.

Department of Motor Vehicles

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Motor Vehicle Inspections

I.D. No. MTV-47-07-00002-P

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

Proposed action: Amendment of Part 79 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a), 301(a), (c), (d), (f), 302(a), (e), (f), 304(b) and 304-a

Subject: Motor vehicle inspections.

Purpose: To clarify safety and emission inspection procedures.

Substance of proposed rule (Full text is posted at the following State website: www.nysdmv.com): This regulation clarifies the procedures related to emissions and safety inspections. The highlights are as follows:

Provides that upon the casual sale of a motor vehicle, an inspection sticker issued prior to the date of the sale shall be deemed invalid.

Provides that the MGW of a vehicle shall be the weight used for a safety inspection.

Requires an inspection station to surrender all certifications when closing a business or when suspended or revoked.

Inspection stations must keep all reports, in chronological order, for two years.

If a station inspects motorcycles, the official motorcycle sign must be displayed.

Provides for the proper placement of signs for motor vehicle inspection stations.

Allows municipalities to inspect motor vehicles owned by other municipalities.

Provides that a person applying for an inspector's license may be required to pass a skills test.

Clarifies that the inspection sticker is placed to the left of the registration sticker.

Clarifies and simplifies the provisions related to emissions inspection without making substantive revisions.

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

Data, views or arguments may be submitted to: Ida L. Traschen, Department of Motor Vehicles, Empire State Plaza, Swan St. Bldg., Rm. 526, Albany, NY 12228

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

Regulatory Impact Statement

1. Statutory authority: Section 301(a) of the Vehicle and Traffic Law provides that the Commissioner of Motor Vehicles shall require an annual safety inspection of every motor vehicle registered in New York State. Section 301(c) of such Law authorizes the Commissioner to establish those mechanisms and equipment subject to the safety inspection, and also requires that an inspection be made with respect to the vehicle identification number (VIN). Section 301(d) of such Law authorizes the Commissioner, in consultation with the Commissioner of the Department of Environmental Conservation, to implement a motor vehicle emissions inspection program. Section 301(f) of such Law authorizes the Commissioner to promulgate regulations necessary to implement a heavy duty vehicle inspection program. Section 302(a) of such Law provides that it shall be the duty of the Commissioner to administer the provisions of Article 5. Section 302(e) of such Law empowers the Commissioner to make reasonable rules and regulations for the administration and enforcement of Article 5 and the periods during which motor vehicles are required to be inspected. Section 302(f) provides that the Commissioner may authorize municipalities to conduct the inspections required by Article 5, if such municipality has the personnel and facilities to conduct such inspections. Section 304(b) of such Law requires the Commissioner to establish procedures for reporting the results of inspections and notifying owners. Section 304-a of such Law authorizes the Commissioner to establish standards for certified inspectors.

2. Legislative objectives: The Federal Clean Air Act of 1990 (42 U.S.C 7401 et. seq.) and the accompanying regulations at 40 CFR Part 51 require states to implement an inspection and maintenance program that conforms to such federal regulations. Article 5 of the Vehicle and Traffic Law provides that motor vehicles registered in NYS meet the State's rigorous safety and emissions inspection criteria. Over the past several years, Part 79 has been repeatedly amended to bring NYS in compliance with both the Clean Air Act and Article 5. This regulation, rather than imposing any significant new requirements, clarifies existing procedures regarding the State's safety and emissions inspection program. These revisions and clarifications, by giving better guidance to both motorists and inspection stations, will further the State's objective of clean and healthy air, and safe motor vehicles.

3. Needs and benefits: The Federal Clean Air Act of 1990 and the accompanying regulations at 40 CFR Part 51 set forth strict emissions

requirements for all states. Over the past several years, the Department of Motor Vehicles has repeatedly amended 15 NYCRR Part 79 to conform to the Clean Air Act. These numerous amendments have created some confusion among both motorists and the inspection industry about the State's mandates. The primary purpose of this regulation is to clarify Part 79 to give better guidance to motorists and the industry. The regulation also clarifies the procedures and requirements related to the safety inspection process.

The following are examples of the clarifications set forth in this proposed regulation:

The inspection sticker is valid until midnight of the day printed or month punched on the sticker and, upon the sale or transfer of a motor vehicle any certificate of inspection issued prior to the date of sale or transfer shall be deemed invalid.

Provides that any municipality within a county may inspect its vehicles, other municipalities' vehicles or the county's vehicles.

Provides that a vehicle shall not be inspected if there is no VIN plate.

Clarified provisions related to the fees to be charged if a vehicle passes only a portion of the inspection, e.g., passes the safety inspection but fails the emissions inspection.

Provides that the maximum gross weight (MGW) of a vehicle is tied to the safety inspection, not the emissions inspection, which is tied to the vehicle's gross vehicle weight rating (GVWR). For the entire life of the New York annual inspection program (more than 50 years), DMV has used the MGW to determine the required inspection, to differentiate between light duty and heavy duty vehicles. This is primarily because DMV has ready access to the MGW of the vehicle, but not to the GVWR. However, the Environmental Protection Agency (EPA) uses GVWR to determine a vehicle's emissions standards, and therefore, the test that vehicle should receive. The manufacturers provide the GVWR to EPA when submitting the vehicles for certification.

With the implementation of the NY Vehicle Inspection Program (NYVIP) OBD II inspection, DMV found that many vehicles, especially heavier pickups such as the Ford F-250, had a hybrid system that had an OBD II plug but not a full OBD II emissions system. These vehicles were often registered lighter than 8500 lbs but could not pass an OBD II test. The inspection stations and inspectors were confused and motorists were upset that their vehicles failed inspection when it had passed the previous year. Adjustments were made, but they were not satisfactory because more vehicles were exempted from the emissions inspection than EPA would allow. DMV needed a better way to determine emissions requirements than using MGW by itself.

Using NYVIP inspection data, and referencing against commercial VIN-checking products, the Department of Environmental Conservation has created a reference table which is now incorporated in the NYVIP software. This reference will check an entered VIN and, whenever possible, make a determination about the required emissions test. If the software can determine that the vehicle must receive an OBD II test, then it is "locked-into" the test. If a determination cannot be made, then the inspector is allowed to make changes to obtain the correct inspection. This requirement imposes no burden on inspection stations because the NYVIP software performs all the necessary functions.

