

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 Economic Development

EMERGENCY RULE MAKING

Empire Zones Reform

I.D. No. EDV-23-10-00001-E

Filing No. 542

Filing Date: 2010-05-19

Effective Date: 2010-05-19

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

Action taken: Amendment of Parts 10 and 11; renumbering and amendment of Parts 12 through 14 to Parts 13, 15 and 16; and addition of new Parts 12 and 14 to Title 5 NYCRR.

Statutory authority: General Municipal Law, art. 18-B, section 959; L. 2000, ch. 63; L. 2005, ch. 63; L. 2009, ch. 57

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

Specific reasons underlying the finding of necessity: Regulatory action is needed immediately to implement the statutory changes contained in Chapter 57 of the Laws of 2009. The emergency rule also clarifies the administrative procedures of the program, improves efficiency and helps make it more cost-effective and accountable to the State's taxpayers, particularly in light of New York's current fiscal climate. It bears noting that General Municipal Law section 959(a), as amended by Chapter 57 of the Laws of 2009, expressly authorizes the Commissioner of Economic Development to adopt emergency regulations to govern the program.

Subject: Empire Zones reform.

Purpose: Allow department to continue implementing Zones reforms and adopt changes that would enhance program's strategic focus.

Substance of emergency rule: The emergency rule is the result of changes to Article 18-B of the General Municipal Law pursuant to Chapter 63 of the Laws of 2000, Chapter 63 of the Laws of 2005, and Chapter 57 of the Laws of 2009. These laws, which authorize the empire zones program, were changed to make the program more effective and less costly through higher standards for entry into the program and for continued eligibility to remain in the program. Existing regulations fail to address these requirements and the existing regulations contain several outdated references. The emergency rule will correct these items.

The rule contained in 5 NYCRR Parts 10 through 14 (now Parts 10-16 as amended), which governs the empire zones program, is amended as follows:

1. The emergency rule, tracking the requirements of Chapter 63 of the Laws of 2005, requires placement of zone acreage into "distinct and separate contiguous areas."

2. The emergency rule updates several outdated references, including: the name change of the program from Economic Development Zones to Empire Zones, the replacement of Standard Industrial Codes with the North American Industrial Codes, the renaming of census-tract zones as investment zones, the renaming of county-created zones as development zones, and the replacement of the Job Training Partnership Act (and private industry councils) with the Workforce Investment Act (and local workforce investment boards).

3. The emergency rule adds the statutory definition of "cost-benefit analysis" and provides for its use and applicability.

4. The emergency rule also adds several other definitions (such as applicant municipality, chief executive, concurring municipality, empire zone capital tax credits or zone capital tax credits, clean energy research and development enterprise, change of ownership, benefit-cost ratio, capital investments, single business enterprise and regionally significant project) and conforms several existing regulatory definitions to statutory definitions, including zone equivalent areas, women-owned business enterprise, minority-owned business enterprise, qualified investment project, zone development plans, and significant capital investment projects. The emergency rule also clarifies regionally significant project eligibility. Additionally, the emergency rule makes reference to the following tax credits and exemptions: the Qualified Empire Zone Enterprise ("QEZE") Real Property Tax Credit, QEZE Tax Reduction Credit, and the QEZE Sales and Use Tax Exemption. The emergency rule also reflects the eligibility of agricultural cooperatives for Empire Zone tax credits and the QEZE Real Property Tax Credit.

5. The emergency rule requires additional statements to be included in an application for empire zone designation, including (i) a statement from the applicant and local economic development entities pertaining to the integration and cooperation of resources and services for the purpose of providing support for the zone administrator, and (ii) a statement from the applicant that there is no viable alternative area available that has existing public sewer or water infrastructure other than the proposed zone.

6. The emergency rule amends the existing rule in a manner that allows for the designation of nearby lands in investment zones to exceed 320 acres, upon the determination by the Department of Economic Development that certain conditions have been satisfied.

7. The emergency rule provides a description of the elements to be

included in a zone development plan and requires that the plan be resubmitted by the local zone administrative board as economic conditions change within the zone. Changes to the zone development plan must be approved by the Commissioner of Economic Development ("the Commissioner"). Also, the rule adds additional situations under which a business enterprise may be granted a shift resolution.

8. The emergency rule grants discretion to the Commissioner to determine the contents of an empire zone application form.

9. The emergency rule tracks the amended statute's deletion of the category of contributions to a qualified Empire Zone Capital Corporation from those businesses eligible for the Zone Capital Credit.

10. The emergency rule reflects statutory changes to the process to revise a zone's boundaries. The primary effect of this is to limit the number of boundary revisions to one per year.

11. The emergency rule describes the amended certification and decertification processes. The authority to certify and decertify now rests solely with the Commissioner with reduced roles for the Department of Labor and the local zone. Local zone boards must recommend projects to the State for approval. The labor commissioner must determine whether an applicant firm has been engaged in substantial violations, or pattern of violations of laws regulating unemployment insurance, workers' compensation, public work, child labor, employment of minorities and women, safety and health, or other laws for the protection of workers as determined by final judgment of a judicial or administrative proceeding. If such applicant firm has been found in a criminal proceeding to have committed any such violations, the Commissioner may not certify that firm.

12. The emergency rule describes new eligibility standards for certification. The new factors which may be considered by the Commissioner when deciding whether to certify a firm is (i) whether a non-manufacturing applicant firm projects a benefit-cost ratio of at least 20:1 for the first three years of certification, (ii) whether a manufacturing applicant firm projects a benefit-cost ratio of at least 10:1 for the first three years of certification, and (iii) whether the business enterprise conforms with the zone development plan.

13. The emergency rule adds the following new justifications for decertification of firms: (a) the business enterprise, that has submitted at least three years of business annual reports, has failed to provide economic returns to the State in the form of total remuneration to its employees (i.e. wages and benefits) and investments in its facility greater in value to the tax benefits the business enterprise used and had refunded to it; (b) the business enterprise, if first certified prior to August 1, 2002, caused individuals to transfer from existing employment with another business enterprise with similar ownership and located in New York state to similar employment with the certified business enterprise or if the enterprise acquired, purchased, leased, or had transferred to it real property previously owned by an entity with similar ownership, regardless of form of incorporation or organization; (c) change of ownership or moving out of the Zone, (d) failure to pay wages and benefits or make capital investments as represented on the firm's application, (e) the business enterprise makes a material misrepresentation of fact in any of its business annual reports, and (f) the business enterprise fails to invest in its facility substantially in accordance with the representations contained in its application. In addition, the regulations track the statute in permitting the decertification of a business enterprise if it failed to create new employment or prevent a loss of employment in the zone or zone equivalent area, and deletes the condition that such failure was not due to economic circumstances or conditions which such business could not anticipate or which were beyond its control. The emergency rule provides that the Commissioner shall revoke the certification of a firm if the firm fails the standard set forth in (a) above, or if the Commissioner makes the finding in (b) above, unless the Commissioner determines in his or her discretion, after consultation with the Director of the Budget, that other economic, social and environmental factors warrant continued certification of the firm. The emergency rule further provides for a process to appeal revocations of certifications based on (a) or (b) above to the Empire Zones Designation Board. The emergency rule also provides that the Commissioner may revoke the certification of a firm upon a finding of any one of the other criteria for revocation of certification set forth in the rule.

