

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.

State Board of Elections

NOTICE OF ADOPTION

Campaign Contribution Limits

I.D. No. SBE-17-11-00015-A

Filing No. 709

Filing Date: 2011-08-02

Effective Date: 2011-08-17

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

Action taken: Amendment of section 6214.0 of Title 9 NYCRR.

Statutory authority: Election Law, section 14-114(1)(c)

Subject: Campaign Contribution Limits.

Purpose: Set contribution limits as adjusted to reflect the consumer price index.

Text of final rule: Section 6214.0 Campaign Contribution Limits.

The following limits will apply to campaign contributions until such time as the State Board of Elections adjusts the limits to reflect changes in the consumer price index:

Previous Limit	Current Limit	Office/Election
\$ 5,400.00	\$ 6,000.00	State senate primary
		Statewide primary minimum
		NYC citywide primary minimum

\$16,200.00	\$18,100.00	Statewide primary maximum
		NYC citywide primary minimum
\$33,900.00	\$37,800.00	Statewide general
		NYC citywide general
\$ 8,500.00	\$ 9,500.00	State senate general
\$ 3,400.00	\$ 3,800.00	State assembly primary
		State assembly general
\$84,400.00	\$94,200.00	Party committees]
\$ 6,000.00	\$ 6,500.00	State senate primary
		Statewide primary minimum
		NYC citywide primary minimum
\$18,100.00	\$19,700.00	Statewide primary maximum
		NYC citywide primary maximum
\$37,800.00	\$41,100.00	Statewide general
		NYC citywide general
\$ 9,500.00	\$10,300.00	State senate general
\$ 3,800.00	\$ 4,100.00	State assembly primary
		State assembly general
\$94,200.00	\$102,300.00	Party committees

Final rule as compared with last published rule: Nonsubstantive changes were made in section 6214.0.

Text of rule and any required statements and analyses may be obtained from: Elizabeth C. Hogan, New York State Board of Elections, 40 Steuben Street, Albany, NY 12207, (518) 474-2063, email: ehogan@elections.state.ny.us

Revised Job Impact Statement

This rule will impact neither the creation nor the diminution of employment opportunities in New York State.

Assessment of Public Comment

The agency received no public comment.

Department of Environmental Conservation

NOTICE OF ADOPTION

Emergency Closing of Carnivorous Marine Gastropod Harvesting Areas

I.D. No. ENV-23-11-00005-A

Filing No. 708

Filing Date: 2011-08-02

Effective Date: 2011-08-17

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

Action taken: Addition of Part 50 to Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 3-0301(1)(t), 11-0325 and 13-0330

Subject: Emergency closing of carnivorous marine gastropod harvesting areas.

Purpose: To establish Commissioner's authority to prohibit the harvest of carnivorous gastropods in areas affected by marine biotoxins.

Text or summary was published in the June 8, 2011 issue of the Register, I.D. No. ENV-23-11-00005-EP.

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

Text of rule and any required statements and analyses may be obtained from: Kim McKown, New York State Department of Environmental Conservation, 205 North Belle Mead Road, Suite 1, East Setauket, New York 11733, (631) 444-0454, email: kamckown@gw.dec.state.ny.us

Additional matter required by statute: Pursuant to the State Environmental Quality Review Act, a negative declaration is on file with the department.

Assessment of Public Comment

1. Comment: The Department of Environmental Conservation (DEC or department) received one written comment, dated July 10, 2011, questioning whether DEC had data that showed that carnivorous gastropods had harmful levels of biotoxins, whether the gastropods were tested, are there any existing reports of anyone from New York or elsewhere getting sick from eating carnivorous gastropods, how will DEC determine when to open the area (will the gastropods be tested, what test will be used, and is it approved?), and will nearby uncertified shellfish areas be reopened to trapping conch. There were also questions about whether DEC will require new tagging requirements for carnivorous gastropods and if DEC has information on the number of harvesters, landings and the market value to estimate the economic impacts of the regulations. The comment recommended not adopting the rule until reliable information on biotoxin levels and reports of illnesses in carnivorous gastropods were available.