4. Costs: a. to regulated parties: There are no costs to regulated parties. This regulation imposes no new requirements that would have a fiscal impact on inspection stations.

b. cost to the State, the agency and local governments: There are no costs to the State, DMV or to local governments.

c. source: DMV's Office of Vehicle Safety.

d. cost to vehicle registrants: There are no costs to motor vehicle registrants.

5. Local government mandates: There are no new mandates imposed upon local governments.

6. Paperwork: This proposal imposes no new paperwork requirements upon regulated parties.

7. Duplication: This proposed regulation does not duplicate or conflict with any State or Federal rule.

8. Alternatives: DMV distributed the proposed regulation to several associations that represent inspection stations. We only received responses from the New York State Association of Service Station & Repair Shops, Inc. and the Greater New York Auto Dealers Association (GYNADA). We tried to accommodate their requests where possible. For example, GYNADA commented about our original proposal to amend Part 79.8(a)(12), which required inspection stations to mount or display the required sign visible "at all time from the nearest street or highway." GYNADA explained that this would require some stations to place the sign

above their showrooms away from the actual inspection area. In light of this comment, we revised the amendment to require that signs be placed "in such a manner that they are visible to the public upon entering the inspection facility."

The industry also suggested that regulation clearly provide that if an inspection station contracts out for services, that such station is still responsible for the work performed. The industry suggested other modest clarifications that were adopted.

The associations recommended an increase in the inspection fee, particularly the safety portion which has not been raised for several years. Although the Department understands the industry's concern about fees, this regulation does not impose any new burdens or mandates upon the industry and, therefore, we do not believe that a fee increase would be justified.

9. Federal standards: The rule does not exceed the Federal emission standards set forth in the Clean Air Act of 1990 or its accompanying regulations at 40 CFR Part 51.

10. Compliance schedule: Upon adoption of the regulation.

Regulatory Flexibility Analysis

1. Effect of rule: The Department estimates that approximately 95% of the inspection stations in New York State are considered small businesses. There are approximately 11,000 (about 7,600 of which are active) licensed inspection stations in the Upstate Region of the State, and 4,400 (about 3,800 of which are active) in the New York Metropolitan Area (NYMA).

Approximately 800 political subdivisions in NYS perform their own inspections.

2. Compliance requirements: This regulation imposes no new compliance requirements. The primary purpose of the regulation is to clarify existing requirements and procedures.

3. Professional services: This regulation would not require inspection stations to obtain new professional services beyond any that they may already use.

4. Compliance costs: Since this regulation imposes no new mandates upon inspection stations, it imposes no new compliance costs.

5. Economic and technological feasibility: Since this rule imposes no new requirements upon inspection stations, there is no issue relative to economic and technological feasibility.

6. Minimizing adverse impact: This regulation merely clarifies existing procedures and imposes no significant requirements on small business. As explained in the RIS, DMV distributed the proposed regulation to several associations that represent inspection stations. We only received responses from the New York State Association of Service Station & Repair Shops, Inc. and the Greater New York Auto Dealers Association (GYNADA). We tried to accommodate their requests where possible. For example, GYNADA commented about our original amendment to Part 79.8(a)(12), which required inspection stations to mount or display the required sign visible "at all time from the nearest street or highway." GYNADA explained that this would require some stations to place the sign above their showrooms away from the actual inspection area. In light of this comment, we revised the amendment to require that signs be placed "in such a manner that they are visible to the public upon entering the inspection facility."

The industry also suggested that regulation clearly provide that if an inspection station contracts out for services, that such station is still responsible for the work performed. The industry suggested other modest clarifications that were adopted.

The associations recommended an increase in the inspection fee, particularly the safety portion which has not been raised for several years. Although the Department understands the industry's concern about fees, this regulation does not impose any new burdens or mandates upon the industry and, therefore, we do not believe that a fee increase would be justified.

7. Small business and local government participation: See # 6 above to see the extent of DMV outreach to small businesses. In addition, over the last few years, several municipalities have contacted DMV requesting the flexibility to allow them to inspect other municipalities' vehicles. This regulation grants them such flexibility.

Rural Area Flexibility Analysis

A RAFA is not attached because this rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

A Job Impact Statement is not submitted with this proposal because there is no adverse on impact on job creation or development in New York State.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Monroe County Motor Vehicle Use Tax

I.D. No. MTV-47-07-00003-P

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

Proposed action: This is a consensus rule making to amend Part 29 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a) and 401(6)(d)(ii); and Tax Law, section 1202(c)

Subject: Monroe County motor vehicle use tax.

Purpose: To impose a Monroe County motor vehicle use tax.

Text of proposed rule: Section 29.12 is amended by adding a new subdivision (dd) to read as follows:

(dd) Monroe County. The Monroe County Legislature adopted a resolution on October 2, 2007, to establish a Monroe County Motor Vehicle Use Tax. The County Executive and the Chief Financial Officer of Monroe County entered into an agreement with the Commissioner of Motor Vehicles for the collection of the tax in accordance with the provisions of this Part, for the collection of such tax on original registrations made on and after February 1, 2008 and upon the renewal of registrations expiring on and after April 1, 2008. The Chief Financial Officer is the appropriate fiscal officer, except that the County Attorney is the appropriate legal officer of Monroe County referred to in this Part. The tax due on passenger motor vehicles for which the registration fee is established in paragraph (a) of subdivision (6) of Section 401 of the Vehicle and Traffic Law shall be \$5.00 per annum on such motor vehicles weighing 3500 lbs. or less and \$10.00 per annum for such motor vehicles weighing in excess of 3500 lbs. The tax due on trucks, buses and other commercial motor vehicles for which the registration fee is established in subdivision (7) of Section 401 of the Vehicle and Traffic Law used principally in connection with a business carried on within Monroe County, except for vehicles used in connection with the operation of a farm by the owner or tenant thereof shall be \$10.00 per annum.

Text of proposed rule and any required statements and analyses may be obtained from: Heidi A. Bazicki, Counsel's Office, Department of Motor Vehicles, Empire State Plaza, Swan St. Bldg., Rm. 526, Albany, NY 12228, (518) 474-0871, e-mail: hbazi@dmv.state.ny.us

Data, views or arguments may be submitted to: Ida L. Traschen, First Assistant Counsel, Department of Motor Vehicles, Empire State Plaza, Swan St. Bldg., Rm. 526, Albany, NY 12228

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

Consensus Rule Making Determination

This proposed regulation would create a new 15 NYCRR Part 29.12(dd) to provide for the collection of an Monroe County motor vehicle use tax by the Department of Motor Vehicles. Pursuant to the authority contained in Tax Law section 1202(c) and Vehicle and Traffic Law section 401(6)(d)(ii), the Commissioner must collect a motor vehicle use tax if a county has enacted a local law requiring the collection of such tax.