14. The emergency rule adds a new Part 12 implementing record-keeping requirements. Any firm choosing to participate in the empire zones program must maintain and have available, for a period of six years, all information related to the application and business annual reports.

15. The emergency rule clarifies the statutory requirement from Chapter 63 of the Laws of 2005 that development zones (formerly county zones) create up to three areas within their reconfigured zones as investment (formerly census tract) zones. The rule would require that 75% of the acreage used to define these investment zones be included within an eligible or contiguous census tract. Furthermore, the rule would not require a development zone to place investment zone acreage within a municipality in that county if that particular municipality already contained an investment zone, and the only eligible census tracts were contained within that municipality.

16. The emergency rule tracks the statutory requirements that zones reconfigure their existing acreage in up to three (for investment zones) or six (for development zones) distinct and separate contiguous areas, and that zones can allocate up to their total allotted acreage at the time of designation. These reconfigured zones must be presented to the Empire Zones Designation Board for unanimous approval. The emergency rule makes clear that zones may not necessarily designate all of their acreage into three or six areas or use all of their allotted acreage; the rule removes the requirement that any subsequent additions after their official redesignation by the Designation Board will still require unanimous approval by that Board.

17. The emergency rule clarifies the statutory requirement that certain defined "regionally significant" projects can be located outside of the distinct and separate contiguous areas. There are four categories of projects: (i) a manufacturer projecting the creation of fifty or more net new jobs in the State of New York; (ii) an agribusiness or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more net new jobs in the State of New York, (iii) a financial or insurance services or distribution center creating three hundred or more net new jobs in the State of New York, and (iv) a clean energy research and development enterprise. Other projects may be considered by the empire zone designation board. Only one category of projects, manufacturers projecting the creation of 50 or more net new jobs, are allowed to progress before the identification of the distinct and separate contiguous areas and/or the approval of certain regulations by the Empire Zones Designation Board. Regionally significant projects that fall within the four categories listed above must be projects that are exporting 60% of their goods or services outside the region and export a substantial amount of goods or services beyond the State.

18. The emergency rule clarifies the status of community development projects as a result of the statutory reconfiguration of the zones.

19. The emergency rule clarifies the provisions under Chapter 63 of the Laws of 2005 that allow for zone-certified businesses which will be located outside of the distinct and separate contiguous areas to receive zone benefits until decertified. The area which will be "grandfathered" shall be limited to the expansion of the certified business within the parcel or portion thereof that was originally located in the zone before redesignation. Each zone must identify any such business by December 30, 2005.

20. The emergency rule elaborates on the "demonstration of need" requirement mentioned in Chapter 63 of the Laws of 2005 for the addition (for both investment and development zones) of an additional distinct and separate contiguous area. A zone can demonstrate the need for a fourth or, as the case may be, a seventh distinct and separate contiguous area if (1) there is insufficient existing or planned infrastructure within the three (or six) distinct and separate contiguous areas to (a) accommodate business development and there are other areas of the applicant municipality that can be characterized as economically distressed and/or (b) accommodate development of strategic businesses as defined in the local development plan, or (2) placing all acreage in the other three or six distinct and separate contiguous areas would be inconsistent with open space and wetland protection, or (3) there are insufficient lands available for further business development within the other distinct and separate contiguous areas.

The full text of the emergency rule is available at www.empire.state.ny.us

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 16, 2010.

Text of rule and any required statements and analyses may be obtained from: Thomas P Regan, NYS Department of Economic Development, 30 South Pearl Street, Albany NY 12245, (518) 292-5123, email: tregan@empire.state.ny.us

Regulatory Impact Statement

STATUTORY AUTHORITY:

Section 959(a) of the General Municipal Law authorizes the Commissioner of Economic Development to adopt on an emergency basis rules and regulations governing the criteria of eligibility for empire zone designation, the application process, the certification of a business enterprises as to eligibility of benefits under the program and the decertification of a business enterprise so as to revoke the certification of business enterprises for benefits under the program.

LEGISLATIVE OBJECTIVES:

The rulemaking accords with the public policy objectives the Legislature sought to advance because the majority of such revisions are in direct response to statutory amendments and the remaining revisions either conform the regulations to existing statute or clarify administrative procedures of the program. These amendments further the Legislative goals and objectives of the Empire Zones program, particularly as they relate to regionally significant projects, the cost-benefit analysis, and the process for certification and decertification of business enterprises. The proposed amendments to the rule will facilitate the administration of this program in a more efficient, effective, and accountable manner.

NEEDS AND BENEFITS:

The emergency rule is required in order to immediately implement the statutory changes contained in Chapter 57 of the Laws of 2009. The emergency rule also clarifies the administrative procedures of the program, improves efficiency and helps make it more cost-effective and accountable to the State's taxpayers, particularly in light of New York's current fiscal climate.

COSTS:

A. Costs to private regulated parties: None. There are no regulated parties in the Empire Zones program, only voluntary participants.

B. Costs to the agency, the state, and local governments: There will be additional costs to the Department of Economic Development associated with the emergency rule making. These costs pertain to the addition of personnel that may need to be hired to implement the Empire Zones program reforms. There may be savings for the Department of Labor associated with the streamlining of the State's administration and concentration of authority within the Department of Economic Development. There is no additional cost to local governments.

C. Costs to the State government: None. There will be no additional costs to New York State as a result of the emergency rule making.

LOCAL GOVERNMENT MANDATES:

None. Local governments are not mandated to participate in the Empire Zones program. If a local government chooses to participate, there is a cost associated with local administration that local government officials agreed to bear at the time of application for designation as an Empire Zone. One of the requirements for designation was a commitment to local administration and an identification of local resources that would be dedicated to local administration.

This emergency rule does not impose any additional costs to the local governments for administration of the Empire Zones program.

PAPERWORK:

The emergency rule imposes new record-keeping requirements on businesses choosing to participate in the Empire Zones program. The emergency rule requires all businesses that participate in the program to establish and maintain complete and accurate books relating to their participation in the Empire Zones program for a period of six years.

DUPLICATION:

The emergency rule conforms to provisions of Article 18-B of the

General Municipal Law and does not otherwise duplicate any state or federal statutes or regulations.

ALTERNATIVES:

No alternatives were considered with regard to amending the regulations in response to statutory revisions.

FEDERAL STANDARDS:

There are no federal standards in regard to the Empire Zones program. Therefore, the emergency rule does not exceed any Federal standard.

