

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; 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.

Banking Department

NOTICE OF ADOPTION

Providers of Education Courses for Mortgage Loan Originators and Administrative Requirements for Providers of Education Courses

I.D. No. BNK-33-08-00002-A

Filing No. 1038

Filing Date: 2008-10-21

Effective Date: 2008-11-05

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

Action taken: Addition of Supervisory Procedure 108 to Title 3 NYCRR.

Statutory authority: Banking Law, art. 12-E

Subject: Providers of education courses for mortgage loan originators and administrative requirements for providers of education courses.

Purpose: To authorize providers of education courses for mortgage loan originators and establish administrative requirements.

Text or summary was published in the August 13, 2008 issue of the Register, I.D. No. BNK-33-08-00002-P.

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

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

Assessment of Public Comment

The Department received one comment letter from a provider of education services. The comment letter was in response to the Department's proposal of Part 420 and Supervisory Procedure 107, and we responded to

most of the questions in the Assessment of Public Comments for those rules. However, we reserved our response to certain questions until the publication of Supervisory Procedure 108, and those comments are addressed below.

The commenter argued that MLOs should not be limited to live classroom training, but should be given the option of taking the requisite hours of required continuing education courses in other learning formats, such as computer-based training or correspondence courses. Supervisory Procedure 108 provides guidance on acceptable course formats in addition to live classroom training. An MLO with fewer than four years' experience may take education courses in a live classroom setting, fully interactive video or audio conferences, where there is an opportunity for students to ask questions, or a format where the student cannot progress from one course segment to another or complete the course without answering questions that test the student's comprehension of the subjects previously covered. For an MLO with four or more years' experience, half or his or her credits must be in those formats, and the remaining credit hours may be satisfied in those formats or in a number of listed additional formats, including online; programs, webcasts, audio and video recordings, video conferences and teleconferences, computer based learning software, live satellite broadcasts, and other formats approved by the Superintendent.

The commenter suggested that Part 420 be amended to include specific controls for training providers to verify to the Superintendent that the MLO has properly completed the education requirements. Supervisory Procedure 108 requires course providers who use a format that does not involve a live classroom monitor who ensures accurate attendance monitoring to adopt independent attendance verification procedures, which are set out in Section 108.7(b) of the Supervisory Procedure.

With respect to recognition of qualified courses from other jurisdictions under 420.12(g), the commenter believed that the regulation should ensure that the provider has the appropriate controls in place to deliver content in a manner approved by the Superintendent. As stated in Part 420.12(g), the Superintendent must be satisfied that the continuing education requirements of the other jurisdiction meet the standards of Article 12-E. Title V of the federal Housing and Economic Recovery Act imposes uniform education requirements on the states. Consequently, we decided it was unnecessary for the Supervisory Procedure to contain standards for determining when courses from another state should be given reciprocity.

The commenter recommended that Section 12(i) be amended to specify the period of time given to authorized course providers to remedy a deficiency. The Department determined that the appropriate time would vary with the nature of the deficiency and that a single period would not be in the best interests of potential education providers or MLOs.

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00001-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 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.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "State Consumer Protection Board," by increasing the number of Special Assistant from 2 to 3.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00002-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 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.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Education Department, by increasing the number of positions of Special Assistant from 5 to 6.

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

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

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Rural Area Flexibility Analysis

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Job Impact Statement

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PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00003-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 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Office of the Lieutenant Governor, by decreasing the number of positions of Special Assistant from 10 to 1; and, in the Executive Department under the subheading "Office of the Governor," by adding thereto the positions of Special Assistant (9).

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

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

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Regulatory Impact Statement

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Regulatory Flexibility Analysis

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Rural Area Flexibility Analysis

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Job Impact Statement

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PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00004-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 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office of General Services," by decreasing the number of positions of Deputy Commissioner from 5 to 4 and by adding thereto the position of Assistant Commissioner.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

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

Jurisdictional Classification

I.D. No. CVS-45-08-00005-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 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.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Health, by increasing the number of positions of Research Associate from 7 to 8.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

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

Jurisdictional Classification

I.D. No. CVS-45-08-00006-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 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Environmental Conservation, by increasing the number of positions of Associate Counsel from 6 to 9.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

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

Jurisdictional Classification

I.D. No. CVS-45-08-00007-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 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Agriculture and Markets, by decreasing the number of positions of Agricultural Promotion Specialist from 6 to 4 and by increasing the number of positions of Special Assistant from 5 to 7.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

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

Jurisdictional Classification

I.D. No. CVS-45-08-00008-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 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Division of the Budget," by decreasing the number of positions of Associate Counsel from 2 to 1 and by deleting therefrom the position of Counsel; and, in the Department of State, by adding thereto the position of Associate Counsel and by increasing the number of positions of Counsel from 1 to 2.

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

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

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

Regulatory Impact Statement

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Regulatory Flexibility Analysis

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Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

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

Jurisdictional Classification

I.D. No. CVS-45-08-00009-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 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Law, by deleting therefrom the positions of Special Assistant Attorney General (10) and Special Auditor Investigator (8); and, in the Department of Law by adding thereto the subheading "Medicaid Fraud Control Unit" and the positions of Confidential Legal Assistant, Investigator (9), Special Assistant Attorney General (15) and Special Auditor Investigator (13).

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

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

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

Regulatory Impact Statement

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Rural Area Flexibility Analysis

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Job Impact Statement

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

Jurisdictional Classification

I.D. No. CVS-45-08-00010-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 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of State, by deleting therefrom the subheading "State Ethics Commission" and the positions of Administrative Officer, Associate Counsel (3), Confidential Assistant, Confidential Clerk (3), Confidential Stenographer (4), Counsel, Director Public Information, Executive Director, Hearing Examiner, Investigative Auditor 1, Investigative Auditor 2, Investigator (4) and Special Assistant; and, in the Department of State under the subheading "Commission on Public Integrity," by adding thereto positions of

Administrative Officer, Associate Counsel (4), Compliance Auditor (3), Confidential Assistant (4), Confidential Clerk (5), Confidential Legal Assistant, Confidential Stenographer (4), Counsel, Deputy Counsel (2), Director Public Information, Executive Director, Filings Examiner (CPI) (11), Hearing Examiner, Information Technology Specialist (CPI) (3), Investigator (5), Manager Information Services, Program Manager (3), Secretary (2), Training Assistant (2) and Training Associate (2).

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

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Regulatory Flexibility Analysis

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Rural Area Flexibility Analysis

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PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00011-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 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.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the State University of New York under the subheading "SUNY at Stony Brook," by adding thereto the positions of Horticultural Technician 1 (2).

