

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

ERRATUM

Four notices of adoption, I.D. Nos. CVS-44-07-00024-A, CVS-44-07-00030-A, CVS-47-07-00010-A and CVS-47-07-00011-A all pertaining to Jurisdictional Classification, published in the March 12, 2008 issue of the *State Register* should have indicated nonsubstantive changes were made. Following is a list of the nonsubstantive changes and text for each rule making.

CVS-44-07-00024-A

Nonsubstantive changes were made. Department of Mental Hygiene was left out of the proposed rule.

Text of final rule: Amend Appendix(es) 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Mental Hygiene under the subheading “Office of Mental Health,” by increasing the number of positions of Advocacy Specialist 2 from 2 to 3.

CVS-44-07-00030-A

Nonsubstantive changes were made. Proposed rule read Specialist Assistant instead of Special Assistant.

Text of final rule: Amend Appendix(es) 1 of the rules for the Classified Service, listing positions in the exempt class, in the Department of Health, by deleting therefrom the position of Director Bureau Medical Assistance Operations and by increasing the number of positions of Special Assistant from 12 to 14; and

Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Health, by deleting therefrom the position of Social Services New York City Systems Specialist (1).

CVS-47-07-00010-A

Nonsubstantive changes were made. Proposed rule read Associate Attorney instead of Associate Counsel.

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 “Board of Elections,” by adding thereto the positions of Associate Counsel (2) and Investigative Auditor (2) and by increasing the number of positions of Special Assistant from 2 to 4.

CVS-47-07-00011-A

Nonsubstantive changes were made. Proposed amendment read Appendix 1 instead of Appendix 2.

Text of final 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 the Budget,” by increasing the number of positions of Budget Fellow from 52 to 67.

The Department of State apologizes for any confusion this may have caused.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-12-08-00001-P

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

Proposed action: Amendment of 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 of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Law, by increasing the number of positions of Investigator from 165 to 173.

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 30, 2008 under the notice of proposed rule making I.D. No. CVS-05-08-00003-P.

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

Jurisdictional Classification

I.D. No. CVS-12-08-00002-P

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

Proposed action: Amendment of 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 "Office for Technology," by adding thereto the positions of Director Affirmative Action Programs and State-wide Interoperability Coordinator.

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

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

Jurisdictional Classification

I.D. No. CVS-12-08-00003-P

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

Proposed action: Amendment of 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 adding thereto the position of Investigator.

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

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

Jurisdictional Classification

I.D. No. CVS-12-08-00004-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 positions in the exempt class in the Banking Department.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Banking Department, by increasing the number of positions of Assistant Counsel from 10 to 12.

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

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

Jurisdictional Classification

I.D. No. CVS-12-08-00005-P

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

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

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

Subject: Jurisdictional classification.

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

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 Health, by adding thereto the position of Affirmative Action Administrator 3 (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

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

Jurisdictional Classification

I.D. No. CVS-12-08-00006-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 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 "Commission of Correction," by adding thereto the position of Executive Director.

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

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

Jurisdictional Classification

I.D. No. CVS-12-08-00007-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 State University of New York.

Text of proposed rule: Amend Appendix(es) 1 of the Rules for the Classified Service, listing positions in the exempt class, in the State University of New York under the subheading "Central Administration," by increasing the number of positions of Confidential Aide 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 30, 2008 under the notice of proposed rule making I.D. No. CVS-05-08-00003-P.

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

Jurisdictional Classification

I.D. No. CVS-12-08-00008-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) 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 Agriculture and Markets.

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 Agriculture and Markets, by adding thereto the position of Horticultural Inspector 3 (Invasive Species) (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

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

Jurisdictional Classification

I.D. No. CVS-12-08-00009-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 and 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 delete a position from the non-competitive 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 of the Governor, Office of the State Inspector General," by adding thereto the position of Investigator State Inspector General; and

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 "Office of the Governor, Office of the State Inspector General," by decreasing the number of positions of Principal Investigator (State Inspector General) from 9 to 8.

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 30, 2008 under the notice of proposed rule making I.D. No. CVS-05-08-00003-P.

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

Jurisdictional Classification

I.D. No. CVS-12-08-00010-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) 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 Health.

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 Health under the subheading "Office of the Medicaid Inspector General," by increasing the number of positions of Medicaid Investigator 1 from 4 to 32, Medicaid Investigator 2 from 7 to 21, Medicaid Investigator 3 from 5 to 11 and Medicaid Investigator 4 from 1 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 30, 2008 under the notice of proposed rule making I.D. No. CVS-05-08-00003-P.

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

Jurisdictional Classification

I.D. No. CVS-12-08-00011-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) 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 Mental Hygiene.

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 Mental Hygiene under the subheading "Office of Mental Retardation and Developmental Disabilities," by adding thereto the position of Minority Business Specialist 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

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

Jurisdictional Classification

I.D. No. CVS-12-08-00012-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) 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 Health.

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 Health under the subheading "Helen Hayes Hospital," by adding thereto the position of Director of Rehabilitation Hospital Information Technology (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

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

Jurisdictional Classification

I.D. No. CVS-12-08-00014-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) 1 of Title 4 NYCRR.

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

Subject: Jurisdictional classification.

Purpose: To classify a positions in the exempt class in the Department of Family Assistance.

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 Family Assistance under the subheading "Office of Children and Family Services," by adding thereto the position of Chief Investigations.

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 30, 2008 under the notice of proposed rule making I.D. No. CVS-05-08-00003-P.

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

Jurisdictional Classification

I.D. No. CVS-12-08-00015-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) 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 Mental Health," by adding thereto the position of Director Affirmative Action Programs.

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 30, 2008 under the notice of proposed rule making I.D. No. CVS-05-08-00003-P.

Crime Victims Board

NOTICE OF ADOPTION

Reimbursement of Claimants' New or Enhanced Security Devices

I.D. No. CVB-02-08-00004-A

Filing No. 198

Filing date: Feb. 28, 2008

Effective date: March 19, 2008

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

Action taken: Addition of section 525.12(g)(1)(ii) to Title 9 NYCRR.

Statutory authority: Executive Law, section 626

Subject: Reimbursement of claimants' new or enhanced security devices.

Purpose: To establish the process through which claimants may be reimbursed by the board for the costs associated with new or enhanced security devices and allow claimants or potential claimants to be aware of what expenses the board would consider reimbursable under its statutory authority.

Text or summary was published in the notice of proposed rule making, I.D. No. CVB-02-08-00004-P, Issue of January 9, 2008.

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

Text of rule and any required statements and analyses may be obtained from: John Watson, General Counsel, Crime Victims Board, One Columbia Circle, Ste. 200, Albany, NY 12203, (518) 457-8066, e-mail: johnwatson@cvb.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Department of Health

EMERGENCY RULE MAKING

Enactment of a Serialized New York State Prescription Form

I.D. No. HLT-12-08-00017-E

Filing No. 219

Filing date: March 3, 2008

Effective date: March 3, 2008

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

Action taken: Addition of Part 910 and amendment of Parts 80 and 85 of Title 10 NYCRR; and amendment of section 505.3 and repeal of sections 528.1 and 528.2 of Title 18 NYCRR.

Statutory authority: Public Health Law, section 21

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

Specific reasons underlying the finding of necessity: We are proposing that these regulations be adopted on an emergency basis because immediate adoption is necessary to protect the public health and safety and to meet statutory requirements. The budget proposal enacting Section 21 contains explicit authority for the Commissioner to promulgate emergency regulations. This was done recognizing the need to provide for the implementation of the use of statewide forge proof prescriptions by the April 19, 2006 date mandated by the law.

Immediate adoption of these regulations is necessary to allow the implementation of Section 21 of Public Health Law, achieve the health care cost savings and to enhance the quality of health care by preventing drug diversion resulting from forged or stolen prescriptions.

The practitioner groups affected by this proposal, PSSNY, MSSNY and the Health Plan Association of New York were consulted during budget negotiations. Their concerns are addressed in the statutory proposal set forth in the state budget and in these regulations.

Subject: Enactment of a serialized New York State prescription form.

Purpose: To enact a serialized New York State prescription form.

Substance of emergency rule: Part 910 (10 NYCRR)

These regulations are being proposed on an emergency basis to implement Section 21 of the Public Health Law. The purpose of the law is to combat and prevent prescription fraud by requiring the use of an official New York State prescription for all prescribing done in this state. Official prescriptions contain security features that will curtail alterations and forgeries that divert drugs to black market sale to unsuspecting patients and cost New York's Medicaid program and private insurers tens of millions of dollars annually in fraudulent claims.