COMPLIANCE SCHEDULE:

The period of time the state needs to assure compliance is negligible, and the Department of Economic Development expects to be compliant immediately.

Regulatory Flexibility Analysis

1. Effect of rule

The emergency rule imposes new record-keeping requirements on small businesses and large businesses choosing to participate in the Empire Zones program. The emergency rule requires all businesses that participate in the program to establish and maintain complete and accurate books relating to their participation in the Empire Zones program for a period of six years. Local governments are unaffected by this rule.

2. Compliance requirements

Each small business and large business choosing to participate in the Empire Zones program must establish and maintain complete and accurate books, records, documents, accounts, and other evidence relating to such business's application for entry into the Empire Zone program and relating to existing annual reporting requirements. Local governments are unaffected by this rule.

3. Professional services

No professional services are likely to be needed by small and large businesses in order to establish and maintain the required records. Local governments are unaffected by this rule.

4. Compliance costs

No initial capital costs are likely to be incurred by small and large businesses choosing to participate in the Empire Zones program. Annual compliance costs are estimated to be negligible for both small and large businesses. Local governments are unaffected by this rule.

5. Economic and technological feasibility

The Department of Economic Development ("DED") estimates that complying with this record-keeping is both economically and technologically feasible. Local governments are unaffected by this rule.

6. Minimizing adverse impact

DED finds no adverse economic impact on small or large businesses with respect to this rule. Local governments are unaffected by this rule.

7. Small business and local government participation

DED is in full compliance with SAPA Section 202-b(6), which ensures that small businesses and local governments have an opportunity to participate in the rule-making process. DED has conducted outreach within the small and large business communities and maintains continuous contact with small businesses and large businesses with regard to their participation in this program. Local governments are unaffected by this rule.

Rural Area Flexibility Analysis

The Empire Zones program is a statewide program. Although there are municipalities and businesses in rural areas of New York State that are eligible to participate in the program, participation by the municipalities and businesses is entirely at their discretion. The emergency rule imposes no additional reporting, record keeping or other compliance requirements on public or private entities in rural areas. Therefore, the emergency rule will not have a substantial adverse economic impact on rural areas or reporting, record keeping or other compliance requirements on public or private entities in such rural areas. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

Job Impact Statement

The emergency rule relates to the Empire Zones program. The Empire Zones program itself is a job creation incentive, and will not have a

substantial adverse impact on jobs and employment opportunities. In fact, the emergency rule, which is being promulgated as a result of statutory reforms, will enable the program to continue to fulfill its mission of job creation and investment for economically distressed areas. Because it is evident from its nature that this emergency rule will have either no impact or a positive impact on job and employment opportunities, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Education Department

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Relates to the Establishment of a Clinically Rich Graduate Level Principal Preparation Program

I.D. No. EDU-23-10-00002-EP

Filing No. 545

Filing Date: 2010-05-25

Effective Date: 2010-05-25

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

Proposed Action: Addition of sections 52.1(a)(6) and 52.21(c)(7) to Title 8 NYCRR.

Statutory authority: Education Law, sections 207, 208, 210, 214, 216, 224, 305(1), (2), (7), 3004(1) and 3006(1)

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

Specific reasons underlying the finding of necessity: The proposed amendment is designed to 1) address immediate personnel shortages of effective school building leaders in New York's high need schools and school districts; and 2) promote student growth and achievement through strong educational leadership.

Research studies show that school leaders are critical to helping improve student performance and preparation programs grounded in intensive clinical experiences prepare effective school leaders (Educational Leadership Policy Standards, 2008). To maximize student growth and achievement in high need schools, the Department will select program providers for graduate level clinically rich principal preparation pilot programs through a Request for Proposal (RFP) process.

In order to ensure that any program selected to offer a clinically rich principal preparation program is of high quality, the Board of Regents will establish a Blue Ribbon Commission to evaluate all applications. This Blue Ribbon Commission will be comprised of highly renowned teacher educators. The Blue Ribbon Commission will make recommendations to the Board of Regents for those programs that should be authorized to establish clinically rich principal preparation programs, both from collegiate and non-collegiate providers or in combination. The goal is to create a process that will ensure a rigorous programmatic review and to select only the highest quality providers to assist in the preparation of principals for our high need schools.

To participate in the clinically rich principal preparation program, program providers will be required to meet certain eligibility requirements, including written collaboration agreements with high need schools, faculty, curriculum, mentoring and training requirements.

In order to fill the personnel shortages for effective school building leaders in high need schools in the 2011-2012 school year, an emergency action is necessary for the preservation of the general welfare in order to timely implement the provisions of the proposed amendment to provide school districts and BOCES with timely notice of the eligibility requirements and the program registration requirements for the pilot program and to complete the competitive bidding process for the selection of program providers before the 2011-2012 school year.

It is anticipated that the proposed amendment will be presented to the Board of Regents for adoption as a permanent rule at its September 14, 2010 meeting, which is the first scheduled meeting after the expiration of the 45-day public comment period mandated by the State Administrative Procedures Act.

Subject: Relates to the establishment of a clinically rich graduate level principal preparation program.

Purpose: Establishes the program registration standards for the clinically rich principal preparation program.

Text of emergency/proposed rule: 1. Paragraph (6) of subdivision (a) of section 52.1 of the Regulations of the Commissioner of Education is added, effective May 25, 2010, as follows:

(6) every curriculum leading to certification as a school building leader in a clinically rich graduate level principal preparation pilot program as prescribed under section 52.21(c)(7) of the Regulations of the Commissioner of Education.

2. A new paragraph (7) of subdivision (c) of section 52.21 of the Regulations of the Commissioner of Education is added, effective May 25, 2010, as follows:

(7) Clinically rich graduate level principal preparation pilot program for high need schools.

(i) Purpose. The purpose of this paragraph is to establish a clinically rich graduate level principal preparation pilot program to increase the supply of highly effective principals in high need schools. This pilot program will include an intensive clinical component, grounded in the standards of the Interstate School Leaders Licensure Consortium (ISLLC) and centered on the practice of research-based school leadership skills and best practices that lead to strong educational leadership and increased student achievement.

(ii) Limitations. The clinically rich graduate level principal preparation pilot program shall end on June 30, 2016.

(iii) Definitions. For purposes of this paragraph:

(a) High need school shall mean a school designated by the Commissioner of Education as a high need school. A high need school shall include, but not be limited to, schools under registration review, low performing schools, and other high need schools approved by the Board of Regents for purposes of this program.

(b) Institution shall mean an institution of higher education as defined in section 50.1 of this Title, an education corporation as defined in Education Law section 216-a, or a corporation having an educational purpose that is formed under the Not-for-Profit Corporation Law or the Business Corporation Law with the consent of the Commissioner pursuant to Education Law section 216, or a Limited Liability Company having an educational purpose that is formed under the Limited Liability Company Law with the consent of the Commissioner under Education Law section 216, and such institution must be selected by the Board of Regents for participation in these pilot programs pursuant to a request for proposal ("RFP") process. Such proposals shall meet the criteria outlined by the Board of Regents in the RFP and be in a format, and submitted pursuant to a timeline, as prescribed by the Board of Regents.