On October 2, 2007, the Monroe County Legislature enacted a resolution requiring that a motor vehicle use tax be imposed on passenger and commercial vehicles. Pursuant to this resolution, the Commissioner is required to collect the tax on behalf of the county and transmit the revenue to the County, minus the administrative costs required to process the tax. The tax is five dollars per annum on a passenger vehicle weighing 3,500 pounds or less, ten dollars per annum on a passenger vehicle weighing more than 3,500 pounds, and ten dollars per annum on all commercial vehicles. There are certain exempt vehicles, such as vehicles used by non-profit religious, charitable, or educational organizations, and vehicles used only in connection with the operation of a farm by the owner or tenant of the farm.

This is a consensus rule because the Commissioner has no discretion about whether to collect the tax, i.e., it must be collected per the mandate of the Monroe County resolution. The merits of the tax may have been debated before the Monroe County Legislature, but are no longer the subject of debate—it is now the law. DMV is merely carrying out the will expressed by the County Legislature.

Job Impact Statement

A Job Impact Statement is not submitted with this rulemaking, because it will not have any impact on job creation or development in New York State.

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

Driver License Requirements**I.D. No.** MTV-47-07-00019-P

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

Proposed action: This a consensus rule making to amend Part 3 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, section 215(a), 501(2)(c) and 1198

Subject: Driver license requirements.

Purpose: To add an interlock device restriction.

Text of proposed rule: Paragraph (3) of subdivision (c) of section 3.2 is amended to read as follows:

(3) The following is a listing of restrictions and codes for each restriction:

- A ACCEL LEFT OF BRAKE
- A3 SCHOOL BUS/MUNICIPAL VEHICLE
- A4 INTERLOCK DEVICE
- B CORRECTIVE LENSES
- C MECHANICAL AID
- D PROSTHETIC DEVICE
- E AUTOMATIC TRANS
- F HEARING AID OR FULL VIEW MIRROR
- G DAYLIGHT DRIVING ONLY
- H LIMITED TO EMPLOYMENT
- I LIMITED USE AUTO
- I1 LIMTD USE MCY MAX 40 MPH
- I2 LIMTD USE MCY MAX 30 MPH
- I3 LIMTD USE MCY MAX 20 MPH
- I4 THREE WHEEL MCY
- J OTHER
- K CDL INTRASTATE ONLY (DOES NOT PERMIT OPERATION OUTSIDE OF NYS IN INTERSTATE COMMERCE)
- L NO AIR BRAKES
- L1 NO AIR BRAKES CLASS A VEH
- L2 NO AIR BRAKES CLASS B VEH
- M PASS REST TO CLASS B VEH
- N PASS REST TO CLASS C VEH
- N1 NO PASS VEHICLE WITH DESIGNED ADULT SEATING CAPACITY OF 15 OR MORE PASSENGERS
- N2 NO VEHICLE WITH DESIGNED ADULT SEATING CAPACITY OF 8 OR MORE PASSENGERS
- O TRK/TRLR COMBI ONLY
- O1 TRUCK/TRL COMBI/TRUCK NOT OVER 26,000 GVWR
- P POWER BRAKES
- Q POWER STEERING
- R BUILT UP SEAT/PED/SHOE
- S HAZMAT/SCHOOL VEHICLE
- T CMV TRACTOR ONLY
- U HAND OPERATED BRAKE
- V FOOT OPER PARKING BRAKE
- X FULL HAND CONTROL
- Y SHOULDER HARNESS USE
- Z WHEEL SPINNER
- 3 TELESCOPIC LENS
- 5 NO LIMITED ACCESS ROADS

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

Data, views or arguments may be submitted to: Ida L. Traschen, First Assistant Counsel, Department of Motor Vehicles, Empire State Plaza, Swan St. Bldg., Rm. 526, Albany, NY 12228

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

Consensus Rule Making Determination

Section 1198 of the Vehicle and Traffic Law establishes an ignition interlock program in New York State. Currently, when a defendant convicted of driving while intoxicated is required as a condition of probation to equip his or her vehicle with an interlock device, "interlock" is displayed on the driving abstract but not on the actual driver's license. This amend-

ment will denote "interlock device" as the A4 restriction that will be displayed on the driver's license. It will provide notice to law enforcement officers that the license holder may only operate a motor vehicle if such vehicle is equipped with an interlock device. This device prevents the vehicle from starting if the operator has consumed alcohol.

Since this proposed amendment is minor in nature, a consensus rule is appropriate.

Job Impact Statement

A Job Impact Statement is not submitted with this proposed rule, because it will not have an adverse impact on job creation or development in New York State.

Public Service Commission

NOTICE OF ADOPTION**Rider U Enrollment Period by Consolidated Edison Company of New York, Inc.****I.D. No.** PSC-34-07-00019-A**Filing date:** Oct. 31, 2007**Effective date:** Oct. 31, 2007

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

Action taken: The commission, on Oct. 31, 2007, adopted as a permanent rule its prior order issued Aug. 7, 2007 adopting Consolidated Edison Company of New York, Inc.'s (Con Edison) tariff filing for modifications to the Rider U-Distribution Load Relief Program.

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

Subject: To adopt as a permanent rule, the commission's Aug. 7, 2007 order.

Purpose: To adopt as a permanent rule Con Edison's Rider U-Distribution Load Relief Program modifications.

Substance of final rule: The Commission adopted as a permanent rule its prior order issued August 7, 2007 adopting Consolidated Edison Company of New York, Inc.'s tariff filing for modifications to the Rider U-Distribution Load Relief Program.

Final rule compared with proposed rule: No changes.

Text of rule may be obtained from: Central Operations, Public Service Commission, Bldg. 3, 14th Fl., Empire State Plaza, Albany, NY 12223-1350, by fax to (518) 474-9842, by calling (518) 474-2500. An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(07-E-0392SA2)

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

Refund of Transmission Service Overcharges by the Village of Sherburne**I.D. No.** PSC-47-07-00020-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a petition filed by the Village of Sherburne to devote a portion of a refund related to transmission service overcharges by the New York State Electric and Gas Corporation to an imminent extraordinary capital project.

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

Subject: Transmission service overcharges.

Purpose: To allow the Village of Sherburne to use a portion of a refund for a capital project.