The emergency regulations consist of a new Part 910 to Title 10 NYCRR. Section 910.1 defines terms used in the Part. Section 910.2 states requirements for practitioner prescribing, including that, until April 19, 2007, hospitals and comprehensive voluntary non-profit community diagnostic and treatment centers designated by the Department are exempted from the requirement for their staff practitioners to prescribe non-controlled substances on an official prescription form. The exemption will continue beyond April 19, 2007 if the hospital and the comprehensive

voluntary non-profit community diagnostic and treatment center implements and utilizes an electronic prescribing system to transmit prescriptions to pharmacies capable of receiving them. The exemption also will continue beyond April 19, 2007 for those facilities approved by the Department that have implemented a computerized provider order entry system that generates paper prescriptions. This exemption will allow staff practitioners to issue printed prescriptions—which minimize medication errors due to misinterpretations of handwritten prescriptions for—non-controlled substances on the prescription form of the facility until the Department approves and provides an alternative form of serialized official New York State prescription. Section 910.3 covers registration with the Department, which practitioners and healthcare facilities are required to do to order official prescriptions. Section 910.4 states the manner in which official prescriptions will be issued by the Department, while section 910.5 lists the practitioner and facility requirements for safeguarding the official prescriptions against theft, loss or unauthorized use. Section 910.6 states pharmacy requirements for dispensing official prescriptions and out-of-state prescriptions, which may be dispensed in lieu of an official prescription. Section 910.6 also states pharmacy requirements for submission of official prescription data to the Department. Section 910.6 also authorizes pharmacies to fill prescriptions for non-controlled substances until October 19, 2006 that are not written on an official prescription provided that the pharmacy notify the Department of the prescribing practitioner so that the practitioner may be contacted and issued official prescriptions for subsequent prescribing.

Both 10 NYCRR and 18 NYCRR have been revised to reflect the above regulations, update outdated/obsolete sections and to allow for greater flexibility for changes in law. The following changes are proposed:

Section 505.3 (18 NYCRR)

- Language included to reflect use of facsimile prescriptions.
- Language included to allow electronically transmitted prescriptions.
- Language included to mandate that all claims for payments of drugs or supplies under the Medicaid program shall contain the serial number of the Official NYS Prescription Form.

- Delete language prohibiting telephone orders for OTCs.

- Language amended—telephone prescriptions for non-controlled substances WILL NOT require a follow-up hard copy prescription (even with refills).

- Delete Estimated Acquisition Cost—defined in Social Services Law section 367-a(9)(b)(ii).

- Delete language referencing “triplicate” prescriptions and update to language consistent with Official NYS Prescription Form and Article 33 of the Public Health Law.

- Delete language referencing other Sections that have been deleted (i.e. 10 NYCRR 85.25).

- Delete language referencing dispensing fees—in Social Services Law section 367-a(9)(d).

- Language is added to reference prescription drugs filled in compliance with section 6810 of the Education Law, Article 33 of the Public Health Law and new 10 NYCRR Part 910.

- A change was made to a prior version of the emergency filing for 18 NYCRR 505.3(b)(7). The words “or supplies” were deleted since the enacting legislation (Section 21 of the Public Health Law) only mandated that forge proof prescriptions be utilized for prescription drugs. This change conforms the regulations to the law.

Part 528 (18 NYCRR)

- Section 528.1 is deleted—obsolete listing of non-prescription drugs covered under the Medicaid program. Listing of reimbursable drugs and rate is available on-line at the NYS eMedNY website.

- Section 528.2 is deleted—language regarding “dispensing fees including routine delivery charges” is moved to 18 NYCRR 505.3(f)(6). Compounding fee language in 18 NYCRR 505.3 [6] (3).

Part 85 (10 NYCRR)

- Section 85.21 amended—OTC List—quantities and dosage forms have been deleted to allow greater flexibility in coverage. Remove OTC categories that are no longer marketed.

- Section 85.22 amended—establishment of OTC prices amended to more accurately reflect OTC pricing (Ad Hoc Committee is obsolete) and removal of references to deleted Sections (i.e., 18 NYCRR 528.2 and 10 NYCRR 85.25).

- Section 85.23 deleted—Revisions to list of OTCs and Maximum Reimbursable Prices—in Social Services Law 365-a(4)(a).

- Section 85.25 deleted—Prescription drug list covered under Medicaid—obsolete. Drug list available on line at NYS eMedNY website.

Part 80 (10 NYCRR)

- Part 80 table of contents has been revised to reflect amendments in titles of sections of regulations.

- Sections have been amended throughout Part 80 to revise the previous title of 'Bureau of Narcotic Control' and 'Bureau of Controlled Substances' to the current title of 'Bureau of Narcotic Enforcement'.

- Sections have been amended throughout Part 80 to revise the previous title of 'Bureau of Narcotics and Dangerous Drugs' to the current title of 'Drug Enforcement Administration'.

- Section 80.1—language added to define 'automated dispensing system'.

- Section 80.5—language deleted for 3b Institutional Dispenser license due to registration of facilities to be issued official prescriptions. Language added for retail pharmacy license, installation, and operation of automated dispensing system in Residential Healthcare Facility (RHCF).

- Section 80.11—language added to make requirements for supervising pharmacist of controlled substance manufacturer and distributor consistent with pharmacist licensure requirements in New York State Education Law.

- Section 80.46—language added to require supervising physician countersignature of medical order of physician's assistant if deemed necessary by supervising physician or hospital to bring regulation into consistency with PHL 3703.

- Section 80.47—language revised to except administration of controlled substances in emergency kits to patients in Title 18 adult care facilities.

- Section 80.49—language revised from prescription serial number to pharmacy prescription number.

- Section 80.50—language added to require pharmacies to maintain separate stocks of controlled substances received for use in automated dispensing system in RHCF and to authorize storage of non-controlled substances in such system.

- Section 80.60—language added for female gender reference to practitioner.

- Section 80.63—deleted definition of written prescription and added definition of out-of-state prescription. Language added to authorize printed prescriptions generated by computer or electronic medical record system. Language added regarding practitioner oral prescribing requirement.

- Section 80.67—midazolam and quazepam added to list of benzodiazepine controlled substances, as per PHL 3306. Language added requiring quantity of dosage units to be indicated in both numerical and written word form. Language amended to include chorionic gonadotropin as controlled substance for prescribing up to a 3-month supply. Language added to assign code letters to medical conditions for prescribing more than a 30-day supply.

- Section 80.67(con't)—language deleted regarding Department's issuance of official New York State prescriptions, due to added language in section 80.72. Language deleted for face and back of prescription to facilitate timely pharmacist dispensing. Language added authorizing practitioner faxing of prescription for hospice or RHCF patient and for prescription to be compounded for direct parenteral administration to patient.

- Section 80.68—language added for certain other controlled substances. Language deleted requiring pharmacist to endorse pharmacy DEA number on official NYS prescription to facilitate timely dispensing. Language added requiring electronic transmission of prescription data to Department.

- Section 80.69—language added requiring quantity of dosage units to be indicated in numerical and written word form. Language added to assign letters for condition codes. Deleted reference to PHL sections 3335 and 3336, which were deleted by PHL section 21, and added reference PHL sections 3332 and 3333, which are now the relevant sections. Deleted written prescription and added official prescription. Deleted back of the prescription and face of the prescription to facilitate timely dispensing. Language added authorizing practitioner faxing of prescription for hospice or RHCF patient and for prescription to be compounded for direct parenteral administration to patient.

- Section 80.70—Language added specifying oral prescriptions for 30-day supply or 100 dosage units does not apply to substance limited to 5-day supply by section 80.68. Deleted serial prescription number and added pharmacy prescription number. Added female gender language in reference to pharmacist. Language added requiring filing of prescription information with Department

- Section 80.71—Deleted section (b) to reflect that practitioners are no longer required by PHL section 3331 to complete an official prescription when dispensing controlled substances. Corrected spelling of chorionic gonadotropin. Added reference to condition codes in sections 80.67 and

80.69. Added packaging and labeling requirements for practitioner dispensing of controlled substances. Added requirement for practitioners to submit dispensing information to Department by electronic transmission.

- Section 80.72—deleted all references to practitioner dispensing and labeling requirements because practitioner dispensing now covered by section 80.71. Language added regarding practitioner registration with Department and Department issuance of official NYS prescription forms.

- Section 80.73—added language specifying pharmacist dispensing of schedule II and controlled substances listed in section 80.67. Added female gender language in reference to pharmacist. Deleted requirement for pharmacist to endorse pharmacy DEA number on prescription for timely dispensing. Language added requiring pharmacy to verify identity of person picking up dispensed prescription. Language added requiring pharmacy electronic transmission of prescription data to Department.

- Section 80.73(con't)—language added specifying emergency oral prescriptions for schedule II and controlled substances listed in section 80.67 and filing of emergency oral prescription memorandum. Language added requiring pharmacy electronic transmission of oral prescription data to Department. Language added specifying partial filling of official prescription for schedule II and controlled substances listed in section 80.67. Language added authorizing pharmacist dispensing of faxed prescription and requiring delivery of original within 72 hours.

- Section 80.74—language added in section title specifying pharmacist dispensing of controlled substances. Language added for prescription labeling requirements. Added female gender reference to pharmacist. Added requirement for filing prescription data with Department. Language added authorizing pharmacist dispensing of faxed prescription and requiring delivery of original within 72 hours.

- Section 80.74(con't)—language added for pharmacy requirement to verify identification of person picking up prescription. Deleted reference to schedule II controlled substances and those substances listed in section 80.67 because all controlled substances now require official NYS prescription. Deleted labeling requirement reference to section 80.72 and added reference to section 80.71.

- Section 80.75—deleted language regarding requirement to purchase official prescriptions. Added language regarding registration and issuance of official prescriptions for institutional dispenser.

- Section 80.78—Added a new section regarding pharmacist requirements for dispensing of out-of-state prescriptions for controlled substances, to be dispensed in conformity with provisions set forth for official prescriptions.