DEC response: Scientific research indicates that carnivorous gastropods can become contaminated by marine biotoxins by feeding on contaminated shellfish. There have been cases in New England and globally of illnesses caused by ingesting carnivorous gastropods contaminated with biotoxins. The New England States and the Canadian Maritimes currently have the ability to close carnivorous snail fisheries in the event of harmful algal blooms. The department is taking a precautionary approach and closing marine gastropod fisheries when areas are closed to shellfish harvest due to biotoxins, as is done in New England. To reopen the fishery, the state of Maine tests the gastropods using the same testing procedures used on clams. New York does not have the resources to conduct marine gastropod testing; therefore the gastropod fishery will be re-opened based on the testing of bivalve shellfish meats. This may not be a precautionary approach, since biotoxin levels may take longer to decrease in carnivorous gastropods meats than in bivalve shellfish meats. The department is unaware of any research that indicates that carnivorous gastropods concentrate harmful viruses or bacteria in their meats as do bivalve shellfish; the gastropod fishery will re-open in both shellfish certified and uncertified areas.

The comment about requiring tagging to identify harvest area, date

and harvester is good, and DEC will consider adding this to a future rule. This would help enforce area closures.

The DEC requires a permit to commercially harvest whelk, during 2010 there were 260 resident and 12 non-resident whelk permit holders in New York. Currently there are no regulations requiring landings reporting by New York whelk permit holders, but landings information from less than 10 percent of the permit holders reported harvesting more than 80,000 pounds of whelk during 2009. We have no information on the actual number of permit holders who actively harvest whelk and if active harvesters can easily move their harvesting operations to alternative open areas to compensate for temporary closures.

The harvest prohibition is for the protection of public health, to prevent consumers from the dangers of ingesting gastropods which may have elevated levels of marine biotoxins. Therefore, DEC is taking a precautionary approach based on scientific research and protocols developed in New England and Maritime Canada.

2. Comment: DEC received one phone comment supporting the rule.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Hunting Upland Game Birds

I.D. No. ENV-33-11-00002-P

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

Proposed Action: Amendment of section 2.25 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303, 11-0903 and 11-0905

Subject: Hunting upland game birds.

Purpose: To establish a youth pheasant hunting season on Long Island prior to the start of the regular pheasant season.

Text of proposed rule: Title 6 of NYCRR, section 2.25, entitled "Hunting upland game birds," is amended as follows:

Amend existing subparagraph 2.25(b)(3)(ii)(a) to read as follows:

(ii) Season. The youth pheasant hunting days shall be as follows:

(a) WMU[s] 2A[, 1A and 1C]: no youth hunting days.

Text of proposed rule and any required statements and analyses may be obtained from: Bryan L. Swift, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233, (518) 402-8883, email: wildliferegs@gw.dec.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.

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

This action was not under consideration at the time this agency's regulatory agenda was submitted.

Regulatory Impact Statement

1. Statutory Authority

Section 11-0303 of the Environmental Conservation Law (ECL) directs the Department of Environmental Conservation (DEC or department) to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met with regard to: ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, public safety, and protection of private premises. ECL sections 11-0903 and 11-0905 provides for the establishment of hunting regulations for pheasants.

2. Legislative Objectives

The legislative objectives behind the statutory provisions listed above are to authorize the department to establish, by regulation, certain basic wildlife management tools, including the setting of open areas for hunting pheasants. These tools are used by the department in recognition of the importance of pheasant hunting for recreational purposes.

3. Needs and Benefits

The Senate and Assembly passed legislation (S3421/A4786) in May-June 2011 authorizing the department to make youth-only pheasant hunting opportunities available on Long Island, similar to what has been provided for the rest of the State since 2007. This legislation was developed in direct response to demand from sportsmen on Long Island, with strong support from the department. This legislation passed the Senate 61-1 and the Assembly 130-11, and was signed into law by the Governor soon thereafter. We wish to take immediate advantage of this opportunity to provide more small game hunting opportunities for junior hunters (ages 12 through 15) on Long Island. The new legislation sunsets in 2013, so we have only three seasons in which to offer this season.

Specifically, we propose the establishment of a two-day pheasant hunt on Long Island for all hunters holding a Junior License (ages 12 to 15). The season would be held on the last full weekend in October prior to when the regular pheasant hunting season opens on November 1.

This special opportunity for youth pheasant hunting on Long Island supports the department's efforts to connect youth to the outdoors, and builds upon the success of DEC's other youth hunting opportunities; these include a Youth Pheasant Hunting weekend in upstate New York (since 2007), a Youth Turkey Hunt (since spring 2005 upstate, expanded to Long Island in spring 2011), and Youth Waterfowl Hunting Days (statewide since 1996).