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

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

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

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PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00012-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 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.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Transportation, by adding thereto the position of Φ Intermodal Transportation Specialist 3 (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00013-P

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

Proposed Action: Amendment of Appendix 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from the non-competitive class.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Transportation, by deleting therefrom the positions of Supervising Traffic Signal Mechanic and Traffic Signal Mechanic.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00014-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 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify positions in the non-competitive class.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Commission on Quality of Care and Advocacy for Persons with Disabilities," by deleting therefrom the positions of Advocacy Specialist 1 (4), Advocacy Specialist 2 (2), Φ Advocacy Specialist 3 (4), Φ Advocacy Specialist 4 (3), Φ Advocacy Specialist 5 (1), Quality Care Facility Review Specialist Assistant (3), Quality Care Facility Review Specialist 1 (33), Quality Care Facility Review Specialist 2 (10), Φ Quality Care Facility Review Specialist 3 (6), Φ Quality Care Facility Review Specialist 4 (1), Quality Care Program Cost Analyst 1 (2), Quality Care Program Cost Analyst 2 (5), Φ Quality Care Program Cost Analyst 3 (2) and Φ Quality Care Program Cost Analyst 4 (1) and by adding thereto the positions of Advocacy Specialist 1, Advocacy Specialist 2, Advocacy Specialist 3, Φ Advocacy Specialist 4, Φ Advocacy Specialist 5, Quality Care Facility Review Specialist Assistant, Quality Care Facility Review Specialist 1, Quality Care Facility Review Specialist 2, Φ Quality Care Facility Review Specialist 3, Φ Quality Care Facility Review Specialist 4, Quality Care Program Cost Analyst 1, Quality Care Program Cost Analyst 2, Φ Quality Care Program Cost Analyst 3 and Φ Quality Care Program Cost Analyst 4.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was

previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00015-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 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from the non-competitive class.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "State Emergency Management Office," by decreasing the number of positions of Communications Technician 1 from 3 to 2; in the State University of New York under the subheading "SUNY at Stony Brook," by deleting therefrom the position of Research Vessel Mate (1); and, in the Department of Labor by deleting therefrom the position of Φ School to Work Program Administrator (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00016-P

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

Proposed Action: Amendment of Appendix 1 and 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class and to classify a position in the non-competitive class.

Text of proposed rule: Amend Appendix 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 Assistant Attorney General from 651 to 656 and Investigator from 175 to 177; and

Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Law, by adding thereto the position of Information Security Officer (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

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

Jurisdictional Classification

I.D. No. CVS-45-08-00026-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 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.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Labor under the subheading "Unemployment Insurance Appeal Board," by increasing the number of positions of Principal Unemployment Insurance Referee from 2 to 3.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was

previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

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

Jurisdictional Classification

I.D. No. CVS-45-08-00027-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 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.

Text of proposed rule: Amend Appendix 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 4 from 3 to 4 and by adding thereto the position of Medicaid Investigator 5 (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

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

Jurisdictional Classification

I.D. No. CVS-45-08-00028-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 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.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Motor Vehicles, by increasing the number of positions of Deputy Commissioner from 3 to 4.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-45-08-00029-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 1 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To delete a position from the exempt class.

Text of proposed rule: Amend Appendix 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 deleting therefrom the position State Inspector General.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was

previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-05-08-00003-P, Issue of January 30, 2008.

Department of Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Payment for FQHC Psychotherapy and Offsite Services Payment for FQHC Psychotherapy and Offsite Services

I.D. No. HLT-45-08-00018-P

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

Proposed Action: Amendment of section 86-4.9 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 201.1(v)

Subject: Payment for FQHC Psychotherapy and Offsite Services.

Purpose: Permit psychotherapy by certified social workers as a billable service under certain circumstances.

Text of proposed rule: Section 86-4.9 is amended to read as follows:

86-4.9 Units of service. (a) The unit of service used to establish rates of payment shall be the threshold visit, except for dialysis, abortion, sterilization services and free-standing ambulatory surgery, for which rates of payment shall be established for each procedure. For methadone maintenance treatment services, the rate of payment shall be established on a fixed weekly basis per recipient.

(b) A threshold visit, including all part-time clinic visits, shall occur each time a patient crosses the threshold of a facility to receive medical care without regard to the number of services provided during that visit. Only one threshold visit per patient per day shall be allowable for reimbursement purposes, except for transfusion services to hemophiliacs, in which case each transfusion visit shall constitute an allowable threshold visit.

(c) [Offsite services visits related to the provision of offsite services, visits for ordered ambulatory services, and patient visits solely for the purpose of the following services shall not constitute threshold visits: pharmacy, nutrition, medical social services, respiratory therapy, recreation therapy. Offsite services are medical services provided by a facility's clinic staff at locations other than those operated by and under the licensure of the facility.] *The following shall not constitute threshold visits within the meaning of subdivisions (a) and (b) of this section:*

(1) *visits solely for the purpose of receiving ordered ambulatory services;*

(2) *visits solely for the purpose of receiving pharmacy services;*

(3) *visits solely for the purpose of receiving nutrition services;*

(4) *visits solely for the purpose of receiving respiratory therapy;*

(5) *visits solely for the purpose of receiving recreation therapy;*

(6) *visits solely for the purpose of receiving medical social services, except for clinical social worker psychotherapy services as defined in subdivision (g) of this section;*

(7) *visits solely for the purpose of receiving group services, except for clinical group psychotherapy services in accordance with the provisions of subdivision (h) of this section;*

(8) *offsite services, defined as medical services provided by a facility's clinic staff at locations other than those operated by and under the licensure of the facility, or visits related to the provision of such offsite services, except in accordance with the provisions of subdivision (i) of this section.*

(d) A procedure shall include the total service, including the initial visit, preparatory visits, the actual procedure and follow-up visits related to the procedure. All visits related to a procedure, regardless of number, shall be part of one procedure and shall not be reported as a threshold visit.

(e) Rates for separate components of a procedure may be established when patients are unable to utilize all of the services covered by a procedure rate. No separate component rates shall be established unless the facility includes in its annual financial and statistical reports the statistical and cost apportionments necessary to determine the component rates.

(f) Ordered ambulatory services may be covered and reimbursed on a

fee for service basis in accordance with the State medical fee schedule. Ordered ambulatory services are specific services provided to nonregistered clinic patients at the facility, upon the order and referral of a physician, physician's assistant, dentist or podiatrist who is not employed by or under contract with the clinic, to test, diagnose or treat the patient. Ordered ambulatory services include laboratory services, diagnostic radiology services, pharmacy services, ultrasound services, rehabilitation therapy, diagnostic services and psychological evaluation services.

(g) For purposes of this section clinical social worker psychotherapy services are defined as individual psychotherapy services provided in a Federally Qualified Health Center, by a licensed clinical social worker or by a licensed master social worker who is working in a clinic under qualifying supervision in pursuit of licensed clinical social worker status by the New York State Education Department.

(h) Clinical group psychotherapy services provided in a Federally Qualified Health Center (FQHC), are defined as services performed by a clinician qualified as in subdivision (g) of this section, or by a licensed psychiatrist or psychologist to groups of patients ranging in size from two to eight patients. Clinical group psychotherapy shall not include case management services. Reimbursement for these services shall be made on the basis of a FQHC group rate which will be calculated by the Department for this specific purpose, payable for each individual up to the limits set forth herein, using elements of the Resource Based Relative Value System (RBRVS) promulgated by the Centers For Medicare And Medicaid Services (CMS), and approved by the State Division of Budget.

(i) Federally Qualified Health Centers will be reimbursed for the provision of offsite primary care services to existing FQHC patients in need of professional services available at the FQHC, but, due to the individual's medical condition, is unable to receive the services on the premises of the center.