Substance of proposed rule: The Village of Sherburne is proposing to devote a refund related to transmission overcharges by the New York State Electric and Gas Corporation and accumulated interest to an imminent extraordinary capital project.

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

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

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

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

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

(07-E-1271SA1)

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

Submetering of Electricity by the George A. Fuller Company, Inc. on behalf of Renaissance Condominium Partners

I.D. No. PSC-47-07-00021-P

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

Proposed action: The Public Service Commission is considering whether to grant, deny or modify, in whole or in part, the petition filed by the George A. Fuller Company, Inc., on behalf of Renaissance Condominium Partners, to submeter electricity at 221 Main St., White Plains, NY.

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

Subject: Petition for the submetering of electricity.

Purpose: To consider the request of George A. Fuller Company, Inc., on behalf of Renaissance Condominium Partners, to submeter electricity at 221 Main St., White Plains, 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 the George A. Fuller Company, Inc., on behalf of Renaissance Condominium Partners, to submeter electricity at 221 Main St., White Plains, New York, located in the territory of Consolidated Edison Company of New York, Inc.

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

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

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

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

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

(07-E-1278SA1)

Department of State

NOTICE OF ADOPTION

Cremation Certification Course

I.D. No. DOS-37-07-00001-A

Filing No. 1205

Filing date: Nov. 1, 2007

Effective date: Nov. 21, 2007

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

Action taken: Addition of Part 204 to Title 19 NYCRR.

Statutory authority: Not-for-Profit Corporation Law, section 1517(j)

Subject: Approval of cremation certification course.

Purpose: To establish training and course requirements for the maintenance and operation of crematories within New York State.

Text or summary was published in the notice of proposed rule making, I.D. No. DOS-37-07-00001-P, Issue of September 12, 2007.

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

Text of rule and any required statements and analyses may be obtained from: Nathan A. Hamm, Department of State, 41 State St., Albany, NY 12231, (518) 474-6740

Assessment of Public Comment

The agency received no public comment.

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

Lists of Licensed Real Estate Brokers and Salespeople

I.D. No. DOS-47-07-00001-P

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

Proposed action: This is a consensus rule making to repeal sections 80.11 and 80.12 of Title 19 NYCRR.

Statutory authority: Public Officers Law, sections 87 and 89; Executive Law, sections 91 and 96

Subject: Lists of licensed real estate brokers and salespeople.

Purpose: To repeal two obsolete regulations requiring the Department of State to publish annual lists of real estate brokers and salespersons.

Text of proposed rule: An Amendment to 19 NYCRR Part 80 is adopted to read as follows:

Section 80.11 is repealed.

Section 80.12 is repealed

Text of proposed rule and any required statements and analyses may be obtained from: Whitney A. Clark, Department of State, Division of Licensing Services, Alfred E. Smith State Office Bldg., 80 S. Swan St., P.O. Box 22001, Albany, NY 12201-2001, (518) 473-2728, e-mail: wclark@dos.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.

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

Consensus Rule Making Determination

The Department of State is proposing this rule making as a consensus rule insofar as it merely repeals two obsolete regulations; 19 NYCRR 80.11 and 80.12. Sections 80.11 and 80.12 require the Department of State to prepare annual alphabetical lists of real estate brokers and salespeople and to make said lists available to the public, upon request.

The Department of State maintains a searchable database of all licensees on its website. This function is available to the public at no charge. When more detailed information is requested by the public, such as an alphabetical list of licensees in a particular county, the Department of State, Division of Licensing Services processes the request and compiles a response.

With the advent of the computer and Internet, it is no longer necessary to prepare hard copy lists of real estate brokers and salespersons. The names and addresses of all licensees is maintained on the Department of

State's website and made available to the public through a searchable database. If a member of the public requires information on only certain licensees or in a particular format, the request can easily and quickly be processed and responded to by the Department of State, Division of Licensing Services by accessing the information maintained in the Department of State's computer records.

Job Impact Statement

This rule will not have any substantial adverse impact on jobs and employment opportunities. The rule merely repeals two obsolete regulations which required the Department of State to produce annual hard copy lists of real estate brokers and salespersons.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Manufactured Homes

I.D. No. DOS-47-07-00018-P

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

Proposed action: Addition of Part 1210 to Title 19 NYCRR.

Statutory authority: Executive Law, section 604

Subject: Obtaining and attaching manufacturer's warranty seals and installer's warranty seals to manufactured homes; certification of manufacturers, retailers, installers and mechanics of manufactured homes; and administrative procedures for resolution of disputes relating to the construction, installation, or servicing of manufactured homes.

Purpose: To implement art. 21-B of the Executive Law, as added by chapter 729 of the Laws of 2005.

Substance of proposed rule (Full text is posted at the following State website: http://www.dos.state.ny.us/proposed_regs/index.htm):

SUMMARY

(Manufactured Homes – Part 1210)

Chapter 729 of the Laws of 2005 added Article 21-B (Manufactured Homes) of the Executive Law. This rule has been adopted to implement the provisions of Article 21-B. This rule establishes procedures for obtaining and the manufacturer's warranty seals and installer's warranty seals which must be attached to manufactured homes. This rule establishes the qualifications for certification of manufacturers, retailers, installers, and mechanics of manufactured homes. This rule establishes administrative procedures for resolution of disputes relating to the construction, installation, or servicing of manufactured homes. This rule also establishes fees relating to warranty seals, certifications, approval of instructional providers and approval of courses.

Text of proposed rule and any required statements and analyses may be obtained from: Joseph Ball, Department of State, 41 State St., Albany, NY 12231, (518) 474-6740, e-mail: Joseph.Ball@dos.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.

The statutory authority for this rule is Executive Law section 604, as added by Chapter 729 of the Laws of 2005. Executive Law section 604 provides that the Department of State (the Department) has the power and duty to promulgate rules and regulations relating to the provisions of Article 21-B of the Executive Law (Article 21-B). Article 21-B applies to persons and business entities engaged in the manufacture, sale, installation and service of manufactured homes, and requires that such persons and business entities be certified by the Department. This rule implements Article 21-B.

2. LEGISLATIVE OBJECTIVES.

Article 21-B was enacted for the purpose of ensuring that manufactured homes are installed and serviced in a professional manner; ensuring that disputes regarding the manufacture, installation, and servicing of manufactured homes be resolved fairly and expeditiously; providing a degree of security for the payment of legitimate claims; and otherwise implementing the provisions of the federal Manufactured Housing Improvement Act of 2000 (PL 106-569). The Manufactured Housing Improvement Act of 2000 requires States to enact requirements for the licensing or certification of installers of manufactured homes, training, dispute resolution, and other matters relating to manufactured homes. Article 21-B requires manufacturers and installers to attach warranty seals to manufactured homes installed in this State, requires manufacturers, retailers, installers, and mechanics to

be certified by the Department, and requires the Department to provide administrative procedures for the resolution of disputes.