With hunter safety education required for the purchase of a hunting license, and mandatory supervision by an adult hunter, these special youth-only seasons help young people gain the necessary knowledge and skills to become safe and responsible members of the hunting community. The ultimate goal of these initiatives is to sustain hunting participation and its associated recreational, wildlife management and economic benefits. Pheasant hunting was one of the first hunting experiences for many of today's adult hunters, and our proposal would maintain this traditional introduction to hunting for hundreds of youth on Long Island.

4. Costs

None beyond normal administrative costs.

5. Paperwork

The proposed revisions do not require any new or additional paperwork from any regulated party.

6. Local Government Mandates

These amendments do not impose any program, service, duty or responsibility upon any county, city, town village, school district or fire district.

7. Duplication

There are no other regulations similar to this proposal.

8. Alternatives

The principal alternative would be to not offer a special youth season in 2011, but defer implementation until 2102. However, the legislation sunsets in 2013, meaning we may have only three years to offer this special opportunity, and such delay would undoubtedly draw criticism by sportsmen who worked hard for passage of the bill.

Other alternatives would be to select a different weekend (i.e., earlier in October) or offer a different number of days for the youth pheasant hunt on Long Island. However, we believe the proposed timing would be most preferred by Long Island hunters, and it would be the most efficient use of DEC staff time and stocked pheasants. That is because seasonal staff who manage hunting on Region 1 public lands are normally hired just prior to the start of small game hunting season (approximately November 1), and the number of stocked pheasants that remain available at the start of the regular hunting season would likely be lower if released much earlier in October. Furthermore, holding the youth pheasant hunt the weekend prior to the start of the regular season has been a successful formula for junior hunters and their adult mentors in upstate New York since 2007.

The bag limit for the youth hunt was not specified in the law. The bag limit for the regular pheasant season on Long Island is four birds per day; however, the regulations governing youth-only pheasant

hunts in upstate New York allow for a two-bird per day bag limit. This "two-bird bag" has provided ample opportunity to junior hunters during upstate youth-only pheasant seasons, is compatible with the DEC staff time and resources needed to stock birds, and provides a larger proportion of birds for stocking during the regular season when both junior and adult hunters can take advantage of the higher bag limit. For the sake of efficiency and equitability, we feel that the Long Island youth pheasant hunt bag limit should be two birds, identical to the youth-only pheasant seasons in the rest of the state. The regulation of the taking of hens will not change (either sex west of Shinnecock Canal and Inlet, cocks only east of Shinnecock Canal and Inlet).

9. Federal Standards

There are no federal standards associated with pheasant hunting.

10. Compliance Schedule

Hunters would have to comply with the new regulations beginning in the fall of 2011.

Regulatory Flexibility Analysis

The purpose of this rule making is to amend pheasant hunting regulations to establish a two-day youth pheasant hunting season on Long Island (Nassau and Suffolk Counties) prior to the start of the regular pheasant season on November 1. This rule will not impose any reporting, recordkeeping, or other compliance requirements on small businesses or local government. Therefore, a Regulatory Flexibility Analysis is not required.

All reporting or record keeping requirements associated with pheasant hunting are administered by the New York State Department of Environmental Conservation (department). Small businesses may, and town or village clerks do, sell hunting licenses, but this rule does not affect that activity. Thus, there will be no effect on reporting or record keeping requirements imposed on those entities.

Based on the department's past experience in promulgating regulations of this nature, and based on the professional judgment of department staff, the department has determined that this rule making may slightly increase the number of participants or the frequency of participation in pheasant hunting, particularly in Nassau and Suffolk Counties. Some small businesses currently benefit from hunting because hunters spend money on goods and services, and thus an increase in hunter participation should lead to positive economic impacts on such businesses.

Additional hunting activity will not require any new or additional reporting or record-keeping by any small businesses or local governments. For these reasons, the department has concluded that this rule making does not require a Regulatory Flexibility Analysis.

Rural Area Flexibility Analysis

The purpose of this rule making is to amend pheasant hunting regulations to establish a two-day youth pheasant hunting season on Long Island (Nassau and Suffolk Counties) prior to the start of the regular pheasant season on November 1. This rule will not impose any reporting, recordkeeping, or other compliance requirements on public or private entities in rural areas, other than individual hunters.

