

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.

Department of Audit and Control

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Additional Reporting Requirements for Elected and Appointed Officials in Relation to Reporting Requirements

I.D. No. AAC-42-08-00002-RP

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

Proposed Action: Renumbering of section 315.4 to section 315.5 and addition of new section 315.4 to Title 2 NYCRR.

Statutory authority: Retirement and Social Security Law, sections 11, 34, 311 and 334

Subject: Additional reporting requirements for elected and appointed officials in relation to reporting requirements.

Purpose: To provide further guidance for elected and appointed officials in relation to reporting requirements.

Text of revised rule: 315.4 *Additional reporting requirements for elected or appointed officials of a participating employer.*

(a) *Record of Work Activities.*

(i) *Except as otherwise provided in this subdivision, an elected or appointed official shall record his or her work activities for a period of three consecutive months. Such requirement shall not apply to any elected or appointed official who is not a member of the Retirement System nor to any elected or appointed official whose employer maintains a daily record of actual time worked. In recording work activities, such official may include time outside the normal working*

hours that requires his or her attention to attend to official duties, including responding to an emergency, attending an employer sponsored event, or meeting with or responding to members of the public on matters of official business. Such record of activities shall be completed within 150 days of taking office and shall be submitted by such official to the secretary or clerk of the governing board within 180 days of taking office. Such record of activities shall be accepted by such secretary or clerk as submitted without alteration thereof. An elected or appointed official who has prepared a record of activities pursuant to this subdivision for a previous term, may certify in writing to the governing board within 180 days of taking office that his or her duties, responsibilities and hours have not substantially or materially changed. A record of work activities and any certification based upon such record shall not be valid for more than eight years from the date of the taking of office for which the record of activities was initially maintained. Each such record of activities and any subsequent certification shall be retained by the employer for a period of at least ten years and full and complete copies thereof shall be provided to the State Comptroller upon his or her request.

(ii) *In the event the initial recording of work activities for a period of three consecutive months is not representative of the average number of hours worked by the elected or appointed official, he or she may record work activities during the same calendar year for an alternative period of three consecutive months which is representative of the average number of hours worked by such official. Such alternate record of work activities shall be submitted to the governing board.*

(b) *Standard Work Day and Reporting Resolution.*

In addition to the reporting requirements set forth in subpart 315.3 of this Part, and for the sole purpose of reporting days worked to the Retirement System, the governing board of a participating employer of an elected or appointed official shall establish, by resolution, a standard work day for each elective or appointive office or position. Such resolution shall indicate: (i) the number of hours prescribed as a standard work day for each such elective or appointed office or position; (ii) the expiration of the term for each such office or position; (iii) that the employer maintains an actual daily record of time worked for the elected or appointed official or that the official holding the office has recorded and submitted to the clerk his or her work activities for a period of three consecutive months; and (iv) for each elected and appointed official who has submitted a record of work activities pursuant to paragraph (i) of subdivision (a) of this section, the total number of days per month to be reported based upon such record of work activities. For the purpose of determining days worked, no fewer than six hours nor more than eight hours shall be established as a full-time standard work day. Such resolution shall be adopted no later than the first regular meeting held 180 days following commencement of the term of office and shall be applicable to employers whose elected and appointed officials are members of the Retirement System and are reported to the Retirement System by the employer. In the event an official submits an alternate record of activities pursuant to Paragraph (ii) of subdivision (a) of this section, the governing board may pass an additional resolution amending the maximum total number of days per month that will be reported for such official and directing the appropriate personnel to submit an adjustment report amending the number of days previously reported to the Retirement System.

(c) *Resolution: Filing and Posting Requirements.*

The resolution required by subdivision (b) of this section shall be posted on the employer's website for a minimum of thirty days or, in the event the employer does not maintain a website available to the public, such resolution shall be posted on the official sign-board or at the main entrance to the office of the clerk for the municipality or similar office of the employer for a minimum of thirty days. A certified copy of the resolution and an affidavit of posting shall be filed by the secretary or clerk of the governing board with the Office of the State Comptroller within 45 days of the adoption of the resolution. The failure of the governing board to adopt such resolution shall result in the suspension of service crediting and Retirement System membership benefits for the elected or appointed official until such time as the resolution is adopted, posted, and filed with the Comptroller. In the event the governing board submits an additional resolution amending the maximum total number of days per month that will be reported for an official pursuant to subdivision (b) of this section, such additional resolution shall be subject to the posting and filing requirements set forth in this subdivision.

Revised rule compared with proposed rule: Substantial revisions were made in section 315.4(a), (b), (c).

Text of revised proposed rule and any required statements and analyses may be obtained from Jamie Elacqua - Legislative Counsel, Office of the State Comptroller, 110 State Street, Albany, NY 12236, (518) 474-9024, email: JElacqua@osc.state.ny.us

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

Public comment will be received until: 30 days after publication of this notice.

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

A revised regulatory impact statement, regulatory flexibility analysis, rural area flexibility analysis and job impact statement are not submitted with this notice because the changes made to the last published rule do not necessitate revision to the previously published RIS, RFA, RAFA and JIS.

Assessment of Public Comment

Upon receipt and consideration of the public comments and responses to the proposed regulation renumbering section 315.4 as 315.5 and adding a new section 315.4 published in the October 16 State Register I.D. No.AAC-42-08-00002, the following amendments were incorporated into the original proposal:

1. Reporting to the Retirement System was streamlined by eliminating a separate "standard work day resolution" and the requirement that it be passed at the first re-organizational meeting of the participating employer.

2. The "standard work day resolution" is combined with the "reporting resolution," and its passage is required within 180 days of the beginning of the officials' terms of office. This single resolution will include 1) the standard work day for each office, 2) the expiration of the term of office, 3) an assertion that the local officials have submitted a log of work activities for three months (or that the employer maintains daily time records) and 4) the maximum total number of days per month to be reported for each elected or appointed official.

3. Allows an opportunity for local officials to keep logs for an additional three month period in the same calendar year if the first three months was not representative, provides a mechanism for amending the original standard work day and reporting resolution, and for amending the reporting of service credit to the Retirement System.

4. Allows local officials who have already completed a three month log and are re-elected or re-appointed to a new term to certify that their work activities have not materially changed, so they don't have to fill out a new log. The new language puts an eight-year limit on the validity of the original log.

Department of Environmental Conservation

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Open Fires

I.D. No. ENV-19-08-00003-RP

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

Proposed Action: Repeal of Part 215; addition of new Part 215; and amendment of Parts 191 and 621 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 9-0105, 9-1103, 19-0103, 19-0105, 19-0301, 19-0303, 19-0305, 70-0707, 71-2103 and 71-2105

Subject: Open fires.

Purpose: Extending Ban of Open Burning and Elimination of Burn Permit Requirement.

Text of revised rule: A new Part 215 is added as follows:

Section 215.1 Definitions.

(a) *Open Fire* - Any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere. Open fires include burning in barrels or modified barrels. Open fires do not include burning in outdoor furnaces or boilers that are used to heat buildings when the devices are actually used for such purpose.

(b) *Agricultural Land* - The land and on-farm buildings, equipment, manure processing and handling facilities, and practices that contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a 'commercial horse boarding operation' and 'timber processing'. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

(c) *Camp Fire* - A camp fire or any other outdoor open fire less than three feet in height, and less than four feet in length and width or diameter.

(d) *Agricultural Waste* - Any waste from naturally grown products such as vines, trees and branches from orchards, leaves and stubble. In addition, any fully organic waste either grown or generated on the premises, including but not limited to paper feed bags, wood shavings used for livestock bedding, baling twine, and other non-plastic materials. Agricultural waste does not include pesticide containers, fertilizer bags, large plastic storage bags (including bags commonly known as "Ag bags"), offal, tires, plastic feed bags, and other plastic or synthetic materials.

(e) *Acquired Structure* - A structure donated or loaned from a property owner for the purpose of conducting fire training.

(f) *Untreated wood* - For the purposes of this Part, any wood or lumber which is not chemically treated, coated, stained, sealed, glued or otherwise adulterated. Untreated wood does not include such materials as pressure treated lumber, plywood, particle board, fiberboard, and oriented strand board.

(g) *On-site burning* - The burning of material, grown or generated on a particular property, in an open fire on the same property. For purposes of this definition, the "same property" shall include only property that is geographically contiguous and under the control or ownership of the same person.

Section 215.2 Prohibitions.

Except as allowed by section 215.3 of this Part, no person shall burn, cause, suffer, allow or permit the burning of any materials in an open fire.

Section 215.3 Exceptions and restricted burning.

Burning in an open fire, provided it is not contrary to other law or regulation, will be allowed as follows:

(a) On-site burning in any town with a total population less than 20,000 of downed limbs and branches (including branches with attached leaves or needles) less than six inches in diameter and eight feet in length between May 15th and the following March 15th.

For the purposes of this subdivision, the "total population" of a town shall include the population of any village or portion thereof located within the town. However, this subdivision shall not be construed to allow burning within any village.

(b) Barbecue grills, maple sugar arches and similar outdoor cooking devices when actually used for cooking or processing food.

(c) Small fires used for cooking and camp fires provided that only charcoal or untreated wood is used as fuel and the fire is not left unattended until extinguished.

(d) On-site burning of agricultural wastes as part of a valid agricultural operation on contiguous agricultural lands larger than five acres actively devoted to agricultural or horticultural use, provided such waste is actually grown or generated on those lands and such waste is capable of being fully burned within a 24-hour period.

(e) The use of liquid petroleum fueled smudge pots to prevent frost damage to crops.

(f) Ceremonial or celebratory bonfires where not otherwise prohibited by law, provided that only untreated wood or other agricultural products are used as fuel and the fire is not left unattended until extinguished.

(g) Small fires that are used to dispose of a flag or religious item, and small fires or other smoke producing process where not otherwise prohibited by law that are used in connection with a religious ceremony.

(h) Burning on an emergency basis of explosive or other dangerous or contraband materials by police or other public safety organization.

(i) Prescribed burns performed according to Part 194 of this Title.

(j) Fire training, including firefighting, fire rescue, and fire/arson investigation training, performed under applicable rules and guidelines of the New York State Department of State's Office of Fire Prevention and Control. For fire training performed on acquired structures, the structures must be emptied and stripped of any material that is toxic, hazardous or likely to emit toxic smoke (such as asbestos, asphalt shingles and vinyl siding or other vinyl products) prior to burning and must be at least 300 feet from other occupied structures. No more than one structure per lot or within a 300 foot radius (whichever is bigger) may be burned in a training exercise.

(k) Individual open fires as approved by the Director of the Division of Air Resources as may be required in response to an outbreak of a plant or animal disease upon request by the Commissioner of the Department of Agriculture and Markets, or for the destruction of invasive plant and insect species.

(l) Individual open fires that are otherwise authorized under the environmental conservation law, or by rule or regulation of the Department.

6 NYCRR Part 191, Forest Fire Prevention

Sections 191.1 and 191.5 are repealed

Sections 191.2-191.4 are renumbered to be sections 191.1-191.3

6 NYCRR Part 621, Uniform Procedures

Subdivision (g) of section 621.1 is amended to read as follows:

(g) Air Pollution Control, ECL article 19, (implemented by 6 NYCRR Parts 201, 203, [215.] and 231): including construction and operation of a new emission source or a modification to an existing emission source of air contamination, and construction of indirect sources of air contamination [and restricted open burning for air pollution control purposes (Note: permits for restricted open burning for the purpose of forest fire control, under authority of section 9-1105 of the Environmental Conservation Law and 6 NYCRR Part 191, are not subject to this Part)];

Revised rule compared with proposed rule: Substantial revisions were made in sections 215.1(a), (c), (d), (f), (g), 215.3(a), (c) and (f).

Text of revised proposed rule and any required statements and analyses may be obtained from Robert Stanton, P.E., NYSDEC, Division of Air Resources, 625 Broadway, Albany, NY 12233-3254, (518) 402-8403, email: 215fires@gw.dec.state.ny.us

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

Public comment will be received until: June 26, 2009.

Additional matter required by statute: Pursuant to Article 8 of the State Environmental Quality Review Act, a Short Environmental Assessment Form, a Negative Declaration and a Coastal Assessment Form have been prepared and are on file. This rule must be approved by the Environmental Board.

Summary of Revised Regulatory Impact Statement

STATUTORY AUTHORITY

The promulgation of revisions to Parts 191, 215, and 621 are authorized by the following sections of the Environmental Conservation Law (ECL): Section 1-0101, Section 3-0301, Section 9-0105, Section 9-1103, Section 19-0103, Section 19-0105, Section 19-0301, Section 19-0303, Section 19-0305, Section 70-0707, Section 71-2103 and Section 71-2105.

LEGISLATIVE OBJECTIVES

It is the declared policy of the state of New York, as pronounced by the Legislature in the Environmental Conservation Law, to maintain a reasonable degree of purity of the air resources of the state consistent with the public health and welfare and the public enjoyment and the protection of physical property and other resources. That policy requires the use of all available practical and reasonable methods to prevent and control air pollution in the state of New York. The department has the power, as provided for in the Environmental Conservation Law, to formulate, adopt and promulgate, amend and repeal codes and rules and regulations for preventing, controlling or prohibiting air pollution in a manner consistent with that policy. In furtherance of that policy and the Legislature's objectives, the proposed rule revision will further limit toxic emissions and be protective of public health by prohibiting the open burning of residential solid waste in all cities, villages and towns across the State. This rulemaking also limits toxic emissions and protects public health by prohibiting the open burning of yard waste in portions of the state, with certain exceptions.

