

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 Correctional Services

NOTICE OF ADOPTION

Special Housing Units; Purpose

I.D. No. COR-29-09-00005-A

Filing No. 1164

Filing Date: 2009-10-05

Effective Date: 2009-10-21

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

Action taken: Repeal of section 300.1(c) of Title 7 NYCRR.

Statutory authority: Correction Law, sections 70 and 130

Subject: Special Housing Units; Purpose.

Purpose: To remove the statement regarding the Units for Condemned Persons and Capital Punishment, as they no longer apply to anyone.

Text or summary was published in the July 22, 2009 issue of the Register, I.D. No. COR-29-09-00005-P.

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

Text of rule and any required statements and analyses may be obtained from: Maureen E. Boll, Deputy Commissioner and Counsel, New York State Department of Correctional Services, 1220 Washington Avenue - Building 2 - State Campus, Albany, NY 12226-2050, (518) 457-4951, email: Maureen.Boll@DOCS.state.ny.us

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Release of Information to Inmate Families and the News Media, Public Contacts of Institutions and Employees

I.D. No. COR-30-09-00002-A

Filing No. 1163

Filing Date: 2009-10-05

Effective Date: 2009-10-21

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

Action taken: Amendment of sections 8.3, 51.1, 51.2, 51.3, 51.4, 51.5, 51.7, 51.8, 51.12, 51.14, 51.15, 51.16 and 51.20; and repeal of sections 51.18 and 51.19 of Title 7 NYCRR.

Statutory authority: Correction Law, section 112; Judiciary Law, sections 4, 255 and 255-b

Subject: Release of Information to Inmate Families and the News Media, Public Contacts of Institutions and Employees.

Purpose: To update terminology, correct grammar and ensure the regulation reflects appropriate confidentiality concerns.

Text or summary was published in the July 29, 2009 issue of the Register, I.D. No. COR-30-09-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Maureen E. Boll, Deputy Commissioner and Counsel, New York State Department of Correctional Services, 1220 Washington Avenue - Building 2 - Harriman State Campus, Albany, NY 12226-2050, (518) 457-4951, email: Maureen.Boll@DOCS.state.ny.us

Assessment of Public Comment

The agency received no public comment.

Education Department

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Definition of Unprofessional Conduct and the Licensure Requirements for Certified Public Accountants and Public Accountants

I.D. No. EDU-26-09-00003-RP

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

Proposed Action: Amendment of sections 29.10, 52.13; repeal of sections 70.1-70.7; and addition of new sections 70.1-70.9 to Title 8 NYCRR.

Statutory authority: Education Law, section 207(not subdivided), 6501(not subdivided), 6504(not subdivided), 6506(1), (2) and (6), 6507(2)(a), (3), (4)(a), 6508(1), 7401, 7401-a, 7402, 7404, 7406, 7406-a, 7408, 7409 and 7410; and L. 2008, ch. 651

Subject: Definition of unprofessional conduct and the licensure requirements for certified public accountants and public accountants.

Purpose: To implement Chapter 651 of the Laws of 2008.

Substance of revised rule: The Commissioner of Education proposes to

amend section 29.10 of the Rules of the Board of Regents and section 52.13 of the Regulations of the Commissioner of Education and repeal and add a new Part 70 to the Regulations of the Commissioner of Education, relating to the education, examination and experience requirements for licensure of certified public accountants; endorsement of out-of-state licenses or foreign licenses; the issuance of foreign limited permits or temporary practice permits; registration of accounting firms; continuing education requirements and the definition of unprofessional conduct. The following is a summary of the proposed amendment:

A new paragraph (13) is added to subdivision (a) of section 29.10 of the Rules of the Board of Regents to define as unprofessional conduct in the practice of public accountancy a licensee's failure to meet certain competency requirements when supervising attest or compilation services or signing or authorizing someone to sign an accountant's report on financial statements. Required competencies for the supervision of compilation services shall include at least 40 hours of continuing education in the area of accounting, auditing or attest during the three years immediately prior to the performance of such services; and maintaining the level of education, experience and professional conduct required by generally accepted accounting standards. A licensee who supervises attest services shall also be required to have at least 1,000 hours of experience in the preparation or review of financial statements or reports on financial statements within the last five years or a peer review satisfactory to the department.

A new paragraph (14) is added to subdivision (a) of section 29.10 of the Rules of the Board of Regents defining as unprofessional conduct a licensee's failure to maintain an active registration with the Department when a licensee engages in the practice of public accountancy or uses the title "certified public accountant" or the designation "CPA" or the title "public accountant" or the designation "PA". Any certified public accountant or public accountant licensed in New York State who is not practicing public accountancy in this State pursuant to Education Law section 7401 and does not use the title "certified public accountant" or the designation "CPA" or the title "public accountant" or designation "PA" may request an inactive status from the Department and will not be required to register with the Department.

A new subdivision (h) is added to section 29.10 of the Rules of the Board of Regents, defining as unprofessional conduct any willful or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of public accountancy by a CPA licensed in another state who is performing non-attest services or any firm that employs such CPA to perform non-attest services pursuant to Education Law section 7406-a and the failure of such licensee to identify his or her state of principal place of business in parentheses following his or her designation.