- Section 80.84—deleted language requiring group practice providing treatment of opiate dependence with buprenorphine to be limited to 30 patients at any one time, making New York State regulations consistent with the federal Drug Addiction Treatment Act. Deleted language requiring practitioners and pharmacies to register with Department to prescribe and dispense buprenorphine. Deleted language requiring pharmacy to file prescription data and report loss of controlled substances because redundant. Deleted reference to PHL sections 3335 and 3336 because deleted by PHL 21 and added reference to PHL sections 3332 and 3333 because now relevant sections.

- Section 80.106—added language requiring separate record-keeping for pharmacies installing automated dispensing system in RHCF.

- Section 80.107—added language authorizing Department to notify practitioner of patient treatment with controlled substances by multiple practitioners, consistent with PHL section 3371.

- Section 80.131—deleted written prescription, added official prescription and out-of-state prescription. Language added increasing oral prescription for hypodermic needles and syringes to quantity of one hundred hypodermic needles and syringes.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire May 31, 2008.

Text of emergency rule and any required statements and analyses may be obtained from: Katherine E. Ceraolo, Department of Health, Office of Regulatory Affairs, Corning Tower, Rm. 2438, Empire State Plaza, Albany, NY 12237-0097, (518) 473-7488, fax: (518) 473-2019, e-mail: regsqa@health.state.ny.us

Regulatory Impact Statement

Regulatory Authority:

Section 3308(2) of the Public Health Law authorizes and empowers the Commissioner to make any regulations necessary to supplement the provisions of Article 33 of the Public Health Law in order to effectuate its purpose and intent.

The state budget for SFY 2004-2005 enacted new Section 21 of the Public Health Law which mandates a statewide official prescription form for all prescriptions written in New York for the purpose of curtailing prescription fraud and enhancing patient safety. The law, Chapter 58 of the Laws of 2004, permits the Commissioner to promulgate emergency regulations in furtherance of this new section of law.

Legislative Objectives:

Article 33 of the Public Health Law, officially known as the New York State Controlled Substances Act, was enacted in 1972 to govern and control the possession, prescribing, manufacturing, dispensing, administering and distribution of controlled substances within New York. New Section 21 of the Public Health law mandates a statewide official prescription, supports electronic prescribing and facilitates the dispensing process.

Needs and Benefits:

This regulation will support the enactment of an official New York State prescription form, which will deter fraud by curtailing theft or copying of prescriptions by individuals engaged in drug diversion. These regulations have been drafted after discussions with such provider groups as the State Health Plan Association, Medical Society of the State of New York and the Pharmacist Society of the State of New York.

Regulations are being proposed to implement Section 21 of the Public Health Law (PHL). The purpose of the law is to combat and prevent prescription fraud by requiring an official New York State prescription for every prescription written in New York. Official prescriptions contain security features designed specifically to curtail alterations, counterfeiting, and forgeries, all of which divert drugs to black market sale to unsuspecting patients and cost New York's Medicaid program and private insurers tens of millions of dollars annually in fraudulent claims.

Regulations have been amended to reflect the implementation of the above Public Health Law and to update obsolete or outdated language in the existing regulations. The proposed regulations also include amendments to authorize a practitioner to deliver a controlled substance prescription to a pharmacy by facsimile transmission in specified circumstances and to authorize a pharmacist to dispense such faxed prescription. By facilitating timely prescribing and dispensing, such facsimile transmission will enhance healthcare for patients enrolled in hospice programs or residing in a Residential Healthcare Facility (RHCF) and for patients who require controlled substance prescriptions to be compounded for administration by parenteral infusion.

Regulations have also been amended to authorize the Department to license a retail pharmacy to install and operate an automated dispensing system in a RHCF, which will bring New York regulations into consistency with federal regulations. The installation and operation of such systems will significantly benefit patient care through timely and efficient dispensing of prescriptions for controlled substances. Automated dispensing systems will also lessen the cost of medications remaining from waste due to discontinued drug therapy and will simultaneously decrease the amount of such controlled substances that are susceptible to diversion.

These regulations are found in amendments to 10 NYCRR Part 80 and in the newly promulgated regulations in 10 NYCRR Part 910. Included in the Part 910 regulations is an exemption allowing hospital practitioners or practitioners in a comprehensive voluntary non-profit diagnostic and treatment center designated by the Department to prescribe non-controlled substances on a non-official hospital prescription until April 19, 2007. The exemption will continue beyond April 19, 2007 for hospitals and designated comprehensive voluntary non-profit diagnostic and treatment centers that implement and utilize an electronic prescription system to transmit prescriptions to pharmacies capable of receiving them. The exemption also will continue beyond April 19, 2007 for those facilities approved by the Department that have implemented a computerized provider order entry system that generates printed paper prescriptions. This exemption will address concerns expressed by the facilities regarding the expense of safeguarding official prescription paper and purchasing and installing additional dedicated computer printers in order to comply with the regulations. The exemption will allow staff practitioners to issue printed prescriptions for non-controlled substances on the prescription form of the facility until the Department approves and provides an alternative form of serialized official New York State prescription. Printed prescriptions enhance patient care by minimizing medication errors due to misinterpretations of handwritten prescriptions.

Also included in the Part 910 regulations is an exemption allowing pharmacies to dispense prescriptions for non-controlled substances that are not issued on an official prescription until October 19, 2006 in order that optimum care may continue to be provided to patients. The regulation requires pharmacies to notify the Department so that the practitioner may

be contacted and issued official prescriptions for all subsequent prescribing.

Title 18, Section 505.3 has also been amended to clarify for pharmacy providers that serial numbers reporting by billing pharmacy providers is required in all instances where a prescriber or orderer of services used a serialized prescription, whether or not the prescription is for prescription drugs. This change is requested in recognition of the opportunity serialized prescriptions offer to reduce the incidence of prescription theft. The reporting of prescription serial numbers on claims allows the MMIS claims system to provide feedback and alerts to pharmacy providers, at the point of service, about stolen prescriptions. Lack of serial numbers on a claim hampers this capability.

Costs:

Costs to Regulated Parties:

This program is being funded by an annual assessment on the State Insurance Department of \$16.9 million. The assessment funds the costs of providing 180 million official prescriptions annually as well as administrative and enforcement staffing to operate and enforce the program. The current fee to practitioners and institutions for the official prescription has been eliminated. Private insurers and the Medicaid program will realize, respectively, an estimated \$75 million and \$25 million in annual savings due to the reduction of fraudulent prescription claims.

The \$25 million estimated savings for the Medicaid program represents the 25% New York State share. \$50 million in estimated savings would accrue to the 50% federal government share of Medicaid, while \$25 million in estimated savings will accrue to the 25% local government share of Medicaid.

The allowance for electronic prescribing in the Medicaid program and the expedition of the dispensing process through the use of bar coding will save valuable professional time for practitioners and pharmacists.

There will be a slight expenditure to pharmacies for software adjustments, due to minor changes in reporting requirements for controlled substance prescriptions.

Costs to State and Local Government:

There will be no costs to state or local government. Savings to State government are estimated at \$25 million. Savings to local government, from reduction in subsidizing of prescription costs for patients in their Medicaid population, will result in an estimated \$25 million.

Costs to the Department of Health:

There will be no additional costs to the Department. The decrease in prescription fraud as a result of use of the official prescription will result in savings for the Department for the Medicaid, Elderly Pharmaceutical Insurance Coverage, and Empire programs. An increase in the efficiency of investigations made possible by the official prescription program will result in additional savings for the Department.

Local Government Mandates:

The proposed rule does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other specific district.

Paperwork:

No additional paperwork is required. The use of a single prescription form for controlled substances and non-controlled substances will simplify paperwork and record keeping for practitioners and institutions. Currently, practitioners use their own prescription form as well as the official prescription. The official prescription will replace existing prescriptions that are currently used in addition to the official prescription. Encouragement of electronic prescribing will significantly reduce paperwork requirements for practitioners, institutions and pharmacists.

Duplication:

The requirements of this proposed regulation do not duplicate any other state or federal requirement.

Alternatives:

There are no alternatives that would support the approach to be taken under the regulations. The limitation on reporting requirements by pharmacies (only for controlled substances as opposed to requiring reporting on all prescriptions) was done after consultation with affected provider organizations.

As a result of consultations with the hospital community, hospitals were granted a one-year exemption, until April 19, 2007, from the requirement for their staff practitioners to prescribe non-controlled substance medications on the official prescription. The purpose of the exemption is to serve as an incentive for hospitals to develop electronic prescription systems. The exemption will be extended if the hospital implements and utilizes an electronic prescription system to transmit such prescriptions directly to a pharmacy in lieu of an official prescription. The exemption

also will be extended beyond April 19, 2007 for a hospital approved by the Department that has implemented a computerized provider order entry system that generates printed paper prescriptions. This exemption will address concerns expressed by the facilities regarding the expense of safeguarding official prescription paper and purchasing and installing additional dedicated computer printers. The exemption will allow staff practitioners to issue printed prescriptions—which minimize medication errors due to misinterpretation of handwritten prescriptions—for non-controlled substances on a hospital prescription form until the Department approves and provides an alternative form of official New York State prescription.

Federal Standards:

The regulatory amendment does not exceed any minimum standards of the federal government.