NEEDS AND BENEFITS

The purpose of amending the current Part 215 is to update regulatory requirements in regard to open fires and open burning and reducing air pollution. Pursuant to review after the public comment period, the Department has decided to allow for onsite burning of brush (i.e., limbs and branches less than six inches in diameter and eight feet in length) in towns with a total population of less than 20,000 (except that no burning may take place in villages located within such towns).

Part 191 will be eliminated because the original purpose of this rule (and the permit system associated with it) was to alert Forest Rangers in fire towers that the smoke from a planned fire was not a forest fire, and therefore did not require emergency response. The fire tower program no longer exists since many more modern methods of forest fire detection have evolved.

INAPPROPRIATE FUELS

The primary issue in the combustion of residential solid waste is inappropriate fuels including materials such as garbage, glossy or colored papers (e.g., Sunday comics), bleached papers, plastics, polystyrene (such as foam cups), natural or synthetic rubber, chemical and pressure-treated wood, heavy oils, asphalt, tar, etc. The potential health impacts due to emissions of dioxins, Polycyclic Aromatic Hydrocarbons (PAH's), particulate matter (PM) and carbon monoxide were discussed at length in the full Regulatory Impact Statement. These impacts include cancer, suppression of immune systems, as well as worsening of existing conditions such as heart disease and asthma.

COSTS

The costs were broken down as 'Costs to the Individual' and 'Costs to the Municipality'. These costs were found to be minor relative to the potential savings to asthma sufferers due to improved air quality.

PAPERWORK

There will be no additional paperwork associated with the revised rule.

LOCAL GOVERNMENT MANDATES

No additional record keeping, reporting or other requirements would be placed upon local governments if the revisions to Part 191,

Part 215 and Part 621 are promulgated. There will be less paperwork on the part of local government entities that now process open burning permits.

DUPLICATION BETWEEN THIS REGULATION AND OTHER REGULATIONS AND LAWS

No duplication or overlap exists with other rules. The changes to Parts 191 and 215 will serve to eliminate regulatory overlap.

ALTERNATIVES

The alternatives are to do nothing, to keep the current rule but lower the population threshold, or to change the threshold to one of population density. These alternatives were dismissed due to lesser environmental protection and difficulty in enforcement.

FEDERAL STANDARDS

There are no applicable federal regulations pertaining to open burning.

COMPLIANCE SCHEDULE

Compliance will be required upon the effective date of the rule, which is 30 days after filing with the Department of State.

Revised Regulatory Flexibility Analysis

The purpose of amending Part 191 and Part 215 is to update regulatory requirements in regard to open fires and open burning. The need to update is based on the changes in both the type of materials burned in such fires and the increase in scientific knowledge about the toxic materials released into the air by the combustion of those materials. Part 621 is being amended to remove a reference that will become obsolete with the changes in the other two parts.

EFFECT ON SMALL BUSINESS AND LOCAL GOVERNMENTS

The amendment to Part 621 will have no effect on small business because it is solely to remove a reference that becomes obsolete due to the other amendments. The amendments to Part 191 will have no effect on small business generally. To the extent that pre-printed permits forms are used for Part 191 permits, the one possible exception to this is that there will be less demand for printing services.

The amendments to Part 215 will affect small businesses involved in agriculture, construction, and waste haulers. Agricultural operations that produce rubber wastes (from old tires), plastic wastes and paper wastes that are now burned in an open fire will need to expend funds to properly dispose of those materials. Any construction involving land clearing may be affected, as the waste from grubbing and land clearing will no longer be allowed to be burned in an open fire, but will need to be disposed of by other methods such as recycling, placement in a sanitary landfill, or burned in a permitted municipal waste incinerator. Some wastes produced from land clearing operations may be turned into salable products such as mulch, firewood and wood pellets. Waste haulers may need to hire additional staff to deal with increased demand for their services, especially in rural areas. No other businesses will be affected since they (any commercial businesses) are already banned from open burning under the existing rule.

Local governments may need to hire additional employees for their transfer stations and there will be increased landfill costs associated with final disposal of a somewhat larger waste stream. These additional costs should be offset by the additional revenues which will be generated from fees at the local transfer stations. There may be some one-time costs associated with upgrading these transfer stations to be able to handle the additional waste stream.

COMPLIANCE REQUIREMENTS

For the amendments to Part 191, Part 215, and Part 621 there are no reporting or recordkeeping requirements for small businesses or local governments.

PROFESSIONAL SERVICES

The amendments to Part 215 may cause some local governments to require engineering planning and design for the upgrading of their transfer stations and related solid waste facilities sooner than they may otherwise need. The amendments to Part 191 and Part 621 will not require any professional services on the part of local governments. Small businesses will not require any professional services to comply with any of the proposed rules.

COMPLIANCE COSTS

The following is an estimate of the costs to implement Part 215, Part 191 and Part 621. These costs are somewhat difficult to estimate since the implementation of these rules will have a financial affect only on the section of the general public which currently disposes of their solid waste by burning. Difficulty arises since costs of solid waste are sometimes included in the tax base of the community. Therefore, estimating is typically done by two methods, one being the cost to the individual who is disposing of his waste, the other being the cost to the community in which that individual lives.

Costs to the Community:

Most transfer stations are owned and run by municipalities (cities, towns and villages). This is due, for the most part, to the 6 NYCRR Part 360 Regulations which were promulgated on December 15, 1988. These regulations required each county to be responsible for the management and disposal all municipal solid waste generated in their area. Most counties formed solid waste management associations and either built a landfill, built a series of transfer stations, or both. In turn, the municipalities which were now responsible for waste disposal would pay for the cost of disposal by raising taxes, charging fees at transfer stations, or both. For example, a rural community with a population of 1000 might expect their cost of transport and disposal of solid waste to increase by as much as \$12,155.00 per year. This is based on data provided by the Division of Solid and Hazardous Materials and assumes the following worst case factors: one resident in three currently uses a burn barrel to dispose of their waste; an average person produces four pounds of solid waste a day; and the cost of transport and disposal of solid waste is \$50.00 per ton. Comparing these minimal garbage disposal costs to the costs associated with burning barrels such as the degradation of air quality, accidental forest fires, and foremost, the possible public health effects and loss of quality of life, the costs seem even more inconsequential.

MINIMIZING ADVERSE IMPACT

There are limited exemptions for agricultural operations and the disposal of brush in small towns which should mitigate some of the costs. These are for the burning of agricultural wastes generated on-site as part of a valid agricultural operation on lands which are devoted to agricultural or horticultural use. This revised proposal allows for the burning of brush (i.e., limbs and branches less than six inches in diameter and eight feet in length) on-site in towns with a total population of less than 20,000 (except that no burning may take place in villages located within such towns).

SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

Small businesses and local governments had the opportunity to comment on the original proposed rule and speak at public hearings. The Department held eleven public hearings on Part 215 in upstate areas, during which comments from the public were received. In addition to the initial public comment period for this proposal, a 30-day comment period will take place following publication of the Notice of Revised Rulemaking in the State Register. The Department will notify interested parties of this revised proposed rulemaking.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY

There are no technological or economic impediments which would interfere with the revisions to Parts 191, 215, and 621. The termination of the Part 191 permit scheme would eliminate paperwork. Although there are currently limits on the feasibility of recycling some types of agricultural waste, the North East Waste Management Officials Association (NEWMOA) has recently received a grant to facilitate a solution. NEWMOA is forming a work group (with the help of Cornell Cooperative Extension) to assist in the development and implementation of a regional project to conduct training and provide technical assistance to increase recycling of agricultural plastics in rural areas of four Northeastern states: Maine, New Hampshire, New York and Vermont. There should be no other affect on the limitations and feasibility issues regarding recycling plants and landfills.

Revised Rural Area Flexibility Analysis

The purpose of amending Part 215 is to update regulatory requirements in regard to open fires and open burning. The need to update is

based on changes in the type of materials burned in such fires and an increase in scientific knowledge about the contaminants released into the air by the combustion of those materials.

The purpose of amending Part 191 is to repeal outdated portions of the rule and portions that will become redundant if Part 215 is amended as proposed by the Department.

The purpose of amending Part 621 is to remove references to the permits required by current versions of Parts 191 and 215 that will become outdated if those rules are amended as proposed by the Department.

TYPES AND ESTIMATED NUMBER OF RURAL AREAS AFFECTED

Part 215 applies statewide. The proposed amendments may have a greater impact in rural areas. Although there are no firm statistics, the Department believes that many rural residents do not properly dispose of their household trash but instead burn the trash in open fires, typically in a 55-gallon drum known colloquially as a "burn barrel."

Section 191.1 applies in "the following areas, excepting therein within the corporation tax limits of any city or village; or in any town with a total town population, including incorporated or unincorporated areas, of greater than 10,000 people; all of Columbia County; all of Dutchess County except the town of Poughkeepsie; the town of New Bremen in Lewis County; all of Orange County; all of Putnam County; all of Rensselaer County; the towns of Brasher, Hermon, Lawrence, Russell and Stockholm in St. Lawrence County; the towns of Galway, Greenfield, Milton, Moreau, Northumberland, Providence, Saratoga and Wilton, and the city of Saratoga Springs outside the corporation tax limits, all in Saratoga County; the towns of Bethel, Callicoon, Cochecton, Delaware, Fallsburg, Forestburg, Fremont, Highland, Liberty, Lumberland, Mamakating, Thompson and Tusten, all in Sullivan County."

Repealing this section will have no impact on local municipalities since the activity needing the 191 permit is, for the most part, being banned by the new Part 215. Those open burning activities that will continue to be authorized by the new Part 215 (campfires, ceremonial fires, explosive demolition) are not directly regulated by current provisions of the Environmental Conservation Law (ECL) or the Department's regulations (6NYCRR). Municipalities may need to revise their current statutes and ordinances to further regulate those activities authorized under the new Part 215, but most will have included these types of burning in their current regulations.

Implementing the new Part 215 will simplify the enforcement of open burning by making most traditional debris fires illegal. Department police officers (ECOs and Rangers) as well as state police, sheriff deputies and local police are already authorized by State Fire Code to take action (issue a ticket or make an arrest) as they deem appropriate. Fire and local code enforcement officers will also have authority to demand an open debris fire be extinguished since State Fire Code prohibits open fires that are prohibited by State laws and regulations.

COMPLIANCE REQUIREMENTS

The changes that the Department is proposing will establish a general ban on open burning with some limited exceptions. This means that no one can dispose of their trash by burning it in an open fire anywhere in the state. Currently residents of towns with populations under 20,000 are not subject to any statewide prohibition that would prevent them from burning rubbish; under the new rule, this practice would be banned.

The revisions to Part 191 and Part 215 will eliminate the need for permits for those types of open fires that will still be allowed.

COSTS

The following is an estimate of the costs to implement Part 215, Part 191 and Part 621. These costs are somewhat difficult to estimate since the implementation of these rules will have a financial affect only on the section of the general public which currently disposes of their solid waste by burning. Difficulty arises since costs of solid waste are sometimes included in the tax base of the community. Therefore, estimating is typically done by two methods, one being the cost to the individual who is disposing of his waste, the other being the cost to the community in which that individual lives.

Costs to the Individual:

For those who dispose of their household trash by burning it in an open fire and will no longer be able to do so under the new rule, there will be some costs for proper disposal of their household refuse. Some individual households will choose to have their refuse picked up by a waste hauler at their homes. The cost of household refuse pickup varies, but typical amounts range from \$20.00 - \$80.00 per month. Other households will choose to drop off their refuse at the local landfill or transfer station. According to the Departments' Division of Solid and Hazardous Materials, a survey of rural counties across New York State found the average per bag (approximately 30 gallons) disposal rate at transfer stations ranged from \$1.00 to \$3.00 per bag. Assuming a two bag per week average, this represents a cost of \$104.00 to \$312.00 per year. Transfer stations may also charge an annual fee for a permit. This cost could be as much as \$100.00 per year. Combining all these costs gives us an average range of \$104.00 to \$412.00 per household per year.

Costs to the Community:

Most transfer stations are owned and run by municipalities (cities, towns and villages). This is due, for the most part, to the 6 NYCRR Part 360 Regulations which were promulgated on December 15, 1988. These regulations required each county to be responsible for the management and disposal all municipal solid waste generated in their area. Most counties formed solid waste management associations and either built a landfill, built a series of transfer stations, or both. In turn, the municipalities which were now responsible for waste disposal would pay for the cost of disposal by raising taxes, charging fees at transfer stations, or both. For example, a rural community with a population of 1000 might expect their cost of transport and disposal of solid waste to increase by as much as \$12,155.00 per year. This is based on data provided by the Division of Solid and Hazardous Materials and assumes the following worst case factors: one resident in three currently uses a burn barrel to dispose of their waste; an average person produces four pounds of solid waste a day; and the cost of transport and disposal of solid waste is \$50.00 per ton. Comparing these minimal garbage disposal costs to the costs associated with burning barrels such as the degradation of air quality, accidental forest fires, and foremost, the possible public health effects and loss of quality of life, the costs seem even more inconsequential.

The proposed rule allows exemptions for agricultural materials. These exempted materials would include wastes which are actually grown on agricultural land such as cover crops, grape vines and orchard trimmings. However, agricultural operations that currently burn plastic materials will now be required to dispose of those materials properly. Materials that fall into this category are pesticide containers, grain bags, fertilizer bags, "ag" bags (large plastic silage bags), and other packaging. Some of these materials cannot be recycled due to contamination (by the materials they contained, such as pesticides) or to the limitations of local recycling programs which may take only certain kinds of plastic (e.g., only number one or only number two plastic). For some agricultural operations these may represent a significant amount of material, potentially hundreds or even thousands of pounds of waste material.