A new subdivision (i) is added to section 29.10 of the Rules of the Board of Regents to amend the definition of unprofessional conduct to prohibit a licensee or the public accounting firm employing such licensee to directly or indirectly, offer, give, solicit, or receive or agree to receive, a commission for the referral of any product or service to a client if the licensee is performing: attest services; compilation services when the licensee expects, or reasonably might expect that a third party will rely upon the financial statements and the licensee's compilation report does not disclose a lack of independence; an examination of prospective financial information; and/or any other attest service. The prohibitions apply during the period in which the licensee is engaged to perform any of the services defined in the subdivision and the period covered by any financial, accounting or related statements involved in such services. A licensee providing services other than those described in this subdivision may accept a commission for recommending products or services of a third party to a client, provided that the licensee discloses the receipt of the commission to the client prior to the performance of such service. The provisions of this subdivision do not apply to licensees who perform accounting, management advisory, financial advisory, consulting or tax services for an entity that is not required to register with the department under Education Law section 7408.

Paragraph (1) of subdivision (b) of section 52.13 of the Regulations of the Commissioner of Education is amended to define specific curricular content in the professional accounting content area that is required for licensure and those subjects that may be taken to fulfill the credit hour requirement in this area for licensure. This paragraph is also amended to eliminate the requirement for mandatory subjects in the general business content area and replaces these requirements with a list of content areas that may be used to meet the credit hour requirement in this area for licensure.

Section 70.1 of the Regulations of the Commissioner of Education defines the practice of public accountancy and defines the professional skills and competencies used by a licensee when he/she performs accounting, management advisory, financial advisory, and tax services.

Section 70.2 defines the professional study requirements for licensure

and requires an applicant to submit evidence of completion of a baccalaureate or higher degree in accountancy that is either registered with the Department; accredited by an acceptable accrediting body; or a degree that the Department has determined to be the substantial equivalent of a registered or accredited program. An applicant who applies for licensure on or after August 1, 2009 must have satisfactorily completed a curriculum of at least 150 semester hours in a program described above unless the applicant was licensed in another state prior to August 1, 2009, in which case, they may meet the education requirements through completion of at least 120 semesters in a program described above. An applicant who applies to the Department for licensure prior to August 1, 2009 is required to have satisfactorily completed a curriculum of at least 120 semester hours in a program prescribed in this section prior to August 1, 2009 and have submitted the required application forms for licensure to the Department prior to August 1, 2009. In lieu of meeting these education requirements and any experience requirements, the applicant may meet the following requirement: at least 15 years of full-time experience in the practice of public accountancy satisfactory to the State Board.

A new section 70.3 broadens acceptable experience for licensure to include providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax or consulting skills under the direct supervision of a certified public accountant licensed in the United States or a public accountant licensed in New York. Two years of acceptable experience are required for applicants who meet the education requirement through completion of 120 semester hours and one year of acceptable experience is required for applicants who complete the education requirement through completion of 150 semester hours. Experience may be gained through employment in public practice, government, private industry or educational institutions. An applicant is required to obtain the necessary experience within 10 years of having passed the licensing examination or they will be required to complete continuing professional education, in an amount determined by the State Board for Public Accountancy.

A new section 70.4 defines the content, passing score and retention of credit criteria for the licensing examination. The proposed amendment provides students with the opportunity to apply for admission to the Uniform CPA Examination upon completion of 120 semester hours of professional study in a regionally accredited college or university which shall include at least one course in each of the mandatory professional accountancy content areas: financial accounting, cost or managerial accounting, taxation, and auditing and attestation services.

A new section 70.5 provides that a license as a certified public accountant in New York may be issued to an applicant licensed in another state or foreign country if the applicant has met licensure requirements significantly comparable to New York. An applicant licensed by a state with significantly comparable licensure requirements, meaning those states recognized by the Department to have significantly comparable requirements, is eligible for a license through endorsement. If the applicant was licensed in a state that did not have significantly comparable licensing requirements, the individual's credentials will be evaluated to determine if his or her credentials are significantly comparable to New York's requirements. In either case, the applicant shall demonstrate four years of professional experience in public accounting in the last 10 years immediately preceding the application for licensure by endorsement.

This section also permits licensure by endorsement of a foreign applicant with an acceptable license, certificate or degree from a foreign country with significantly comparable licensure requirements provided that the applicant meets certain requirements.

Section 70.6 authorizes the Department to issue a two-year limited permit to practice public accountancy in this State to a foreign credentialed accountant if the applicant meets certain requirements described in the proposed amendment. The regulation requires a \$250 fee for issuance of the limited permit.

Section 70.7 authorizes CPAs licensed in another state, with a principal place of business in another state, to apply for a temporary practice permit in order to provide attest and compilation services in New York. The temporary practice permit is valid for up to 180 days during a twelve-month period and would be renewable no more than three times. The proposed regulations also require the submission of application materials and the payment of a \$125 application fee and renewal fee.

Section 70.8 requires all firms, including sole proprietorships, partnerships, LLPs, LLCs, and PCs, to maintain a registration with the Department if the firm is performing attest or compilation services or using the title "CPA" or "CPA firm" or the title "PA" or "PA firm". Firms performing only non-attest services described in Education Law § 7401(3) are not required to, but may, register with the Department.

Section 70.9 implements statutory changes, deletes prior exemptions from mandatory continuing education for individuals who work in private industry or government and specifies that all registered CPAs and PAs are required to pay a \$50 continuing education fee. Any licensee who does not

engage in professional practice as defined in § 7401 may file a written request for an exemption from mandatory continuing education.

The proposed amendment also implements a statutory change in the tracking year for continuing education credit from a September 1 - August 31 year to a January 1 - December 31 year. The proposed amendment also allow licensees to meet their continuing education requirement by completing either 40 credits in any combination of the following subject areas: accounting, attest, auditing, taxation, advisory services, specialized knowledge and applications related to specialized industries, and such other areas appropriately related to the practice of accounting as may be acceptable to the Department or by completing 24 credits concentrated in any one subject area. Before this change, licensees were required to complete 40 credits in a combination of the following areas: accounting, auditing or taxation, or 24 credits concentrated, in either accounting, auditing or taxation.