(1) FQHC offsite services must:

- (i) consist of services normally rendered at the FQHC site.
- (ii) be rendered to an FQHC patient with a pre-existing relationship with the FQHC (i.e., the patient was previously registered as a patient with the FQHC) in order to allow the FQHC to render continuous care when their patient is too ill to receive on-site services, and only to patients expected to recover and return to become an on-site patient again. Off-site services may not be billed for patients whose health status is expected to permanently preclude return to on-site status.
- (iii) be rendered only for the duration of the limiting illness, with the intent that the patient return to regular treatment as an on-site patient as soon as their medical condition allows.
- (iv) be an individual medical service rendered to an FQHC patient by a physician, physician assistant, midwife or nurse practitioner.
- (v) not be rendered in a nursing facility or long term care facility, to any patient expected to remain a patient in that facility or at that level of care.
- (vi) not be billed in conjunction with any other professional fee for that service, or on the same day as a threshold visit.

(2) Reimbursement for these services shall be made on the basis of an FQHC offsite professional rate, which will be calculated by the Department using elements of the Resource Based Relative Value System (RBRVS) promulgated by the Centers For Medicare And Medicaid Services (CMS) and approved by the State Division of Budget.

Text of proposed rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Regulatory Affairs Unit, Room 2438, ESP, Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

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

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

Regulatory Impact Statement

Statutory Authority:

The authority for the promulgation of these regulations is contained in section 2803(2)(a) of the Public Health Law which authorizes the State Hospital Review and Planning Council to adopt and amend rules and regulations, subject to the approval of the Commissioner. Section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act (BIPA) of 2000 made changes to the Social Security Act affecting how prices are set for Federally Qualified Health Centers and rural health centers. Section 1902(a)(10) of the federal Social Security Act (42 USC 1396a(a)(10)) and 1905(a)(2) of the Social Security Act (42 USC 1396d(a)(2)) require the State to cover the services of Federally Qualified Health Centers. Additionally, section 1861(aa) of the Social Security Act (42 USC 1395x(aa)) defines the services that a Federally Qualified Health Center provides, including the services of a clinical social worker.

Legislative Objective:

The regulatory objective of this authority is to bring the State into compliance with Federal Law regarding payments to Federally Qualified

Health Centers (FQHCs). Based on the Federal Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act (BIPA) of 2000 we will allow payments for group psychotherapy provided by social workers and limited off-site services at special rates developed for these services. Individual psychotherapy remains allowed at the threshold visit rate.

This amendment will allow individual psychotherapy by licensed clinical social workers (LCSWs) as a billable visit in FQHCs under the following circumstances:

- Services are provided by a licensed clinical social worker or by a licensed master social worker who is working in a clinic under qualifying supervision in pursuit of licensed clinical social worker status.
- Psychotherapy services only will be permitted, not case management and related services.

Group psychotherapy as a clinical social service will be allowed in FQHCs in accordance with the following:

- Services are provided to a group of patients by a licensed clinical social worker, or by a licensed master social worker who is working in a clinic under qualifying supervision in pursuit of licensed clinical social worker status or a licensed psychiatrist or psychologist.
- Payment will be made on the basis of a FQHC group rate.
- Payment will only be made for services that occur in FQHCs.

Payment for individual or group psychotherapy will not be allowed for services rendered off-site.

Off-site primary care services by FQHCs will be reimbursable under the following provisions:

- Individuals given care must be existing FQHC patients who are temporarily unable to receive services on-site due to their medical condition but are expected to return to the FQHC as an on-site patient.
- Services must be rendered by a physician, physician assistant, midwife or nurse practitioner and reimbursed at the FQHC offsite professional rate.
- Services are not billable with any other professional fee for that service or on the same day as a threshold visit.

Needs and Benefits:

Recent Federal changes related to Medicaid reimbursement for FQHCs mandate that group psychotherapy services provided by a social worker and off-site primary care services be considered a billable service.

This approach will ensure access to social work services in the most underserved areas and increase consistency with the policies of other state agencies.

COSTS:

Costs for the Implementation of, and Continuing Compliance with this Regulation to Regulated Entity:

We estimate this change will increase Medicaid costs by about 7.4 million dollars gross, annually. Of this amount, about 1.2 million dollars is attributable to allowing FQHCs to bill for limited off-site visits. 6.2 million dollars is attributable to allowing FQHCs to bill for group therapy services. These changes are being made in order to comply with Federal requirements.

Pricing & Volume Data	Cost Estimates		
	Downstate	Upstate	Statewide Average
Offsite Visits			Offsite Visits
Subsequent Hospital Care	\$62.73	\$55.19	\$58.96
Psychotherapy Services			Group Therapy
Group Psychotherapy	\$34.86	\$30.81	\$32.84
2004 FQHC Visit Volume	1,894,864		
			Total
Volume Increase Assumptions			\$7,339,945
Group Therapy Increase = 10% Increase			
2004 FQHC Volume			
Off-site Visit Increase = 1% Increase			
Over 2004 FQHC Volume			

Cost to the Department of Health:

This represents a permanent filing of regulations already in effect. There will be no additional costs to the Department.

Local Government Mandates:

This amendment will not impose any program service, duty or responsibility upon any county, city, town, village school district, fire district or other special district.

Paperwork:

This amendment will increase the paperwork for providers only to the extent that providers will bill for social work services.

Duplication:

This regulation does not duplicate, overlap or conflict with any other state or federal law or regulations.

Alternatives:

Recent changes to federal law make it clear that states must reimburse FQHCs under Medicaid for off-site primary care services and the services of certified social workers for both individual and group psychotherapy. In light of this federal requirement, no alternatives were considered.

Federal Standards:

This amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

Compliance Schedule:

The proposed amendment will become effective publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis**Effect on Small Businesses and Local Governments:**

No impact on small businesses or local governments is expected.

Compliance Requirements:

This amendment does not impose new reporting, record keeping or other compliance requirements on small businesses or local governments.

Professional Services:

No new professional services are required as a result of this proposed action. These changes will bring our regulations into compliance with the State Education Department's (SED) new standards for social worker licensure.

Compliance Costs:

This amendment does not impose new reporting, recordkeeping or other compliance requirements on small businesses or local governments.

Economic & Technological Feasibility:

DOH staff has had conversations with the National Association of Social Workers (NASW), UCP, and CHCANYS concerning the interpretation of the current regulation as well as proposed changes to the existing regulation. Although some systems changes will be necessary to ensure that payment is made only to FQHCs, the proposed regulation will not change the way providers bill for services, and thus there should be no concern about technical difficulties associated with compliance.

Minimizing Adverse Impact:

There is no adverse impact.

Opportunity for Small Business Participation:

Participation is open to any FQHC that is certified under Article 28 of the Public Health Law, regardless of size, to provide individual psychotherapy services by certified social workers. Any FQHC, regardless of size, may participate in providing off-site primary care services as well as on-site group psychotherapy services by certified social workers, a licensed psychiatrist or psychologist.