MINIMIZING ADVERSE IMPACTS

There are limited exemptions for agricultural operations and the disposal of brush in small towns which should mitigate some of the costs. These are for the burning of agricultural wastes generated on-site as part of a valid agricultural operation on lands which are devoted to agricultural or horticultural use. This revised proposal also allows for the burning of brush (i.e., limbs and branches less than six inches in diameter and eight feet in length) on-site in towns with a total population of less than 20,000 (except that no burning may take place in villages located within such towns).

In addition, societal savings of health related costs in affected rural areas should more than make up for the increased costs of solid waste disposal. A single hospitalization for asthma outside of New York City cost over \$8,900 and the total cost for asthma hospitalizations amounted to over \$284 million in 2002¹. This does not account for other societal costs related to asthma such as medications, lost work time, etc. Even modest reductions in the rate of asthma incidence

would amount to savings of millions of dollars as well as the increased quality of life for asthma sufferers.

RURAL AREA PARTICIPATION

The State Administrative Procedures Act requires agencies to provide public and private interests in rural areas the opportunity to participate in the rule making process and or public hearings. The Department held eleven public hearings on Part 215 in upstate areas, during which comments from the public were received. In addition to the initial public comment period for this proposal, a 30-day comment period will take place following publication of the Notice of Revised Rulemaking in the State Register. The Department will notify interested parties of this revised proposed rulemaking.

¹NYSDOH, "New York State Asthma Surveillance Summary Report", October 2005, pp. 71-72.

Revised Job Impact Statement

Revisions made to the revised proposed rulemaking do not necessitate any revisions to the previously published Job Impact Statement.

Assessment of Public Comment

The Department received almost 1800 comments to the proposed changes to Parts 215, 191 and 621. In addition to comments, the Department received several petitions resulting in 529 signatures in support of the proposed regulation and 2957 signatures totally against the proposal. Also received were roughly two dozen resolutions from Town Boards, all of which were opposed to the proposed changes. The comments were categorized as follows:

RESTRICTIONS ON THE BURNING OF BRUSH, DOWNED LIMBS AND BRANCHES

This was by far the largest group of comments, constituting roughly one-third of the total. Some of the comments stated that the general public lacked the resources needed to collect, process or transfer their brush/branches. Some raised concerns about excessive costs associated with disposal. Other comments cited a lack of adequate landfill and transfer station space, increased forest fire dangers, or the potential for pollution created from the transport and processing of brush, downed limbs and branches.

COST ISSUES

These comments included concerns about costs associated with using an individual's car, education, landfill/transfer station permit increases, and landfill/transfer station equipment. Some were concerned about the lack of no-cost disposal alternatives.

HEALTH ISSUES

Some comments suggested that the Department has over-estimated the health risks associated with the open burning of trash and pure wood, such as branches and limbs. Comments included requesting exemptions for small amounts or specific types of trash and additional technical information and studies on health risks.

DISPOSAL IMPACTS

These comments concerned the lack of refuse pick-up or the lack of adequate solid waste facilities.

LANDS and FORESTS

The single comment was regarding fire safety.

ENFORCEMENT

These comments were regarding the difficulty of enforcement.

LEGAL ISSUES

These comments were regarding the control of open burning through legislation versus regulation.

MISCELLANEOUS

Comments were varied, regarding the frequency of Public Meetings, and exemptions for farming, fire training, bonfires and food preparation.

In addition to the above categories, the Department received several comments which were considered to be beyond the scope of the proposed regulation, and therefore, the Department did not respond to them.

Insurance Department

EMERGENCY RULE MAKING

Minimum Standards for Determining Reserve Liabilities and Nonforfeiture Values for Preneed Life Insurance

I.D. No. INS-21-09-00001-E

Filing No. 499

Filing Date: 2009-05-08

Effective Date: 2009-05-08

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

Action taken: Addition of Part 102 (Regulation 192) to Title 11 NYCRR.

Statutory authority: Insurance Law, sections 201, 301, 1304, 1308, 4217, 4218, 4221, 4240 and 4517

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

Specific reasons underlying the finding of necessity: This regulation was previously promulgated on an emergency basis on November 12, 2008 and February 9, 2009. The emergency regulation will expire on May 11, 2009. Regulation No. 192 needs to remain effective for the general welfare.

Based on research conducted by the Deloitte University of Connecticut Actuarial Center and commissioned by the Society of Actuaries as a part of a study of preneed mortality, it was determined that reserves calculated using the 2001 CSO Mortality Table were inadequate for preneed policies. Development of a new valuation mortality table specifically designed for and based on preneed life insurance experience is currently being developed by the Society of Actuaries, but will not be ready for adoption prior to the mandatory use for both statutory and federal tax purposes of the 2001 CSO Mortality Table beginning on January 1, 2009. This regulation, which requires the use of the Ultimate 1980 CSO Mortality Table, subject to the conditions in the regulation, therefore is intended as an intermediate solution until such time that an adequate mortality table can be adopted. Adoption of this regulation will require insurers to hold statutory reserves at a level that are more appropriate for preneed life insurance products. Adoption of similar provisions by at least 25 other states will permit the alternative use of the Ultimate 1980 CSO Mortality Table for federal tax purposes as well.

If this regulation is not adopted by year-end, New York residents will be adversely affected, particularly those residents who have or will purchase policies to fund out-of-state burials, often near other members of their families. Without this regulation, it is likely that the higher reserves maintained to adequately fund these policies will result in a failure of these policies to qualify as life insurance for federal tax purposes, with the consequence that the death benefit will be taxable to the beneficiary and the insurer will face a higher tax burden.

This difficulty arises from the tension between the states' interest in ensuring solvency and adequate capital and the federal tax law's interest in limiting the maximum deduction for reserves supporting life insurance contracts. States generally require high reserves, while the federal tax law mandates standards that produce lower reserves (and thus deductions). Further, under the federal Internal Revenue Code (IRC), reserves for life insurance policies can only fund standard mortality charges. Higher mortality charges are permitted for federal tax purposes only if the individual insured is determined to be substandard. Because preneed life insurance policies are generally purchased by individuals who feel funeral costs may well be imminent, the entire category of insureds is felt to be substandard and thus to require uniformly higher charges.

If a special (higher charge) mortality table becomes the prevailing mortality table for federal tax purposes for this specific category of life insurance, then federal tax law will allow the higher reserves that the states feel are necessary for preneed life insurance policies. The exception to the 2001 CSO Mortality Table can only be used for federal tax purposes, however, if it is adopted by 26 or more states

before January 1, 2009. If the mortality table is timely adopted, then the reserves permitted by both New York and the IRC will be high enough to pay for the higher future mortality charges. Further, insurers no longer will face the higher taxes that would result from a mismatch between statutory and tax reserves.

For all of the reasons stated above, an emergency adoption of Regulation No. 192 is necessary for the general welfare.

Subject: Minimum standards for determining reserve liabilities and nonforfeiture values for preneed life insurance.

Purpose: To establish minimum standards for determining reserve liabilities and nonforfeiture values for preneed life insurance.

Text of emergency rule: A new Part 102 is added to read as follows:

Section 102.1 Purpose

The purpose of this Part is to prescribe rules establishing minimum standards for reserves and nonforfeiture values for preneed life insurance in accordance with statutory reserve formulae.

Section 102.2 Applicability

This Part shall apply to every authorized life insurance company and licensed fraternal benefit society in this State and every insurer holding a certificate from the superintendent as being accredited for the reinsurance of life insurance (all hereafter referred to as insurers). This Part shall be applicable to such insurers for all statements filed after the effective date of this Part.

Section 102.3 Definitions

(a) 2001 CSO Mortality Table has the meaning contained in section 100.3(a) of Part 100 of this Title (Regulation 179).

(b) Actuarial Opinion has the meaning contained in section 95.4(a)(1) of Part 95 of this Title (Regulation 126).

(c) Actuarial Memorandum means the memorandum filed in support of the actuarial opinion. The form and substance of the actuarial memorandum shall be the same as that described in section 95.9 of this Title.

(d) Appointed Actuary has the meaning contained in section 95.4(e) of this Title.

(e) Preneed life insurance means any life insurance policy or certificate that is issued in combination with, in support of, with an assignment to, or as a guarantee for, a prearrangement agreement for goods and services, or other benefits, to be provided at the time of and immediately following the death of the insured. Goods and services may include embalming, cremation, body preparation, viewing or visitation, coffin or urn, memorial stone, and transportation of the deceased. The status of the policy or certificate as preneed life insurance is determined at the time of issue in accordance with the policy form filing.

(f) Ultimate 1980 CSO Mortality Table means the mortality table without ten-year select mortality factors, consisting of separate rates of mortality for male and female lives, developed by the Society of Actuaries Committee to Recommend New Mortality Tables for Valuation of Standard Individual Ordinary Life Insurance, incorporated in the 1980 National Association of Insurance Commissioners (NAIC) Amendments to the Model Standard Nonforfeiture Law and Standards Valuation Law for Life Insurance, and referred to in those models as the Commissioners 1980 Standard Ordinary Mortality Table without ten-year select mortality factors.

Section 102.4 Minimum Valuation Standards

(a) Minimum valuation mortality standard:

For preneed life insurance, the minimum standard for determining reserve liabilities and nonforfeiture values for both male and female insureds shall be the Ultimate 1980 CSO Mortality Table subject to the transition rules provided in section 102.5 of this Part.

(b) Minimum valuation interest rate standards:

(1) The interest rates used in determining the minimum standard for valuation shall be the calendar year statutory valuation interest rates as defined in section 4217(c)(4) of the Insurance Law.

(2) The interest rates used in determining the minimum standard for nonforfeiture values shall be the nonforfeiture interest rates as defined in section 4221(k)(10) of the Insurance Law.

(c) Minimum valuation method standards:

(1) The method used in determining the standard for the minimum valuation of reserves shall be the Commissioners Reserve Valuation Method as defined in section 98.3(b) of Part 98 of this Title (Regulation No. 147).

(2) The method used in determining the standard for the minimum nonforfeiture values shall be the method defined in section 4221(l)(3) of the Insurance Law.

Section 102.5 Transition Rules

(a) For a preneed policy or certificate issued on or after January 1, 2009 and before January 1, 2012, the 2001 CSO Mortality Table may be used as the minimum standard for reserves and nonforfeiture benefits for both male and female insureds.

(b) If an insurer elects to use the 2001 CSO Mortality Table as a minimum standard for any preneed policy or certificate issued on or after January 1, 2009 and prior to January 1, 2012, the insurer shall provide, as part of the actuarial opinion and memorandum submitted in support of the insurer's asset adequacy testing as specified in Part 95 of this Title, an annual written notification of such use to the superintendent. The notification shall include:

(1) A complete list of all preneed life insurance policy forms that use the 2001 CSO Mortality Table as a minimum standard;

(2) A certification signed by the appointed actuary stating that the reserve methodology, which is employed by the insurer in determining reserves for preneed life insurance issued after January 1, 2009 and using the 2001 CSO Mortality Table as a minimum standard, develops adequate reserves. For the purposes of this certification, the preneed life insurance using the 2001 CSO Mortality Table as a minimum standard cannot be aggregated with any other policies and certificates; and

(3) Supporting information regarding the adequacy of reserves for preneed life insurance issued on or after January 1, 2009 and using the 2001 CSO Mortality Table as a minimum standard for reserves.

(c) A preneed life insurance policy or certificate issued on or after January 1, 2012 shall use the Ultimate 1980 CSO Mortality Table in the calculation of minimum reserves and minimum nonforfeiture values.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire August 5, 2009.

Text of rule and any required statements and analyses may be obtained from: Andrew Mais, Insurance Department, 25 Beaver Street, New York, NY 10004, (212) 480-2285, email: amais@ins.state.ny.us

Regulatory Impact Statement

1. Statutory authority:

The Superintendent's authority derives from sections 201, 301, 1304, 1308, 4217, 4218, 4221, 4240 and 4517 of the Insurance Law.

These sections establish the Superintendent's authority to promulgate regulations governing reserve requirements for life insurers and fraternal benefit societies. Sections 201 and 301 of the Insurance Law authorize the Superintendent to effectuate any power accorded to him by the Insurance Law, and prescribe regulations interpreting the Insurance Law.

Section 1304 of the Insurance Law enables the Superintendent to require any additional reserves as necessary on account of life insurers' policies and certificates.

Section 1308 of the Insurance Law describes when reinsurance is permitted, and the effect that reinsurance will have on reserves.

Section 4217 requires the Superintendent to annually value, or cause to be valued, the reserve liabilities ("reserves") for all outstanding policies of every life insurance company doing business in New York. Section 4217(a)(1) specifies that the Superintendent may certify the amount of any such reserves, in particular the mortality table or tables, rate or rates of interest and methods used in the calculation of the reserves.

Section 4217(c)(6)(C) provides that reserves according to the commissioners reserve valuation method for life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums shall be calculated by a method consistent with the principles of section 4217(c)(6).

Section 4217(c)(6)(D) permits the Superintendent to issue, by regulation, guidelines for the application of the reserve valuation provisions for section 4217 to such policies as the Superintendent deems appropriate.

Section 4217(c)(9) requires that, in the case of any plan of life insurance that provides for future premium determination, the amounts of which are to be determined by the insurance company based on then estimates of future experience, or in the case of any plan of life insurance that is of such a nature that the minimum reserves cannot be determined by the methods described in section 4217(c)(6) and section 4218, the reserves that are held under the plan must be appropriate in relation to the benefits and the pattern of premiums for that plan, and be computed by a method that is consistent with the principles of sections 4217 and 4218, as determined by the Superintendent.