Revised rule compared with proposed rule: Substantial revisions were made in sections 29.10(a)(13), (h), (i), 70.1(c)(1), 70.8(c)(6) and (10).

Text of revised proposed rule and any required statements and analyses may be obtained from Christine Moore, New York State Education Department, 89 Washington Avenue, Room 148, Albany, NY 12234, (518) 473-4921, email: cmoore@mail.nysed.gov

Data, views or arguments may be submitted to: Frank Munoz, Office of the Professions, New York State Education Department, 89 Washington Avenue, Albany, NY 12234, (518) 474-1756, email: opopr@mail.nysed.gov

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

Revised Regulatory Impact Statement

Section 29.10(a)(13) has been modified based upon public comment to allow certified public accountants or public accountants licensed prior to July 26, 2009 to meet the competency provisions by January 1, 2011, instead of July 26, 2009, to provide them with a sufficient amount of time to meet these requirements. The competency requirement was further revised to eliminate the 1,000 hour experience requirement for licensees performing only compilation services. These licensees, however, will be required to meet the 40 hour continuing education requirement and maintain the level of education, experience and professional conduct required by generally accepted profession standards relating to the compilation standards performed. Changes were also made to the competency requirements for licensees performing attest services to provide an alternative to the requirement that such licensees have 1,000 hours of experience providing attest services within the previous five years. The proposed amendment now permits licensees performing attest services to satisfy the competency requirement by having either at least 1,000 hours of attest experience within the previous five years or through employment by a registered firm that has undergone a peer review satisfactory to the Department which indicates that the firm has received a rating of pass or pass with deficiencies.

Section 29.10(h) is amended to include in the definition of unprofessional conduct the failure of any individual licensed as a certified public accountant in another state, who is performing non-attest services and uses the title "certified public accountant" or the designation "CPA" to identify his or her state of principal place of business in parentheses following his or her title or designation.

Section 29.10(i) has been revised to change the definition of commission to mean any compensation, including a referral fee, paid by a third party to the licensee or the public accounting firm that employs such licensee, for recommending or referring any product or service to be supplied by another person. This section has also been revised to prohibit a licensee or a public accounting firm employing such licensee to offer, give, solicit or receive or agree to receive a commission for the referral of any product or service to a client if the licensee is performing an audit, compilation, examination and/or any other attest service instead of a service that may require a licensee to utilize independent judgment. This section is further revised to require a licensee who is not performing these services, to disclose the receipt of a commission to the client prior to the performance of such service.

Section 70.1(c)(1) is amended to revise the professional skills and competencies for accounting, management advisory, financial advisory and tax services to not include the application of auditing procedures.

Section 70.8(c)(6) is amended to require a firm to include in its application for registration an affirmation by the firm that any certified public accountant or public accountant that it employs whose principal place of business is New York or who is otherwise authorized to practice in New York and who is responsible for supervising attest or compilation services or sign or authorize someone to sign the accountant's report on financial statements on behalf of the firm meet the competency requirements set forth in paragraph (13) of subdivision (a) of section 29.10.

Section 70.8(c)(10) amends the firm registration fee to require \$50 for

each office of the firm located in New York State or \$50 for the firm if the firm has no offices located in New York and \$10 for the sole proprietor or each general partner of a partnership or partner of a limited liability partnership, member of a limited liability company or shareholder of a professional service corporation whose principal place of business is located in New York or who is otherwise authorized to practice in New York through a temporary practice permit issued pursuant to section 70.7 of this Part and for each certified public accountant or public accountant licensed in New York that signs or authorizes someone to sign an engagement on behalf of a New York client but whose principal place of business is not located in New York State.

The above revisions require revisions to the Costs section in the previously published Regulatory Impact Statement as follows:

4. COSTS:

(a) Cost to State government: None.

(b) Cost to local government: There are no additional costs to local government.

(c) Cost to private regulated parties: The proposed amendment does not impose any costs beyond those imposed by statute. Chapter 651 of the Laws of 2008 authorizes the Department to collect fees for firm registration, a mandatory continuing education fee and fees for limited permits and temporary practice permits.

The fee for a firm registration is: (1) \$50 for each office of the firm located in New York or \$50 for the firm if the firm has no offices located in New York and (2) \$10 for the sole proprietor or each general partner of a partnership or partner of a limited liability partnership, member of a limited liability company or shareholder of a professional service corporation whose principal place of business is located in New York or who is otherwise authorized to practice in New York through a temporary practice permit issued pursuant to section 70.7 of this Part and for each certified public accountant or public accountant licensed in New York that signs or authorizes someone to sign an engagement on behalf of a New York client but whose principal place of business is not located in New York State.

There is also a \$250 fee for individuals applying for limited permits or a renewal of limited permits; \$125 fee for individuals applying for a temporary practice permit or a renewal of such permit and on those licensees who must participate in mandatory continuing education. The proposed amendment also requires a mandatory continuing education fee of fifty dollars (\$50) to be collected from a licensee in addition to the triennial registration fee required by Education Law section 7404 any licensee who is required to register triennially with the Department at the beginning of each triennial registration period.

Revised Regulatory Flexibility Analysis

The above revisions to the proposed rule require that the Compliance Cost section of the previously published Regulatory Flexibility Analysis be revised to read as follows:

4. COMPLIANCE COSTS:

The proposed amendment does not impose any costs beyond those authorized by statute. Chapter 651 of the Laws of 2008 authorizes the Department to collect fees for firm registration, a mandatory continuing education fee and fees for limited permits and temporary practice permits.