This rule establishes procedures for obtaining and attaching the warranty seals required by Article 21-B; establishes standards for certification as a manufacturer, retailer, installer, or mechanic of manufactured homes; establishes administrative dispute resolution procedures; and establishes fees.

3. NEEDS AND BENEFITS.

This rule establishes procedures regarding manufacturer's and installer's warranty seals. These procedures are necessary to implement the warranty seal provisions of Article 21-B. These provisions permit manufacturers and installers to obtain the warranty seals, specify the manner in which and place where the warranty seals are to be attached, establish the fees to be paid by manufacturers and installers for obtaining the warranty seals, and establish the maximum fees that can be charged by manufacturers and installers for attaching the warranty seals.

This rule establishes qualifications and procedures for obtaining certification as a manufacturer, retailer, installer, or mechanic. These qualifications and procedures are necessary to implement the certification provisions of Article 21-B. The qualifications established by this rule include minimum experience and education requirements for retailers, installers, and mechanics; initial training requirements for installers and mechanics; and continuing education requirements for all classes of certificate holders. These provisions in this rule will benefit purchasers of manufactured homes by helping to ensure that homes will be installed in a professional manner.

This rule requires each certificate holder to file a deposit account control agreement ("DACA") evidencing the existence of a deposit account which is maintained with a financial institution and which is pledged to the Department, a letter of credit ("LOC"), or a surety bond. (However, a person holding a limited certificate will not be required to file his or her own DACA, LOC, or surety bond if he or she is covered by his or her employer's DACA, LOC, or surety bond). These financial responsibility requirements will benefit owners of manufactured homes by providing a measure of assurance that legitimate claims relating to the delivered condition, installation, service, or construction of a manufactured home will be satisfied.

The rule establishes procedures for the resolution of disputes involving the delivered condition, installation, service or construction of manufactured homes. These procedures are necessary to implement the dispute resolution provisions of Article 21-B. These procedures will benefit manufacturers, retailers, installers, mechanics, lending entities, and manufactured home owners by permitting expeditious and cost-effective resolution of disputes.

The rule establishes fees, as required by Article 21-B. The fees will defray the cost of administering Article 21-B.

4. COSTS.

a. Cost to regulated parties for the implementation of and continuing compliance with this rule.

This rule will require manufacturers and installers to obtain warranty seals to be attached to manufactured homes. Manufacturers will pay \$125 per seal. Installers will pay \$35 per seal if they request 5 or fewer, or \$25 per seal if they request 6 or more. This rule will also permit manufacturers and installers to charge purchasers a fee for attaching such seals; such fees will cover the manufacturer's and installer's costs of obtaining the seals and an additional sum (between \$15 and \$25) to cover anticipated administrative expenses.

This rule will require manufacturers, retailers, installers, and mechanics to be certified by the Department. The fee for certification for a period of 2 years will be \$200 for manufacturers, retailers, and installers, and \$100 for mechanics. However, a person employed by a person who or a business entity which is certified may apply for a limited certificate, which is valid only while such person is acting within the scope of his or her employment by his or her certified employer. The fee for limited certification for a period of 2 years will be \$25.

A certified party (other than a person holding a limited certificate) must file a DACA, LOC, or surety bond with the Department. The Department estimates that the premiums to be paid for a surety bond having a term of 2 years will be between \$800 and \$1,200 for the \$50,000 surety bond filed by a manufacturer, between \$400 and \$600 for the \$25,000 surety bond filed by a retailer, approximately \$200 for the \$10,000 surety bond filed by an installer, and approximately \$200 for the \$5,000 surety bond filed by a mechanic. The Department estimates that the fee for obtaining a LOC will typically be 1% of the face amount of the LOC per year, subject to a minimum fee of \$100 per year; this indicates that the fee for a \$50,000

LOC will be \$500 per year (or \$1,000 for 2 years), the fee for a \$25,000 LOC will be \$250 per year (or \$500 for 2 years), the fee for a \$10,000 LOC will be \$100 per year (or \$200 for 2 years), and the fee for a \$5,000 LOC will be \$100 per year (or \$200 for 2 years).

A person certified as an installer will be required to complete 16 hours of initial training prior to certification, and a business entity certified as an installer will be required to employ at least one person who has completed such initial training and who is certified by the Department. The Department estimates that the fees charged by instructional providers who provide such initial training will be between \$200 and \$300.

A person certified as a mechanic will be required to complete 6 hours of initial training prior to certification, and a business entity certified as a mechanic will be required to employ at least one person who has completed such initial training and who is certified by the Department. The Department estimates that the fees charged by instructional providers who provide such initial training will be between \$100 and \$125.

A person certified as a manufacturer, retailer, installer, or mechanic will be required to complete 3 hours of continuing education every 2 years, and a business entity certified as a manufacturer, retailer, installer, or mechanic will be required to employ at least one person who has completed such continuing education and who is certified by the Department. The Department estimates that the fees charged by instructional providers who provide such continuing education will be approximately \$50.

A private trade association or other entity applying for approval as an instructional provider will be required to pay \$100 once every 2 years. An approved instructional provider applying for approval of a course it wishes to provide will be required to pay \$50 plus \$5 for each student who takes the course.

b. Costs to the Department:

The Department anticipates that the cost to the Department to administer the programs contemplated by Article 21-B will be approximately \$490,000 per year. Those costs include the costs associated with the 5 employees that the Department anticipates it will need to administer the programs. The costs of administering Article 21-B are largely attributed to the statute and not significantly to this implementing rule.

c. Costs to other State agencies:

This rule does not impose any costs on other State agencies.

d. Cost to local governments:

This rule does not impose any costs on local governments.

5. PAPERWORK.

Under this rule, manufacturers and installers will be required to file written requests for warranty seals; manufacturers will be required to file quarterly reports of homes completed; installers will be required to file quarterly reports of installations performed; manufacturers, retailers, installers, and mechanics will be required to file written applications for certification and for periodic renewal of certification; a private trade organization or other entity wishing to provide initial training or continuing education will be required to file a written application for approval as an instructional provider and for periodic renewals of such approval; approved instructional providers will be required to file written applications for approval or courses to be provided; and instructional providers will be required to file reports of each course presented. It is the intention of the Department to develop and implement request, application, and report forms, to post such forms on the Department's web page, and otherwise to make such forms freely available to regulated parties.