Section 4218 requires that when the actual premium charged for life insurance under any life insurance policy is less than the modified net premium calculated on the basis of the commissioners reserve valuation method, the minimum reserve required for the policy shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy, or the reserve calculated by the commissioners reserve valuation method replacing the modified net premium by the actual premium charged for the policy in each contract year for which the modified net premium exceeds the actual premium.

Section 4221(k)(9)(B)(vi) permits, for policies of ordinary insurance, the use of any ordinary mortality table, adopted by the National Association of Insurance Commissioners after 1980, and approved by the Superintendent, for use in determining the minimum nonforfeiture standard.

Section 4517(b)(2) provides, for fraternal benefit societies, that reserves according to the commissioners reserve valuation method for life insurance certificates providing for a varying amount of benefits, or requiring the payment of varying premiums, shall be calculated by a method consistent with the principles of subsection (b).

2. Legislative objectives:

Maintaining solvency of insurers doing business in New York is a principal focus of the Insurance Law. Solvency serves several critical functions. One purpose of the Insurance Law is to ensure that all insurers and fraternal benefit societies authorized to do business in New York State, and insurers holding a certificate from the Superintendent that allows them to reinsure life insurance, hold the necessary reserve funds to the obligations made to policyholders. Insurers and policyholders also benefit from the Insurance Law's mandate to maintain adequate capital for company uses such as expansion, product development, and other forms of business development.

3. Needs and benefits:

Prior to 2004, the 1980 CSO Mortality Table was the minimum standard for calculating life insurance reserves and nonforfeiture values. Regulation No. 179 (11 NYCRR Part 100), adopted in 2004, established new minimum standards for both life insurance reserves and nonforfeiture values. That regulation allows the optional use of the 2001 CSO Mortality Table for all policies issued on or after January 1, 2004 and prior to January 1, 2009, and requires the use of the 2001 CSO Mortality Table for all policies issued on or after January 1, 2009. As of January 1, 2009, use of the 2001 CSO Mortality Table will be mandatory for both statutory and tax purposes.

This regulation establishes minimum reserve and nonforfeiture standards for preneed life insurance policies and certificates. Preneed life insurance provides a prearrangement agreement for goods and services to be provided at the time of death of the insured.

Based on research conducted by the Deloitte University of Connecticut Actuarial Center and commissioned by the Society of Actuaries as a part of a study of preneed mortality, it was determined that reserves calculated using the 2001 CSO Mortality Table were inadequate for preneed policies. Development of a new valuation mortality table specifically designed for and based on preneed life insurance experience is currently being developed by the Society of Actuaries, but will not be ready for adoption prior to the mandatory use of the 2001 CSO Mortality Table on January 1, 2009. This regulation therefore is intended as an intermediate solution until such time that an adequate mortality table can be adopted.

The regulation allows for the continued use of the 2001 CSO Mortality Table on an optional basis for preneed life insurance policies and certificates issued on or after January 1, 2009 and through December 31, 2011. For all preneed life insurance policies and certificates issued on or after January 1, 2012, the minimum standard will be the Ultimate 1980 CSO Mortality Table. This transition period allows those insurers currently using the Ultimate 1980 CSO Mortality Table as the minimum standard to continue using that table. Reserves produced under the table are more conservative than those calculated under the 2001 CSO Mortality Table.

As an additional safeguard during the transition period, any insurer using the 2001 CSO Mortality Table will need to provide an annual certification and supporting analysis that the reserves calculated on that basis are adequate on a stand-alone basis. The transition period also allows those insurers that have already converted their policy forms and valuation systems to reflect the 2001 CSO Mortality Table ample time to have revised policy forms approved by the various state insurance departments in which the insurers write business.

The regulation is necessary to help ensure the solvency of life insurers and fraternal benefit societies doing business in New York by providing an appropriate mortality table to be used for valuing reserves for preneed life insurance policies and certificates.

4 Costs:

Administrative costs to most life insurers, fraternal benefit societies, and insurers holding a certificate from the Superintendent that allows them to reinsure life insurance (hereafter, "insurers") will be minimal, since many insurers already have made modifications to allow the use of the 2001 CSO Mortality Table with the adoption of Regulation No. 179 in 2004. Nevertheless, the adoption of the special use table may require minimal costs associated with the revision of policy forms. Based on correspondence with an insurer that is a major writer of preneed insurance, the Department estimates the cost to be approximately \$1,000, plus any filing fees charged by the state in which the form is filed.

Costs to the Insurance Department will be minimal, as existing personnel are available to verify that the appropriate reserves are held by insurers. There are no costs to other government agencies or local governments.

5. Local government mandates:

The regulation imposes no new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district or other special district.

6. Paperwork:

The regulation imposes reporting requirements related to the actuarial opinion and memorandum required for insurers using the 2001 CSO Mortality Table as the minimum standard for preneed life insurance policies and certificates issued on or after January 1, 2009 and prior to January 1, 2012.

7. Duplication:

The regulation does not duplicate any existing law or regulation.

8. Alternatives:

The only significant alternative considered was to allow the 2001 CSO Mortality Table to become the mandatory basis for minimum standards for reserves and nonforfeiture benefits, which would produce inadequate reserves for some insurers.

A copy of the draft regulation was distributed to the Life Insurance Council of New York (LICONY) in July 2008. LICONY is a trade association representing life insurance companies domiciled in the state of New York. LICONY suggested that the original definition of preneed insurance was too broad because it included references to annuity contracts and other insurance contracts. The Department agreed with LICONY and removed both references from the definition. A revised draft of the regulation, reflecting such changes was sent to LICONY in August 2008, and LICONY had no objections to the revised draft regulation.

A copy of the draft regulation was sent to the National Fraternal Congress of America (NFCA) in September 2008. NFCA is a trade association representing fraternal benefit societies in the United States

and Canada. NFCA commented that the requirements in the proposed regulation appear to be reasonable.

9. Federal standards:

There are no federal standards in this subject area other than the general requirement under federal tax law to use 2001 CSO Mortality Tables to calculate federal tax reserves for all life insurance contracts on or after January 1, 2009. Implementation of this emergency regulation will, in conjunction with similar actions by at least 25 other states, create an exception to this general rule for preneed contracts.

10. Compliance schedule:

Compliance with this regulation with respect to the 2001 CSO Mortality Table is voluntary for all preneed life insurance policies and certificates issued on or after January 1, 2009 and prior to January 1, 2012. Insurers that are currently using the more conservative Ultimate 1980 CSO table may continue to do so for policies issued on or after January 1, 2009 and prior to January 1, 2012. Insurers must use the Ultimate 1980 CSO Mortality Table for all preneed life insurance policies and certificates issued on or after January 1, 2012, which will allow insurers subject to the regulation ample time to achieve full compliance.

Regulatory Flexibility Analysis

1. Small businesses:

The Insurance Department believes that this rule will not impose any adverse economic impact on small businesses and will not impose any reporting, recordkeeping or other compliance requirements on small businesses. The basis for this belief is that this rule is directed at all life insurers and fraternal benefit societies authorized to do business in New York State and insurers holding a certificate from the Superintendent that allows them to reinsure life insurance, none of which falls within the definition of "small business" set forth in section 102(8) of the State Administrative Procedure Act. Indeed, the Insurance Department has reviewed filed Reports on Examination and Annual Statements of these insurers, and believes that none of them falls within the definition of "small business", because there are none that are both independently owned and have under one hundred employees.

2. Local governments:

The regulation does not impose any impacts, including any adverse impacts, or reporting, recordkeeping, or other compliance requirements on any local governments.

Rural Area Flexibility Analysis

The Insurance Department finds that this rule does not impose any significant burden on persons located in rural areas, and the Insurance Department finds that it will not have an adverse impact on rural areas.

The entities covered by this regulation, life insurers and fraternal benefit societies licensed to do business in New York State, do business in every county in this state, including rural areas as defined under SAPA 102(10). Administrative costs to most life insurers, fraternal benefit societies, and insurers holding a certificate from the Superintendent that allows them to reinsure life insurance will be minimal, since many insurers began to use all versions of the 2001 CSO Mortality Table with the adoption of Regulation No. 179 in 2004. Nevertheless, the adoption of this special use table may require minimal costs associated with the revision of policy forms. Based on correspondence with an insurer that is a major writer of preneed insurance, the Department estimates each insurer's costs to be approximately \$1,000, plus any filing fees charged by the state in which the form is filed.

Job Impact Statement

Adoption of Regulation 192 will not adversely impact job or employment opportunities in New York. The rule is likely to have no measurable impact on jobs and employment opportunities because existing personnel should be able to monitor the insurer's compliance with the new requirements. There should be no region in New York which would experience an adverse impact on jobs and employment opportunities. This rule would not have a measurable impact on self-employment opportunities.

Niagara Frontier Transportation Authority

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

NFTA's Procurement Guidelines

I.D. No. NFT-21-09-00003-P

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

Proposed Action: This is a consensus rule making to amend sections 1159.3 and 1159.4 of Title 21 NYCRR.

Statutory authority: Public Authorities Law, sections 1299-e(5) and 1299-t

Subject: The NFTA's Procurement Guidelines.

Purpose: To amend the NFTA's Procurement Guidelines to make technical changes and conform to federal and state law.

Text of proposed rule: Subdivision (c) of section 1159.3 is repealed, and subdivisions (d) through (an) are renumbered to be subdivisions (c) through (am).

Subsection (1) of subdivision (i) of section 1159.4 is amended to read as follows:

(1) This method is required in procuring architectural, [planning, engineering, [testing, survey]and *certain* related services [such as program management, design management, construction management, feasibility studies, preliminary engineering, design and mapping]when-ever State or Federal funds will [be]or may be used. [If]There [is a question as to whether the proposed procurement should follow the qualifications-based method] *are differences between the Federal Aviation Administration and Federal Transit Administration as to what services are required to be procured in this manner, so* reference should be made to the most current version of FAA Advisory Circular 150/5100-14D, FTA Advisory Circular 4220.1[E]F, or New York State law for guidance.

Subsection (ii) to subsection (3) of subdivision (n) of section 1159.4 is amended to read as follows:

(ii) At least three written or telephonic quotes must be solicited for purchases equal to or over \$[2,500]3,000 and under \$15,000. Purchases under \$[2,500]3,000 may be made without quotes, if the procurement manager or her designee considers the prices to be fair and reasonable.

Subsection (iv) to subsection (3) of subdivision (n) of section 1159.4 is amended to read as follows:

(iv) In the case of procurements of \$[2,500]3,000 or more, if three or more quotations cannot be obtained because there is not a sufficient number of suppliers able to meet the purchase requirements (including timely delivery), such facts shall be set forth in writing.

Subsection (4) of subdivision (s) of section 1159.4 is amended to read as follows:

(4) The files for procurement contracts covered by [Executive Order 127]Section 139-k of the State Finance Law must include the required information regarding persons or organizations retained to attempt to influence the procurement process. Any contracts that reasonably appear to be an attempt to influence the procurement process by persons or organizations other than those identified in the bid or proposal documents shall be recorded as required by [Executive Order 127]Section 139-k of the State Finance Law.

Subsection (5) of subdivision (s) of section 1159.4 is repealed.

Text of proposed rule and any required statements and analyses may be obtained from: Ruth A. Keating, Niagara Frontier Transportation Authority, 181 Ellicott Street, Buffalo, New York 14203, (715) 855-7398, email: Ruth_Keating@nfta.com

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

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

Consensus Rule Making Determination

The Niagara Frontier Transportation Authority has determined that no person is likely to object to the rule being amended for the following reasons:

1. The major change is to conform the small purchases limit to federal guidelines.
2. The changes are not controversial.

Job Impact Statement

The Niagara Frontier Transportation Authority has determined adoption of the proposed rule will have no impact on jobs or employment opportunities for the following reasons:

1. The subject of the proposed rule is to clarify internal reporting requirements contained in the NFTA's Procurement Guidelines. Changes to the rules will not impact the level of procurements made by the NFTA, and therefore will not impact jobs or employment opportunities.

Public Service Commission

EMERGENCY RULE MAKING

Readoption to Stay the Commission Order Issued November 21, 2008

I.D. No. PSC-09-09-00008-E

Filing Date: 2009-05-12

Effective Date: 2009-05-12

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

Action taken: On 5/12/09, the PSC readopted the emergency rule staying the petition of North Town Roosevelt, LLC, to submeter electricity at 510-580 Main Street, Roosevelt Island, New York.

Statutory authority: Public Service Law, sections 22, 23, 30, 32, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 48, 51, 53, 65 and 66

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

Specific reasons underlying the finding of necessity: Compliance with the State Administrative Procedure Act is not possible because to do so could, as described in the attachment, would be detrimental to the health, safety and general welfare of tenants who are low income, are elderly and/or are disabled.

Subject: Readoption to stay the Commission Order issued November 21, 2008.

Purpose: Readoption to stay the Commission's November 21, 2008 Order.

Substance of emergency rule: On February 12, 2009, the Commission adopted an order staying the petition of North Town Roosevelt, LLC, to submeter electricity at 510-580 Main Street, Roosevelt Island, New York, located in the territory of Consolidated Edison Company of New York Inc. On May 12, 2009 the Commission readopted the emergency rule for an additional 60 days to allow Staff to continue its investigation.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. PSC-09-09-00008-EP, Issue of March 4, 2009. The emergency rule will expire July 10, 2009.

Text of rule may be obtained from: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (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.