The fee for a firm registration is: (1) \$50 for each office of the firm located in New York State or \$50 for the firm if the firm has no offices located in New York and (2) \$10 for the sole proprietor or each general partner of a partnership or partner of a limited liability partnership, member of a limited liability company or shareholder of a professional service corporation whose principal place of business is located in New York or who is otherwise authorized to practice in New York through a temporary practice permit issued pursuant to section 70.7 of this Part and for each certified public accountant or public accountant licensed in New York that signs or authorizes someone to sign an engagement on behalf of a New York client but whose principal place of business is not located in New York State.

There is also a \$250 fee for individuals applying for limited permits or a renewal of limited permits; \$125 fee for individuals applying for a temporary practice permit or a renewal of such permit and on those licensees who must participate in mandatory continuing education. The proposed amendment also requires a mandatory continuing education fee of fifty dollars (\$50) to be collected from a licensee in addition to the triennial registration fee required by Education Law Section 7404.

Revised Rural Area Flexibility Analysis

The above revisions to the proposed rule require that the Costs section of the previously published Rural Area Flexibility Analysis be revised to read as follows:

3. COSTS:

The proposed amendment does not impose any costs beyond those authorized by statute. Chapter 651 of the Laws of 2008 authorizes the Department to collect fees for firm registration, a mandatory continuing education fee and fees for limited permits and temporary practice permits.

The fee for a firm registration is: (1) \$50 for each office of the firm located in New York State or \$50 for the firm if the firm has no offices located in New York and (2) \$10 for the sole proprietor or each general partner of a partnership or partner of a limited liability partnership, member of a limited liability company or shareholder of a professional service corporation whose principal place of business is located in New York or who is otherwise authorized to practice in New York through a temporary practice permit issued pursuant to section 70.7 of this Part and for each certified public accountant or public accountant licensed in New York that signs or authorizes someone to sign an engagement on behalf of a New York client but whose principal place of business is not located in New York State.

There is also a \$250 fee for individuals applying for limited permits or a renewal of limited permits; a \$125 fee for individuals applying for a temporary practice permit or a renewal of such permit. The proposed amendment also requires a mandatory continuing education fee of fifty dollars (\$50) to be collected from a licensee in addition to the triennial registration fee required by Education Law section 7404.

Revised Job Impact Statement

The proposed rule, as so revised, relates to the practice of public accountancy. The revised rule will not have a substantial adverse impact on job or employment opportunities. Because it is evident from the nature of the revised rule that it will have no impact on jobs or employment opportunities, no further measures were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Assessment of Public Comment

1. COMMENT: A few comments cited a lack of communication to those affected by the statutory and regulatory changes, the lack of a comment period prior to the effective date of the regulations and a short implementation period for the new law and regulations.

RESPONSE: Chapter 651 of the Laws of 2008 was signed by the Governor on January 27, 2009, with a 180-day implementation period, and became effective on July 26, 2009. When developing the emergency regulations, the Department complied with the State Administrative Procedure Act. The Department sought input from the State Board for Public Accountancy and the New York State Society of Certified Public Accountants and communicated with the press and worked with the state membership associations to communicate with licensees on the proposed amendment.

2. COMMENT: Several commenters focused on provisions of the competency requirement when a licensee supervises or signs or authorizes someone to sign the accountant's report on financial statements. Specifically, commenters suggested that small firms could not meet the competency standard; that prospective remediation be considered or that certain licensees be "grandfathered"; that certain engagements be exempt; that the requirement be limited to engagement partners; and that a specialist credential be considered. A commenter also suggested that the provision would be difficult to police and monitor.

RESPONSE: The Department has proposed several changes to the competency requirement including establishing a separate standard for compilation services. The proposed revisions also provide for a future implementation date for those licensed prior to July 26, 2009. The Department believes that it will be able to monitor compliance through firm registration and quality review.

3. COMMENT: A few comments suggested that CPAs who do not practice for a fee/salary but do perform certain charitable work such as serving on the Board of Directors of a non-for-profit entity will be prevented from continuing to do this work because of the cost of maintaining a registration and completing CPE.

RESPONSE: The Department believes that the registration and continuing professional education requirements are appropriate for individuals serving as board members if the individual uses his/her professional title, practices public accountancy or if the licensee participates on an organization's audit, finance, or budget committee, as the not-for-profit is relying on the licensee's professional skills and knowledge.

4. COMMENT: One comment disagreed that CPAs employed in private industry, government and academia should be required to meet mandatory continuing education requirements, viewing such requirements as a revenue source for national and state professional associations without any beneficial outcome.

RESPONSE: The new public accountancy law requires all licensed CPAs who practice the profession as defined in the law or who use the title "certified public accountant" or the designation "CPA" to participate in mandatory continuing education.

5. COMMENT: One comment suggested that an out-of-state licensed CPA whose principal place of business is in another state should be required to identify the state of their principal place of business in parentheses when performing non-attest services in New York.

RESPONSE: The Department proposed revisions consistent with this comment.

6. COMMENT: One comment suggested that the term "firm" be replaced with the term "entity" when defining the owner of the financial statements that the accountant is reporting on.

RESPONSE: The Department will propose replacing the word "firm" with the term "client".

7. COMMENT: One commenter suggested that additional wording be added to section 70.8 of the Regulations of the Commissioner to clarify that a firm that performs non-attest services may register with the Department and to section 70.9 of the regulations to clarify the applicability of continuing education requirements to licensees resuming practice during a registration period.