Compliance Schedule:

These regulations will become effective immediately upon filing a Notice of Emergency Adoption with the Secretary of State.

Regulatory Flexibility Analysis

Effect of Rule on Small Business and Local Government:

This proposed rule will affect practitioners, pharmacists, retail pharmacies, hospitals and nursing homes.

According to the New York State Department of Education, Office of the Professions, there are approximately 120,000 licensed and registered practitioners authorized to prescribe and order prescription drugs. According to the New York State Board of Pharmacy, there are a total of approximately 4,500 pharmacies in New York State. According to the New York State Education Department's Office of the Professions, there are approximately 18,000 licensed and registered pharmacists in New York.

Compliance Requirements:

The regulations follow the newly enacted Section 21 of the Public Health Law and require the use of the official New York State Prescription form. In addition to curtailing fraud and drug diversion, these regulations will expedite the prescribing and dispensing process. Practitioners, institutions and pharmacists will benefit from the following amendments;

- (1) Eliminating the fee to practitioners and institutions for official prescriptions;
- (2) Eliminating the requirement that pharmacists write the DEA number of the pharmacy on the official prescription;
- (3) Bar coding of the serial number on the official prescription to expedite the dispensing process; and
- (4) Eliminating multiple prescription forms practitioners currently use to prescribe drugs.

Currently, dispensing data is required from all Schedule II and benzodiazepine prescriptions. The only new requirement is the submission of dispensing data from the original dispensing of all prescriptions for controlled substances.

Professional Services:

No additional professional services are necessary.

Compliance Costs:

Pharmacies may require minor adjustments in computer software programming due to additional prescription data submission requirements.

Economic and Technological Feasibility:

The proposed rule is both economically and technologically feasible. The process utilizes existing electronic systems for reporting of dispensing by pharmacies. The regulations encourage the use of electronic prescribing by practitioners. Electronic prescribing is not only more efficient than the current paper process, it is also a secure procedure that will reduce prescription fraud. Electronic prescribing will protect the public health and result in substantial savings to the Medicaid program and private insurance as well as enhancing public safety.

Minimize Adverse Impact:

The regulations require only a minimal increase in reporting requirements. These requirements were negotiated with organizations representing the affected groups. The use of bar coding and the encouragement of electronic prescribing minimize any adverse impact.

Small Business and Local Government Participation:

During the drafting of the statute which is the basis of these regulations, the Department met with the Pharmacist Society of the State of New York (PSSNY), the Medical Society of the State of New York (MSSNY) and the Health Plan Association of New York. The regulations were drafted considering their comments. Local governments are not affected.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

The proposed rule will apply to participating pharmacies, practitioners and institutions located in all rural areas of the state. Outside of major cities

and metropolitan population centers, the majority of counties in New York contain rural areas. These can range in extent from small towns and villages and their surrounding areas, to locations that are sparsely populated.

Compliance Requirements:

The only compliance requirements are the use of the official prescription provided free of charge and additional minimal reporting requirements by pharmacies. The regulations are in furtherance of new Section 21 of the Public Health Law authorizing a statewide official prescription aimed at reducing fraud. Additionally, the regulations assist practitioners and pharmacies by making the prescribing and dispensing process more efficient through the use of electronic prescribing.

Professional Services:

None necessary.

Compliance Costs:

The new law requires all pharmacies in New York State to electronically transmit information from controlled substance prescriptions to the Department on a monthly basis, for monitoring and analysis purposes in combating prescription fraud. Pharmacies may require minor adjustments in computer software programming due to this additional prescription data submission requirement.

Economic and Technological Feasibility:

The proposed rule is both economically and technologically feasible. The process will utilize existing electronic systems for reporting of dispensing information by pharmacies. The regulations encourage the use of electronic prescribing, which is more efficient and more secure than a paper process. Electronic prescribing will also enhance patient safety through a reduction in medication error due to legibility issues.

Minimize Adverse Impact:

The regulations require only a minimal increase in reporting requirements. This requirement is minimized by permitting pharmacies to scan the bar code of the prescription serial number onto the Medicaid claim form also through the allowance of electronic prescribing. Additionally, the benefits on regulated entities resulting from these regulations and described herein outweigh any adverse impact.

Rural Area Participation:

During the drafting of this regulation, the Agency met with and solicited comments from pharmacist, health plan and practitioner associations who represent these professions in rural areas. No particular issues relating to the effect of this program on rural areas was expressed.

Job Impact Statement

Nature of Impact:

This proposal will not have a negative impact on jobs and employment opportunities. In benefiting the public health by ensuring that drug diversion does not occur through the use of forged or stolen prescriptions, the proposed amendments are not expected to either increase or decrease jobs overall. The fiscal savings to public and private insurers will result in an economic benefit to these groups and could have a positive influence on jobs. Additionally, the anticipated time saved by practitioners and pharmacists will benefit all parties involved as well as patients.

Public Service Commission

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

Installed Reserve Margin of 15.0 Percent for the New York Control Area

I.D. No. PSC-12-08-00016-EP

Filing date: Feb. 29, 2008

Effective date: Feb. 29, 2008

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

Action taken: The commission adopted an installed reserve margin (IRM) of 15.0 percent for the New York Control Area for the capability period beginning on May 1, 2008 and ending on April 30, 2009.

Statutory authority: Public Service Law, sections 4, 5, 65 and 66

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

Specific reasons underlying the finding of necessity: The installed reserve margin (IRM) must be established prior to the March 28, 2008 installed capacity auction (ICAP) in order to provide market participants adequate notice to inform their bidding and to enable the New York Independent System Operator to conduct the ICAP auction without disruption. A failure to timely adopt the IRM could potentially impair availability of bidders and adversely affect the adequacy of capacity supply and the reasonableness of capacity prices. As a result, compliance with the advance notice requirements of SAPA section 202(1) would be contrary to the public interest, and the immediate adoption of an IRM is necessary for the preservation of the public health, safety and general welfare.

Subject: Commission adoption of an installed reserve margin of 15.0 percent for the New York Control Area for the capability period beginning on May 1, 2008 and ending on April 30, 2009.

Purpose: To ensure continued safety, adequacy and reliability of New York's electric system.

Substance of emergency/proposed rule: This rule will establish a minimum Installed Reserve Margin (IRM) of 15.0% for the New York Control Area for the capability year beginning May 1, 2008 and ending April 30, 2009. According to the New York Independent System Operator, Inc. (NYISO), the IRM must be established on or before March 1, 2008 to enable the NYISO to take steps necessary for the efficient operation of the NYISO's Installed Capacity Auction (ICAP) on March 28, 2008. In addition, market participants must receive timely notice of the applicable IRM and minimum installed capacity requirements for the 2008 Summer Capability Period, so they may structure their bids efficiently and procure sufficient supply to meet forecasted demand. A failure to timely adopt the IRM could potentially impair the availability of bidders and adversely affect the adequacy of capacity supply and the reasonableness of capacity prices. Thus, the immediate adoption of the IRM is necessary for the preservation of the public health, safety and general welfare. Therefore, circumstance necessitate that the public and interested parties be given less than the minimum period for notice and comment provided for in subdivision one of Section 202 of the State Administrative Procedure Act, and compliance with subdivision one would be contrary to the public interest. For these reasons, the Commission is adopting this rule on an emergency basis, pursuant to SAPA Section 202(6).

This notice is intended to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire May 28, 2008.

Text of rule may be obtained from: Elaine Lynch, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 486-2660

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

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

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

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

(07-E-0088SA2)

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

Extend the Provisions of the Existing Electric Rate Plan by Rochester Gas and Electric Corporation

I.D. No. PSC-12-08-00019-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, or modify, a petition filed by Rochester Gas and Electric Corporation (RG&E) for permission to extend the provisions of the existing electric rate plan, approved by the commission March 7, 2003 and May 20, 2004 in Case 02-E-0198.

Statutory authority: Public Service Law, sections 65(1), (2), (3), (4), (5) and (10), 66(1), (2), (2-a), (3), (5), (9), (10), (11), (12), (12-a) and (14)

Subject: RG&E's request for permission to extend the provisions of the existing electric rate plan.

Purpose: To consider RG&E's request for permission to extend the provisions of the existing electric rate plan.

Substance of proposed rule: On February 1, 2008, Rochester Gas and Electric Corporation (RG&E) filed a petition requesting continuation of the existing electric rate plan, which was approved by the Commission on March 7, 2003 and May 20, 2004 in Case 02-E-0198. The Commission may approve, reject or modify, in whole or in part, the company's request.

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

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

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

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

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

(02-E-0198SA13)

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

Extend the Provisions of the Existing Electric Rate Plan (Case 03-E-0765) by Rochester Gas and Electric Corporation

I.D. No. PSC-12-08-00020-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, or modify, a petition filed by Rochester Gas and Electric Corporation (RG&E) for permission to extend the provisions of the existing electric rate plan, approved by the commission on May 20, 2004 in Case 03-E-0765.

Statutory authority: Public Service Law, sections 65(1), (2), (3), (4), (5) and (10), 66(1), (2), (2-a), (3), (5), (9), (10), (11), (12), (12-a) and (14)

Subject: RG&E's request for permission to extend the provisions of the existing electric rate plan.

Purpose: To consider RG&E's request for permission to extend the provisions of the existing electric rate plan.