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 rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(08-E-0838SA2)

EMERGENCY RULE MAKING

Readoption to Stay the Commission Order Issued November 21, 2008

I.D. No. PSC-09-09-00009-E

Filing Date: 2009-05-12

Effective Date: 2009-05-12

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

Action taken: On 5/12/09, the PSC readopted the emergency rule staying the petition of Frawley Plaza, LLC, to submeter electricity at 1295 Fifth Avenue, 1309 Fifth Ave. and 1660 Madison Ave., New York, New York.

Statutory authority: Public Service Law, sections 22, 23, 30, 32, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 48, 51, 53, 65 and 66

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

Specific reasons underlying the finding of necessity: Compliance with the State Administrative Procedure Act is not possible because to do so could, as described in the attachment, would be detrimental to the health, safety and general welfare of tenants who are low income, are elderly and/or are disabled.

Subject: Readoption to stay the Commission Order issued November 21, 2008.

Purpose: Readoption to stay the Commission's November 21, 2008 Order.

Substance of emergency rule: On February 12, 2009, the Commission adopted an order staying the petition of Frawley Plaza, LLC, to submeter electricity at 1295 Fifth Avenue, 1309 Fifth Avenue and 1660 Madison Avenue, New York, New York, located in the territory of Consolidated Edison Company of New York Inc. On May 12, 2009 the Commission readopted the emergency rule for an additional 60 days to allow Staff to continue its investigation.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. PSC-09-09-00009-EP, Issue of March 4, 2009. The emergency rule will expire July 10, 2009.

Text of rule may be obtained from: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (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.

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 rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(08-E-0836SA2)

EMERGENCY RULE MAKING

Readoption to Stay the Commission Order Issued November 21, 2008

I.D. No. PSC-09-09-00010-E

Filing Date: 2009-05-12

Effective Date: 2009-05-12

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

Action taken: On 5/12/09, the PSC readopted the emergency rule staying the petition of Metro North Owners, LLC, to submeter electricity at 1940-1966 First Avenue and 420 East 102nd Street, New York, New York.

Statutory authority: Public Service Law, sections 22, 23, 30, 32, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 48, 51, 53, 65 and 66

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

Specific reasons underlying the finding of necessity: Compliance with the State Administrative Procedure Act is not possible because to do so could, as described in the attachment, would be detrimental to the health, safety and general welfare of tenants who are low income, are elderly and/or are disabled.

Subject: Readoption to stay the Commission Order issued November 21, 2008.

Purpose: Readoption to stay the Commission's November 21, 2008 Order.

Substance of emergency rule: On February 12, 2009, the Commission adopted an order staying the petition of Metro North Owners, LLC, to submeter electricity at 1940-1966 First Avenue and 420 East 102nd Street, New York, New York, located in the territory of Consolidated Edison Company of New York Inc. On May 12, 2009 the Commission readopted the emergency rule for an additional 60 days to allow Staff to continue its investigation.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. PSC-09-09-00010-EP, Issue of March 4, 2009. The emergency rule will expire July 10, 2009.

Text of rule may be obtained from: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (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.

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 rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(08-E-0837SA2)

**EMERGENCY
RULE MAKING**

Readoption to Stay the Commission Order Issued November 21, 2008

I.D. No. PSC-09-09-00011-E

Filing Date: 2009-05-12

Effective Date: 2009-05-12

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

Action taken: On 5/12/09, the PSC readopted the emergency rule staying the petition of KNW Apartments, LLC, to submeter electricity at 1890 Lexington Avenue and 1900 Lexington Avenue, New York, New York.

Statutory authority: Public Service Law, sections 22, 23, 30, 32, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 48, 51, 53, 65 and 66

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

Specific reasons underlying the finding of necessity: Compliance with the State Administrative Procedure Act is not possible because to do so could, as described in the attachment, would be detrimental to the health, safety and general welfare of tenants who are low income, are elderly and/or are disabled.

Subject: Readoption to stay the Commission Order issued November 21, 2008.

Purpose: Readoption to stay the Commission's November 21, 2008 Order.

Substance of emergency rule: On February 12, 2009, the Commission adopted an order staying the petition of KNW Apartments, LLC, to submeter electricity at 1890 Lexington Avenue and 1900 Lexington Avenue, New York, New York, located in the territory of Consolidated Edison Company of New York Inc. On May 12, 2009 the Commission readopted the emergency rule for an additional 60 days to allow Staff to continue its investigation.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. PSC-09-09-00011-EP, Issue of March 4, 2009. The emergency rule will expire July 10, 2009.

Text of rule may be obtained from: Leann Ayer, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (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.

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 rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(08-E-0839SA2)

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

Alternative Treatment of a Supplier Refund

I.D. No. PSC-21-09-00004-P

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

Proposed Action: The Public Service Commission is considering a petition filed by National Fuel Gas Distribution Corporation requesting permission to allocate an expected supplier refund to environmental site investigation and remediation.

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

Subject: Alternative treatment of a supplier refund.

Purpose: Consideration of a petition by National Fuel Gas Distribution Corporation for alternative treatment of a supplier refund.

Substance of proposed rule: The Public Service Commission is considering whether to approve, modify, or reject, in whole or in part, the April 21, 2009 filing by National Fuel Gas Distribution Corporation (NFG) requesting approval of an alternate treatment of an expected supplier refund from Tennessee Gas Pipeline Company (Tennessee). The expected supplier refund represents excess monies collected by Tennessee from its customers during the period 1992-2000. The excess monies were collected through Federal Energy Regulatory Commission (FERC) approved charges for environmental site investigation and remediation costs at specified locations on Tennessee's pipeline system. NFG requests approval to credit the proceeds it expects to receive from Tennessee against its own deferred environmental site investigation and remediation costs.

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.

(09-G-0354SP1)

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

Procedures for Estimation of Customer Bills

I.D. No. PSC-21-09-00005-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 whether to approve, reject or modify a proposal of New York State Electric & Gas Corporation to revise the procedures it uses for estimating gas or electric usage when actual meter readings are not available.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), 66(1), (3), (5) and (12)

Subject: Procedures for estimation of customer bills.

Purpose: To consider revised estimation procedures used for rendering bills to utility customers.

Substance of proposed rule: The Public Service Commission is considering whether to approve, reject or modify a proposal of New York State Electric & Gas Corporation to revise certain procedures used for rendering bills to utility customers. The proposed procedures would be used to estimate a customer's gas or electric usage during a billing period when an actual meter reading of usage is not available. If approved, the proposed procedures would replace existing procedures for estimating customer usage for billing purposes.

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.

(09-M-0394SP1)

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

Water Rates and Charges

I.D. No. PSC-21-09-00006-P

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

Proposed Action: The Public Service Commission is considering leaves Nos. 1 to 12 filed by Friedlander Water Supply requesting approval to convert its tariff to an electronic format and increase its annual revenues by \$6,480 or 125%.

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

Subject: Water rates and charges.

Purpose: For approval of an electronic tariff and to increase Friedlander Water Supply's annual revenues by about \$6,480 or 125%.

Substance of proposed rule: On May 01, 2009 Friedlander Water Supply (Friedlander or the company) filed leaves Nos. 1 to 12 to P.S.C. No. 1-Water to convert its Tariff to an electronic format. It also requests to be allowed to increase its rates to become effective on August 1, 2009. The company filed new rates to produce additional annual revenues of \$6,480 or approximately 125%. The company's last rate increase went into effect June 29, 1988. Friedlander also requests to increase its current restoration of service charge from a flat fee of \$10 to \$50 during normal business hours, \$75 outside of normal business hours and \$100 during weekend and public holidays. The company provides flat rate water service to 6 residential customers in the Village of Kerhonkson, Town of Rochester, Ulster County.

The company's pending tariff and rate increase is available on the Commission's Home Page on the World Wide Web (www.dps.state.ny.us) located under Access to Commission Documents – Tariffs). The Commission may approve or reject, in whole or in part, or modify the company's rates.

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, NY 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, NY 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.

(09-W-0383SP1)

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

Procedures for Estimation of Customer Bills

I.D. No. PSC-21-09-00007-P

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

Proposed Action: The Public Service Commission is considering whether to approve, reject or modify a proposal of Rochester Gas & Electric Corporation to revise the procedures it uses for estimating gas or electric usage when actual meter readings are not available.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), 66(1), (3), (5) and (12)

Subject: Procedures for estimation of customer bills.

Purpose: To consider revised estimation procedures used for rendering bills to utility customers.

Substance of proposed rule: The Public Service Commission is considering whether to approve, reject or modify a proposal of Rochester Gas and Electric Corporation to revise certain procedures used for rendering bills to utility customers. The proposed procedures would be used to estimate a customer's gas or electric usage during a billing period when an actual meter reading of usage is not available. If approved, the proposed procedures would replace existing procedures for estimating customer usage for billing purposes.

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.

(09-M-0395SP1)

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

Water Rates and Charges

I.D. No. PSC-21-09-00008-P

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

Proposed Action: The Public Service Commission is considering a filing by West Valley Crystal Water Company, Inc. requesting approval to increase its annual revenues by approximately \$12,577 or 40%.

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

Subject: Water rates and charges.

Purpose: To approve an increase in annual revenues by about \$12,577 or 40%.

Substance of proposed rule: On May 5, 2009, West Valley Crystal Water Company, Inc. (West Valley or the company) filed tariff amendments (Rate Leaf No. 12 – Revision 5) to its electronic tariff schedule P.S.C. No. 3 – Water to become effective on September 1, 2009. The company has filed new rates to produce additional annual revenues of about \$12,577, or 40% over current annual revenues. The company provides unmetered water service to approximately 217 customers in the Village of West Valley, Cattaraugus County. The company's tariff, along with its proposed changes, is available on the Commission's Home Page on the World Wide Web (www.dps.state.ny.us) located under Commission Documents. The Commission may approve or reject, in whole or in part, or modify the company's request.

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

(09-W-0389SP1)

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

Water Rates and Charges

I.D. No. PSC-21-09-00009-P

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

Proposed Action: The Public Service Commission is considering a filing by Great Expectations, LLC for approval to increase its escrow account surcharge by 50% to enable it to repay an advance made to solve a water quality problem and to be able to replenish the account.

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

Subject: Water rates and charges.

Purpose: To approve Great Expectations LLC's request for a 50% increase in the surcharge to fund its emergency escrow account.

Substance of proposed rule: On May 06, 2009 Great Expectations LLC (Great Expectations or the company) filed Escrow Account Statement No. 2 to P.S.C No. 1 - Water containing a 50% increase in the surcharge, needed to fund the account, to become effective on October 1, 2009. This will allow the company to be able to recover \$62,854 (plus interest at a rate of 3%) over an 11 year period, that was advanced to resolve a high Manganese problem at one of its wells, and continue to be able to replenish the escrow account. The company provides metered water service to 111 residential customers, a homeowner's association facility (five connections for lawn sprinkling and a swimming pool) and two golf course facilities (clubhouse and halfway house), in a subdivision know as Mansion Ridge in the Town of Monroe, Orange County.

The company's tariff and pending escrow account statement is available on the Commission's Home Page on the World Wide Web (www.dps.state.ny.us) located under Commission Documents - Tariffs). The Commission may approve or reject, in whole or in part, or modify the company's request.

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

(09-W-0409SP1)

State University of New York

NOTICE OF ADOPTION

Amendments to Traffic and Parking Regulations at the State University of New York College at Oneonta

I.D. No. SUN-50-08-00021-A

Filing No. 504

Filing Date: 2009-05-11

Effective Date: 2009-05-27

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

Action taken: Amendment of Part 564 of Title 8 NYCRR.

Statutory authority: Education Law, section 360(1)

Subject: Amendments to the traffic and parking regulations at the State University of New York College at Oneonta.

Purpose: To make certain technical changes and amend existing regulations regarding fee schedules.

Text of final rule: Section 564.2 is amended to read as follows:

§ 564.2 General.

(a) The motor vehicle laws of the State of New York and department of transportation orders are applicable and enforceable on property maintained by the State University. All drivers are expected to know and observe State motor vehicle laws, department of transportation orders and campus parking regulations.

(b) All regulations pertaining to motor vehicle registration, parking and operation are enforceable 24 hours a day throughout the entire year, except as otherwise announced by the college upon recommendation of the traffic commission or the director of [public safety] university police.

(c) All provisions of the campus parking regulations that apply to motor cars also apply to motor scooters and motorcycles.

(d) Snowmobiles are prohibited from campus.

(e) The operator of a vehicle on campus is presumed to be affiliated with the university. The student is held responsible for parking citations issued to guests' or family member's vehicle(s).

(f) Limited use vehicles (such as gators, golf carts, or other vehicles approved by director of university police) owned, maintained, and operated by the college may operate on university-owned roadways and sidewalks.

Section 564.3 is amended to read as follows:

§ 564.3 Vehicle registration and parking fees.

(a) Parking fees as approved by the college president, or designee, shall be charged for motor vehicles parked within designated lots, consistent with applicable collective bargaining agreements and in accordance with guidelines established by the chancellor, or designee. Such guidelines shall provide that the determination of the amount of the fee be substantially based on an analysis of the costs attributable to the operation and maintenance of the parking facilities owned and operated by the College at Oneonta. Vehicle registration fees are approved by the college president and in conjunction with applicable collective bargaining agreements based upon the costs associated with maintaining a system of registering motor vehicles operated on campus.

(b) All students, eligible by college standards, who drive to the campus and park must register their vehicles and apply for parking decals on or before the first day of classes. *Faculty decals will be issued to GSEU (Graduate Student Employees Union) members who are currently employed as graduate assistants, consistent with the applicable collective bargaining agreement. All other graduate students and assistants will be registered as resident or commuter students. Parking decals must be obtained from the [public safety] university police office in person or by mail.*

(c) All faculty and staff must register their vehicles annually. Faculty and staff decals may be issued on a multi-year basis at the discretion of the college president.