(c) Principal-mentor shall mean an experienced and highly effective principal who holds a certificate as a school building leader and is selected through collaboration between the program provider and the school district and is assigned to provide mentoring and support to a candidate in this pilot program.

(iv) General requirements for the clinically rich graduate level pilot program. The general registration requirements set forth in sections 52.1 and 52.2 of this Part, the general requirements for registration of programs leading to certification in the educational leadership service as set forth in sections 52.21(c)(1)(ii), (iii) and (iv) of this Part and the institutional accountability requirements set forth in section 52.21(c)(6) of this Part shall apply. The requirements set forth in section 52.21(c)(2) of this Part shall not be applicable, except as otherwise provided in this paragraph.

(v) Specific requirements for the clinically rich graduate level principal preparation pilot programs. The following requirements shall be met:

(a) Collaboration. Any institution that participates in this program shall execute a written agreement with each partnering high need school which shall include the following:

(1) the specific roles of the institution and the high need school in the recruitment, preparation, and mentoring of candidates, as well as their roles in sustaining this pilot program in the long term;

(2) the selection and evaluation criteria and the recruitment process for principal-mentors;

(3) a commitment to actively recruit and select candidates who demonstrate excellence in teaching, experience working as advocates for children and families in high need schools, leadership capability, and a sincere intent to serve as instructional leaders;

(4) the various types of assessments that will be used to evaluate candidates throughout the program, and how such assessments will be utilized to prescribe study and authentic, real-world experiences that will enable candidates to develop the knowledge, understanding, and skills necessary to successfully meet the requirements of this program, provide effective leadership in high need schools and to obtain certification upon completion of the program.

(b) Admission requirements. In addition to the selection criteria

established by institutions for candidates to participate in this program, the pilot program shall meet the following admission requirements:

(1) The program shall require candidates to hold a baccalaureate or graduate degree from a regionally accredited higher education institution or an equivalently approved higher education institution as determined by the department. Candidates shall have achieved at least a 3.0 cumulative grade point average, or its equivalent, in the program leading to the baccalaureate or graduate degree, or shall have been found by an officer designated by the registered program to have the necessary knowledge and skills to successfully complete the program, which finding shall be in writing and include the basis for that finding.

(2) Candidates shall possess a permanent or professional certificate in the classroom teaching service or pupil personnel service, or to demonstrate the potential for instructional leadership based on prior experiences that are evaluated using criteria established by the program and uniformly applied. Institutions shall inform applicants in writing prior to admission that the State Education Department requires for the initial certificate as a school building leader that the candidate shall have successfully completed three years of classroom teaching service and/or pupil personnel service experience in public or non-public schools N-12.

(3) Institutions shall require candidates to demonstrate the potential to become education leaders possessing the characteristics of effective leaders as a result of their prior experiences, including experiences as a teacher, administrator, or pupil personnel service provider.

(4) Only those candidates who provide a written commitment to be a school building leader for at least four years in a high need school upon graduation shall be admitted into the program.

(c) Instruction. Any instruction provided within the program shall reflect a deep understanding of adult learning principles, make appropriate use of technology, demonstrate effective instructional practices, be individualized based on the candidate's needs, and demonstrate the development of higher order cognitive processes.

(d) Curriculum and the clinical experience component. Completion of the curriculum and the clinical experience component of the program shall prepare the candidate with the education required for an initial certificate in the school building leader certificate title (principal, housemaster, supervisor, department chair, assistant principal, coordinator, unit head, and any other person serving more than 10 periods per week of the assignment in an administrative or supervisory position, except school district leader or school district business leader).

(1) Faculty. All faculty members who teach within a curriculum in this pilot program shall possess earned doctorates or other terminal degrees in the field in which they are teaching or shall have demonstrated, in other widely recognized ways, their special competence in the field in which they instruct graduate students.

(2) Curriculum.

(i) The curriculum of the pilot program shall include research-based skills and best practices aligned with the following six standards of the Educational Leadership Policy Standards: ISLLC 2008 to prepare candidates to be effective school building leaders in high need schools and promote the success of all students by:

(A) facilitating the development, articulation, implementation, and stewardship of a vision of learning that is shared and supported by the school community;

(B) advocating, nurturing and sustaining a school culture and instructional program conducive to student learning and staff professional growth;

(C) ensuring management of the organization, operations and resources for a safe, efficient, and effective learning environment;

(D) collaborating with families and community members, responding to diverse community interests and needs, and mobilizing community resources;

(E) acting with integrity, fairness, and in an ethical manner; and

(F) understanding, responding to, and influencing the larger political, social, economic, legal, and cultural context.

(ii) In addition, the curriculum of the program shall meet the following requirements:

(A) The curriculum shall be offered by qualified faculty who engage in regular professional development experiences to strengthen their own knowledge and skills, demonstrate recent highly effective leadership experience and an understanding of high needs schools and possess a commitment and dedication to the mission and guiding principles of this pilot program.

(B) The curriculum shall effectively integrate technology, be intellectually challenging, reflect research on effective leadership and school improvement, and focus on improving the conditions that impact student learning and achievement.

(C) The content requirements for the program shall

include, but need not be limited to graduate level study designed to permit the candidate to obtain the content requirements for programs leading to an initial certificate as a school building leader, as prescribed in section 52.21(c)(2)(v) of this Part.

(3) Clinically rich experience component. The clinical experience component of the program shall meet the following requirements:

(i) The clinical experience shall be designed by the institution in collaboration with a high need school to provide a rich variety of school leadership experiences for its candidates to ensure that program graduates will be effective principals in high need schools.

(ii) The clinical experience shall be woven throughout the pilot program and serve as the anchor, be developmental in nature, with increasing responsibilities progressing to independent leadership responsibilities and feature active authentic leadership experiences.

(iii) The candidate shall complete the clinical experience component of this program under the mentorship of the assigned principal-mentor in a high need school.

(iv) Prior to assigning the candidate to a school, the institution shall enter into a written agreement with the high need school wherein the high need school shall agree to establish a plan for at least one continuous school year of mentored clinical experience by the assigned principal-mentor for the candidate and support by a team comprised of program faculty, teachers and administrators at the high need school and the superintendent.

(v) The program shall ensure its candidates receive mentoring support during the entire period they are assigned to the school and enrolled in the program, which shall be at least one continuous school year.

(vi) Program faculty shall supervise the candidate and promote the linking of theory and practice by observing and advising the candidate at least twice each month during the clinical experience, except as otherwise provided in this paragraph.

(vii) Program faculty shall work in collaboration with the assigned principal-mentor to evaluate candidates and provide feedback.