Rural Area Flexibility Analysis**Types and Estimated Number of Rural Areas:**

This rule will apply to all Article 28 clinic sites in New York that have been designated by the Centers for Medicare and Medicaid Services (CMS) as Federally Qualified Health Centers. These businesses are located in rural, as well as suburban and metropolitan areas of the State.

Reporting, Recordkeeping and Other Compliance Requirements and Professional Services:

No new reporting, recordkeeping or other compliance requirements and professional are needed in a rural area to comply with the proposed rule.

Compliance Costs:

There are no direct costs associated with compliance.

Minimizing Adverse Impact:

There is no adverse impact.

Opportunity for Rural Area Participation:

The Department has had conversations with the National Association of Social Workers Association (NASW), UCP, and CHCANYS to discuss Medicaid reimbursement for social work services and the impact of this new rule on their constituents. These groups and associations represent social workers and clinic providers from across the State, including rural areas.

Job Impact Statement**Nature of Impact:**

It is not anticipated that there will be any impact of this rule on jobs or employment opportunities.

Categories and Numbers Affected:

There are almost 1000 Article 28 clinics of which approximately 58 are FQHCs, FQHC look-alikes, and rural health clinics.

Regions of Adverse Impact:

This rule will affect all regions within the State and businesses out of New York State that are enrolled in the Medicaid Program as an Article 28 clinic and that has been designated by the Centers for Medicare and Medicaid Services (CMS) as a Federally Qualified Health Center.

Minimizing Adverse Impact:

The Department is required by federal rules to reimburse FQHCs for the provision of primary care services, including clinical social work services, based upon the Center's reasonable costs for delivering covered services.

Self-Employment Opportunities:

The rule is expected to have no impact on self-employment opportunities since the change affects only services provided in a clinic setting.

Office of Mental Health

NOTICE OF ADOPTION**Medical Assistance Payment for Outpatient Programs**

I.D. No. OMH-36-08-00022-A

Filing No. 1057

Filing Date: 2008-10-21

Effective Date: 2008-11-05

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

Action taken: Amendment of Part 588 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, section 7.09

Subject: Medical Assistance Payment for Outpatient Programs.

Purpose: To revise and correct inaccurate references to Part 587 within Part 588 of Title 14 NYCRR.

Text or summary was published in the September 3, 2008 issue of the Register, I.D. No. OMH-36-08-00022-P.

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

Text of rule and any required statements and analyses may be obtained from: Joyce Donohue, NYS Office of Mental Health, 44 Holland Avenue, 8th Floor, Albany, NY 12229, (518) 474-1331, email: cocbjdd@omh.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

NOTICE OF ADOPTION**Low-Income Gas Efficiency Program**

I.D. No. PSC-44-07-00038-A

Filing Date: 2008-10-16

Effective Date: 2008-10-16

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

Action taken: On October 15, 2008, the PSC adopted an order approving the petition of Central Hudson Gas & Electric Corporation for a \$400,000 low-income gas efficiency program to be administered by the New York State Energy Research and Development Authority (NYSERDA).

Statutory authority: Public Service Law, sections 2, 5 and 66

Subject: Low-income gas efficiency program.

Purpose: To approve a low-income gas efficiency program.

Substance of final rule: The Commission, on October 15, 2008, adopted an order approving the petition of Central Hudson Gas & Electric Corporation for a \$400,000 low-income gas efficiency program to be administered by the New York State Energy Research and Development Authority (NYSERDA), subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Leann Ayer, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: leann_ayer@dps.state.ny.us An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(07-M-1139SA1)

NOTICE OF ADOPTION

Clarification Regarding Certain PEG Channels and Catch-all Language

I.D. No. PSC-16-08-00013-A

Filing Date: 2008-10-16

Effective Date: 2008-10-16

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

Action taken: On October 15, 2008, the PSC adopted an order approving the petition filed by the Westchester Cable Consortium for clarification regarding certain Public, Educational and Governmental (PEG) channels and catch-all language.

Statutory authority: Public Service Law, sections 215(1) and 221(4)

Subject: Clarification regarding certain PEG channels and catch-all language.

Purpose: To approve a request for clarification filed by the Westchester Cable Television Consortium.

Substance of final rule: The Commission, on October 15, 2008, adopted an order approving the petition filed by the Westchester Cable Consortium for clarification regarding special grants for Public, Educational and Governmental (PEG) channels and the inclusion of provisions required in its rules with Public Service Law Article 11 and its regulations, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Leann Ayer, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: leann_ayer@dps.state.ny.us An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(07-V-1524SA2)

NOTICE OF ADOPTION

Disposition of Tax Refund

I.D. No. PSC-31-08-00019-A

Filing Date: 2008-10-16

Effective Date: 2008-10-16

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

Action taken: On October 15, 2008, the PSC adopted an order approving the petition of Verizon New York Inc. to retain \$1.1 million, the intrastate portion of a \$1.8 million property tax refund associated with the 2003-06 tax years, received from the City of White Plains.

Statutory authority: Public Service Law, section 113(2)

Subject: Disposition of tax refund.

Purpose: To approve the allocation and disposition of a tax refund from the City of White Plains, New York.

Substance of final rule: The Commission, on October 15, 2008, adopted an order approving the petition of Verizon New York Inc. to retain \$1.1 million, the intrastate portion of a \$1.8 million property tax refund associated with the 2003-2006 tax years, received from the City of White Plains, New York.

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

Text of rule may be obtained from: Leann Ayer, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: leann_ayer@dps.state.ny.us An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(08-C-0749SA1)

NOTICE OF ADOPTION

Joint Petition to Transfer a 55MW Electric Generation Facility and Granting a Lightened Regulation Regime

I.D. No. PSC-33-08-00005-A

Filing Date: 2008-10-21

Effective Date: 2008-10-21

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

Action taken: On October 15, 2008, the PSC adopted an order approving the joint petition of IPP Energy LLC and Standard Binghamton LLC for the transfer of a 55MW electric generation facility and granting a lightened regulation regime.

Statutory authority: Public Service Law, sections 2(13), 5(1)(b), 64, 65, 66, 67, 68, 69, 69-a, 70, 71, 72, 72-a, 75, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Joint petition to transfer a 55MW electric generation facility and granting a lightened regulation regime.

Purpose: To grant the joint petition to transfer a 55MW electric generation facility and granting a lightened regulation regime.

Substance of final rule: The Commission, on October 15, 2008, adopted an order approving the joint petition of IPP Energy LLC (IPP) and Standard Binghamton LLC (Standard Binghamton) for the transfer of a 55MW electric generation facility from IPP to Standard Binghamton and granting a lightened regulation regime, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Leann Ayer, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: leann_ayer@dps.state.ny.us An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(08-E-0738SA1)

NOTICE OF ADOPTION

Street Lighting

I.D. No. PSC-33-08-00010-A

Filing Date: 2008-10-15

Effective Date: 2008-10-15

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

Action taken: On October 15, 2008, the PSC adopted an order approving Central Hudson Gas & Electric Corporation's request to make various changes to its schedule for Electric Service PSC No. 15—Electricity, effective November 1, 2008.

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

Subject: Street lighting.

Purpose: To approve the removal of light fixtures that have had no inventory over the last two years.