(d) *Parking permits may be issued to live-in partners of residence hall directors. Decals shall be of the same color issued to the residence hall director and shall be revoked if the live-in situation ceases. Residence hall directors are responsible for parking citations issued to live-in partners.*

[d](e) The identification decal shall be permanently affixed as determined by the director of [public safety] university police. It is the responsibility of the owner to insure that the decal remains affixed at all times, and is legible. Taping or clipping on of decals is not considered as being permanently affixed, and registration will not be considered complete unless decal is properly affixed.

[e](f) Under no circumstances may an eligible student register a motor vehicle owned or controlled by another student, except by special permission of the traffic commission, nor may an eligible student register a vehicle on behalf of another.

[f](g) Any changes in license or registration must be reported to the [office of public safety] *university police office* within 96 hours.

[g](h) College parking decals must be removed from any vehicle sold or transferred. Decal is the property of the college and may be removed for cause.

[h](i) The person who registers a vehicle will be responsible for all violations incurred against that vehicle.

[i](j) The college assumes no responsibility for the care or protection to student, faculty, staff or visitor vehicles or the contents at any time while on college property.

[j](k) When there is a dual registration in the family, it is expected that the operator of the vehicle will park in the area for his or her category.

[k](l) Failing to register a vehicle as required, filing false information or failure to comply with these regulations will result in loss of parking privileges, fines or possible disciplinary action.

[l](m) Visitor's passes may be obtained at any time at the [public safety] *university police office*, at the administration reception desk, or other campus locations as designated by the director of [public safety] *university police*. The college may charge a daily or hourly fee for visitor passes consistent with subdivision (a) of this section.

[m](n) Resident freshmen and resident sophomores may not register a vehicle for use on campus.

[n](o) Exceptions to registration rules for freshmen and sophomores will be considered for the following reasons:

(1) Medical reasons - requires a letter from a licensed physician [stating the conditions and reasons for necessity for vehicle] *indicating a legitimate medical need after being presented to the college medical director, at the college health center, for approval.*

(2) Employment - requires a *signed, notarized* letter on company letterhead from employer stating days and hours of employment. Letter shall include telephone number. *A current payroll stub may also be required.*

(3) Academic - requires a *legitimate written* justification from faculty member stating the reasons for exceptions.

Section 564.4 (a) and (i) are amended to read as follows:

§ 564.4 Traffic and parking regulations.

(a) No person shall drive a vehicle on university streets, roads or highways at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards when existing, but in no event shall a person drive a vehicle in excess of 25 miles per hour unless a different speed is authorized and indicated by the university or the department of transportation.

(i) No vehicle shall be left in any campus parking areas during Christmas and spring recesses without authorization from [the public safety department] *university police*.

Section 564.5 is amended to read as follows:

§ 564.5 Accidents.

All motor vehicle accidents on campus which cause any personal and/or property damage, however, minor, must be reported to the [office of public safety] *university police office*, who will conduct an investigation or refer the accident to the appropriate law enforcement agency.

Section 564.7 is amended to read as follows:

§ 564.7 Citations.

(a) A violation of any section of the Vehicle and Traffic Law and any applicable order of the New York State department of transportation shall be a misdemeanor or traffic infraction as designated in such law, and shall be punishable as therein provided.

(b) Such laws and orders adopted by State University of New York shall be enforced in any court having jurisdiction.

(c) A complaint regarding any violation of the Vehicle and Traffic Law and department of transportation order, or any traffic ordinance applicable on such premises shall be processed in accordance with the requirements of applicable law.

(d) A complaint regarding any violation of a campus rule shall be in writing, reciting the time and place of the violation and the title, number or substance of the applicable rule.

(e) The complaint must be subscribed by the officer witnessing the violation and attached to the vehicle involved.

(f) The complaint shall indicate the amount of the fine assessable for the violation, and advise that if the person charged does not dispute the violation, fines may be paid at the accounts receivable office or the [public safety] *university police office*.

(g) The complaint shall recite that a hearing may be requested within a period to be prescribed by the college council after service of the charges by appearing in person at the [office of public safety director] *university police office* or at accounts receivable.

(h) The complaint shall recite that should the alleged violator fail to ap-

pear at the time fixed for the hearing or should no hearing be requested within the period as prescribed by the college council, the complaint is proved and shall warrant such action as may then be appropriate.

Section 564.9 is amended to read as follows:

§ 564.9 Penalties.

Violators of any of the campus parking rules will be subject to a traffic citation returnable as directed and may be penalized in accordance with the following schedule:

(a) Any violations of the campus parking regulations. All offenses - - \$15 each for the first through the third citation received during the academic year.

(b) Any violations of the campus parking regulations. All offenses - - \$15 each for the [second] *fourth* through the fifth citation received during the academic year.

(c) Any violations of the campus parking regulations. All offenses - - \$25 each for the sixth and any subsequent citation received during the academic year. In addition, the vehicle will be towed.

(d) Handicapped and fire lane parking violators will be assessed at [\$50] \$100 per offense. *Signs shall be posted indicating penalty amount.*

(e) Fines shall be payable within 24 hours at the accounts receivable office[, room 243, administration building,] or in sealed envelopes at the [public safety] *university police office*. Appeals must be filed within 10 days at either accounts receivable office or [public safety] *university police office*.

(f) Failure to pay fines or appeal within time period designated shall be considered a proved complaint and college shall take appropriate action.

(g) A late fee in the amount of \$15 will be imposed in the case of proved complaints not paid within 30 days. The prosecution and collection of fines involving visitors shall be in accordance with applicable law. Unpaid fines may be deducted from the salary or wages of an offending officer or employee of the college. In the case of students, grades and transcripts shall be withheld until all fines are paid. Faculty, staff or students with outstanding violations may not register their vehicles until the fines have been paid.

(h) The towing of a vehicle and/or revocation of a campus motor vehicular registration and a loss of parking privileges may be imposed for the balance of the academic year September 1st to August 31st, upon a finding that six or more campus parking violations have been incurred during an academic year. Violations for which appeals are subsequently made and granted shall be excluded from the calculation of accumulated violations.

Section 564.10 is amended to read as follows:

§ 564.10 Special events and emergencies.

(a) On special occasions and emergencies, parking restrictions will be regulated by the [public safety office] *university police office* as required.

(b) For certain college events, parking may not be limited to parking lots; specific roads and/or areas not otherwise used for parking may be designated for parking by the [public safety office] *university police office*.

Section 564.11 is amended to read as follows:

§ 564.11 Enforcement.

(a) Routine enforcement of this Part is the responsibility of the [public safety] *university police office*.

(b) General oversight of these procedures in relation to student offenders is the responsibility of the vice president for student development, as is disciplinary action beyond the penalties specified above.

(c) General oversight of these procedures in relation to faculty is the responsibility of the vice president for academic affairs, as is disciplinary action beyond the penalties specified above.

(d) General oversight of these procedures in relation to classified staff members is the responsibility of the vice president for finance and administration, as is disciplinary action beyond the penalties specified above.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 564.11(d).

Text of rule and any required statements and analyses may be obtained from: Joseph Storch, Assistant Counsel, State University of New York, State University Plaza, Albany, NY 12246, (518) 443-5400, email: joseph.storch@suny.edu

Revised Regulatory Impact Statement

1. Statutory authority: Education Law § 360(1) authorizes the State University Trustees to make rules and regulations relating to parking, vehicular and pedestrian traffic and safety on the State-operated campuses of the State University of New York.

2. Legislative objectives: The present measure makes technical amendments to the parking and traffic regulations applicable to the State University of New York College at Oneonta and also will increase allowable fines for violation of parking regulations.

3. Needs and benefits: Parking fine thresholds applicable to violation of campus parking regulations have not been changed for a number of years.

In the meantime, many municipalities have increased parking fines for violation of local parking ordinances, particularly for violation of hand-capped parking rules. The increase proposed here will allow SUNY Oneonta to have their fines increased to levels comparable to local municipal rules, thus strengthening incentives to avoid violation of campus parking rules.

4. Costs: Individuals who violate the parking rules will experience higher fines.

5. Local government mandates: None.

6. Paperwork: None.

7. Duplication: None.

8. Alternatives: There are no viable alternatives.

9. Federal standards: There are no related Federal standards.

10. Compliance schedule: SUNY Oneonta will notify those affected as soon as the rule is effective. Compliance should be immediate.

Revised Regulatory Flexibility Analysis

No regulatory flexibility analysis is submitted with this notice because this proposal 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, recordkeeping or other compliance requirements on small businesses and local governments. The proposal addresses internal parking and traffic regulations on the campus of the State University of New York College at Oneonta.

Revised Rural Area Flexibility Analysis

No rural area flexibility analysis is submitted with this notice because this proposal will not impose any adverse economic impact on rural areas or impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas. The proposal addresses internal parking and traffic regulations on the campus of the State University of New York College at Oneonta.

Revised Job Impact Statement

No job impact statement is submitted with this notice because this proposal does not impose any adverse economic impact on existing jobs or employment opportunities. The proposal addresses internal parking and traffic regulations on the campus of the State University of New York College at Oneonta.

Assessment of Public Comment

The agency received no public comment.

Susquehanna River Basin Commission

INFORMATION NOTICE

Notice of Projects Approved for Consumptive Uses of Water

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of Approved Projects.

SUMMARY: This notice lists the projects approved by rule by the Susquehanna River Basin Commission during the period set forth in "DATES."

DATE: January 1, 2009, through April 30, 2009.

ADDRESS: Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, PA 17102-2391.

FOR FURTHER INFORMATION CONTACT: Richard A. Cairo, General Counsel, telephone: (717) 238-0423, ext. 306; fax: (717) 238-2436; e-mail: rcairo@srbc.net or Stephanie L. Richardson, Secretary to the Commission, telephone: (717) 238-0423, ext. 304; fax: (717) 238-2436; e-mail: srichardson@srbc.net. Regular mail inquiries may be sent to the above address.

SUPPLEMENTARY INFORMATION: This notice lists the projects, described below, receiving approval for the consumptive use of water pursuant to the Commission's approval by rule process set forth in 18 CFR § 806.22(e) and 18 CFR § 806.22(f) for the time period specified above:

Approvals Issued

Approvals By Rule Issued Under 18 CFR § 806.22(e):

1. Church & Dwight Co., Inc., Arm and Hammer, ABR20081205, Jackson Township, York County, PA, Consumptive Use of Up to 0.420 mgd, Approval Date: January 14, 2009.

2. ADM Cocoa, ADM Cocoa - Hazleton, PA, ABR20090302, Hazle Township, Luzerne County, PA, Consumptive Use of Up to 0.160 mgd, Approval Date: March 24, 2009.

Approvals By Rule Issued Under 18 CFR § 806.22(f):

1. Alta Operating Company, LLC, Webster #1, ABR20090401, Franklin Township, Susquehanna County, PA, Consumptive Use of Up to 0.990 mgd, Approval Date: April 6, 2009.

2. Alta Operating Company, LLC, Holbrook #1, ABR20090402, Bridgewater Township, Susquehanna County, PA, Consumptive Use of Up to 0.999 mgd, Approval Date: April 6, 2009.

3. Alta Operating Company, LLC, Turner #1, ABR20090403, Liberty Township, Susquehanna County, PA, Consumptive Use of Up to 0.999 mgd, Approval Date: April 6, 2009.

4. Alta Operating Company, LLC, Fiondi #1, ABR20090404, Middletown Township, Susquehanna County, PA, Consumptive Use of Up to 0.999 mgd, Approval Date: April 6, 2009.

5. Anadarko E&P Company, LP, COP Tract 653 (1000), ABR20090405, Beech Creek Township, Clinton County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

6. Anadarko E&P Company, LP, COP Tract 231 (1000), ABR20090406, Boggs Township, Centre County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

7. Anadarko E&P Company, LP, Larry's Creek F&G #1, ABR20090407, Cummings Township, Lycoming County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

8. Anadarko E&P Company, LP, COP Tract 285 (1000), ABR20090408, Grugan Township, Clinton County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

9. Anadarko E&P Company, LP, Penn State Forest Tract 289 #1, ABR20090409, McHenry Township, Lycoming County, PA, Consumptive Use of Up to 1.680 mgd, Approval Date: April 6, 2009.

10. Anadarko E&P Company, LP, COP Tract 289 #1000H and #1001H, ABR20090410, McHenry Township, Lycoming County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

11. Anadarko E&P Company, LP, Larry's Creek F #2H, ABR20090411, Cummings Township, Lycoming County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

12. Anadarko E&P Company, LP, COP Tract 231 #1001H and #1002H, ABR20090412, Snow Shoe Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

13. Anadarko E&P Company, LP, COP Tract 285 #1001H and #1002H, ABR20090413, Grugan Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

14. Anadarko E&P Company, LP, COP Tract 653 #1001H, ABR20090414, Beech Creek Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

15. Anadarko E&P Company, LP, COP Tract 653 #1002H, ABR20090415, Beech Creek Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

16. Anadarko E&P Company, LP, Larry's Creek F&G #3H, ABR20090416, Cummings Township, Lycoming County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

17. Carrizo Oil & Gas, Inc., Cowfer #1, ABR20090417, Rush Township, Centre County, PA, Consumptive Use of Up to 0.999 mgd, Approval Date: April 6, 2009.

18. Eastern American Energy Corporation, Whitetail Gun & Rod Club #1, ABR20090418, Goshen Township, Clearfield County, PA, Consumptive Use of Up to 0.900 mgd, Approval Date: April 6, 2009.

19. EOG Resources, Inc., Houseknecht #2H, ABR20090419, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.490 mgd, Approval Date: April 6, 2009.