RESPONSE: The Department has proposed revisions to clarify the rule in these areas.

8. COMMENT: One comment suggested that the standards for endorsement of an out-of-state CPA license be changed to a standard that requires the applicant to meet either but not both endorsement requirements.

RESPONSE: The Department believes that the proposed regulation will streamline the endorsement of an out-of-state license process while maintaining public protection.

9. COMMENT: One comment suggests that the definition of skills and competencies be revised as it is over-inclusive and overly complex.

RESPONSE: The Department disagrees with this comment. The Department considered references to various professional standards when drafting the regulations, however, such standards do not define the skills and competencies necessary to complete a professional engagement.

10. COMMENT: One comment recommended a revised definition of "commission" and described the client disclosure provisions of the regulation as overly strict, troubling and too burdensome and formalistic to be applied in all circumstances.

RESPONSE: The Department has proposed revisions to the definition of commission. The Department believes that it is in the public interest for a client to receive appropriate disclosure about earned commissions from a CPA or a PA who is hired to perform professional services. The Department disagrees that the client disclosure requirement is too burdensome and formalistic to implement.

11. COMMENT: One comment noted that the Legislature, in its statement in support of the statute, made it clear that the application for a temporary practice permit was to be electronic.

RESPONSE: The Department is working on a process that will allow applicants to submit the temporary practice permit application electronically by facsimile or as an e-mail attachment.

12. COMMENT: The commenter urges the Department not to take the position that an individual may never apply for a new temporary practice permit once it has been issued.

RESPONSE: Chapter 651 of the Laws of 2008 provides that no more than one temporary practice permit may be issued to any individual applicant, provided that each permit may be renewed by the Department up to three times.

13. COMMENT: The commenter recommends that the Department make use of the National Association of State Boards for Public Accountancy's (NASBA) list of substantially equivalent states when making a determination of whether an applicant's licensure qualifications are significantly comparable to New York's requirements.

RESPONSE: The Department believes that the regulation provides sufficient authorization for the Department to utilize NASBA's list of significantly equivalent states.

14. COMMENT: One comment recommends that the phrase "upon the recommendation of the state board" as found in section 70.7(a) of the proposed rule, not be construed as an independent step in the process of issuing a limited permit or temporary practice permit.

RESPONSE: Education Law § 7406(1) and (2)(a) require the recommendation of the State Board for Public Accountancy for the issuance of a limited license or a temporary practice permit.

15. COMMENT: One comment indicates that requiring an individual practicing with a temporary practice permit to identify his or her state of principal place of business in parentheses following his or her title or designation will be burdensome in practice.

RESPONSE: The Department believes that it is in the public interest for the consumer to be informed that the person that it hired to perform professional services may have a principal place of business outside of New York State.

16. COMMENT: One comment suggests that the list of partners, owners, or shareholders of a firm and the list of all CPAs or PAs whose principal place of business is in New York that are required as part of the firm registration application be interpreted as requiring only a listing of partners whose principal place of business is in New York.

RESPONSE: The Department believes that the firm registration form and accompanying instructions clarify that the list of partners, owners, or shareholders of a firm be only those whose principal place of business is in New York.

17. COMMENT: One comment urges the Department to remove from the fee calculation partners who obtain a temporary practice permit in New York and also suggests that clarifying language be added to the regulation that limited liability partnerships may not have general partners and that the per capita fee be rewritten to apply to partners of limited liability partnerships.

RESPONSE: The Department disagrees with the suggestion that partners, owners or shareholders practicing in New York under a temporary practice permit be excluded from the fee calculation because removing these individuals from the fee calculation could result in some firms paying no fee to conduct business in New York. The Department, however, has proposed revisions to the regulations by adding clarifying language with regard to partners of a limited liability partnership as suggested.

18. COMMENT: One comment suggests that all affirmations required for firm registration be based on the knowledge of the firm or individual signing the firm registration or renewal application.

RESPONSE: The Department anticipates that the affirmations contained in the new firm application forms will address these concerns.

19. COMMENT: The commenter hopes that the new statute and proposed rule will create an opportunity to examine the possibility of e-filing.

RESPONSE: The Department, in conjunction with several other state agencies, is working on a request for proposals to identify possible vendors that could be hired to implement an on-line application and registration renewal process.

20. COMMENT: The commenter believes that greater attention needs to be paid to foreign applicants for licensure and that more elements of the process need clarification, including the Department's acceptance of the International Uniform Certified Public Accountant Qualification Examination (IQEX).

RESPONSE: The State Board for Public Accountancy recognized the IQEX examination for applicants licensed by the five foreign organizations that had entered into a mutual recognition agreement with NASBA and the AICPA.

21. COMMENT: The commenter believes that the Department should accept transcripts from applicants themselves rather than imposing a requirement that the applicant obtain a certified copy of their transcript directly from their university for provision to the Department.

RESPONSE: The department has a long-standing policy not to allow transcripts to be submitted directly by applicants due to the possibility of submission of fraudulent documents.

22. COMMENT: A commenter urges that the Department agree to either impose a pro-rated continuing education requirement appropriate for the remainder of the year or extend the deadline for compliance with the continuing education requirement for the same transition being given to active CPAs.

RESPONSE: Firms required to register with the Department would do so through the submission of a registration form that includes a list of partners, shareholders or owners who meet the competency requirements necessary to supervise or sign or authorize someone to sign the accountant's report on financial statements. The firm registration form provides that a firm could submit one list of all partners, shareholders or owners that includes an asterisk or other designating mark identifying those individuals who meet the competency requirement.