Substance of final rule: The Commission, on October 15, 2008, adopted an order approving Central Hudson Gas & Electric Corporation's tariff revisions to update the lighting fixtures available for public street and highway lighting.

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

Text of rule may be obtained from: Leann Ayer, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: leann_ayer@dps.state.ny.us An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(08-E-0870SA1)

NOTICE OF ADOPTION

Transition Cost Surcharge

I.D. No. PSC-35-08-00016-A

Filing Date: 2008-10-15

Effective Date: 2008-10-15

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

Action taken: On October 15, 2008, the Public Service Commission adopted an order approving Rochester Gas and Electric Corporation's request to make various changes contained in its Schedules PSC No. 16—Gas, effective November 1, 2008.

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

Subject: Transition Cost Surcharge.

Purpose: To approve revision of the Transition Cost Surcharge.

Substance of final rule: The Commission, on October 15, 2008, adopted an order approving Rochester Gas and Electric Corporation's tariff filing to revise the Transition Cost Surcharge to exclude associated costs with ANR Pipeline Company and Great Lakes pipeline storage assets.

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

Text of rule may be obtained from: Leann Ayer, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: leann_ayer@dps.state.ny.us An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(08-G-0889SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Removal of Restrictions on Payment of Dividends and Repurchase Stock by Corning That Had Been Imposed in Orders of the PSC

I.D. No. PSC-45-08-00020-P

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

Proposed Action: The PSC is considering a petition filed by Corning Natural Gas Corporation (Corning) to remove an existing restriction prohibiting Corning from paying common stock dividends and/or buying back its stock.

Statutory authority: Public Service Law, section 66

Subject: Removal of restrictions on payment of dividends and repurchase stock by Corning that had been imposed in orders of the PSC.

Purpose: To remove restrictions on payment of dividends.

Substance of proposed rule: The Public Service Commission is considering whether to approve, deny or modify, in whole or in part, a petition by Corning Natural Gas Corporation (Corning) for authority, pursuant to PSL 66, to remove an existing restriction prohibiting Corning from paying common stock dividends and/or buying back its stock that were imposed in prior Public Service Commission Order. The Commission may approve, reject or modify, in whole or in part, the relief requested by Corning.

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: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: jaclyn_brillling@dps.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

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

(07-G-0772SA2)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Calendar of Gas Transportation Schedule, Retail Access Service Classifications and Transition Surcharge

I.D. No. PSC-45-08-00021-P

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

Proposed Action: The commission is considering a proposal filed by Central Hudson Gas & Electric Corporation to update references and provisions in its gas tariff and to remove references to the Transition Surcharge which is no longer applicable.

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

Subject: Calendar of Gas Transportation Schedule, retail access service classifications and Transition Surcharge.

Purpose: To update references and provisions in the company's gas tariff and remove references to the Transition Surcharge.

Substance of proposed rule: The Commission is considering Central Hudson Gas & Electric Corporation's (Central Hudson or the company) proposal to update references to the company's Calendar of Gas Transportation Schedule, add tariff provisions to its retail access service classifications which are subject to the tax rates included in General Information Section 28 of the company's tariff and remove references to the Transition Surcharge which is no longer applicable. The Commission may approve, reject or modify, in whole or in part Central Hudson's request.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm> For questions, contact: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: jaclyn_brillling@dps.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

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-1224SA1)

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

Purchased Power Adjustment

I.D. No. PSC-45-08-00022-P

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

Proposed Action: The Commission is considering a proposal filed by Massena Electric Department to revise the method of computing the monthly Purchased Power Adjustment.

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

Subject: Purchased Power Adjustment.

Purpose: To revise the method of computing the monthly Purchased Power Adjustment.

Substance of proposed rule: The commission is considering Massena Electric Department's (Massena) proposal to revise the method of computing the monthly Purchased Power Adjustment. The Commission may approve, reject or modify, in whole or in part Massena'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: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us

Data, views or arguments may be submitted to: Jaclyn A. Brillling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: jaclyn_brillling@dps.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

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-1246SA1)

**Office of Real Property
Services**

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

Certification and Training Rules for Certain New York City (NYC) Assessors

I.D. No. RPS-45-08-00019-P

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

Proposed Action: Amendment of Subpart 188-8 of Title 9 NYCRR.

Statutory authority: Real Property Tax Law, art. 3, title 3 and section 202(1)(l)

Subject: Certification and training rules for certain New York City (NYC) Assessors.

Purpose: To implement the provisions of chapter 352 of the Laws of 2007.

Public hearing(s) will be held at: 1:00 p.m., December 2, 2008 at 641 Lexington Ave., Room D-4th Fl., New York, NY.

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

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

Text of proposed rule: Section 1. Section 188-8.1 is amended to read as follows:

Section 188-8.1 Certification requirements for New York City assessors, generally. (a) This subpart applies to all individuals who perform professional appraisal duties relating to the assessment or adjudication of property for the real property tax. On or before April 1 each year ORPS will provide the Department of Citywide Administrative Services with a list of those agencies of the City government and the job titles within those agencies that are subject to the provisions of this subpart. Additions to or deletions from that list may be made at any time.

(b) Each assessor serving on the effective date of this subpart must attain certification by April 1, [2008] 2009.

(c) A State certified assessor must be recertified upon a reappointment where there has been an interruption of continuous service of at least four years.

Section 2. Section 188-8.3 is amended by relettering subdivisions b through g as d through I respectively and adding a new subdivisions b and c to read as follows:

(b) An assessor whose responsibilities involve appraisal duties relating to adjudication may, upon approval, substitute training in administrative law, the conduct of adjudicatory proceedings, or the administrative or judicial review of real property assessments for purposes of the real property tax in lieu of the computer assisted mass appraisal modeling. Such training must be appropriate to the duties of that assessor.

(c) Nothing herein shall be deemed to prohibit ORPS from accepting experience in lieu of training.

Text of proposed rule and any required statements and analyses may be obtained from: Philip J. Hawver, Senior Attorney, New York State Office of Real Property Services, 16 Sheridan Avenue, Albany, New York 12210-2714, (518) 474-8821, email: internet.legal@orps.state.ny.us

Data, views or arguments may be submitted to: New York State Office of Real Property Services, 16 Sheridan Avenue, Albany, New York 12210-2714, (518) 474-8821, email: internet.legal@orps.state.ny.us

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

Regulatory Impact Statement

1. Statutory Authority: Section 202(1)(l) of the Real Property Tax Law (RPTL) authorizes the State Board of Real Property Services to adopt such rules "as may be necessary for the exercise of its powers and the performance of its duties."

Title 3 of Article 3 of the RPTL requires assessors in New York City, to obtain certification from the State Board of Real Property Services. Title 3, added by Chapter 139 of the Laws of 2005, is comprised of six sections. Section 350 states that such Title applies exclusively to the City of New York. Section 352 mandates that the State Board shall establish minimum qualification standards for assessors and appraisers. Section 354, entitled "Certification of Assessors", sets forth the framework and guidelines for obtaining such certification. Section 356 describes how a person who is not an assessor may be certified as an assessor. Section 358 describes the procedures and ramifications in the event there is a "failure to obtain or maintain certification." Section 360 was amended by Chapter 352 of the Laws of 2007 to clearly state that no person can be assigned appraisal duties relating to the "assessment and adjudication" of real property unless such person meets the minimum qualification standards established by the State Board. Section 362 provides that no local law can be adopted which is inconsistent with the provisions of Title 3. Section 364 provides that Inconsistent laws are inapplicable.