Substance of proposed rule: On February 1, 2008, Rochester Gas and Electric Corporation (RG&E) filed a petition requesting continuation of the existing electric rate plan, which was approved by the Commission on May 20, 2004 in Case 03-E-0765. The Commission may approve, reject or modify, in whole or in part, the company's request.

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

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

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

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

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

(03-E-0765SA9)

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

Extend the Provisions of the Existing Gas Rate Plan by Rochester Gas and Electric Corporation

I.D. No. PSC-12-08-00021-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 approve or reject, in whole or in part, or modify, a petition filed by Rochester Gas and Electric Corporation (RG&E) for permission to extend the provisions of the existing gas rate plan, approved by the commission on May 20, 2004 in Case 03-G-0766.

Statutory authority: Public Service Law, sections 65(1), (2), (3), (4), (5) and (10), 66(1), (2), (2-a), (3), (5), (9), (10), (11), (12), (12-a) and (14)

Subject: RG&E's request for permission to extend the provisions of the existing gas rate plan.

Purpose: To consider RG&E's request for permission to extend the provisions of the existing gas rate plan.

Substance of proposed rule: On February 1, 2008, Rochester Gas and Electric Corporation (RG&E) filed a petition requesting continuation of the existing gas rate plan, which was approved by the Commission on May 20, 2004 in Case 03-G-0766. The Commission may approve, reject or modify, in whole or in part, the company's request.

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

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

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

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

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

(03-G-0766SA9)

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

New Types of Electricity Meters, Transformers and Auxiliary Devices by General Electric

I.D. No. PSC-12-08-00022-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a petition filed by General Electric for the approval of the GE Energy 1-210+ and 1-210+c solid state residential and commercial electric meter line.

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

Subject: Approval of new types of electricity meters, transformers, and auxiliary devices - case 279.

Purpose: To permit electric utilities in New York State to use the GE Energy 1-210+ and 1-210+c solid state electric meter in residential and commercial applications.

Substance of proposed rule: The Commission will consider a request from General Electric for the approval to use the GE Energy 1-210+ and 1-210+c solid-state residential and commercial electric meter line in New York State. According to General Electric, the 1-210+ and 1-210+c residential and commercial meter line is capable of providing ANSI 0.2% revenue metering class accuracy, and has been tested to meet the compliance accuracy requirements as stated in ANSI C12.1 and ANSI C12.20 test specifications. In accordance with 16 NYCRR Part 93, National Grid New York, has submitted a letter of intent to use the GE Energy 1-210+ and 1-210+c residential and commercial meter line in its customer billing and metering applications, if approved.

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

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

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

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

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

(07-E-1503SA1)

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

Submetering of Electricity by RBNB 20 Owner LLC

I.D. No. PSC-12-08-00023-P

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

Proposed action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by RBNB 20 Owner LLC to submeter electricity at 20 Exchange Place, New York, 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 RBNB 20 Owner LLC to submeter electricity at 20 Exchange Place, New York, NY.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by RBNB 20 Owner LLC to submeter electricity at 20 Exchange Place, New York, 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. Brillling, Secretary, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-6530

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

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

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

(08-E-0177SA1)

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

Submetering of Electricity by Greater Allen Affordable Housing, LP

I.D. No. PSC-12-08-00024-P

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

Proposed action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by Greater Allen Affordable Housing, LP to submeter electricity at 110-40/58 Merrick Blvd., Jamaica, 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 Greater Allen Affordable Housing, LP to submeter electricity at 110-40/58 Merrick Blvd., Jamaica, 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 Greater Allen Affordable Housing, LP to submeter electricity at 110-40/58 Merrick Boulevard, Jamaica, 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.

(08-E-199SA1)

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

Submetering of Electricity by 75 Wall Associates, LLC

I.D. No. PSC-12-08-00025-P

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

Proposed action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by 75 Wall Associates, LLC to submeter electricity at 75 Wall St., New York, 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 75 Wall Associates, LLC to submeter electricity at 75 Wall St., New York, NY.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by 75 Wall Associates, LLC to submeter electricity 75 Wall Street, New York, 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.

(08-E-0200SA1)

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

New Tariff Schedule by the Village of Bergen

I.D. No. PSC-12-08-00026-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, a proposed new tariff schedule, P.S.C. No. 1—Electricity, filed by the Village of Bergen to become effective June 1, 2008.

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

Subject: New tariff schedule.

Purpose: To provide for the conversion of the Village of Bergen's tariff to electronic format including a revision to Service Classification No. 2—Small General Service.

Substance of proposed rule: The Village of Bergen (the Village) filed a new tariff schedule, P.S.C. No 1 - Electricity, to provide for the conversion of its current tariff to electronic format. The new tariff schedule will include by reference the provisions of the New York Municipal Power Agency Generic Tariff. In its new tariff, the Village is proposing to revise Service Classification No. 2 (SC2) - Small General Service, to provide a conversion factor for demand (kW) reading to horsepower. The proposed filing has an effective date of June 1, 2008. The Commission may approve, reject or modify, in whole or in part, the Village's request.

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

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

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

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

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

(08-E-0203SA1)

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

New Types of Gas Meters and Accessories by Consolidated Edison Company of New York

I.D. No. PSC-12-08-00027-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 Consolidated Edison Company of New York for the approval of the Itron 100G Series Gas ERT Module used as a one way automatic meter reading modules, manufactured by Itron Incorporated.

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

Subject: Approval of new types of gas meters and accessories.

Purpose: To permit gas utilities in New York State to use Itron 100G automatic meter reading modules.

Substance of proposed rule: The Public Service Commission will consider a request from Consolidated Edison of New York for the approval to use the Itron 100G Series of Automatic Meter Reading modules manufactured by Itron Incorporated. The Itron 100G are solid-state automatic one way meter reading devices that can be connected directly to diaphragm meters, rotary and turbine meters, and ancillary products used to correct the consumption of gas based on temperature and pressure. According to Itron, the 100G automatic meter reading devices have been tested and meet the compliance accuracy requirements as stated in American National Standards Institute ANSI B109 standard.

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.

(08-G-0175SA1)

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

Alternate Fuel Market Price by Central Hudson Gas & Electric Corporation

I.D. No. PSC-12-08-00028-P

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

Proposed action: The Public Service Commission is considering whether to approve, reject or modify, in whole or in part, a proposal filed by Central Hudson Gas & Electric Corporation (the company) to update references to the alternate fuel market price paid interruptible customers in its schedule for gas service - P.S.C. No. 12 to become effective June 1, 2008.

Statutory authority: Public Service Law, sections 2(11), 5, 64 and 66(12)

Subject: Alternate fuel market price.

Purpose: To update references to the alternate fuel market price paid by interruptible customers.

Substance of proposed rule: The Commission is considering Central Hudson Gas & Electric Corporation's (Central Hudson or the company) request to update references in the company's gas tariff to the alternate fuel market price paid by S.C. No. 8 (Interruptible Rate), S.C. No. 9 (Interruptible Transportation/Standby Sales Service) and S.C. No. 14 (Interruptible Transportation Service to Electric Generation Facilities) customers who fail to meet the alternate fuel reserve requirement. The Commission may approve, reject or modify, in whole or in part, Central Hudson's proposed tariff revisions.

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

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

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

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

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

(08-G-0211SA1)

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

Winter Bundled Sales Service Election Date by Central Hudson Gas & Electric Corporation

I.D. No. PSC-12-08-00029-P

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

Proposed action: The Public Service Commission is considering whether to approve, reject or modify, in whole or in part, a proposal filed by Central Hudson Gas & Electric Corporation (the company) to revise the date by which customers are required to elect winter bundled sales service or balancing service in its schedule for gas service—P.S.C. No. 12 to become effective June 1, 2008.

Statutory authority: Public Service Law, sections 2(11), 5, 64 and 66(12)

Subject: Winter bundled sales service election date.

Purpose: To revise the date by which retail suppliers are required to elect winter bundled sales service or balancing service in order to provide retail suppliers with their aggregation pools' delivery requirements by the date indicated.

Substance of proposed rule: The Commission is considering Central Hudson Gas & Electric Corporation's (Central Hudson or the company) request to revise the date by which Retail Suppliers are required to elect Winter Bundled Sales Service or Balancing Service in order to provide Retail Suppliers with their aggregation pools' delivery requirements by the

date indicated. The Commission may approve, reject or modify, in whole or in part, Central Hudson's proposed tariff revision.

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

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

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

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

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

(08-G-0214SA1)

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

Water Rates and Charges by Mountain Lodge Park Water Corp.

I.D. No. PSC-12-08-00030-P

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

Proposed action: The Public Service Commission is considering whether to approve or reject, in whole or in part, or modify, tariff revisions filed by Mountain Lodge Park Water Corp. to make various changes in the rates, charges, rules and regulations in its tariff schedule, P.S.C. No. 2—Water, part of which are to become effective June 1, 2008, and part of which are to become effective Jan. 1, 2009.

Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1) and (10)

Subject: Water rates and charges.

Purpose: To increase Mountain Lodge Park Water Corp.'s annual revenues by about \$114,201 or 138 percent; modification to existing capital improvement escrow account for seasonal customers; establishment of a new capital improvement escrow account for year-round customers, and changing its billing from annually for seasonal customers and semi-annually for year-round customers to quarterly for all customers.