23. COMMENT: The commenter believes that the State Board for Public Accountancy in conjunction with the New York State Society of Certified Public Accountants and the Internal Revenue Service need to address the non-CPAs who are allowed to prepare tax returns as paid preparers.

RESPONSE: The Board of Regents regulatory authority is limited to individuals licensed under Article 149 of the Education Law. It is outside the Regents authority to regulate non-licensed tax preparers that are regulated by the Department of Taxation and Finance under Article 1 of Tax Law.

Department of Environmental Conservation

NOTICE OF ADOPTION

Deer Hunting Regulations

I.D. No. ENV-30-09-00019-A

Filing No. 1166

Filing Date: 2009-10-06

Effective Date: 2009-10-21

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

Action taken: Amendment of section 1.22 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303 and 11-0907

Subject: Deer hunting regulations.

Purpose: To update muzzleloading regulations in the Northern Zone.

Text or summary was published in the July 29, 2009 issue of the Register, I.D. No. ENV-30-09-00019-P.

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

Text of rule and any required statements and analyses may be obtained from: Gordon R. Batcheller, N.Y.S. Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754, (518) 402-8885, email: grbatche@gw.dec.state.ny.us

Additional matter required by statute: A programmatic environmental impact statement is on file with the Department of Environmental Conservation.

Assessment of Public Comment

The agency received no public comment.

Office of Mental Retardation and Developmental Disabilities

ERRATUM

A Notice of Emergency Rule Making, I.D. No. MRD-28-09-00014-E, pertaining to Appeals Process Pursuant to Chapter 508, Laws of 2008, published in the September 30, 2009 issue of the *State Register* contained an incomplete text. Following is the complete text of the rule:

Add a new Part 630 to 14 NYCRR as follows:

PART 630

ELIGIBILITY DETERMINATIONS FOR CHILDREN WHO ARE AGING OUT

Section 630.1 Applicability.

This Part applies to the New York State Office of Mental Retardation and Developmental Disabilities (OMRDD) and its local administrative offices, the Developmental Disabilities Services Offices (DDSOs). It does not apply to voluntary agencies or private providers of services.

Section 630.2 Background.

(a) Subparagraph 4402(1)(b)(5) of the New York State Education Law and subdivision 398(13) of the New York State Social Services Law require that the committee on special education, multidisciplinary team or social services official send a report to OMRDD (if certain conditions are met) about a child who will be aging out and who may need adult services in the OMRDD system. A person ages out when he or she is no longer able to receive services in the educational system, foster care system or other system for children because of his or her age (usually related to the person attaining 21 years of age).

(b) Section 13.37 of the New York State Mental Hygiene Law sets forth the responsibilities of OMRDD related to the planning and referral process for children who are aging out.

(1) Once a report about the child has been received by OMRDD, OMRDD is charged with reviewing the report to determine whether the child will likely need adult services, including evaluating the child if necessary.

(2) If OMRDD determines that the child will not require adult services, OMRDD is required to notify the child's parent or guardian and referring entity. Chapter 508 of the Laws of 2008 amended Section 13.37 MHL to establish that if this determination is not acceptable to the child's parent or guardian, he or she may appeal the determination.

(c) Subdivisions 1.03(21) and (22) of the Mental Hygiene Law define "mental retardation" and "developmental disability."

Section 630.3. Determination of eligibility for services in the OMRDD system.

OMRDD shall determine whether individuals meet the criteria established in subdivision 1.03(22) of the Mental Hygiene Law and are therefore eligible to receive services in the OMRDD system. OMRDD determinations shall be in accordance with the eligibility determination process described in "Eligibility for OMRDD Services" which is inserted into this Part in section 630.5.

Section 630.4. Procedures for children aging out.

(a) For the purposes of meeting the requirements of Section 13.37 MHL, a child is determined to "likely need adult services" if the child is eligible for services in the OMRDD system.

(b) Upon receiving a report submitted pursuant to subparagraph 4402(1)(b)(5) of the Education Law or subdivision 398(13) of the Social Services Law, OMRDD shall determine whether the child is eligible for services utilizing the eligibility determination process described in "Eligibility for OMRDD Services."

(c) If OMRDD determines that the child is not eligible for services, it shall notify the child's parent or guardian and the committee on special education, multidisciplinary team or social services official which submitted the report.

(1) Such notice shall state the reasons for the determination and may recommend a state agency which may be responsible for determining and recommending adult services.

(2) If the determination is not acceptable to the child's parent or guardian, he or she may appeal the determination in accordance with the eligibility determination process described in "Eligibility for OMRDD Services." The notice to the parent or guardian shall also describe the procedures for appealing the determination.

Section 630.5. "Eligibility for OMRDD Services."

The following policy of OMRDD entitled "Eligibility for OMRDD Services" is hereby inserted into this Part.

New York State Office of Mental Retardation and Developmental Disabilities

ELIGIBILITY FOR OMRDD SERVICES

Important Facts

Revised December, 2008

OMRDD, through its local Developmental Disabilities Services Offices (DDSO), determines whether a person has a developmental disability and is eligible for OMRDD funded services. This fact sheet describes the Three-Step process used by OMRDD to make an eligibility determination of developmental disability.

NOTE: A determination of developmental disability does not mean the person is eligible for all OMRDD funded services. Some OMRDD funded services have additional eligibility criteria. For example, Intermediate Care Facilities, and Home and Community Based (HCBS) waiver programs include an additional level of care determination, and individuals are eligible for HCBS services only when they reside in appropriate living arrangements. These and other additional criteria for eligibility of specific OMRDD services are not reviewed through this process.