2. Legislative Objectives: The training and certification of New York City Assessors employed in that City's Tax Commission and Department of Law.

3. Needs and Benefits: Chapter 139 of the Laws of 2005 added Title 3 to Article 3 of the Real Property Tax Law to require that the Office of Real Property Services (ORPS) establish a program of training and certification for assessors in New York City similar to that for assessors outside of New York City. All other assessors, except those in Nassau County and the cities of Buffalo, Syracuse, Rochester, Yonkers and Albany are subject of the training and certification provisions of Title 2 of Article 3. The New York City program, implemented through Subpart 188-8 of Title 9, requires assessors in the New York City Department of Finance to obtain training and certification.

ORPS had exercised its discretion under the current program to determine that employees serving in assessor titles in the New York City Tax Commission and New York City Department of Law were not subject to the 2005 requirements. However, Chapter 252 of the

Laws of 2007 amended Title 3 to add assessors involved in adjudication to the program. ORPS understands that this amendment was intended to add the assessors in the two agencies who are involved in the administrative and judicial adjudication of assessment complaints. Fewer than twenty employees in the two agencies will be impacted by the rule. In addition, Chapter 252 extended the time to obtain certification to three years. This proposal implements the increased time and adds flexibility to the existing training program to incorporate assessors whose functions involve adjudication rather than just appraisal.

Although the Department of Law and the Tax Commission expressed concern that the proposal imposes training on the latter two agency employees that is more appropriate to employees of the Department of Finance, there are two reasons for proceeding in this manner. First, individual assessors can move to assessor positions in any of the three agencies, making it unrealistic to apply radically different standards to the three agencies. Second, the assessments that are within the purview of those two agencies have been prepared by the assessors in the Department of Finance, and thus a familiarity with that Department's operations is an essential component of the other assessors' skill set. Furthermore, the proposal allows assessors whose responsibilities focus on adjudication to substitute training more relevant to their judicial and administrative duties in lieu of training directly related to conducting appraisals. Finally, the Legislature clearly intended that the regulations treat assessors in the three agencies in the same manner.

4. Costs: (a) To State Government. An annual appropriation of \$350,000 supports the expenses of City assessors complying with the training requirements. Since training has generally been given in a large classroom setting, increasing by less than 20 the number of assessors subject to the requirement may appear to have a small impact. Some economies of scale might be lost due to the small number of assessors newly covered. Any increase in costs would still be within the appropriation.

(b) To local governments: The implementation of Title 3 by this proposal will result in lost productivity as New York City assessors take time from normal work assignments to attend training as well as imposing reporting and record-keeping requirements on the City. In addition, in the past the City has absorbed some of the indirect costs of training assessors by assisting ORPS.

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

(d) Basis of cost estimates: Past experience and the requirements of Title 3. The economies of training large numbers of assessors at a single session without the State incurring all expenses might not be available for the small number of additional assessors. Conversely, some of the newly covered assessors may have training and designations that will entitle them to receive waivers from much or all of the training requirements. These decisions will be made on a case by case basis.

5. Local Government Mandates: Title 3 places the mandate on the City of having its assessors trained and certified, with the corollary loss of productivity and increased record keeping. Moreover, those assessors who have to attend all training components would be unavailable for their usual assignments for approximately six weeks. This proposal implements that mandate without imposing any additional requirements.

6. Paperwork: Implementation of the program will require maintenance of additional training records for less than 20 by the New York State Office of Real Property Services and by the City, as the City would be tracking the training attended in the normal course of personnel recordkeeping and ORPS would be monitoring progress toward certification.

7. Duplication: There are no conflicting State or Federal requirements. Assessors serving in the City would have passed a civil service examination to obtain their positions, but this does not constitute certification by ORPS.

8. Alternatives: The proposal could have imposed a course of training on assessors in the other two city agencies identical to that required of assessors in the Department of Finance. However, this alternative would have resulted in training that is less responsive to the needs of the City.

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

10. Compliance Schedule: Pursuant to this proposal, those assessors currently employed must obtain certification by April 1, 2009.

Regulatory Flexibility Analysis

The amendment proposed would not impose any adverse economic conditions or any reporting, record-keeping or other compliance requirements on small businesses.

The rule will require New York City to provide information on the appointment of assessors, employed in the Tax Commission and Law Department and the training they may be taking to satisfy the requirements of the proposal. In addition, the City may suffer a loss in productivity as approximately 25 employees attend approximately 35 hours of training over a three-year period. Both of these effects are necessary given the mandate of Chapter 139 of the Laws of 2005, which added Title 3 to Article 3 of the Real Property Tax Law, to require State certification of New York City assessors and Chapter 252 of the Laws of 2007, which extended the requirements to the City's Department of Law and Tax Commission.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not required for this rule making because the proposal only applies to New York City.

Job Impact Statement

A job impact statement is not required for this rule making because the amendment only concerns New York City civil servants and administration of a statutorily required program by New York City and the New York State Office of Real Property Services.

State University of New York

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

State University of New York Tuition Refund Policy

I.D. No. SUN-45-08-00017-P

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

Proposed Action: Amendment of section 302.2(b) of Title 8 NYCRR.

Statutory authority: Education Law, section 355(2)(b) and (h)

Subject: State University of New York tuition refund policy.

Purpose: Limit time period for tuition refunds based on hardship to one year following the term for which the tuition is due.

Text of proposed rule: § 302.2 Tuition liability; refund for cancelling registration.

(b) Exceptions.

[(6) A student who is receiving Federal financial assistance under title IV of the Higher Education Act of 1965 and who attends a State-operated campus of the State University for the first time shall receive a pro rata refund of tuition and fees, provided that the student's date of withdrawal from the campus is on or before the 60 percent point in time in the enrollment period for which the student has been charged. Such refund shall be the larger of the amount refundable under this paragraph or under subdivision (a) of this section. Any amount refundable shall first be credited to outstanding loan balances and awards under Federal student assistance programs in the order specified under title IV of the Higher Education Act of 1965, as amended.]

[(7)6] Notwithstanding any other provisions for refund, when a student has withdrawn through circumstances beyond [his] *their* control, under conditions in which the denial of refund would cause undue hardship, the chief administrative officer of the unit may, [in his] *at their* discretion, determine that no liability for tuition has been incurred by the student, provided the student has not completed more than one half of the term, [and] has not received or will not receive academic credit for the term[.], *and that the request for refund is made within one year after the end of the term in question.* Such action, including the reason therefor, shall be in writing.

(c) Military personnel withdrawing from any program or term because of changes of assignment beyond their control and upon proper certifica-

tion of such change from a base education service officer or other appropriate military official shall be deemed to have incurred no liability for tuition and fees due from [him] *the student*, as opposed to tuition and fees paid by the Federal government [in his] *on the student's* behalf.