All reporting or recordkeeping requirements associated with pheasant hunting are administered by the New York State Department of Environmental Conservation (department). Small businesses may, and town or village clerks do, issue hunting licenses, but this rule making does not affect that activity.

Additional hunting activity will not require any new or additional reporting or recordkeeping by entities in rural areas, and no professional services will be needed for people living in rural areas to comply with the proposed rule. Furthermore, this rule making is not expected to have any adverse impacts on any public or private interests in rural areas of New York State. For these reasons, the department has concluded that this rule making does not require a Rural Area Flexibility Analysis.

Job Impact Statement

The purpose of this rule making is to amend pheasant hunting regulations. The New York State Department of Environmental Conservation (DEC or department) has historically made regular revisions to its pheasant hunting regulations. Based on DEC's experience in promulgating those revisions and the familiarity of regional depart-

ment staff with the specific area of the State impacted by this proposed rule making, the department has determined that this rule making will not have a substantial adverse impact on jobs and employment opportunities. Few, if any, persons actually use the hunting of pheasants as a means of employment, but some licensed hunting guides benefit from hunting by taking clients on hunting trips. This rule making could enhance this activity. Moreover, this rule making is not expected to significantly change the number of participants or the frequency of participation in the regulated activities. In fact, this rule making may slightly increase the number of participants or the frequency of participation in pheasant hunting, particularly in Nassau and Suffolk Counties.

For these reasons, the department anticipates that this rule making will have no impact on jobs and employment opportunities. Therefore, the department has concluded that a job impact statement is not required.

Department of Motor Vehicles

NOTICE OF ADOPTION

Clarification of the Rules Regarding Ineligibility of Certain Individuals for a Pre-Conviction Conditional License (PCCL)

I.D. No. MTV-23-11-00019-A

Filing No. 707

Filing Date: 2011-08-02

Effective Date: 2011-08-17

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

Action taken: Amendment of Part 134 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a) and 1196

Subject: Clarification of the rules regarding ineligibility of certain individuals for a pre-conviction conditional license (PCCL).

Purpose: To clarify that a motorist will be ineligible for a PCCL if they have two or more prior alcohol-related driving convictions.

Text or summary was published in the June 8, 2011 issue of the Register, I.D. No. MTV-23-11-00019-P.

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

Text of rule and any required statements and analyses may be obtained from: Monica J Staats, NYS Department of Motor Vehicles, Legal Bureau, Room 526, 6 Empire State Plaza, Albany, NY 12228, (518) 486-3131, email: monica.staats@dmv.ny.gov

Assessment of Public Comment

The agency received no public comment.

Office for People with Developmental Disabilities

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Requirements Pertaining to the Investigation and Review of Serious Reportable Incidents and Abuse Allegations

I.D. No. PDD-33-11-00003-P

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

Proposed Action: Amendment of Part 624 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00

Subject: Requirements pertaining to the investigation and review of serious reportable incidents and abuse allegations.

Purpose: To reduce conflicts of interest in the investigation and review of serious reportable incidents and abuse allegations.

Text of proposed rule: Paragraph 624.5(c)(1) is amended as follows:

(1) *Restrictions on situations that may compromise the independence of investigators.*

(i) No one may participate in the investigation of any reportable incident, serious reportable incident, or allegation of abuse in which he or she was directly involved, in which his or her testimony is incorporated, or in which a spouse, *domestic partner*, or immediate family member was directly involved. [When a serious reportable incident or allegation of abuse is to be investigated, every effort is to be made to have someone conduct or review the investigation who is not an immediate supervisor of staff directly involved with the situation or event so as to be as disinterested and objective a party as possible.]

(ii) Those who are members of a standing committee to review and monitor reportable incidents, serious reportable incidents, and allegations of abuse shall not routinely be assigned the responsibility of investigating such events.