(viii) During the clinical experience, the program shall provide courses and seminars that are designed to link educational theory with clinical experiences, which shall include, but need not be limited to, the curricula described in subclause (iv)(d)(2) of this paragraph.

(e) Certification. A designated officer of the institution offering the pilot program shall be required to recommend the candidate for an initial certificate, upon completion of the program and after consultation with the principal-mentor.

(f) Support commitment for pilot program graduates. An institution shall have a formal written agreement with partnering schools or districts to provide continued mentoring support for graduates of the pilot program during their first year in a school leadership position, which shall include, but not be limited to, setting selection criteria, and the recruitment and training processes for mentors; and developing plans to provide professional development programs based on research and best practices for mentors and school leaders.

3. A new subclause (3) of clause (a) of subparagraph (ii) of paragraph (1) of subdivision (a) shall be added to Section 80-3.10 of the Regulations of the Commissioner of Education, effective May 25, 2010, as follows:

(3) The candidate shall hold a baccalaureate or graduate degree from a regionally accredited higher education institution or an equivalently approved higher education institution as determined by the department and have successfully completed the clinically rich principal preparation pilot program leading to the initial certificate as a school building leader in the educational leadership service registered pursuant to section 52.21(c)(7) of this Title.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire August 22, 2010.

Text of rule and any required statements and analyses may be obtained from: Christine Moore, NYS Education Department, 89 Washington Avenue, Room 148, Albany, NY 12234, (518) 473-8296, email: cmoore@mail.nysed.gov

Data, views or arguments may be submitted to: Peg Rivers, New York State Education Department, 89 Washington Avenue, Albany, New York 12234, (518) 473-4921, email: privers@mail.nysed.gov

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Section 207 of the Education Law grants general rule making authority to the Regents to carry into effect the laws and policies of the State relating to education.

Section 210 of the Education Law grants to the Regents the authority to register domestic and foreign institutions in terms of New York standards.

Subdivision (1) of section 305 of the Education Law empowers the Commissioner of Education to be the chief executive officer of the state system of education and authorizes the Commissioner to execute educational policies determined by the Regents.

Subdivision (2) of section 305 of the Education Law authorizes the Commissioner of Education to have general supervision over all schools subject to the Education Law.

Subdivision (2) of section 3001 of the Education Law establishes certification by the State Education Department as a qualification to teach in the State's public schools.

Subdivision (1) of section 3004 of the Education Law authorizes the Commissioner of Education to prescribe, subject to the approval of the Regents, regulations governing the examination and certification of teachers employed in the State's public schools.

Subdivision (2) of section 3007 of the Education Law authorizes the Commissioner of Education to endorse a certificate issued by another state.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment carries out the objectives of the above-referenced statutes by modifying the requirements in the Regulations of the Commissioner of Education for principal preparation programs, by establishing a clinically rich pilot program.

3. NEEDS AND BENEFITS:

The purpose of creating the clinically rich pilot program is to address the retention issue in high need schools and improve student growth and achievement in high need schools. Research studies show that school leaders are critical to helping improve student performance and preparation programs that are grounded in intensive clinical experiences prepare effective school leaders. To maximize student growth and achievement in high need schools, the Department will select program providers for the clinically rich principal preparation pilot program through a Request for Proposal (RFP) process.

In order to ensure that any program selected to offer a clinically rich principal preparation program is of high quality, the Board of Regents will establish a Blue Ribbon Commission to evaluate all applications. This Blue Ribbon Commission will be comprised of highly renowned teacher educators. The Blue Ribbon Commission will make recommendations to the Board of Regents for those programs that should be authorized to establish clinically rich principal preparation programs, from collegiate and non-collegiate providers or in partnerships. The goal is to create a process that will ensure a rigorous programmatic review and to select only the highest quality providers to assist in the preparation of principals for our high need schools. In addition, non-collegiate programs will be required to seek accreditation from an education preparation program accrediting body approved by the Board of Regents.

The proposed amendment would authorize institutions, other than institutions of higher education, to offer the graduate level clinically rich pilot program. Such institutions shall include, but not be limited to, cultural institutions, libraries, research centers, and other organizations with an educational mission that are selected by the Commissioner for participation through the RFP process.

To prepare effective principals for high need schools, the graduate level clinically rich pilot program shall include at least one continuous school year of mentored clinical experience, centered on practicing research-based educational leadership skills. Pedagogical study linking theory and practice will be embedded in the clinical experience.

4. COSTS:

(a) Cost to State government: The amendment will not impose any additional cost on State government, including the State Education Department. The State Education Department will use existing staff and resources to select program providers for the pilot programs through a Request for Proposal (RFP) process.

(b) Cost to local government: The proposed amendment is permissive in nature and only affects high need schools and school districts that wish to participate in a clinically rich pilot program. The proposed amendment requires such school districts to provide mentoring for the candidates in the pilot program. The State Education Department estimates that, on average, it will cost a school district about \$6,200 for each candidate per year to provide the mentoring, while they are in the clinically rich pilot program.

(c) Cost to private regulated parties. The proposed amendment is permissive in nature. The Department anticipates that institutions who elect to participate in this program will incur the same costs for the development and implementation of this program as they would for a traditional principal preparation program.

(d) Costs to the regulatory agency: As stated above in Costs to State Government, the amendment does not impose any additional costs on the State Education Department. The Department anticipates that it will be able to use existing faculty and resources to approve these programs and for the selection of participating institutions.

5. LOCAL GOVERNMENT MANDATES:

Any institution that participates in this pilot program shall execute a written agreement with each partnering high need school which shall include the following: (1) the specific roles of the institution and the high need school in the recruitment, preparation, and mentoring of candidates, as well as their roles in sustaining this pilot program in the long term; (2) the selection and evaluation criteria and the recruitment process for principal-mentors; (3) a commitment to actively recruit and select candidates who demonstrate excellence in teaching, experience working as advocates for children and families in high need schools, leadership capability, and a sincere intent to serve as instructional leaders; (4) the various types of assessments that will be used to evaluate candidates throughout the program, and how such assessments will be utilized to prescribe study and experiences that will enable candidates to develop the knowledge, understanding, and skills necessary to successfully meet the requirements of this program and to obtain certification upon completion of the program.

These institutions will also be required to enter into a written agreement with the high need school, prior to assigning the candidate to a classroom in such high need school, wherein the high need school must agree to establish a plan for at least one continuous school year of mentored clinical experience by an assigned principal-mentor and provide support by a team of program faculty, teachers and administrators at the high need school and the superintendent. Program faculty will also be required to supervise the candidate and promote the linking of theory and practice by observing and advising the candidate at least twice each month during the clinical experience and shall work in collaboration with the assigned principal-mentor to evaluate candidates and provide feedback. During the clinical experience component of the program, the institution shall also provide courses and seminars that are designed to link educational theory with clinical experiences.