6. LOCAL GOVERNMENT MANDATES.

This rule does not impose any duty on local governments.

7. DUPLICATION.

The Department is not aware of any relevant rule or other legal requirement of the State or Federal government which duplicates, overlaps or conflicts with this rule.

8. ALTERNATIVES.

The Department considered adopting provisions requiring individuals applying for certification as a retailer, installer or mechanic to have at least a high school diploma. This alternative was not adopted in this rule because such a requirement would preclude a person who holds a high school equivalency diploma, or the equivalent certification from the United States Armed Forces, from acting as a retailer, installer, or mechanic.

The Department considered adopting provisions making the filing of a surety bond the only permissible means of satisfying the financial responsibility requirements. This alternative was not adopted in this rule because such a provision would preclude the use of other acceptable instruments (viz., letters of credits and deposit account control agreements) to satisfy the financial responsibility requirements.

The Department considered adopting provisions setting financial responsibility requirements at levels higher or lower than those specified in this rule (viz., \$50,000 for a manufacturer, \$25,000 for a retailer, \$10,000 for an installer, and \$5,000 for a mechanic). The alternative of setting higher financial responsibility requirements was not adopted in this rule because the Department believes that increasing those requirements would increase the cost of obtaining the required surety bond, letter of credit or deposit account control agreement (which, in turn, would increase the costs to be passed on to homeowners), and may make it more difficult, or even impossible, for some individuals to obtain the required surety bond, letter of credit, or deposit control agreement (which, in turn, would limit homeowner's options in choosing installers and mechanics). The alternative of setting lower financial responsibility requirements was not adopted because the Department believes that lowering those requirements would not provide adequate protection to the owner of a manufactured home with a substantial defect in its delivered condition, installation, service or construction.

9. FEDERAL STANDARDS.

The Department is not aware of any instance in which this rule exceeds any minimum standards of the federal government for the same or similar subject areas.

10. COMPLIANCE SCHEDULE.

This rule can be complied with immediately. Rules substantially similar to this rule have been in effect since December 22, 2005. Previous versions of this rule established the qualifications for certification, and provided regulated parties with the information necessary to apply for and obtain the required certification prior to the date certification was first required (July 1, 2006). This rule continues, without substantial change, the qualifications for certification first established on December 22, 2005.

Summary of Regulatory Flexibility Analysis

1. EFFECT OF RULE.

This rule applies to all persons and all business entities who manufacture, sell, install, or service manufactured homes, including all small businesses that manufacturer, sell, install, or service manufactured homes. The Department of State estimates that this rule will apply to approximately 268 small businesses engaged in the retail selling of manufactured homes and approximately 100 small businesses engaged in the installation manufactured homes for buyers. This rule will also apply to small businesses that "service" (i.e., modify, alter or repair the structural systems of) manufactured homes; however, the Department of State is unable to determine at this time the number of small businesses that service manufactured homes. This rule will also apply to any small business that manufactures or produces manufactured homes. The Department of State estimates that this rule will apply to approximately 36 manufacturers; however, the Department of State believes that few, if any, of such manufacturers are small businesses.

This rule does not apply directly to local governments. However, this rule does specify that no certificate of occupancy shall be issued for any manufactured home installed on or after January 1, 2006 unless the required warranty seals have been attached to the home. This provision will affect every local government that issues certificates of occupancy.

2. COMPLIANCE REQUIREMENTS.

This rule requires manufacturers and installers of manufactured homes to obtain warranty seals from the Department of State, and to attach the warranty seals to manufactured homes that are installed on or after January 1, 2006. (The rule specifies certain situations in which a manufacturers warranty seal is not required.)

This rule requires manufacturers and installers to file quarterly reports with the Department of State.

This rule requires each person and each business entity that manufactures, sells, installs, or services manufactured homes to obtain certification from the Department of State. The qualifications for obtaining and retaining certification include (1) the filing of a surety bond, letter of credit, or deposit account control agreement; (2) having have at least a high school education, or the equivalent; (3) satisfying specified experience requirements; (4) satisfying specified initial training requirements; (5) in the case of an installer or mechanic, passing a written examination; and (6) satisfying specified continuing education requirements. In addition, a certified manufacturer must be approved by the United States Department of Housing and Urban Development to construct manufactured homes.

Each certified business entity must employ at least one certified person.

At least one person certified by the Department of State as an installer must be present at the home site during the installation or a manufactured home.

At least one person certified by the Department of State as a mechanic must be present at the home site during the performance of any service.

Any person or business entity owning or operating more than one manufacturing plant that manufactures, delivers, or sells manufactured homes in the State of New York shall be required to obtain a separate certification as a manufacturer for each such manufacturing plant.

Any person or business entity owning or operating more than one retail sales location in the State of New York shall be required to obtain a separate certification as a retailer for each such retail sales location.

This rule establishes requirements for approval of instructional providers.

This rule provides that no governmental agency or department or other person or entity responsible for issuing certificates of occupancy in any jurisdiction shall issue a certificate of occupancy for any manufactured home installed in such jurisdiction at any time on or after January 1, 2006 unless the manufacturer's warranty seal has been attached to such manufactured home (unless such manufacturer's warranty seal is not required by reason of an exception set forth in the rule) and the installer's warranty seal has been attached to such manufactured home.

3. PROFESSIONAL SERVICES.

Professional services are not likely to be required to comply with the reporting, recordkeeping and other requirements of this rule.

4. COMPLIANCE COSTS.

Manufacturers will be required to pay \$125 for each manufacturer's warranty seal, and will be permitted to charge up to \$150 for attaching a seal to a manufacture home.

Installers will be required to pay between \$25 and \$35 for each installer's warranty seal, and will be permitted to charge up to \$50 for attaching a seal to a manufacture home.

The initial cost of obtaining certification will include (1) the cost of obtaining the required surety bond, letter of credit, or deposit account control agreement, (2) the certification fee to be paid to the Department of State, and (3) in the case of certification as an installer or mechanic, the cost of the required initial training. The Department of State estimates that the initial cost of obtaining certification as a manufacturer will be between \$1,000 and \$1,400, the initial cost of obtaining certification as a retailer will be between \$600 and \$800, the initial cost of obtaining certification as an installer will be between \$600 and \$700, and the initial cost of obtaining certification as a mechanic will be between \$400 and \$425.