ELIGIBILITY DETERMINATION PROCESS

Eligibility Request

An OMRDD Transmittal Form must accompany all requests submitted to the DDSO for eligibility determinations. The Transmittal Form includes the name of the person, the name of the person's representative, and relevant contact information. Documentation of the person's developmental disability must also be included as part of the eligibility request.

1st Step Review

DDSO staff review the eligibility request for completeness and share the information with other staff designated by the Director, as necessary. After this review, the DDSO notifies the person in writing that:

(a) Eligibility or provisional eligibility has been determined; or

(b) The request is incomplete and requires additional documentation; or

(c) The request has been forwarded for a 2nd Step Review.

2nd Step Review

DDSO clinicians designated by the DDSO Director conduct a 2nd Step Review of the eligibility request forwarded by the 1st Step Review, along with any additional documentation provided by the person. If these clinicians require additional medical information, psychological test results, or historical documentation, the person is notified in writing of the type of information needed and the date by which it must be submitted to the DDSO.

Following the 2nd Step Review, the DDSO provides the person with written notification of its determination. If the person is found ineligible for OMRDD services because he or she does not have a developmental disability, the letter shall offer the person and his or her representative the opportunity to:

(a) Meet with DDSO staff to discuss the determination and documentation reviewed; and

(b) Request a 3rd Step Review; and

(c) Request a Medicaid Fair Hearing in cases where Medicaid funded services are sought.

Note that a Notice of Decision informing the person of his or her right to request a Medicaid fair hearing is sent only when the Transmittal Form indicates that the person is interested in receiving Medicaid funded OMRDD services if determined eligible. If the person has not indicated Medicaid funded services, no fair hearing is offered and the decision of the DDSO is final.

The person may choose one, two or all three of the above options. If a fair hearing is requested, a 3rd Step Review will automatically be conducted.

3rd Step Review

3rd Step Eligibility Determination Committees established by OMRDD in NYC and Albany conduct the 3rd Step Reviews. Committee members include licensed practitioners who are not directly involved in the determinations made at the 1st and 2nd Step Reviews. The Committee reviews the submitted eligibility request and any additional documentation provided by or on behalf of the person. The Committee forwards its recommendations to the DDSO Eligibility Coordinator. The DDSO Director or designated staff person considers the 3rd Step recommendations and informs the person of any change in the DDSO's determination. 3rd Step Reviews will be made prior to any fair hearing date.

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

Office of Parks, Recreation and Historic Preservation

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Snowmobile Accident Reports

I.D. No. PKR-42-09-00002-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 453.1 and 457.1 of Title 9 NYCRR.

Statutory authority: Parks, Recreation and Historic Preservation Law, section 3.09(8) and subtitle D

Subject: Snowmobile accident reports.

Purpose: To clarify definitions and update the threshold to \$1,000 for reporting property damage from snowmobile accidents.

Text of proposed rule: Section 453.1 Definitions

Subdivision (l) is repealed and subdivisions (m) through (ff) are renumbered (l) through (ee) and new subdivisions (y) and (aa) are amended as follows:

[(z)] (y) Special assistant to person in charge shall mean the person or persons [appointed by the commissioner pursuant to the provisions of article 25 of the Parks, Recreation and Historic Preservation Law] assigned by the person in charge to assist at a particular special event.

[(bb)] (aa) Bureau shall mean the *Snowmobile* Bureau [of Marine and Recreational Vehicles] of the Office of Parks, Recreation and Historic Preservation, Agency Building 1, Empire State Plaza, Albany, NY 12238.

Section 457.1 Accident reporting.

Subdivisions (a) and (c) are amended as follows:

(a) It shall be the duty of the operator of a snowmobile involved in any accident, as defined in this [section] *subchapter*, so far as he can do so, to render to other persons affected by said accident such assistance as may be practicable and as may be necessary in order to save them from or minimize any danger caused by the occurrence.

(c) The operator of every snowmobile involved in any [reportable] accident [, as defined herein,] *resulting in loss of life, personal injury, or property damage in excess of \$1,000* shall, within seven days of the accident, file a complete written report and description of the accident as provided in this section.

Text of proposed rule and any required statements and analyses may be obtained from: Kathleen L. Martens, Office of Parks, Recreation and Historic Preservation, ESP, Agency Building 1, 19th floor, Albany, NY 12238, (518) 486-2921, email: rulemaking@oprhp.state.ny.us

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

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

Consensus Rule Making Determination

No one is likely to object to this rule. It includes technical changes to definitions and conforms the text to a non-discretionary statutory change.

Job Impact Statement

The existing rule does not affect jobs or employment opportunities and repeal and amendment of these subdivisions would not affect jobs or employment opportunities.

Power Authority of the State of New York

NOTICE OF ADOPTION

Rates for the Sale of Power and Energy

I.D. No. PAS-23-09-00010-A

Filing Date: 2009-10-01

Effective Date: 2009-10-01

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

Action taken: Update Service Tariff No. 40, for power sold from the Blenheim-Gilboa Pumped Storage Power Project.

Statutory authority: Public Authorities Law, sections 1001 and 1005(6)

Subject: Rates for the sale of power and energy.

Purpose: Update Service Tariff No. 40 to streamline and clarify it and include additional required information.

Substance of final rule: Pursuant to the New York State Public Authorities Law, Sections 1001 and 1005(6), the Power Authority of the State of New York (the "Authority") has adopted amendments to Service Tariff No. 40, the Authority's current production service tariff applicable to the sales from the Blenheim-Gilboa Pumped Storage Power Project. At present, the Long Island Power Authority is the only customer receiving service under this service tariff.