Substance of proposed rule: On February 27, 2008, Mountain Lodge Park Water Corp. (MLP or the company) filed, to become effective on June 1, 2008, rate tariff amendments Leaf No. 12, Revision 2 and Leaf No. 13, Revision 2; and to become effective January 1, 2009, (1) Cancellation Supplement No. 3 (to cancel its current Surcharge Statement for seasonal distribution system customers), (2) implementation of Capital Improvement Surcharge Statement No. 1 for seasonal distribution system customers, and (3) Capital Improvement Surcharge Statement No. 1 for year-round distribution system customers, to its electronic tariff schedule P.S.C. No. 2 - Water.

The company has filed new rates to produce additional annual revenues of about \$114,201 or 138%. MLP requests approval to continue and modify its existing capital improvement escrow account (for seasonal customers) and establish a new capital improvement escrow account (for year-round customers) both to be funded by a surcharge of \$40 per customer per quarter from both year-round and seasonal customers beginning in February 2009. The company requests that each escrow account be funded to a replenishable maximum amount of \$50,000 to be used for system improvements. MLP also requests that it be allowed to change its billing from annually for seasonal customers and semi-annually for year-round customers to quarterly for all customers. Additionally, the company requests that the bills be rendered quarterly in advance on February 1, May 1, August 1 and November 1.

The company provides flat-rate water service to 142 year-round customers and 70 seasonal customers in a development known as Mt. Lodge Park, Town of Blooming Grove, Orange County. The company's tariff, along with its proposed changes, will be available on the Commission's Home Page on the World Wide Web (www.dps.state.ny.us) located under File Room - Tariffs). The Commission may approve or reject, in whole or in part, or modify the company's request.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our

website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: Central Operations, Public Service Commission, Bldg. 3, Empire State Plaza, Albany, NY 12223-1350, (518) 474-2500

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

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

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

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

(08-W-0209SA1)

Office of Real Property Services

NOTICE OF ADOPTION

State Aid for Improved Assessment Administration

I.D. No. RPS-51-07-00003-A

Filing No. 222

Filing date: March 4, 2008

Effective date: March 19, 2008

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

Action taken: Repeal of Part 192 and Subpart 201-1 of Title 9 NYCRR.

Statutory authority: Real Property Tax Law, section 202(1)(l)

Subject: State aid for improved assessment administration.

Purpose: To repeal obsolete rules.

Text or summary was published in the notice of proposed rule making, I.D. No. RPS-51-07-00003-P, Issue of December 19, 2007.

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

Text of rule and any required statements and analyses may be obtained from: Joseph K. Gerberg, Office of Real Property Services, 16 Sheridan Ave., Albany, NY 12210-2714, (518) 474-8821, e-mail: internet.legal@orps.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Department of State

EMERGENCY RULE MAKING

Firefighter Training

I.D. No. DOS-12-08-00013-E

Filing No. 218

Filing date: Feb. 29, 2008

Effective date: Feb. 29, 2008

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

Action taken: Addition of Part 438 to Title 19 NYCRR.

Statutory authority: Executive Law, section 156(6) (L. 2006, ch. 615)

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

Specific reasons underlying the finding of necessity: 2006, ch. 615 required that regulations concerning firefighter training be adopted by

February 12, 2007. Regulations were adopted on an emergency basis and this rule keeps the regulations in effect until a permanent rule can be adopted.

Subject: Firefighter training.

Purpose: To set forth standards concerning firefighter training, describe the process whereby firefighter training hours and additional training hours will be allocated to counties and establish qualifications of instructors deliver State fire training courses.

Substance of emergency rule: Section 438.1 Purpose. The purpose of this rule is to implement the requirements of subdivision 6 of section 156 of the Executive Law, as enacted by Chapter 615 of the Laws of 2006. This subdivision empowers the State Fire Administrator to plan, coordinate, and provide training related to fire and arson prevention and control for paid and volunteer firefighters and governmental officers and employees. Subdivision 6 also directs the Office of Fire Prevention and Control (OFPC) to adopt rules and regulations relating to training, including training standards, the allocation of training hours to counties and the establishment of a uniform procedure for counties to request and OFPC to provide additional training hours.

Section 438.2 contains definitions of terms used in Part 438.

Section 438.3 describes training standards to guide OFPC in its implementation of the rule including instructor and student qualifications, live fire training requirements, and a listing of the standards, manuals, statutes, and regulations which will be used to provide the training authorized by subdivision 6 of section 156 of the Executive Law.

Section 438.4 deals with firefighter training hours, course allocations and scheduling procedures delivered through the Outreach Training Program.

Section 438.5 deals with the supplemental firefighter training program.

Section 438.6 deals with the municipal training program.

Section 438.7 deals with the fire brigade training program.

Section 438.8 deals with firefighter training course allocations and scheduling procedures delivered through the Regional Training Program and Residential Training Program.

Section 438.9 deals with restrictions relating to OFPC's fire training programs.

Section 438.10 deals with the State Fire Administrator's ability to suspend and/or terminate authorization to deliver state fire training courses if an officer, instructor or program violates one or more of the provisions of this Part.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire May 28, 2008.

Text of emergency rule and any required statements and analyses may be obtained from: Elisha S. Tomko, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6740

Regulatory Impact Statement

1. STATUTORY AUTHORITY

Section 156(6) of the Executive Law requires that the Office of Fire Prevention and Control of the Department of State (OFPC) provide fire and arson prevention and control training to firefighters and related governmental officers and employees. This section requires OFPC to adopt rules related to such training. These rules must include statements concerning training standards used by OFPC, the process by which OFPC allocates training hours to counties, and a uniform procedure for counties to request and OPFC to provide additional training hours.

2. LEGISLATIVE OBJECTIVES

The legislative objectives behind section 156(6) are to make more transparent the process by which OPFC allocates training hours to counties, to establish a uniform procedure for counties to request and OFPC to provide additional training hours, and to require that OFPC state the training standards which it will follow when it delivers training.

3. NEEDS AND BENEFITS

Section 156(6) of the Executive Law requires that OPFC adopt a rule which deals with firefighter training. Adoption of this rule would add transparency to the process by which firefighter training hours are allocated to counties, describe the training standards which will be followed by OFPC when it delivers training, establish the qualifications of instructors delivering state fire training courses and prescribe a uniform procedure for counties to request and OFPC to provide additional training hours.

4. COSTS

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

Fire departments would experience no additional out-of-pocket costs if the rule is adopted. The equipment and facilities required by the training provided for in this rule are already in the possession of these departments.

b. Costs to the Agency, the State and Local Governments for the Implementation and Continuation of the Rule.

The cost to the Office of Fire Prevention and Control for the implementation of the proposed rule is approximately \$1,500,000 per year. This amount is currently expended for training outreach programs; no additional costs beyond this amount would be required if this rule is adopted.

There would be no costs to local governments for the implementation and continuation of the proposed rule.

5. LOCAL GOVERNMENT MANDATES

This rule making will not impose any program, service, duty or responsibility upon counties, cities, towns, villages, school districts, fire districts or other special districts. Participation in the firefighter training provided for in this rule is at the option of each fire department.

6. PAPERWORK

Several new forms would be required as a result of the rule:

County fire coordinators desiring that training be provided to fire departments within their jurisdiction will be required to answer a survey related to such training and submit a proposed training schedule.

If this rule is adopted, state fire instructors, municipal fire instructors, and county fire instructors would be required to complete student attendance cards, and state fire instructors would be required to submit payroll vouchers.

7. DUPLICATION

No rules or other legal requirements of either the state or federal government exist at the present time which duplicate, overlap, or conflict with the proposed rule.

8. ALTERNATIVES

Section 156(6) of the Executive Law requires that OPFC adopt a rule which deals with firefighter training. This section requires that the rule describe the process by which firefighter training hours are allocated to counties, the training standards which will be followed by OPFC when it delivers such training, and prescribe a uniform procedure for counties to request and OPFC to provide additional training hours. Since OPFC does not have statutory authority to consider any alternative other than to adopt a rule addressing these issues, no other significant alternatives were considered.

9. FEDERAL STANDARDS

No standards have been set by the federal government for the same or similar subject areas addressed by this proposed rule.

10. COMPLIANCE SCHEDULE

Fire departments interested in receiving the training which is provided for in this proposed rule can comply immediately with the requirements of the rule.

Regulatory Flexibility Analysis

1. Effect of rule

The proposed rule potentially would affect all of the counties and all of the approximately 1850 fire departments located in New York State. The proposed rule would not affect small businesses located in New York State.

2. Compliance requirements

Counties and fire departments wishing to avail themselves of the training offered by the proposed rule would be required to submit a proposed fire training schedule to the Office of Fire Prevention and Control of the Department of State.

3. Professional services

Counties and fire departments will not need any additional professional services in order to comply with the proposed rule.

4. Compliance costs

There would be no initial capital costs to counties or fire departments which would be associated with compliance with the rule, or annual costs to these entities for continuing compliance with the rule.

5. Economic and technological feasibility

The proposed rule sets forth a voluntary process whereby counties and fire departments may make requests for firefighter training. The only requirement that the rule imposes on these counties and fire departments is that they make requests for this training. It is therefore economically and technologically feasible for these counties and fire departments to comply with this rule.