A person applying for a limited certificate is not required to provide his or her own surety bond, letter of credit, or deposit account control agreement. In addition, the fee to be paid to the Department of State for a limited certificate is lower than the fee to be paid for a corresponding non-limited certificate. The Department of State estimates that the initial cost of obtaining limited certification as a manufacturer or retailer will be \$25, the initial cost of obtaining limited certification as an installer will be between \$225 and \$325, and the initial cost of obtaining limited certification as a mechanic will be between \$125 and \$150.

The cost of maintaining certification will include (1) the cost of renewing the required surety bond, letter of credit, or deposit account control agreement, (2) the renewal fee to be paid to the Department of State, and (3) the cost of the required continuing education courses. The Department of State estimates that the cost of maintaining certification as a manufacturer will be between \$1,050 and \$1,450 every 2 years (or between \$525 and \$725 per year), the cost of maintaining certification as a retailer will be between \$650 and \$850 every 2 years (or between \$325 and \$425 per year), the cost of maintaining certification as an installer will be \$450 every 2 years (or \$225 per year), and the cost of maintaining certification as a mechanic will be \$350 every 2 years (or \$175 per year).

A person holding a limited certificate will not incur the expense of renewing his or her own surety bond, letter of credit or deposit account control agreement. In addition, the fee to be paid to the Department of State to renew a limited certificate will be less than the fee to be paid to renew a corresponding non-limited certificate. The Department of State estimates that the cost of maintaining limited certification in any category (manufacturer, retailer, installer or mechanic) will be \$75 every 2 years (or \$37.50 per year).

The foregoing compliance costs are not likely to vary significantly by reason of the size of the business.

Local governments are not likely to incur any costs in complying with this rule.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY.

The Department of State will print the warranty seals required by this rule. The Department of State has already prepared all or most of the application forms that will be required by this rule, and has posted such

forms on the Department's web page. The Department will otherwise make such forms freely available to the regulated parties. The Department of State believes that it will be economically and technologically feasible for small businesses to comply with this rule.

6. MINIMIZING ADVERSE IMPACT.

It appears that the Legislature intended that purchasers of manufactured homes be afforded the full measure of the consumer protections contemplated by Article 21-B without regard to the size of the businesses involved in the manufacture, sale, installation, or servicing of the home. Further, the Department of State is not aware of any information suggesting that compliance with this rule will be significantly more difficult for small businesses than for it will be for larger businesses. Accordingly, this rule makes no special provisions for small businesses.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION.

The Department of State has solicited comments from the manufactured home industry, including manufacturers, retailers, and installers, and from the insurance industry.

The Department of State notified interested parties throughout the State of the adoption of the previous emergency rules that were similar to this rule by means of notices published in *Building New York*, a monthly electronic news bulletin covering topics related to the Uniform Code and the construction industry which is prepared by the Department of State and which is currently distributed to approximately 5,500 subscribers, including local governments, design professionals and others involved in all aspects of the construction industry. The Department of State will publish a notice of the proposed adoption of this rule on a permanent basis in a future edition of *Building New York*. In addition, the Department of State will post a notice of the proposed adoption of this rule on a permanent basis, and the full text of this rule, on the Department's website.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS.

This rule implements Article 21-B of the Executive Law. Both Article 21-B and this rule apply uniformly throughout the State, including all rural areas of the State.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS.

This rule requires manufacturers and installers of manufactured homes to obtain warranty seals from the Department of State, and to attach the warranty seals to manufactured homes that are installed on or after January 1, 2006. (The rule specifies certain situations in which a manufacturer's warranty seal is not required.) The seals are to be requested in writing, on a form to be supplied by or otherwise acceptable to the Department of State.

This rule requires manufacturers to file quarterly reports with the Department of State specifying, with respect to each manufactured home completed by the manufacturer during the reporting period covered by such report, the type or model of such manufactured home and, if applicable, the name and address of the retailer to which such manufactured home was delivered. The quarterly reports are to be filed on forms provided by or otherwise acceptable to the Department of State.

This rule requires installers to file quarterly reports with the Department of State specifying, with respect to each manufactured home installed by the installer during the reporting period covered by such report, the location where such manufactured home was installed, the owner of such manufactured home at the time of installation, the type or model of such manufactured home, the manufacturer of such manufactured home; and the written certification of the installer that the installation of such manufactured home meets the standards of the New York State Uniform Fire Prevention and Building Code. The quarterly reports are to be filed on forms provided by or otherwise acceptable to the Department of State.

This rule requires each person and each business entity that manufactures, sells, installs, or services manufactured homes to obtain certification from the Department of State. Applications for certification are to be in writing, on forms provided by or otherwise acceptable to the Department of State. The qualifications for obtaining and retaining certification are summarized in paragraph 2 of the Regulatory Flexibility Analysis for Small Businesses and Local Governments.

This rule requires any private trade association or other entity wishing to provide initial training courses or continuing education courses to apply to the Department of State for approval as an instructional provider. This rule requires approved instructional providers to apply to the Department of State for approval of each course it proposes to provide. All applications are to be submitted in writing, on forms provided by or otherwise acceptable to the Department of State. Instructional providers are required to keep records showing the date and location of each course presentation and

the names and addresses of each student taking the course, and to file reports showing such information with the Department of State.

This rule provides that no governmental agency or department or other person or entity responsible for issuing certificates of occupancy in any jurisdiction shall issue a certificate of occupancy for any manufactured home installed in such jurisdiction at any time on or after January 1, 2006 unless the manufacturer's warranty seal required by this rule has been attached to such manufactured home (unless such manufacturer's warranty seal is not required by reason of an exception set forth in the rule), the installer's warranty seal required by this section has been attached to such manufactured home, and the governmental agency or department or other person or entity responsible for issuing certificates of occupancy has independently determined that such manufactured home has been installed in accordance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code.

Professional services are not likely to be required in rural areas in order to comply with the reporting, recordkeeping and other compliance requirements imposed by this rule.

3. COSTS.

Manufacturers will be required to pay \$125 for each manufacturer's warranty seal, and will be permitted to charge up to \$150 for attaching a seal to a manufacture home.

Installers will be required to pay between \$25 and \$35 for each installer's warranty seal, and will be permitted to charge up to \$50 for attaching a seal to a manufacture home.