(iii) *For serious reportable incidents and allegations of abuse that occurred or were discovered on or after the date that this regulation becomes effective:*

(a) *The agency shall assign an investigator whose work function is at arm's length from staff who are directly involved in the serious reportable incident or allegation of abuse. The requirements identified in clauses (b) and (c) of this subparagraph reflect the minimum expectation regarding independence concerning the investigator's work function.*

(b) *No party in the line of supervision of staff who are directly involved in the serious reportable incident or allegation of abuse may conduct the investigation of such an incident or allegation, except for the CEO.*

(c) *The CEO (not a designee) may conduct the investigation of a serious reportable incident or allegation of abuse unless he or she is the immediate supervisor of any staff who are directly involved in the serious reportable incident or allegation of abuse.*

Subparagraph 624.7(d)(5)(ii) is amended as follows:

(ii) *Restrictions on review of specific incidents or allegations of abuse.*

(a) No committee member may participate in the review of any reportable incident, serious reportable incident, or alleged abuse in which he or she was directly involved, in which his or her testimony is incorporated, in which his or her spouse, *domestic partner*, or other immediate family member was directly involved, or which he or she investigated or participated in the investigation. Such members may, however, participate in committee deliberation regarding appropriate corrective or preventive action.

(b) *No committee member may participate in the review of a serious reportable incident or allegation of abuse, if such committee member is the immediate supervisor of staff directly involved in the event or situation. Such member may, however, participate in committee deliberation regarding appropriate corrective or preventive action.*

Text of proposed rule and any required statements and analyses may be obtained from: Barbara Brundage, Director, Regulatory Affairs Unit, OPWDD, 44 Holland Avenue, Albany, New York 12229, (518) 474-1830, email: barbara.brundage@opwdd.ny.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.

Additional matter required by statute: Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described herein will have no effect on the environment, and an E.I.S. is not needed.

Regulatory Impact Statement

1. Statutory Authority:

a. OPWDD has the statutory responsibility to provide and encourage the provision of appropriate programs and services in the area of care, treatment, rehabilitation, education and training of persons with developmental disabilities, as stated in the New York State Mental Hygiene Law Section 13.07.

b. OPWDD has the statutory authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the New York State Mental Hygiene Law Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerning the operation of programs, provision of services and facilities pursuant to the New York State Mental Hygiene Law Section 16.00.

2. Legislative Objectives: These proposed amendments further the legislative objectives embodied in sections 13.07, 13.09(b), and 16.00 of the Mental Hygiene Law. The proposed amendments would reduce conflicts of interest in the investigation and review of serious reportable incidents and allegations of abuse in the OPWDD system.

3. Needs and Benefits: Current OPWDD regulations in 14 NYCRR Part 624 require the investigation of incidents and allegations of abuse in both state-operated and voluntary-operated services. It is vital that incidents and allegations of abuse be thoroughly investigated in order to identify what went wrong and develop recommendations to prevent a recurrence of similar events or situations in the future.

OPWDD recognizes the importance of assigning an unbiased and objective person to be an investigator. Concerning serious reportable incidents and allegations of abuse, existing OPWDD regulations require that "every effort is to be made to have someone conduct or review the investigation who is not an immediate supervisor of staff directly involved with the situation or event." The proposed regulations strengthen this provision by prohibiting immediate supervisors and parties in the chain of command of directly involved staff from performing such investigations. Additionally, these proposed regulations restrict immediate supervisors from reviewing these investigations as a member of the provider's incident review committee.

Supervisors, including those in the chain of command of staff, may be biased if they are assigned to investigate serious reportable incidents or allegations of abuse involving staff that they supervise. History with an employee can influence the supervisor's attitude toward that employee either negatively or positively, which can taint the investigation. Further, actions or inactions of the supervisor him/herself might be found to have played a role by an unbiased investigation (e.g. assigning inappropriate or untrained staff or ignoring previous reports of dangerous situations). Obviously, the self-interest of the investigator in such instance might lead to an investigation report that omits or minimizes the supervisor's role.

By prohibiting investigations by immediate supervisors and parties in the chain of command of directly involved staff and precluding immediate supervisors from reviewing investigations as a member of the oversight committee, the proposed amendments will reduce conflicts of interest in the investigation of serious reportable incidents and allegations of abuse. By enhancing the integrity of investigations, these amendments will strengthen the response to incidents and allegations of abuse and will in turn afford more protection to individuals receiving services in the OPWDD system.

4. Costs:

a. Costs to the agency and to the State and its local governments: OPWDD will not incur additional costs because it has already committed to complying with these new restrictions.