Text of proposed rule and any required statements and analyses may be obtained from: Marti Anne Ellermann, Senior Counsel, State University of New York, Office of the University Counsel, University Plaza, S-333, Albany, NY 12246, (518) 443-5400, email: marti.ellermann@suny.edu

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

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

Regulatory Impact Statement

1. Statutory Authority: Education Law, Sections 355(2)(b) and 355(2)(h). Section 355(2)(b) authorizes the State University Trustees to make and amend rules and regulations for the governance of the State University and institutions therein. Section 355(2)(h) authorizes the State University Trustees to regulate the admission of students, tuition charges and other fees and charges, curricula and all other matters pertaining to the operation and administration of each state-operated institution of the University.

2. Legislative Objectives: The present measure makes revisions in the policy governing tuition refunds at state-operated campuses of the State University of New York. Tuition revenue is used in furtherance of the statutorily-defined mission of the State University of New York under Article 8 of the Education Law.

3. Needs and Benefits: The present measure is needed to clarify that students who withdraw from a campus of the State University of New York because of circumstances beyond their control must request a tuition refund on the basis of hardship within a year of the end of the term in which the student withdrew. This time limitation is consistent with the general tuition liability schedule in 8 NYCRR § 302.2(a) which also requires that requests for refunds be made within one year after the end of the term for which tuition was paid. The proposed amendment will give the campuses of the State University of New York greater certainty with regard to tuition collections and revenues which will aid in planning and accountability.

4. Costs: There will be no additional costs to students due to the amendments. The present measure does not change the amount of tuition or the general tuition liability schedule. It does ensure, however, that campuses will not have to make refunds of tuition to students who withdrew due to circumstances beyond their control more than one year after the term in which they withdrew. Accordingly, some students who may have been entitled to apply for a refund due to hardship will no longer be eligible to request such a refund.

5. Local Government Mandates: There are no local government mandates.

6. Paperwork: Tuition refund information in catalogs and other publications will have to be updated at the state-operated campuses of the State University of New York.

7. Duplication: None

8. Alternatives: While there is an alternative of keeping the tuition refund policy unchanged, it is not acceptable since it continues the inconsistency with the general tuition liability schedule and lessens the certainty campuses have over tuition revenue collections.

9. Federal Standards: The proposed measure also eliminates a section of the refund policy which has become outdated due to changes in federal law governing federal financial assistance programs.

10. Compliance Schedule: It is intended that the amendments will be effective for the Fall 2008 semester.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is submitted with this notice because the proposed rule does not impose any requirements on small businesses and local governments. This proposed rule making will not impose any adverse economic impact on small businesses and local governments or impose any reporting, record keeping or other compliance requirements on small businesses and local governments.

Rural Area Flexibility Analysis

No rural area flexibility analysis is submitted with this notice because the proposed rule does not impose any requirements on rural areas. The rule will not impose any adverse economic impact on rural areas or impose any reporting, record-keeping, professional services or other compliance requirements on rural areas.

Job Impact Statement

No job impact statement is submitted with this notice because the proposed rule does not impose any adverse economic impact on existing jobs, employment opportunities, or self-employment. This regulation governs the structure of the University-wide student governance body for The

State University of New York and will not have any adverse impact on the number of jobs or employment.

Worker's Compensation Board

NOTICE OF ADOPTION

Insolvency of Group Self-Insured Trusts

I.D. No. WCB-35-08-00020-A

Filing No. 1056

Filing Date: 2008-10-21

Effective Date: 2008-11-05

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

Action taken: Amendment of section 317.20 of Title 12 NYCRR.

Statutory authority: Workers' Compensation Law, sections 50 and 117

Subject: Insolvency of group self-insured trusts.

Purpose: Provide definition of insolvent for group self-insured trust and when the chair will levy an assessment to pay claims.

Text or summary was published in the August 27, 2008 issue of the Register, I.D. No. WCB-35-08-00020-P.

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

Text of rule and any required statements and analyses may be obtained from: Cheryl M. Wood, Workers' Compensation Board, 20 Park Street, Room 400, Albany, New York 12207, (518) 408-0469, email: regulations@wcb.state.ny.us

Assessment of Public Comment

The attorney for the petitioners in *Held, et. al. v. Workers' Compensation Board, et. al.* (Albany County Supreme Court, Index No.2957-08) submitted a comment letter objecting to the proposed regulation. This proceeding is discussed in the Regulatory Impact Statement filed with the Notice of Proposed Rule Making. These were the only comments received.

In his comment letter, the attorney makes three arguments to support the objection:

1) The Board's definition of insolvent is inconsistent with other definitions of insolvency under New York State Law and Generally Accepted Accounting Principles (GAAP);

2) The Board's definition of insolvent does not take into account substantial asset classes of group self-insured trusts (GSITs); and

3) The Board overstepped its authority in amending its regulations to include the proposed definition and the Board's definition of insolvent lacks a statutory basis.

With respect to the first argument, the attorney claims that the proposed definition of insolvent "rejects all definitions previously adopted by New York State's Legislature" and that the proposed definition does not "comply with GAAP". In crafting the proposed definition, the chair reviewed the definitions of insolvency or insolvent according to GAAP, Department of Taxation and Finance regulations and Debtor and Creditor Law § 271(1). Pursuant to these sources insolvency is when an entity's liabilities exceed its assets. Because a large majority of GSITs would be insolvent under these definitions, the chair determined they were overbroad.

While the Workers' Compensation Law (WCL) does not define insolvent, section 106 defines an "insolvent carrier" as a carrier which is under an order of rehabilitation or liquidation of the Superintendent of Insurance. The definition of insolvency in Insurance Law § 1309 requires the superintendent to deem an insurer insolvent when it is "unable to pay its outstanding lawful obligations as they mature in the regular course of business, as shown by an excess of required reserves and other liabilities over admitted assets, or by its not having sufficient assets to reinsure all outstanding risks with other solvent authorized assuming insurers after paying all accrued claims owed, . . ."

Case law regarding this section holds that a "company is insolvent in the sense that it is wholly unable to meet the demands which may be made on it in the ordinary and regular course of business". *In re New York Title & Mortg. Co.*, 156 Misc. 186, 281 NYS 715 (S.Ct. 1935). This court found that that the company in question "concededly found itself 'unable to meet the present and early future demands upon it for fulfillment of its obligations' . . .". *Id.* Thus, courts have viewed the phrase "in the regular course of business" in Insurance Law § 1309 as including both present obligations and those that will come due in the immediate future. Case law

further holds that the mere inability to pay one's debts is to be distinguished from insolvency. Accordingly, any definition of insolvency that includes an inability to meet current or near future obligations must also include a second component that demonstrates "serious financial instability," such as the standard of assets less than liabilities.

Treatises on insurance and insolvency generally opine that an insurer does not have to be insolvent before state regulators may act. Rather, they may step in whenever an insurer is in a "hazardous financial condition." This occurs when an insurer continuing its business operations presents risk of loss to its policy holders. 26 Appleman on Insurance § 159.4. This concept mirrors the provisions in Insurance Law § 7402(e) which allow the superintendent to conduct liquidation and or rehabilitation proceedings against an insurer whenever it is "in such condition that its further transaction of business will be hazardous to its policyholders, creditors, or the public." Ins. Law § 7402(e) & § 7404.