The initial cost of obtaining certification will include (1) the cost of obtaining the required surety bond, letter of credit, or deposit account control agreement, (2) the certification fee to be paid to the Department of State, and (3) in the case of certification as an installer or mechanic, the cost of the required initial training. The Department of State estimates that the initial cost of obtaining certification as a manufacturer will be between \$1,000 and \$1,400, the initial cost of obtaining certification as a retailer will be between \$600 and \$800, the initial cost of obtaining certification as an installer will be between \$600 and \$700, and the initial cost of obtaining certification as a mechanic will be between \$400 and \$425.

A person applying for a limited certificate is not required to provide his or her own surety bond, letter of credit, or deposit account control agreement. In addition, the fee to be paid to the Department of State for a limited certificate is lower than the fee to be paid for a corresponding non-limited certificate. The Department of State estimates that the initial cost of obtaining limited certification as a manufacturer or retailer will be \$25, the initial cost of obtaining limited certification as an installer will be between \$225 and \$325, and the initial cost of obtaining limited certification as a mechanic will be between \$125 and \$150.

The cost of maintaining certification will include (1) the cost of renewing the required surety bond, letter of credit, or deposit account control agreement, (2) the renewal fee to be paid to the Department of State, and (3) the cost of the required continuing education courses. The Department of State estimates that the cost of maintaining certification as a manufacturer will be between \$1,050 and \$1,450 every 2 years (or between \$525 and \$725 per year), the cost of maintaining certification as a retailer will be between \$650 and \$850 every 2 years (or between \$325 and \$425 per year), the cost of maintaining certification as an installer will be \$450 every 2 years (or \$225 per year), and the cost of maintaining certification as a mechanic will be \$350 every 2 years (or \$175 per year).

A person holding a limited certificate will not incur the expense of renewing his or her own surety bond, letter of credit or deposit account control agreement. In addition, the fee to be paid to the Department of State to renew a limited certificate will be less than the fee to be paid to renew a corresponding non-limited certificate. The Department of State estimates that the cost of maintaining limited certification in any category (manufacturer, retailer, installer or mechanic) will be \$75 every 2 years (or \$37.50 per year).

Such costs are not likely to vary significantly for different types of public and private entities in rural areas. An installer who requests fewer than 6 installer's warranty seals at a time will be required to pay \$35 per seal, or \$10 per seal more than an installer who requests at least 6 warranty seals at a time. In addition, the fee for a letter of credit or premium for a surety bond may be dependent, in part, on the location of the business for which the letter of credit or surety bond is issued.

4. MINIMIZING ADVERSE IMPACT.

It appears that the Legislature intended that purchasers of manufactured homes be afforded the full measure of the consumer protections contemplated by Article 21-B without regard to the location of the businesses involved in the manufacture, sale, installation, or servicing of the home.

Further, the Department of State is not aware of any information suggesting that compliance with this rule will be significantly more difficult for regulated parties located in rural areas than for it will be for regulated parties located in suburban or metropolitan areas. Accordingly, this rule makes no special provisions for regulated parties located in rural areas.

5. RURAL AREA PARTICIPATION.

The Department of State has solicited comments from the manufactured home industry, including manufacturers, retailers, and installers, and from the insurance industry.

The Department of State notified interested parties throughout the State of the adoption of the previous emergency rules that were similar to this rule by means of notices published in *Building New York*, a monthly electronic news bulletin covering topics related to the Uniform Code and the construction industry which is prepared by the Department of State and which is currently distributed to approximately 5,500 subscribers, including local governments, design professionals and others involved in all aspects of the construction industry. The Department of State will publish a notice of the proposed adoption of this rule on a permanent basis in a future edition of *Building New York*. In addition, the Department of State will post a notice of the proposed adoption of this rule on a permanent basis, and the full text of this rule, on the Department's website.

Job Impact Statement

The Department of State has determined that this rule will not have a substantial adverse impact on jobs or employment opportunities.

This rule establishes the procedures for obtaining and attaching the manufacturer's warranty seal and installer's warranty seal required by Article 21-B of the Executive Law, the fees to be paid by the manufacturer and installer to obtain the warranty seals, and the maximum fees that may be charged to the customer for attaching the warranty seals to the manufactured home. The maximum fee that may be charged to a customer for attaching the required seals will be \$200. The typical delivered and installed cost of a manufactured home in this State is approximately \$70,000. Therefore, the cost of the warranty seals will be less than 0.3% of the cost of a home, and the statutory requirement that warranty seals be attached, as implemented by this rule, should not have a substantial impact on the market for manufactured homes or on jobs or employment opportunities in the manufactured home industry.

This rule also establishes procedures for determination of certain disputes regarding manufactured homes by the Department of State. Article 21-B directs the Department of State to establish such procedures. It is anticipated that by providing for administrative determination of disputes, this rule will reduce the litigation expenses for all parties involved in such disputes. Therefore, the statutory requirement that the Department of State provide for administrative resolution of disputes, as implemented by this rule, should not have a substantial impact on jobs or employment opportunities in the manufactured home industry.

This rule also established the qualifications for obtaining certification as a manufacturer, retailer, installer, or mechanic of manufactured homes. A person or business entity applying for certification will incur the following costs:

(1) Generally, the cost of obtaining a certification will be \$100 per year in the case of a manufacturer, retailer, and installer, and \$50 per year in the case of a mechanic. However, a person who is employed by a person who or a business entity which is certified may apply for a limited certification, which is valid only while such person is acting within the scope of his or her employment by his or her certified employer; the cost of obtaining such a limited certificate will be \$12.50 per year.

(2) Installers and mechanics may be required to pay fees to the instructional providers who present the initial training courses required for certification, and all certificate holders may be required to pay fees to the instructional providers who present the continuing education courses required to maintain certified status.

(3) Generally, each certificate holder will be required to file a deposit account control agreement, letter of credit, or surety bond. Those certificate holders who file a letter of credit will be required to pay fees to the financial institutions that issue such letters of credit, and those certificate holders who file a surety bond will be required to pay premiums to the insurance companies that issue such bonds. However, the holder of a limited certificate will not be required to file a deposit account control agreement, letter of credit, or surety bond, provided that his or her certified employer has filed an acceptable deposit account control agreement, letter of credit, or surety bond.

It is anticipated that the total cost of certification, instruction, and bonding will be relatively modest, particularly when these costs are spread over all the units manufactured by a certified manufacturer, sold by a

certified retailer, installed by a certified installer, or serviced by a certified mechanic, during the course of a year. Therefore, the statutorily mandated certification process, as implemented by this rule, should not add a significant sum to the total cost of a manufactured home in this State, and should not have a substantial impact on jobs or employment opportunities in the manufactured home industry.