20. EOG Resources, Inc., Houseknecht C 1V, ABR20090420, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

21. EOG Resources, Inc., Ward M 1H, ABR20090421, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.490 mgd, Approval Date: April 6, 2009.

22. EOG Resources, Inc., Houseknecht 3H, ABR20090422, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.490 mgd, Approval Date: April 6, 2009.

23. EOG Resources, Inc., Houseknecht 1H, ABR20090423, Springfield Township, Bradford County, PA, Consumptive Use of Up to 0.499 mgd, Approval Date: April 6, 2009.

24. EOG Resources, Inc., PHC 3H, ABR20090424, Lawrence Township, Clearfield County, PA, Consumptive Use of Up to 0.499 mgd, Approval Date: April 6, 2009.

25. EXCO-North Coast Energy, Inc., Litke (1H and 2H), ABR20090425, Burnside Township, Centre County, PA, Consumptive Use of Up to 2.000 mgd, Approval Date: April 6, 2009.

26. EXCO-North Coast Energy, Inc., Litke (7H and 8H),

ABR20090426, Burnside Township, Centre County, PA, Consumptive Use of Up to 2.000 mgd, Approval Date: April 6, 2009.

27. EXCO-North Coast Energy, Inc., Sterling Run Club #4, ABR20090427, Burnside Township, Centre County, PA, Consumptive Use of Up to 1.000 mgd, Approval Date: April 6, 2009.

28. EXCO-North Coast Energy, Inc., Sterling Run Club #5, ABR20090428, Burnside Township, Centre County, PA, Consumptive Use of Up to 1.000 mgd, Approval Date: April 6, 2009.

29. EXCO-North Coast Energy, Inc., Derrick Unit #1, ABR20090429, Franklin Township, Lycoming County, PA, Consumptive Use of Up to 1.600 mgd, Approval Date: April 6, 2009.

30. EXCO-North Coast Energy, Inc. Snyder Unit #1, ABR20090430, Franklin Township, Lycoming County, PA, Consumptive Use of Up to 1.600 mgd, Approval Date: April 6, 2009.

31. EXCO-North Coast Energy, Inc., Litke (14H, 15H, 16H), ABR20090431, Burnside Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 6, 2009.

32. Seneca Resources Corporation, DCNR 595 1V, ABR20090432, Bloss Township, Tioga County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

33. Seneca Resources Corporation, Wilcox (TEOG 1), ABR20090433, Covington Township, Tioga County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

34. Seneca Resources Corporation, Hemenway (TSRC 1), ABR20090434, Charleston County, Tioga County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

35. Seneca Resources Corporation, DCNR 293, ABR20090435, Cummings Township, Lycoming County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

36. Seneca Resources Corporation, DCNR 100 1V, ABR20090436, Lewis Township, Lycoming County, PA, Consumptive Use of Up to 0.099 mgd, Approval Date: April 6, 2009.

37. Southwestern Energy Production Co., Greenzweig [1 (706575)], ABR20090437, Herrick Township, Bradford County, PA, Consumptive Use of Up to 1.750 mgd, Approval Date: April 6, 2009.

38. Southwestern Energy Production Co., Range No. (1 and 1H), ABR20090438, New Milford Township, Susquehanna County, PA, Consumptive Use of Up to 1.750 mgd, Approval Date: April 6, 2009.

39. Southwestern Energy Production Co., Price No. 1 Vertical and Horizontal, ABR20090439, Lenox Township, Susquehanna River, PA, Consumptive Use of Up to 1.750 mgd, Approval Date: April 6, 2009.

40. Anadarko E&P Company, LP, COP Tract 259 #1001H, ABR20090440, Burnside Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

41. Anadarko E&P Company, LP, COP Tract 259 #1002H, ABR20090441, Burnside Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

42. Anadarko E&P Company, LP, R. Carlin #1H, ABR20090442, Snow Shoe Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

43. Anadarko E&P Company, LP, R. Carlin #2H and #3H, ABR20090443, Snow Shoe Township, Centre County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

44. Anadarko E&P Company, LP, COP Tract 252 #1000H, ABR20090444, Grugan Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

45. Anadarko E&P Company, LP, COP Tract 252 #1001H and #1002H, ABR20090445, Grugan Township, Clinton County, PA, Consumptive Use of Up to 5.000 mgd, Approval Date: April 27, 2009.

AUTHORITY: P.L. 91-575, 84 Stat. 1509 et seq., 18 CFR Parts 806, 807, and 808.

Dated: May 6, 2009.

Thomas W. Beauduy
Deputy Director.

Urban Development Corporation

EMERGENCY RULE MAKING

Investment Opportunity Fund Program

I.D. No. UDC-21-09-00002-E

Filing No. 503

Filing Date: 2009-05-11

Effective Date: 2009-05-11

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

Action taken: Addition of Part 4246 to Title 21 NYCRR.

Statutory authority: Urban Development Corporation Act, section 5(4); L. 1968, ch. 174; L. 2008, ch. 57, part QQ, section 16-p

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

Specific reasons underlying the finding of necessity: Effective provision of economic development assistance in accordance with the enabling legislation requires the creation of the Rule. Program assistance will address the dangers to public health, safety and welfare by providing assistance to combat economic distress.

Subject: The Investment Opportunity Fund Program.

Purpose: To provide the basis for administration of the Investment Opportunity Fund including evaluation criteria and application process.

Text of emergency rule: Section 4246.1 General

These regulations set forth the types of available assistance, evaluation criteria, application and project process and related matters for the Investment Opportunity Fund (the "Program"). The Program was created pursuant to § 16-p of the New York State Urban Development Corporation Act, as added by Part QQ of Chapter 57 of the Laws of 2008, and promotes economic development by facilitating the creation and retention of jobs by increasing private investment and business activity in the State of New York.

Section 4246.2 Definitions

For the purposes of this Part 4246, the terms below should have the following meanings:

(a) "The Act" shall mean the New York State Urban Development Corporation Act Chapter 174 of the Laws of 1968 (as amended).

(b) "The Corporation" shall mean the New York State Urban Development Corporation.

(c) "Cost" as applied to a project or portion thereof financed under this Part, means all or any part of the cost of construction, remediation, renovation, and acquisition of all lands, structures, real or personal property, rights, air rights, rights-of-way, easements, and interests acquired or used for a project; the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which the buildings or structures may be moved, the cost of machinery and equipment, interest prior to, during, and for a period after, completion of construction, remediation, renovation, or acquisition, as determined by the corporation; for extensions, enlargements, additions, replacements, renovations, and improvements; the cost of architectural, engineering, plans, specifications, estimates, and other expenses necessary or incidental to the construction, acquisition, and financing of any project, excluding lobbying and governmental relations expenses.

(d) "Distressed communities" shall mean areas as determined by the Corporation meeting criteria indicative of economic distress, including land value, employment rate; rate of employment change; private investment; economic activity, percentages and numbers of low income persons; per capita income and per capita real property wealth; and such other indicators of distress as the Corporation shall determine.

(e) "Facilities" means real and personal property, structures, air rights, conveyances, equipment, thoroughfares, buildings, and supporting components thereof located in the state, that are directly related to the acquisition, construction, reconstruction, rehabilitation, remediation, or improvement of a project which will achieve the purposes of facilitating the creation or retention of jobs or increasing investment or business activity within a municipality or region of the state or academic research and development efforts that promote the development of life sciences and

high technology initiatives including genomics and biotechnology research.

(f) "Financial assistance" in connection with a project, includes, but is not limited to, grants, loans, equity investments, loan forgiveness, loan guarantees, or any combination thereof.

(g) "Not-For-Profit Corporation" shall mean a corporation organized under the provisions of the Not-For-Profit Corporation Law.

(h) "Project" shall include but not be limited to designing, acquiring, planning, permitting, entitling, demolishing, removing, constructing, improving, extending, restoring, financing, remediating and generally developing facilities.

(i) "Sponsor" or "project sponsor" shall be the state or any political subdivision of the state or a municipality, including but not limited to any departments, agencies, public benefit corporations, or commissions. In addition, a sponsor or project sponsor may include not-for-profit corporations formed on behalf of a sponsor, special districts, assessment districts, tax increment financing units or districts, business improvement districts, regional and community development organizations, not-for-profit organizations, not-for-profit organizations or businesses organized to do business under the laws of, or doing business within the state, or any combination of the aforementioned entities that makes application to the corporation for financial assistance in connection with an investment opportunity fund project in a manner prescribed by the corporation.

Section 4246.3 Types of Assistance

The Corporation is authorized to provide Financial Assistance to Project Sponsors for Costs associated with a Project.

Section 4246.4 Eligibility

Project Sponsors shall be eligible for Financial Assistance for Projects provided, the Project:

(a) is consistent with any existing local or regional comprehensive plan. A municipality which is a Sponsor for a project or projects shall submit a resolution that has been adopted by the legislative body or bodies of the lead project sponsor that certifies that the proposed project is consistent with existing local or regional plans; the proposed financing is appropriate for the specific project; the project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and appropriate use of natural resources; and the project develops or enhances infrastructure or other facilities in a manner that will attract, create, and sustain long-term investment and employment opportunities; and

(b) provides economic benefits to one or more regions of the state or, for projects that are not anticipated to have a regionally significant impact, provide economic benefits to localities that suffer from disproportionate levels of poverty, unemployment, population or job loss or other indicators of economic distress.

Section 4246.5 Evaluation Criteria

The Corporation shall give priority in granting assistance generally to those projects:

(a) with significant private financing or matching funds through private or other public entities;

(b) likely to produce a high return on public investment;

(c) with existence of significant support from the local business community, local government, community organizations, academic institutions and other regional parties;

(d) deemed likely to increase the community's economic and social viability;

(e) with cost benefit analysis that demonstrates increased economic activity, sustainable job creation and investments;

(f) located in distressed communities;

(g) whose application is submitted by multiple entities, both public and private; or

(h) such other requirements as determined by the Corporation as are necessary to implement the provisions of the Program.

Section 4246.6 Application and project process

(a) The Corporation may, at its discretion and within available appropriations, issue requests for proposals and may at other times accept direct applications for program assistance.

(b) Promptly after receipt of the application, the Corporation shall review the application for eligibility, completeness, and conformance with the applicable requirements of the Act and this Rule. Applications shall be processed in full compliance with the applicable provisions of Section 16-p of the Act.

(c) If the proposal satisfies the applicable requirements and initiative funding is available, the directors normally meet once a month. If the project is approved for funding and if it involves the acquisition, construction, reconstruction, rehabilitation, alteration or improvement of any property, the Corporation will schedule a public hearing in accordance with the act and will take such further action as may be required by the act. After approval by the Corporation and a public hearing, if required, the project may then be reviewed by the state public authorities control

board ("PACB"), which also generally meets once a month, in accordance with PACB requirements and policies, and the investment opportunity fund capital approval board ("CAB") created pursuant to Section 16-p(6) of the Act. Following directors' approval, PACB approval, if required, and approval by CAB, the legal documents will be drafted by the Corporation. Until such time as the CAB is formally constituted, approval by the PACB shall be considered approval by CAB upon consent of the Director of Budget. Notwithstanding the foregoing, no project shall be funded if sufficient Program monies are not received by the Corporation for such project.

(d) No full-time employee of the state or full-time employee of any agency, department, authority or public benefit corporation (or any subsidiary of a public benefit corporation) of the state shall be eligible to receive assistance under this initiative, nor shall any business, the majority ownership interest of which is beneficially controlled by any such employee, be eligible for assistance under this initiative.

Section 4246.7 Confidentiality

(a) To the extent permitted by law, all information regarding the financial condition, marketing plans, manufacturing processes, production costs, customer lists, or other trade secrets and proprietary information of a person or entity requesting assistance from the Corporation, which is submitted by such person or entity to the Corporation in connection with an application for assistance, shall be confidential and exempt from public disclosures.

Section 4246.8 Expenses

(a) An application fee of \$250 must be paid to the Corporation for projects that involve acquisition, construction, reconstruction, rehabilitation alteration or improvement of real property, the financing of machinery and equipment and working capital loans and loan guarantees before final review of an application can be completed. This fee will be refunded in the event the application is withdrawn or rejected.

(b) The Corporation will assess a commitment fee of up to two percent of the amount of any Program loan involving projects for acquisition, construction, reconstruction, rehabilitation, alteration or improvement of real property, the financing of machinery and equipment and working capital payable upon acceptance of commitment with up to one percent rebated at closing. No portion of the commitment fee will be repaid if the commitment lapses and the project does not close. The Corporation will assess a fee of up to one percent, payable at closing, of the amount of any Program grant involving the acquisition, construction, reconstruction, rehabilitation, alteration or improvement of real property or the financing of machinery and equipment or any loan guarantee.

(c) The applicant will be obligated to pay for expenses incurred by the Corporation in connection with the project, including, but not limited to, expenses related to attorney, appraisals, surveys, title insurance, credit searches, filing fees, public hearing expenses and other requirements deemed appropriate by the Corporation.

Section 4246.7 Affirmative action and non-discrimination

Program applications shall be reviewed by the Corporation's affirmative action department, which shall, in consultation with the applicant and/or proposed recipient of the program assistance and any other relevant involved parties, develop appropriate goals, in compliance with applicable law (including section 2879 of the public authorities law, article fifteen-A of the executive law and section 6254(11) of the unconsolidated laws) and the Corporation's policy, for participation in the proposed project by minority group members and women. Compliance with laws and the Corporation's policy prohibiting discrimination in employment on the basis of age, race, creed, color, national origin, gender, sexual preference, disability or marital status shall be required.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires August 8, 2009.