6. Minimizing adverse impact

The proposed rule sets forth a voluntary process whereby counties and fire departments may make requests for firefighter training. Since the rule would regulate the administration of a state program rather than the activi-

ties of counties and fire departments, engaging in this voluntary process would not have any adverse economic impact on these entities.

7. Small business and local government participation

Representatives of fire departments and local governments participated in legislative hearings at which they urged the implementation of a more transparent process for the allocation of firefighter training resources. This resulted in the passage of Chapter 615 of the Laws of 2006, which requires the promulgation of these rules.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas

The proposed rule would apply throughout New York State. All of the counties and all of the approximately 1850 fire departments in New York State, including those located in rural areas as that term is defined in section 102(10) of the State Administrative Procedure Act ("SAPA"), would potentially be affected by the rule.

The proposed rule would not regulate any activities of private entities in rural areas of the State.

2. Reporting, recordkeeping and other compliance requirements, and professional services

Counties wishing to avail themselves of the training offered by the proposed rule would be required to submit a proposed fire training schedule to the Office of Fire Prevention and Control of the Department of State. Counties and fire departments located in rural areas will not need any additional professional services in order to comply with the proposed rule.

3. Costs

There would be no initial capital costs to counties and fire companies located in rural areas associated with compliance with the rule, or annual cost for continuing compliance with the rule by these entities.

4. Minimizing adverse impact

The proposed rule sets forth a voluntary process whereby counties may make requests for firefighter training. The rule would regulate the administration of a state program rather than the activities of public or private entities located in rural areas. Since this process is voluntary, it would not have any adverse economic impact on rural areas of New York State.

5. Rural area participation

Representatives of rural areas participated in legislative hearings at which they urged the implementation of a more transparent process for the allocation of firefighter training resources. This resulted in the passage of Chapter 615 of the Laws of 2006.

Job Impact Statement

1. Nature of impact

The nature of the impact that the rule will have on jobs and employment opportunities is minimal. The rule will result in the employment of several additional Office of Fire Prevention and Control (OFPC) fire protection specialists and may result in the employment of several temporary part time instructors by the Department of State.

2. Categories and numbers affected

The rule will result in the employment of several additional fire protection specialists and may result in the employment of several temporary part time instructors by the Department of State.

3. Regions of adverse impact

The minimal impact that the rule will have on jobs and employment opportunities will not result in an disproportionate impact on any region of the state.

4. Minimizing adverse impact

The proposed rule would not have any adverse impact on existing jobs.

The intent of Chapter 615 of the laws of 2006 is to provide firefighter training, not to promote the development of new employment opportunities.

EMERGENCY RULE MAKING

Qualifying Experience and Education for Real Estate Appraisers

I.D. No. DOS-12-08-00018-E

Filing No. 226

Filing date: March 4, 2008

Effective date: March 4, 2008

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

Action taken: Amendment of sections 1103.1, 1103.3, 1103.7, 1103.8, 1103.10, 1103.12(a), 1103.21, 1103.22(f), 1107.2, 1107.4(b)-(d), 1107.5 and 1107.9; repeal of sections 1103.9, 1105.1, 1105.2, 1105.3, 1105.4, 1105.5, 1105.6, 1105.7 and 1105.8; and addition of new sections 1103.9,

1105.1, 1105.2, 1105.3, 1105.4, 1105.5, 1105.6 and 1105.7 to Title 19 NYCRR.

Statutory authority: Executive Law, section 160-d

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

Specific reasons underlying the finding of necessity: The Federal Appraisal Qualification Board (AQB), in accordance with the authority granted to said body pursuant to title XI of the Financial Institution Reform, Recovery and Enforcement Act of 1989 (FIRREA), establishes the minimum education, experience and examination requirements for real property appraisers to obtain state certification. States are required to implement appraiser certification requirements that are no less stringent than those issued by the AQB.

In 2004, the AQB adopted significant revisions to the education requirements for real estate appraisers. States are required to adopt these requirements by January 1, 2008. A failure to do so could result in the State losing Federal recognition of the State program. Legislation was recently passed permitting the Department of State to adopt the required revisions by rule making. If the rule making is not adopted by January 1, 2008, New York's appraiser program could lose Federal recognition.

If New York were to lose Federal recognition of its appraiser program, Federal financial institutions and many State financial institutions would be prohibited from accepting appraisals from New York real estate appraisers. This would include virtually all mortgage and refinance transactions. Appraisers licensed or certified by the State of New York would be prohibited from preparing an appraisal for any such transaction and New York consumers would be forced to go out of state in order to obtain an appraisal. The hardship and disruption for the State's financial community, as well as for buyers and sellers of real estate within the State would be significant.

Subject: Qualifying experience and education for real estate appraisers.

Purpose: To amend current regulations in order to conform said regulations with recent statutory amendments to art. 6-E of the Executive Law.

Substance of emergency rule: Section 1103.1 of Title 19 NYCRR is amended to specify the course work and education required for licensure as an appraiser assistant, licensed real estate appraiser and certified real estate appraiser.

Section 1103.3(f) of Title 19 NYCRR is amended to specify that course waivers may only be granted in 15 hour segments.

Section 1103.7 of Title 19 NYCRR is amended to permit the Department of State to approve courses of study for appraiser assistants.

Section 1103.8 of Title 19 NYCRR is repealed and a new section 1103.8 is added to specify the course content and hours of study required for licensure as an appraiser assistant, licensed and certified real estate appraiser.

Section 1103.9 of Title 19 NYCRR is repealed and a new section 1103.9 is added to specify the course content and hours of study required for general real estate appraiser certification.

Section 1103.10 of Title 19 NYCRR is amended to specify the educational requirements for the 15 hour National USPAP course.

Section 1103.12(a) of Title 19 NYCRR is amended to provide that students must physically attend 90 percent of each course offering in order to satisfactorily complete said course.

Sections 1103.21 and 1103.22(f) of Title 19 NYCRR is amended to set forth the registration fees for schools and instructors.

Section 1105.1 of Title 19 NYCRR is repealed and a new section 1105.1 is adopted to permit test providers who are approved by the Appraiser Qualifications Board to administer appraiser examinations in New York State.

Section 1105.2 of Title 19 NYCRR is repealed and a new section 1105.2 is adopted to set forth the procedure for test providers to obtain approval from the Department of State to administer appraiser examinations in New York State.

Section 1105.3 of Title 19 NYCRR is repealed and a new section 1103 is adopted to set forth the procedure and requirements for registering and scheduling exam candidates for appraiser examinations.

Section 1105.4 of Title 19 NYCRR is repealed and a new section 1105.4 is adopted to permit the Department to prescribe New York State specific examination questions.

Section 1105.5 of Title 19 NYCRR is repealed and a new section 1105.5 is adopted to require exam providers to report examination results to the Department of State in such form and manner as prescribed by the Department of State.

Section 1105.6 of Title 19 NYCRR is repealed and a new section 1105.6 is adopted to set forth the procedures associated with suspension and denials of approval to offer appraiser examinations.

Section 1105.7 of Title 19 NYCRR is repealed and a new section 1105.7 is adopted to require test providers to copy the Department of State on any reports sent to the Appraisal Qualifications Board.

Section 1105.8 of Title 19 NYCRR is repealed.

Section 1107.2 of Title 19 NYCRR is amended to specify that licensees must complete 28 hours of approved continuing education every two years, including the 7 hour National USPAP update course in order to renew their license or certification.

Section 1107.4(b)-(d) of Title 19 NYCRR is amended to specify that no more than 14 hours of continuing education credit may be offered for authorship of an appraisal course of study or publication.

Section 1107.5 of Title 19 NYCRR is amended to specify that licensees must complete 28 hours of approved continuing education every two years, including the 7 hour National USPAP update course in order to renew their license or certification.

Section 1107.9 Title 19 NYCRR is amended to remove a dated provision that, for all licenses and certifications expiring on or before December 31, 2003, licensees were required to complete the 15 hour Ethics and Professional Practice Program or a course prescribed by subdivision b of section 1107.9.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire June 1, 2008.

Text of emergency rule and any required statements and analyses may be obtained from: Whitney A. Clark, Department of State, Division of Licensing Services, P.O. Box 22001, Albany, NY 12231-0001, (518) 473-2728, e-mail: whitney.clark@dos.state.ny.us

Regulatory Impact Statement

1. Statutory Authority:

Executive Law section 160-d authorizes the New York State Board of Real Estate Appraisal to adopt regulations in aid or furtherance of the statute. One of the purposes of Article 6-E is to ensure that licensed and certified real estate appraisers meet certain minimum requirements for licensure. To meet this purpose, the Department of State, in conjunction with the New York State Board of Real Estate Appraisal, has issued rules and regulations which are found at Parts 1103, 1105 and 1107 of Title 19 NYCRR and is proposing this rule making.

2. Legislative Objectives:

Executive Law, Article 6-E, requires the Department of State to license and regulate real estate appraisers. The statute requires prospective licensees to meet certain minimum requirements for licensure, including completion of approved qualifying education. These statutory requirements were changed during the 2007 Legislative Session in order to require the Department of State to implement such minimum requirements for licensure as are imposed on the State by the Federal Appraisal Subcommittee. Effective January 1, 2008, the Appraisal Subcommittee will require States to enact such minimum standards for licensure and/or certification. The rule making advances the legislative objective by conforming the education regulations with the requirements of the Appraisal Subcommittee in accordance with the 2007 statutory amendment.