The board also reviewed definitions of insolvency used by other states with GSIT programs. In Massachusetts insolvent is defined in Part 211 of the Code of Massachusetts Regulations § 67.00 as "the inability of a workers' compensation self-insurance group to pay its outstanding lawful obligations as they mature in the regular course of business, as may be shown either by an excess of its required reserves and other liabilities over its assets or by its not having sufficient assets to reinsure all of its outstanding liabilities after paying all accrued claims owed by it."

The definition of insolvent in the proposed regulation is based upon this extensive research. It is a two prong definition using the language contained in Insurance Law § 1309 with modifications to the qualifier, "as they mature in the regular course of business", to capture both the serious financial instability concept espoused in GAAP (the GSITs assets being less than liabilities) and the inability to meet early future demands from the Insurance Law, case law and treatise (the GSITs assets coupled with available security deposit being insufficient to meet all anticipated workers' compensation obligations that will accrue within the succeeding six months). Thus, the definition of insolvent is fully consistent with the various definitions of insolvent/insolvency in the law.

With respect to the second argument, the attorney claims that the proposed definition of insolvent fails to take into account "substantial asset classes of" GSITs. Specifically, he cites three types of assets: 1) the assets of the individual employer-members of a GSIT; 2) reinsurance recoverables; and 3) reimbursements issued pursuant to WCL §§ 15(8) and 25-a. He argues that not including these assets will render the majority of GSITs insolvent, exposing the employer-members of such GSITs to "penalties, fines, assessments and other liabilities" and transfers the costs from insolvent GSITs to healthy ones.

These claims are inaccurate. First, several of the definitions of insolvency proposed as alternatives by the attorney, were not accepted because they would artificially render a majority of GSITs insolvent. Moreover, the chair's adoption of the proposed definition on an emergency basis has decreased, not increased, the number of previously declared insolvent GSITs, from nine to seven. Second, the attorney fails to explain how the proposed definition will subject GSITs to "penalties, fines ... and other liabilities." Third, with regard to the proposed definition subjecting GSITs to assessments, any definition of insolvent would expose GSITs to potential assessments because WCL § 50(5)(g) requires assessments on all private self-insured employers, including GSITs, as a temporary cash flow mechanism to allow the chair/board to ensure that the workers' compensation benefits of injured workers are not interrupted due to the insolvency of a self-insurer.

The vast majority of the attorney's arguments are premised on the claim that the failure of the proposed definition to include the assets of GSIT members in determining insolvencies is "unfair and contrary to applicable law." He suggests that the definition include a requirement that the joint and several obligations of the insolvent GSIT members be exhausted or that the board first attempt to access the assets of the employer-members before assessing the other GSITs. This suggestion suffers from several flaws. First, if the assets of all employer-members of a GSIT had to be exhausted before a declaration of insolvency/insolvent, there would be a gap when there would be no funds to pay the claims of the injured workers of the members of the GSIT. Second, "assets" as defined in the Board's regulations do not include the assets of the individual members. Third, if assets of the employer-members were to be included as assets of the GSIT then so too must their liabilities, as assets do not exist in a vacuum, which could cause more GSITs to be considered insolvent. Accordingly, the recommendation that the board consider assets (and only the assets) of the employer members of the GSITs in making an insolvency determination is not adopted.

The argument that the proposed definition of insolvency does not take into account the "substantial assets" of reinsurance recoverables and reimbursements issued pursuant to WCL § 15(8) and § 25-a is incorrect. Specifically, the proposed definition of insolvent requires the liabilities of the GSIT be in excess of the GSITs assets in order for a group to be deemed

insolvent. These recoverables are reflected either as a receivable or a contra-liability on GSITs financial statements. Regardless of the presentation, the board has recognized and will continue to recognize the recoverable or amounts expected from excess insurance and other sources by netting the liabilities when determining funding status. For reinsurance, once a particular claim, or in the case of aggregate reinsurance a particular year of claims, meets the statutory threshold, the liabilities above that threshold are reflected as gross liabilities with offsetting recoverables on the GSIT's financial statement. Likewise, with respect to reimbursements from WCL §§ 15(8) and 25-a, once a particular claim has been accepted as the liability of the respective Special Fund, the liabilities for those claims are either drastically reduced or eliminated altogether as liabilities of the GSIT. Accordingly, the proposed definition already considers these when determining liabilities of GSITs, so to consider them again would be inappropriate.

With respect to the third argument, the attorney argues that the chair overstepped his powers and disregarded the Legislature's actions. The chair did not overstep his power as WCL § 117 authorizes him to adopt reasonable rules consistent with the provisions of the WCL, and WCL § 50(3-a) (6) directs him to adopt reasonable rules relating to group self insurance. The chair's amendment of his regulations to define insolvent in a GSIT context is within his powers. The claim that the chair "disregards the Legislature's actions" by amending his regulations is premised upon the recent amendments to the WCL not including a definition of insolvent. It is difficult to understand how the chair's clarification of his procedures, pursuant to the decision in Held, amounts to a disregard of legislative intent when the Legislature was silent on the issue. The chair/board disagree with the position that legislative silence on a particular issue means a legislative intent that no action be taken.

The attorney argues that the proposed definition lacks a statutory basis and is contrary to the WCL because it transfers burdens of insolvent GSITs to healthy ones. In fact, the proposed definition is part of the overall framework of the WCL, which provides for an uninterrupted flow of benefits to injured workers when a self insurer is insolvent, through temporary and transient assessments on solvent self insurers. When the board collects funds from the employer-members of an insolvent GSIT to cover the liabilities of the GSIT, the solvent self insurers receive a refund or a credit against future assessments. The characterization of this process as "joint and several liability among employer members of all trusts" and that "group-to-group liability was never contemplated or authorized by the Legislature" is incorrect.

The attorney argues that the process is "contrary to applicable law" despite his knowledge to the contrary. WCL 50(5)(f) [now renumbered as WCL § 50(5)(g) and amended by Chapter 139 of the Laws of 2008] specifically provides that when an insolvent private self-insured employer defaults on the payment of claims, the chair shall levy an assessment on all private self-insured employers. The court in Held found that the Legislature intended the term "private self-insured employer" in WCL § 50(5)(f) to apply to all non-public self-insurers, including GSITs. Thus, the courts have found that this statutory assessment process contemplates insolvencies. Second, Chapter 139 of the Laws of 2008, effective June 30, 2008, amended the WCL to clarify WCL § 50(5)(g) [formerly 50(5)(f)] to add "including a private group self-insurer." Third, the Governor's memorandum in support of Chapter 139 stated that language was added "to renumbered WCL § 50(5)(g) to confirm that the provisions of both paragraph (f)'s (before renumbering) of the Workers' Compensation Law § 50(5) apply to both individual and group self-insurers and operate to allow assessment for the payment of expenses arising out of the default of both individual self-insured employers and group self-insurers, including expenses required to make payments to injured workers." The statutory framework of WCL § 50(5)(f) contemplates the issuance of assessments on healthy GSITs as a temporary cash flow mechanism while the chair/board collects the liability of the insolvent GSIT from its members.