Text of rule and any required statements and analyses may be obtained from: Antovk Pidedjian, New York State Urban Development Corporation, 633 Third Avenue, 37th Floor, New York, NY 10017, (212) 803-3792, email: apidedjian@empire.state.ny.us

Regulatory Impact Statement

1. Statutory Authority: Section 9-c of the New York State Urban Development Corporation, as added by Chapter 174 of the Laws of 1968 (the Act) provides, in part, that the New York State Urban Development Corporation (Corporation) shall, assisted by the commissioner of economic development and in consultation with the department of economic development, promulgate rules and regulations in accordance with the state administrative procedure act.

Section 12 of the Act provides that the Corporation shall have the right to exercise and perform its powers and functions through one or more subsidiary corporations.

Section 16-p of Part QQ of Chapter 57 of the Laws of 2008 provides for the creation of investment opportunity fund. The corporation is authorized, within available appropriations, to provide financial assistance pursuant to this section.

2. Legislative Objectives: Section 16-p Act sets forth the Legislative intent of the Investment Opportunity Fund to provide financial assistance to eligible entities by supporting projects in New York State that focus on: projects causing the creation or retention of jobs, increasing investment or business activity within a municipality or region, or academic research and development efforts that promote the development of life sciences and high technology initiatives. It further states that a project sponsor shall be the state, any political subdivision of the state, a municipality, including departments, agencies, public benefit corporations, commissions, not-for-profit corporations, businesses or organizations, special districts, assessment districts, tax increment financing units or districts, business improvement districts, regional and community development organizations, or any combination of these entities.

The selection of projects shall be governed by rules and regulations to be created with public notice of the development objectives, the features of which shall be: minimum standards with respect to economic impact; consistency with existing local or regional comprehensive plans including adoption of local legislative resolutions; the proposed financing is appropriate for the specific project; effective and efficient use of existing and future public resources so as to promote both economic development and appropriate use of natural resources; and projects which develop or enhance infrastructure or other facilities in a manner that will attract, create, and sustain long-term investment and employment opportunities; assistance to projects that will provide economic benefits to one or more regions of the state or, for projects that are not anticipated to have a regionally significant impact, that will provide economic benefits to localities that suffer from disproportionate levels of poverty, unemployment, population or job loss or other indicators of economic distress. Each project shall be considered and reviewed by a five member investment opportunity fund capital approval board.

The Legislative intent of Section 16-p of the Act is to assist in the retention and creation of jobs and investment in the state through business development in a time of need.

The adoption of 21 NYCRR Part 4246 will further these goals by setting forth the types of available assistance, evaluation criteria, application and project process and related matters for the Investment Opportunity Fund.

3. Needs and Benefits: Chapter 53 of the Laws of 2008, page 882, lines 3 thru 21 allocates \$50 million in capital funds to the Investment Opportunity Fund (Fund) to support investment in projects that would promote local and regional economic development and revitalization. Projects in high growth/high tech to be financed with Fund assistance are expected to provide significant growth opportunities. Fund criteria for project selection will give preference to projects in localities with disproportionate levels of poverty, unemployment, or population and job loss.

The Fund allocation of \$50 million in new capital spending could support approximately 542 construction-related jobs, generating an additional \$28 million in personal income in distressed communities. The Corporation used the Implan® regional economic analysis system to model employment and personal income multipliers for construction spending to estimate the direct, indirect and induced jobs related to the Fund amounts assumed to be devoted to capital spending on infrastructure and construction-related activity. Implan® is used by a number of state and federal agencies to include the U.S. Forest Service and the U.S. Census Bureau. Over the past fifteen years, Implan® has grown to become the industry standard for determining the total economic outputs of an industry or specific project.

New York State may collect nearly \$1.8 million in personal income tax and sales tax on income spending. To estimate the personal income tax revenues generated by this spending, the Corporation assumed the tax calculation for single or married filing separately on taxable income over \$20,000, using the standard deduction and 6.85% on income over \$20,000. Sales tax was estimated on taxable disposable income earned by wage earners. The Corporation assumed that 75% of gross income is disposable income and 40% of that is taxable.

This level of capital spending (assumed to be primarily on site development, infrastructure, building rehabilitation and new construction) will provide the basis for further investment in a broad range of economic activity.

4. Costs: The Fund as identified in Chapter 53 of the Laws of 2008, page 882, lines 3 thru 21 will be funded through the issuance of Personal Income Tax bonds. In addition to the interest costs, it is expected that fees and costs associated with issuing bonds, including the Corporation's fee, underwriting, banking and legal fees, will be approximately 1.6% of the total amount borrowed.

The costs to municipalities and other regulated parties involved would depend on the extent to which they participate in and support the proposed projects. For municipalities, this may involve matching funds or the commitment of other public resources for project development. Participation

is voluntary and would be considered on a case-by-case basis depending on the location of the municipality involved.

5. Paperwork / Reporting: There are no additional reporting or paperwork requirements as a result of this rule on regulated parties. Standard applications used for most other Corporation assistance will be employed keeping with the Corporation's overall effort to facilitate the application process for all of the Corporation's clients. The rule provides that the Corporation may, however, require applicants to submit materials prior to submission of a formal application to determine if a proposal meets eligible criteria for Fund assistance.

6. Local Government Mandates: The Fund imposes no mandates - program, service, duty, or responsibility - upon any city, county, town, village, school district or other special district. However, if a private entity wishes to participate in this program, the projects must be sponsored by the state or any of its political subdivisions or municipalities, including not-for-profit corporations formed on behalf of a sponsor. Eligible projects require consistency with existing local government or regional comprehensive plans and must include adoption of a resolution by the legislative body to this effect.

7. Duplication: The regulations do not duplicate any existing state or federal rule.

8. Alternatives: The Fund proposed regulations provide for a variety of potential program outcomes, by type of assistance (loans, loan guarantees, and grants), eligible applicants (municipalities, industrial development agencies, local development companies, public authorities and public benefit corporations, private developers or businesses, and other entities), and eligible uses (planning, sewer and water systems, energy facilities, transportation facilities and systems, pipelines, land acquisition, demolition and site clearing, etc.) Preference will be given to projects with significant financing, with a likely high return on public investment, with significant local support, in distressed areas, among other criteria.

The Fund criteria were developed through an extensive outreach process conducted by Upstate ESDC in Fall 2007. These seven, half-day regional blueprint sessions (1 in each Upstate economic development region designated as Western New York, Finger Lakes, Central New York, Southern Tier, North Country, Mohawk Valley, and Capital Region) gathered input from regional economic leaders across five categories: infrastructure, innovation, intellectual capital, international, and investment. Additional input for Downstate and the State overall was gathered in a report issued for the Corporation by A. T. Kearney, *Delivering on the Promise of New York State*, issued in mid-2007.

The following are two examples of alternatives that were provided during the outreach portion of the rulemaking process. All of the suggestions offered were from members of the small business community and local governments who responded to the Corporations request for input. All of the suggestions were included in the rules and regulations submitted with this Regulatory Impact Statement.

1. Regulations should be drafted to give priority to projects in developed areas that use smart growth principles, and that promote energy efficiency and conservation.

Section 4246.4, Part (a) provides that "the project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and appropriate use of natural resources."

2. A streamlined application and reporting process is important to encourage small business participation.

ESDC uses one standard application for this, and many other economic development programs. The information required under Section 4246.6 "Application and project process" from all applicants is needed for the corporation to make sound investment decisions. Private financing institutions request similar, if not more robust information from their applicants.

9. Federal Standards: There are no minimum federal standards related to this regulation. The regulation is not inconsistent with any federal standards or requirements.

10. Compliance Schedule: The regulation shall take effect immediately upon adoption.

Regulatory Flexibility Analysis

1. Effects of Rule: "Small business" is defined by the State Economic Development law to be an enterprise with 100 or fewer employees. The vast majority - roughly 98 percent - of New York State businesses are small businesses.

We applied this criterion to ESD's models of the NYS economy to determine how many small businesses could benefit from the Investment Opportunity Fund. We limited the analysis to industries that are likely to have eligible businesses: manufacturing, transportation and warehousing, information, finance and insurance, professional and technical services, management of companies and enterprises, and arts, entertainment and recreation.

Across these 7 broad sectors our analysis indicates that approximately 155,000 small businesses will be eligible for funding under the Investment Opportunity Fund.

In addition approximately 4,000 municipalities and local economic development-oriented organizations will be eligible for funding.

2. Compliance Requirements: There are no compliance requirements for small businesses and local governments in these regulations.

3. Professional Services: Applicants do not need to obtain professional services to comply with these regulations.

4. Compliance Costs: To the extent that there are existing capabilities at the local level to administer the projects funded through this program, there should be relatively little, if any additional administration costs.

5. Economic and Technological Feasibility: Compliance with these regulations should be economically and technologically feasible for small businesses and local governments.

6. Minimizing Adverse Impact: This rule was designed to facilitate the provision of loans, loan guarantees, equity investments, grants and other economic development financing to public and private sector project sponsors. As such, positive impacts are anticipated. Local governments, when acting as lead project sponsor, must submit a resolution adopted by their legislative body indicating the project is consistent with local or regional plans, and certify other local project characteristics such as economic development leverage and infrastructure enhancement.

7. Small Business and Local Government Participation: The National Federation of Independent Business, New York Farm Bureau, and the New York Conference of Mayors were consulted during this rulemaking and comments requested. In addition, 17 rural organizations, cooperatives, and agricultural groups and 10 local government associations were also notified.

ESDC received 10 responses to its outreach to interested parties on the proposed regulations. Much of the responses received consisted of general supporting statements for the programs or critique of the enabling legislation.

Listed are several comments received on the proposed rules related to the Investment Opportunity Fund and our response to the comment.

1. Regulations should clearly define “distressed communities” using specific, objective criteria.

Section 4246.2, Part (b) defines “Distressed Communities”

2. A streamlined application and reporting process is important to encourage small business participation.

ESDC uses one standard application for this, and many other economic development programs. The information required under Section 4246.6 “Application and project process” from all applicants is needed for the corporation to make sound investment decisions. Private financing institutions request similar, if not more robust information from their applicants.

3. Regulations should allow for municipal comments when the applicant is not a municipality.

Section 4246.5, Part (c) gives preference to projects with the “existence of significant support from the local business community, local government, community organizations, academic institutions and other regional parties.”

Rural Area Flexibility Analysis

1. Types and Estimated Numbers of Rural Areas: Much of New York State is rural. According to the Executive Law § 481 (7), some 44 counties, all located in the ESD Upstate Region, are rural, defined as having a population less than 200,000. Portions of an additional 9 counties have certain townships with population densities of 150 persons or less per square mile. Only 10 counties - all Downstate - have no rural character, according to Executive Law.

We applied these criteria to ESD’s models of the NYS economy to determine how many rural businesses could benefit from the Investment Opportunity Fund. We limited the analysis to industries that are likely to have eligible businesses: manufacturing, transportation and warehousing, information, finance and insurance, professional and technical services, management of companies and enterprises, and arts, entertainment and recreation.

Across these 7 broad sectors our analysis indicates that approximately 20,000 rural businesses will be eligible for funding under the Investment Opportunity Fund. In addition approximately 4,000 municipalities and local economic development-oriented organizations will be eligible for funding.

2. Reporting, Recordkeeping and Other Compliance Requirements and Professional Services: The rule will not impose any new or additional reporting or recordkeeping requirements; no affirmative acts will be needed to comply; and, it is not anticipated that applicants will have to secure any professional services in order to comply with this rule.

3. Costs: The costs to municipalities and other regulated parties involved would depend on the extent to which they participate in and support the proposed projects. For municipalities, this may involve matching funds or the commitment of other public resources for project development.

4. Minimizing Adverse Impact: The purpose of the Investment Opportunity Fund program is to maximize the economic benefit of new

capital investment in areas in need of economic revitalization. The program requires that such investments coordinate with local area comprehensive development plans in order to maximize its effectiveness and minimize any negative impacts. It also requires that cost-benefit analyses be completed to demonstrate the effectiveness of projects undertaken and contribute to the assessment of overall impact.

5. Rural Area Participation: Under this rule all communities and businesses in rural areas of the state are eligible to apply for financial assistance. In addition, since many rural areas are also economically distressed places, this rule emphasizes projects in those areas as one of the criteria for selection. The extent of local government support and involvement for loan, loan guarantee, and grant project applicants are two of the criteria for project acceptance. A public hearing may also be required under the NYS Urban Development Corporation Act. To gauge rural and non-rural reaction to this rule the National Federation of Independent Business, the New York Farm Bureau, and the New York Conference of Mayors were consulted during this rulemaking and comments requested. In addition, 17 rural organizations, cooperatives, and agricultural groups, and 10 local government associations were also notified. Examples of questions that were received and the Corporation’s answers to these questions include the following:

1. Regulations should be drafted to give priority to projects in developed areas that use smart growth principles, and that promote energy efficiency and conservation.

Section 4246.4, Part (a) provides that “the project facilitates effective and efficient use of existing and future public resources so as to promote both economic development and appropriate use of natural resources.”

2. A streamlined application and reporting process is important to encourage small business participation.

ESDC uses one standard application for this, and many other economic development programs. The information required under Section 4246.6 “Application and project process” from all applicants is needed for the corporation to make sound investment decisions. Private financing institutions request similar, if not more robust information from their applicants.

Job Impact Statement

These regulations will not adversely affect jobs or employment opportunities in New York State. The regulations are intended to improve the economy of the state through strategic investments that facilitate the creation and retention of jobs by increasing private investment and business activity in the state.

There will be no adverse impact on job opportunities in the state.