An institution that elects to participate in this program will also be required to have a formal written agreement with partnering schools or districts to provide continued mentoring support for graduates of the pilot program during their first year in a school leadership position, which shall include, but not be limited to, setting selection criteria, and the recruitment and training processes for mentors; and developing plans to provide research-based professional development programs for mentors and school leaders.

6. PAPERWORK:

See paperwork requirements listed in Section 5 above entitled "Local Government Mandates".

7. DUPLICATION:

The amendment does not duplicate other existing State or Federal requirements.

8. ALTERNATIVES:

There were no significant alternative proposals considered.

9. FEDERAL STANDARDS:

There are no Federal standards that address program registration requirements for principal preparation programs, qualifying individuals to be employed as a school building leader in the New York State public schools, the subject matter of this amendment.

10. COMPLIANCE SCHEDULE:

If adopted as an emergency measure at the may Regents meeting, the proposed amendment will become effective on May 25, 2010. A second emergency adoption will be necessary at the July Regents meeting to ensure that the regulations remain continuously in effect until the regulation becomes effective on October 6, 2010. It is unnecessary to delay implementation of the proposed amendment because of its permissive nature.

Regulatory Flexibility Analysis

a) Small Businesses:

1. Effect of rule:

The purpose of the proposed amendment is to establish program registration standards for a clinically rich pilot program and to authorize institutions, other than institutions of higher education, with an education mission and that are selected by the Board of Regents, to offer principal preparation programs under this pilot program. Some of these institutions may be small businesses.

2. Compliance requirements:

Any institution that participates in this pilot program shall execute a written agreement with each partnering high need school which shall include the following: (1) the specific roles of the institution and the high need school in the recruitment, preparation, and mentoring of candidates, as well as their roles in sustaining this pilot program in the long term; (2) the selection and evaluation criteria and the recruitment process for principal-mentors; (3) a commitment to actively recruit and select candidates who demonstrate excellence in teaching, experience working as advocates for children and families in high need schools, leadership capability, and a sincere intent to serve as instructional leaders; (4) the

various types of assessments that will be used to evaluate candidates throughout the program, and how such assessments will be utilized to prescribe study and experiences that will enable candidates to develop the knowledge, understanding, and skills necessary to successfully meet the requirements of this program and to obtain certification upon completion of the program.

These institutions will also be required to enter into a written agreement with the high need school, prior to assigning the candidate to a classroom in such high need school, wherein the high need school must agree to establish a plan for at least one continuous school year of mentored clinical experience by an assigned principal-mentor and provide support by a team of program faculty, teachers and administrators at the high need school and the superintendent. Program faculty will also be required to supervise the candidate and promote the linking of theory and practice by observing and advising the candidate at least twice each month during the clinical experience and shall work in collaboration with the assigned principal-mentor to evaluate candidates and provide feedback. During the clinical experience component of the program, the institution shall also provide courses and seminars that are designed to link educational theory with clinical experiences.

An institution that elects to participate in this program will also be required to have a formal written agreement with partnering schools or districts to provide continued mentoring support for graduates of the pilot program during their first year in a school leadership position, which shall include, but not be limited to, setting selection criteria, and the recruitment and training processes for mentors; and developing plans to provide research-based professional development programs for mentors and school leaders.

3. Professional services:

The proposed amendment does not require small businesses to contract for additional professional services to comply.

4. Compliance costs:

The proposed amendment is permissive in nature and any costs associated with the proposed amendment only apply to institutions and high need schools that elect to participate in the pilot program. However, for each candidate in the pilot program, the State Education Department estimates that it will cost a high need school or school district that elects to participate in the program approximately \$6,200 per year to provide mentoring. The Department also anticipates that for any institution that elects to participate in the pilot program, it will incur the same costs for the development and implementation of this program as they would for a traditional principal preparation program and that such institutions could use existing faculty to meet supervision requirements of the proposed amendment.

5. Economic and technological feasibility:

See above response to compliance costs. The proposed amendment would not require schools or school districts to secure special technology to comply.

6. Minimizing adverse impact:

As stated above, the proposed amendment is permissive in nature. It only applies to institutions that wish to participate in a graduate level clinically rich pilot program. Because of the nature of the proposed amendment, it is unnecessary to minimize adverse impacts on small businesses.

7. Small business participation:

The Department has shared the proposed amendment and sought input from the School Administrators Association of New York State, the New York State Federation of School Administrators, the Collegiate Association for Developing Educational Administrators, the Metropolitan Council for Educational Administration and the New York State Council of School Superintendents. These organizations have representatives from school districts across the State.

b) Local Governments:

1. Effect of rule:

The purpose of the proposed amendment is to establish program registration standards for a clinically rich graduate level pilot program and to authorize institutions, other than institutions of higher education, that are selected by the Board of Regents, to offer teacher preparation programs under this pilot program. High need schools and school districts may opt to participate and collaborate with institutions that are selected by the Board of Regents to participate in this program.

2. Compliance requirements:

Any institution that participates in this pilot program shall execute a written agreement with each partnering high need school which shall include the following: (1) the specific roles of the institution and the high need school in the recruitment, preparation, and mentoring of candidates, as well as their roles in sustaining this pilot program in the long term; (2) the selection and evaluation criteria and the recruitment process for principal-mentors; (3) a commitment to actively recruit and select candidates who demonstrate excellence in teaching, experience working as advocates for children and families in high need schools, leadership

capability, and a sincere intent to serve as instructional leaders; (4) the various types of assessments that will be used to evaluate candidates throughout the program, and how such assessments will be utilized to prescribe study and experiences that will enable candidates to develop the knowledge, understanding, and skills necessary to successfully meet the requirements of this program and to obtain certification upon completion of the program.

These institutions will also be required to enter into a written agreement with the high need school, prior to assigning the candidate to a classroom in such high need school, wherein the high need school must agree to establish a plan for at least one continuous school year of mentored clinical experience by an assigned principal-mentor and provide support by a team of program faculty, teacher and administrators at the high need school and the superintendent. Program faculty will also be required to supervise the candidate and promote the linking of theory and practice by observing and advising the candidate at least twice each month during the clinical experience and shall work in collaboration with the assigned principal-mentor to evaluate candidates and provide feedback. During the clinical experience component of the program, the institution shall also provide courses and seminars that are designed to link educational theory with clinical experiences.

An institution that elects to participate in this program will also be required to have a formal written agreement with partnering schools or districts to provide continued mentoring support for graduates of the pilot program during their first year in a school leadership position, which shall include, but not be limited to, setting selection criteria, and the recruitment and training processes for mentors; and developing plans to provide research-based professional development programs for mentors and school leaders.

3. Professional services:

The proposed amendment does not require schools or school districts to contract for additional professional services to comply.