3. Needs and Benefits:

The Federal Appraisal Qualifications Board (AQB), in accordance with the authority granted to said body pursuant to Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), establishes the minimum education, experience and examination requirements for real property appraisers to obtain state certification. States are required to implement appraiser certification requirements that are no less stringent than those issued by the AQB.

In 2004, the AQB adopted significant revisions to the education requirements for real estate appraisers. States are required to adopt these requirements by January 1, 2008. A failure to do so could result in the State losing Federal recognition of the State program.

During the 2007 legislative session, a bill was passed to require the Department to adopt education requirements that are no less stringent than those required by the AQB. If the Department fails to adopt these requirements, the New York appraisal program could lose Federal recognition. This would result in federal financial institutions and many State financial institutions being prohibited from accepting appraisals from New York real estate appraisers. This would include virtually all mortgage and refinance transactions. Appraisers licensed or certified by the State of New York would be prohibited from preparing an appraisal for any such trans-

action and New York consumers would be forced to go out of state in order to obtain an appraisal. The hardship and disruption for the State's financial community, as well as for buyers and sellers of real estate within the State would be significant.

To ensure that the AQB mandate is met, and to conform the existing education regulations with the statutory amendments, this rule making is necessary.

4. Costs:

a. Costs to regulated parties:

The Department of State currently licenses and certifies 7,311 real estate appraisers. Prospective licensees will face increased education costs due to a greater number of required course hours. Currently, each appraiser course costs approximately \$300 resulting in an anticipated cost of \$2,100 for the assistant appraiser courses, \$3,000 for the certified residential courses and \$3,300 for the certified general courses. The costs for continuing education are not expected to increase as a result of this rule making.

b. Costs to the Department of State:

The rule does not impose any costs to the agency, the state or local government for the implementation and continuation of the rule.

5. Local Government Mandates:

The rule does not impose any program, service, duty or responsibility upon any county, city, town, village, school district or other special district.

6. Paperwork:

The rule does not impose any new paperwork requirements. Insofar as prospective licensees are already required to satisfactorily complete qualifying education, conforming the regulations with the recent statutory amendments will not result in additional paperwork requirements.

7. Duplication:

This rule does not duplicate, overlap or conflict with any other state or federal requirement.

8. Alternatives:

The Department of State discussed the need to adopt the rule making at several meetings of the New York State Appraisal Board. Few comments were received that suggested alternatives to the current proposal. General comments were received, including the expressed concern that increasing the educational hours required for certification and licensure would make it more difficult to become licensed and certified. Because the Department is required to propose this rule making by Federal mandate, the hour requirements as set forth in the rule making could not be reduced.

One alternative that is being considered is a legislative amendment to permit on-line qualifying education. While this would not decrease the hours of education required for certification and licensure, it would provide an educational option and flexibility to prospective students.

9. Federal Standards:

Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 establishes the Appraisal Qualifications Board (AQB) which establishes the minimum education, experience and examination requirements for real property appraisers to obtain state certification. States are required to implement appraiser certification requirements that are no less stringent than those issued by the AQB. This rule making conforms the education regulations with the required federal standard.

10. Compliance Schedule:

Prospective licensees will be required to comply with the rule on January 1, 2008. Insofar as the AQB has conducted outreach to the regulated public about the relevant changes effected by this rule making, licensees and prospective licensees have been notified about the changes and should be able to comply with the rule on its effective date.

Regulatory Flexibility Analysis

1. Effect of rule:

The rule will apply to prospective real estate appraisers who are applying for licensure pursuant to Article 6-E of the Executive Law after January 1, 2008. During the 2007 legislative session, a bill was passed to amend Article 6-E of the Executive Law to require the Department of State to enact such education and experience requirements for licensure or certification as a real estate appraiser that are no less stringent than those requirements imposed on States by the Federal Appraisal Subcommittee. Effective January 1, 2008, the Appraisal Subcommittee will require State's to enact require certain minimum requirements for licensure and/or certification as a real estate appraiser. The rule making merely conforms existing education regulations to the new statutory amendment and requirements of the Appraisal Subcommittee. The rule making will not have any foreseeable impact on jobs or employment opportunities for real estate appraisers.

The rule does not apply to local governments.

2. Compliance requirements:

Insofar as the existing statute and regulations already require minimum education and experience requirements for licensure, the rule making will not add any new reporting, recordkeeping or other compliance requirements.

The rule does not impose any compliance requirements on local governments.

3. Professional services:

Licensees will not need to rely on any new professional services in order to comply with the rule. Licensees are already required to satisfy minimum education and experience qualifications pursuant to Article 6-E of the Executive Law. Insofar as licensees must already attend and complete approved education courses, conforming the regulations with the statute will not result in the need to rely on any new professional services. The Department expects existing education providers to begin offering new approved courses in accordance with the amended statute and the rule making.

The rule does not impose any compliance requirements on local governments.

4. Compliance costs:

The rule making will not result in any new compliance costs. Prospective licensees are already required to complete, and pay for, qualifying education pursuant to Article 6-E of the Executive Law. Insofar as licensees must already complete and pay for approved education courses, conforming the education regulations with the recent statutory amendments will not result in any new compliance costs.

The rule does not impose any compliance costs on local governments.

5. Economic and technological feasibility:

Since the rule does not provide any new recordkeeping requirements on prospective licensees, it will be technologically feasible for these persons to comply with the rule.

6. Minimizing adverse economic impact:

The Department of State has not identified any adverse economic impact of this rule. The rule does not impose any additional reporting or recordkeeping requirements on licensees and does not require prospective licensees to take any affirmative acts to comply with the rule other than those acts that are already required pursuant to Executive Law, Article 6-E.

7. Small business participation:

Prior to proposing the rule, the Department discussed the proposal at numerous public meetings of the New York State Real Estate Appraisal Board, the minutes of which were posted on the Department's website. The public was given an opportunity to issue comments during the public comment period of these meetings. In addition, the Notice of Proposed Rule Making will be published by the Department of State in the State Register. The publication of the rule in the State Register will provide notice to local governments and additional notice to small businesses of the proposed rule making. Additional comments will be received and entertained.

Rural Area Flexibility Analysis

A rural flexibility analysis is not required because this rule does not impose any adverse impact on rural areas, and the rule does not impose any new reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Article 6-E of the Executive Law was amended during the 2007 legislative session, to, in relevant part, require the Department of State to enact such education and experience requirements for licensure or certification as a real estate appraiser that are no less stringent than those requirements imposed on States by the Federal Appraisal Subcommittee. Effective January 1, 2008, the Appraisal Subcommittee will require States to enact require certain minimum requirements for licensure and/or certification as a real estate appraiser. The rule making merely conforms existing education regulations to the new statutory amendment and requirements of the Appraisal Subcommittee. Insofar as the existing statute and regulations already require minimum education and experience requirements for licensure, the rule making will not add any new reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

A job impact statement is not required because this rule will not have any substantial impact on jobs or employment opportunities for licensed or certified real estate appraisers.

During the 2007 legislative session, a bill was passed to amend Article 6-E of the Executive Law. In pertinent part, the bill requires the Department of State to enact such education and experience requirements for licensure or certification as a real estate appraiser that are no less stringent than those requirements imposed on States by the Federal Appraisal Subcommittee. Effective January 1, 2008, the Appraisal Subcommittee will

require State's to enact require certain minimum requirements for licensure and/or certification as a real estate appraiser. This rule making merely conforms existing education regulations to the new statutory amendment and requirements of the Appraisal Subcommittee. The rule making will not have any foreseeable impact on jobs or employment opportunities for real estate appraisers.

NOTICE OF ADOPTION

Lists of Licensed Real Estate Brokers and Salespeople

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

Filing No. 225

Filing date: March 4, 2008

Effective date: March 19, 2008

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

Action taken: Repeal of sections 80.11 and 80.12 of Title 10 NYCRR.

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

Subject: Lists of licensed real estates 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 or summary was published in the notice of proposed rule making, I.D. No. DOS-47-07-00001-P, Issue of November 21, 2007.

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

Text of 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 12231, (518) 473-2738, e-mail: whitney.clark@dos.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Department of Transportation

NOTICE OF ADOPTION

New York State Supplement to the National Manual on Uniform Traffic Control Devices for Streets and Highways

I.D. No. TRN-50-07-00001-A

Filing No. 221

Filing date: March 3, 2008

Effective date: March 19, 2008

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

Action taken: Amendment of Chapter V of Title 17 NYCRR.

Statutory authority: Vehicle and Traffic Law, section 1680, subd. (a); and Transportation Law, section 14, subd. 18

Subject: New York State Supplement to the National Manual on Uniform Traffic Control Devices for Streets and Highways.

Purpose: To amend the New York State Supplement to the National Manual on Uniform Traffic Control Devices for Streets and Highways.

Text or summary was published in the notice of proposed rule making, I.D. No. TRN-50-07-00001-P, Issue of December 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: David Woodin, Department of Transportation, Traffic Operations Section, Transportation System Operations Bureau, 50 Wolf Rd., POD 4-2, Albany, NY 12232, (518) 457-7436, e-mail: dwoodin@dot.state.ny.us

Assessment of Public Comment

The agency received no public comment.