The Authority reformatted the service tariff for easier reading and improved organization, clarified the nature of the production service offered by deleting obsolete provisions, included certain standard provisions now applicable to all Authority service tariffs and provided updated terminology.

Changes made to the proposed tariffs include the completion of the Table of Contents and a change in the footer to show the date of issue and effective date of the service tariff on each page.

Final rule as compared with last published rule: Substantial revisions were made in Service Tariff No. 40.

Text of rule and any required statements and analyses may be obtained from: Karen Delince, Corporate Secretary, Power Authority of the State of New York, 123 Main Street, 11-P, White Plains, New York 10601, (914) 390-8085, email: secretarys.office@nypa.gov

Revised Regulatory Impact Statement

A revised regulatory impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Regulatory Flexibility Analysis

A revised regulatory flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Rural Area Flexibility Analysis

A revised rural area flexibility analysis is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Revised Job Impact Statement

A revised job impact statement is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Assessment of Public Comment

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

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

Rates for the Sale of Power and Energy

I.D. No. PAS-42-09-00001-P

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

Proposed Action: Decrease in rates for sale of firm power and related tariff changes applicable to governmental customers located in Westchester County.

Statutory authority: Public Authorities Law, section 1005(6)

Subject: Rates for the sale of power and energy.

Purpose: To recover the Authority's cost of providing firm power and energy services.

Substance of proposed rule: Pursuant to the New York Public Authorities Law, Section 1005, the Power Authority of the State of New York (the "Authority") proposes to revise the rates charged to its Westchester County Governmental Customers ("Westchester Customers") for Rate Year 2010.

The Authority proposes to decrease the base production rates by 14.17% compared to 2009 rates charged to the Westchester Customers.

Written comments on the proposed revisions will be accepted through Monday, December 7, 2009, at the address below. For further information, contact:

POWER AUTHORITY OF THE STATE OF NEW YORK

Karen Delince, Corporate Secretary

123 Main Street, 11-P

White Plains, New York 10601

(914) 390-8085

(914) 390-8040 (fax)

secretarys.office@nypa.gov

Text of proposed rule and any required statements and analyses may be obtained from: Karen Delince, Corporate Secretary, Power Authority of the State of New York, 123 Main Street, 11-P, White Plains, New York 10601, (914) 390-8085, email: secretarys.office@nypa.gov

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

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

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

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

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Water Rates and Charges

I.D. No. PSC-42-09-00004-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 by Aquarion Water Company of Sea Cliff, Inc. requesting approval to surcharge each customer \$74 effective January 1, 2010.

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 \$321,749.

Substance of proposed rule: On October 2, 2009, Aquarion Water Company of Sea Cliff, Inc. (Sea Cliff or the company) filed a petition requesting authority to surcharge their customers \$74 to cover the cost of installing a new storage facility. The surcharge would generate approximately \$322,000 in additional annual revenue to cover the costs associated with the installation of a new storage facility. Sea Cliff provides general water service to approximately 4,400 customers Town of Hempstead, Nassau County. The Commission may approve or reject, in whole or in part, or modify the companies' 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_brilling@dps.state.ny.us

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

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

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

(07-W-0177SP2)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Installed Capacity Revenue

I.D. No. PSC-42-09-00005-P

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

Proposed Action: The Commission is considering a proposed filing by the Village of Freeport to make various changes in the rates, charges, rules and regulations contained in its Schedule for Electric Service, PSC No. 8 - Electricity.

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

Subject: Installed Capacity Revenue.

Purpose: To address installed capacity revenues issues in its tariff schedule.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a proposed filing by the Village of Freeport (the Village) to make revisions to its tariff schedule, P.S.C. No 8 - Electricity, to address installed capacity revenue. The proposed revisions have an effective date of January 1, 2010.

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_brilling@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-E-0711SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Filing of Certificate of Amendment to a Certificate of Incorporation

I.D. No. PSC-42-09-00006-P

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

Proposed Action: The Commission is considering whether to approve, deny or modify, in whole or in part, a petition by The Champlain Telephone Company for approval to file an amendment to the company's certificate of incorporation with the New York Department of State.

Statutory authority: Public Service Law, section 108(1)

Subject: Filing of certificate of amendment to a certificate of incorporation.

Purpose: Approval of the filing of a certificate of amendment to a certificate of incorporation with the New York Department of State.

Substance of proposed rule: The Commission is considering whether to approve, deny or modify, in whole or in part, a petition by The Champlain Telephone Company (company) for approval to file an amendment to the company's certificate of incorporation with the New York Department of State, occasioned by the proposed creation of an Employee Stock Ownership Plan. The Commission may approve, reject or modify, in whole or in part, the relief requested by The Champlain Telephone Company.

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_brilling@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-C-0595SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Annual Reconciliation of Gas Expenses and Gas Cost Recoveries

I.D. No. PSC-42-09-00007-P

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

Proposed Action: The PSC is considering whether to approve, modify, or reject, in whole or in part, the filings made by various local gas distribution companies (LDCs) and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

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

Subject: Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Purpose: The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Substance of proposed rule: The Public Service Commission is considering whether to approve, modify, or reject, in whole or in part, the filings made by 16 local distribution companies and two municipalities reconciling purchased gas costs and gas cost adjustment recoveries for the 12-month period ended August 31, 2009.

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-0669SP1)

Office of Temporary and Disability Assistance

NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the Office of Temporary and Disability Assistance publishes a new notice of proposed rule making in the NYS *Register*.

Automated Finger Imaging System

I.D. No.	Proposed	Expiration Date
TDA-40-08-00002-P	October 1, 2008	October 1, 2009