4. Compliance costs:

The proposed amendment is permissive in nature and any costs associated with the proposed amendment only apply to institutions and high need schools that elect to participate in the pilot program. However, for each teacher certification candidate in the pilot program, the State Education Department estimates that it will cost a high need school or school district that elects to participate in the program approximately \$6,200 per year to provide mentoring. The Department also anticipates that for any institution that elects to participate in the pilot program, it will incur the same costs for the development and implementation of this program as they would for a traditional principal preparation program and that such institutions could use existing faculty to meet the supervision requirements of the proposed amendment.

5. Economic and technological feasibility:

See above response to compliance costs. The proposed amendment would not require schools or school districts to secure special technology to comply.

6. Minimizing adverse impact:

The proposed amendment is expected to have a positive impact on high need schools and school districts by increasing the supply of highly effective teachers in high need subjects in high need schools. As stated above, the proposed amendment is permissive in nature. It only applies to high need schools and school districts that wish to participate in a clinically rich pilot program. Because of the nature of the proposed amendment, it is unnecessary to minimize adverse impacts on school districts.

7. Local government participation:

The Department has shared the proposed amendment and sought input from the School Administrators Association of New York State (SAANYS), the New York State Federation of School Administrators, the Collegiate Association for Developing Educational Administrators, the Metropolitan Council for Educational Administration and the New York State Council of School Superintendents (NYSCOSS). These organizations have representatives from school districts across the State.

Rural Area Flexibility Analysis

1. Types and estimate of number of rural areas:

The proposed amendment will impact institutions that elect to offer a clinically rich principal preparation program, which may include colleges and universities and institutions other than institutions of higher education that are selected by the Board of Regents to participate in this program. Such institutions may include cultural institutions, libraries, research centers, and other organizations with an educational mission. The proposed amendment will also impact high need schools and school districts in New York State that elect to participate in this program. These high need schools and institutions may be located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

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

Any institution that participates in this pilot program shall execute a written agreement with each partnering high need school which shall include the following: (1) the specific roles of the institution and the high need school in the recruitment, preparation, and mentoring of candidates, as well as their roles in sustaining this pilot program in the long term; (2) the selection and evaluation criteria and the recruitment process for principal-mentors; (3) a commitment to actively recruit and select candidates who demonstrate excellence in teaching, experience working as advocates for children and families in high need schools, leadership capability, and a sincere intent to serve as instructional leaders; (4) the various types of assessments that will be used to evaluate candidates throughout the program, and how such assessments will be utilized to prescribe study and experiences that will enable candidates to develop the knowledge, understanding, and skills necessary to successfully meet the requirements of this program and to obtain certification upon completion of the program.

These institutions will also be required to enter into a written agreement with the high need school, prior to assigning the candidate to a classroom in such high need school, wherein the high need school must agree to establish a plan for at least one continuous school year of mentored clinical experience by an assigned principal-mentor and provide support by a team of program faculty, teacher and administrators at the high need school and the superintendent. Program faculty will also be required to supervise the candidate and promote the linking of theory and practice by observing and advising the candidate at least twice each month during the clinical experience and shall work in collaboration with the assigned principal-mentor to evaluate candidates and provide feedback. During the clinical experience component of the program, the institution shall also provide courses and seminars that are designed to link educational theory with clinical experiences.

An institution that elects to participate in this program will also be required to have a formal written agreement with partnering schools or districts to provide continued mentoring support for graduates of the pilot program during their first year in a school leadership position, which shall include, but not be limited to, setting selection criteria, and the recruitment and training processes for mentors; and developing plans to provide research-based professional development programs for mentors and school leaders.

3. Costs:

The proposed amendment is permissive in nature and any costs associated with the proposed amendment only apply to institutions and high need schools that elect to participate in the pilot program. However, for each candidate in the pilot program, the State Education Department estimates that it will cost a high need school or school district that elects to participate in the program approximately \$6,200 per year to provide mentoring. The Department also anticipates that for any institution that elects to participate in the pilot program, it will incur the same costs for the development and implementation of this program as they would for a traditional principal preparation program and that such institutions could use existing faculty to meet supervision requirements of the proposed amendment.

4. Minimizing adverse impact:

Implementation of the proposed rule will not have a negative impact on entities or individuals located in rural communities. The proposed amendment is permissive in nature. Only program providers that wish to offer a clinically rich principal preparation pilot program are required to meet the new requirements for such programs. High need schools and school districts that elect to participate in the pilot program will benefit by having access to a larger pool of principal candidates, although they will have the expense of providing mentoring support.

The proposed amendment relates to requirements for teaching certification to qualify for service in the State's public schools. The State Education Department does not believe that establishing a different standard for teachers who live or work in rural areas is warranted. A uniform standard ensures the quality of the State's teaching workforce.

5. Rural area participation:

The Department has shared the proposed amendment and sought input from the School Administrators Association of New York State, the New York State Federation of School Administrators, the Collegiate Association for Developing Educational Administrators, the Metropolitan Council for Educational Administration and the New York State Council of School Superintendents. These organizations have representatives from school districts across the State.

Job Impact Statement

The purpose of the proposed amendment is to create a clinically rich principal preparation pilot program to address the retention issues in high need schools and improve student growth and achievement. The purpose of the proposed amendment is to establish program registration standards for the pilot program and to authorize institutions, other than institutions of higher education, that are selected by the Board of Regents to offer

teacher preparation programs under this pilot program. Such institutions may include, but not be limited to, cultural institutions, libraries, research centers, and other organizations with an educational mission that are selected by the Board of Regents to participate in the program.

Because it is evident from the nature of the rule that it will not have a substantial adverse impact on jobs and employment opportunities, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required, and one has not been prepared.

Department of Environmental Conservation

NOTICE OF ADOPTION

Protection of the Zoar Valley Multiple Use Area Including the Zoar Valley Unique Area

I.D. No. ENV-08-10-00003-A

Filing No. 543

Filing Date: 2010-05-20

Effective Date: 2010-06-09

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

Action taken: Amendment of sections 190.10 and 190.25 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101(3)(b), 3-0301(1)(b), (2)(m), 9-0105(1), (3), 45-0111(6) and 45-0117(2)(n)

Subject: Protection of the Zoar Valley Multiple Use Area Including the Zoar Valley Unique Area.

Purpose: Protection of public safety and natural resources on the Zoar Valley Multiple Use Area including the Zoar Valley Unique Area.

Text or summary was published in the February 24, 2010 issue of the Register, I.D. No. ENV-08-10-00003-P.

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

Text of rule and any required statements and analyses may be obtained from: David M. Forness, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4255, (518) 402-9428, email: dmforness@gw.dec.state.ny.us

Additional matter required by statute: A Negative Declaration has been prepared in compliance with Article 8 of the Environmental Conservation Law.

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

NOTICE OF ADOPTION

Waivers of the Requirements of Rule 47 and Rule 8.6

I.D. No. PSC-06-10-00017-A

Filing Date: 2010-05-20

Effective Date: 2010-05-20

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

Action taken: On 5/13/10, the PSC adopted an order approving, the petition of Hertel Park Associates, LP for waivers of the requirements of Rule 47 and Rule 8.6.

Statutory authority: Public Service Law, sections 2, 5, 65 and 66

Subject: Waivers of the requirements of Rule 47 and Rule 8.6.

Purpose: To approve waivers of the requirements of Rule 47 and Rule 8.6.

Substance of final rule: The Commission, on May 13, 2010, adopted an order approving the petition of Hertel Park Associates, LP as a senior living facility. It is exempt from the individual residential unit metering requirements of Opinion No. 76-17, and granted waivers of the requirements of Rule 47 and Rule 8.6. It may be master metered and private transformers may be utilized without the payment of lost revenues (the aggregation fee) specified in Rule 47, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(08-E-1355SA1)

NOTICE OF ADOPTION

Waivers of the Requirements of Rule 47 and Rule 8.6

I.D. No. PSC-06-10-00018-A

Filing Date: 2010-05-20

Effective Date: 2010-05-20

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

Action taken: On 5/13/10, the PSC adopted an order approving, the petition of Walden Park Associates, LP for waivers of the requirements of Rule 47 and Rule 8.6.

Statutory authority: Public Service Law, sections 2, 5, 65 and 66

Subject: Waivers of the requirements of Rule 47 and Rule 8.6.

Purpose: To approve waivers of the requirements of Rule 47 and Rule 8.6.

Substance of final rule: The Commission, on May 13, 2010, adopted an order approving the petition of Walden Park Associates, LP as a senior living facility. It is exempt from the individual residential unit metering requirements of Opinion No. 76-17, and granted waivers of the requirements of Rule 47 and Rule 8.6. It may be master metered and private transformers may be utilized without the payment of lost revenues (the aggregation fee) specified in Rule 47, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(08-E-1356SA1)

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

Reactive Power Demand Information

I.D. No. PSC-23-10-00003-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 filing by Consolidated Edison Company of New York, Inc. (Con Edison) proposing that existing customers have access to additional reactive power usage information before commencing Reactive Power Demand billings.

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

Subject: Reactive Power Demand Information.

Purpose: To propose that existing customers have access to additional reactive power usage information.

Substance of proposed rule: The Commission is considering a filing by Consolidated Edison Company of New York, Inc. (Con Edison) proposing that existing customers have access to additional reactive power usage information before commencing Reactive Power Demand Billings. The proposed filing has an effective date of August 23, 2010. The Commission may adopt, reject, or modify, in whole or in part, Con Edison's proposal.

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: Secretary@dps.state.ny.us

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

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

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

(08-E-0751SP11)

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

Direct Load Control (DLC) Program

I.D. No. PSC-23-10-00007-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 petition filed by Consolidated Edison Company of New York, Inc. (Con Edison) to expand and continue its Direct Load Control Program for residential and small business central air conditioners.

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

Subject: Direct Load Control (DLC) Program.

Purpose: To continue and expand its residential and small business air conditioning DLC Program.

Substance of proposed rule: The Commission is considering a petition filed by Consolidated Edison Company of New York, Inc. (Con Edison) to continue and expand its residential and small business air-conditioning Direct Load Control Programs. For both programs, Con Edison requests recovery of net program costs through the Monthly Adjustment Clause. The Commission may adopt, reject, or modify, in whole or in part, Con Edison's proposal.

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: Secretary@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.

(10-E-0229SP1)

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

Reconnection and Insufficient Funds Check Charges

I.D. No. PSC-23-10-00008-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 tariff filing by Green Island Power Authority to make various changes in rates, charges, rules and regulations contained in its Schedule for Electric Service, PSC No. 1 — Electricity.

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

Subject: Reconnection and Insufficient Funds Check Charges.

Purpose: To revise its reconnection and insufficient funds check charges.

Substance of proposed rule: The Commission is considering a filing by Green Island Power Authority (Green Island) to revise its reconnection and insufficient funds check charges. The proposed filing has an effective date of September 1, 2010. The Commission may adopt, reject, or modify, in whole or in part, Green Island's proposal.

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: Secretary@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.

(10-E-0252SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Transfer of Franchises or Stocks

I.D. No. PSC-23-10-00009-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 petition by Corning Natural Gas Corporation regarding the applicability of Section 70 of the Public Service Law to certain stock acquisition transactions.

Statutory authority: Public Service Law, section 70

Subject: Transfer of franchises or stocks.

Purpose: Transfer of franchises or stocks.

Substance of proposed rule: The public Service Commission is considering a petition by Corning Natural Gas Corporation (Company/Corning) regarding the applicability of section 70 of the Public Service Law to certain stock acquisition transactions. The Commission may approve, reject or modify, in whole or in part, the relief requested by Corning.

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

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

(10-G-0224SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Request to Transfer Certain Facilities from the Noble to NYSEG

I.D. No. PSC-23-10-00010-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 request by Noble Wethersfield Windpark, LLC (Noble) and New York State Electric and Gas Corporation (NYSEG) to transfer certain facilities from the former to the latter.

Statutory authority: Public Service Law, sections 4(1) and 70

Subject: Request to transfer certain facilities from the Noble to NYSEG.

Purpose: Consider the request to transfer certain facilities from the Noble to NYSEG.

Substance of proposed rule: By petition filed April 9, 2010, Noble Wethersfield Windpark, LLC and New York State Electric and Gas Corporation (NYSEG) seek to transfer, from the former to the latter, ownership of:

(1) Attachment facilities (including bus work, bus support, one three-phase 230 kV Current Transformer/Village Transformers (CT/VT) metering units, 230 kV disconnect switch, conduit, control cable, grounding material and revenue metering equipment at the Orangeville Switchyard in the town Orangeville);

(2) Stand Alone System Upgrade Facilities (SUF) consisting of a 230 kV substation at the Point of Interconnection (at the Orangeville Switchyard); and

(3) Common SUFs (relating to additional protection systems at NYSEG's Stolle Road Substation in Elma and Meyer Substation in Dansville.

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: Secretary@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.

(10-M-0158SP1)

Department of State

NOTICE OF ADOPTION

Document Destruction Contractors

I.D. No. DOS-14-10-00001-A

Filing No. 546

Filing Date: 2010-05-25

Effective Date: 2010-06-09

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

Action taken: Addition of Part 198 to Title 19 NYCRR.

Statutory authority: General Business Law, section 899-bbb(12)(a)

Subject: Document destruction contractors.

Purpose: To adopt implementing regulations for Article 39-G of the General Business Law.

Text or summary was published in the April 7, 2010 issue of the Register, I.D. No. DOS-14-10-00001-P.

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

Text of rule and any required statements and analyses may be obtained from: Whitney Clark, NYS Department of State, Division of Licensing Services, Alfred E Smith Office Building, 80 South Swan Street, Albany, NY 12231, (518) 473-2728, email: whitney.clark@dos.state.ny.us

Assessment of Public Comment

The agency received no public comment.