Any costs or savings would have no impact on Medicaid rates, prices or fees. Therefore, there is no potential fiscal impact on local governments. Similarly, there is no impact on New York State in its role paying for Medicaid services.

b. Costs to private regulated parties: There are neither initial capital investment costs nor initial non-capital expenses. There may be additional costs and savings associated with implementation and continued compliance with the rule. Voluntary providers may either incur the cost of paying for overtime costs, or hiring more employees to absorb the added responsibilities of those employees who are not precluded by these amendments. Additionally, voluntary providers may incur costs associated with providing investigations training to more employees. It is also possible that smaller voluntary providers that may be faced with a situation where all agency staff who might otherwise conduct an investigation, are precluded by these amendments. In these instances providers may develop collaborative agreements with other providers to conduct investigations on each other's behalf. There may or may not be costs associated with such agreements. Voluntary providers may also hire outside investigators in these situations. Conversely, in the long term, more effective investigations might reduce future incidents and abuse, resulting in savings. OPWDD is unable to quantify these potential savings or costs.

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village; or school, fire, or other special district.

6. Paperwork: The proposed amendments do not require any additional paperwork to be completed by providers.

7. Duplication: The /proposed amendments do not duplicate any existing State or Federal requirements that are applicable to services for persons with developmental disabilities.

8. Alternatives: OPWDD initially considered that the proposed amendments only include the requirement prohibiting immediate supervisors from conducting investigations of involved staff. However, OPWDD determined there is potential for a conflict of interest to arise if any supervisor in the chain of command of an involved staff conducts an investigation. Therefore, OPWDD determined that the additional provisions concerning supervisors in the chain of command of involved staff would enhance efforts to reduce abuse in its system and provide more protection to the individuals it serves.

9. Federal Standards: The proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule: OPWDD is planning to finalize the proposed regulations as soon as possible consistent with the timeframes set forth in the State Administrative Procedure Act. Existing regulations already discourage providers from using immediate supervisors to conduct or review investigations of serious reportable incidents and allegations of abuse. Therefore, it is reasonable to assume that providers will generally already be in compliance with this provision and therefore will have few difficulties in complying with the outright prohibition that applies to immediate supervisors. Currently, there is no provision that addresses the potential conflict with supervisors in the chain of command, so OPWDD anticipates that this prohibition might necessitate compliance activities regarding the assignment of the investigator, such as the development of collaborative agreements by smaller agencies, training additional investigators, and changes in agencies policies and procedures concerning the assignment of investigators. The proposed amendments will apply to serious reportable incidents and allegations of abuse that occurred or were discovered on or after the effective date of the regulations so it does not require that providers reassign cases which would already have been opened on that date. Providers were also notified of the proposed amendments in advance of their effective date with a sufficient amount of time to change practices related to the assignment of investigators to be in compliance with the new requirements. Further, in the rare instance that a voluntary provider is unable to assign an investigator who is an employee of that provider or is unable to make an arrangement with another provider to perform the investigation, OPWDD may choose to assign an investigator.

Regulatory Flexibility Analysis

1. Effect on small business: OPWDD has determined, through a review of the certified cost reports, that most OPWDD-funded services are provided by non-profit agencies which employ more than 100 people overall. However, some smaller agencies which employ fewer than 100 employees overall would be classified as small businesses. Currently, there are approximately 700 agencies providing services which are certified, authorized or funded by OPWDD. OPWDD is unable to estimate the portion of these providers that may be considered to be small businesses.

The proposed amendments have been reviewed by OPWDD in light of their impact on small businesses. These amendments would reduce conflicts of interest in the investigation and review of serious reportable incidents and allegations of abuse in the OPWDD system. OPWDD is unable to quantify the potential additional costs and savings to providers as a result of these amendments.

2. Compliance requirements: The proposed amendments prohibit immediate supervisors and parties in the chain of command of staff directly involved in serious reportable incidents or allegations of abuse from performing investigations of such incidents or allegations. Additionally, these regulations restrict immediate supervisors from reviewing such investigations as a member of the provider's incident review committee.

Existing regulations already discourage providers from using immediate supervisors to conduct or review investigations of serious reportable incidents and allegations of abuse. Therefore, it is reasonable to assume that providers will generally already be in compliance with this provision and will have few difficulties in complying with the outright prohibition that applies to immediate supervisors. Currently, there is no provision that addresses the potential conflict with supervisors in the chain of command, so OPWDD anticipates that this prohibition might necessitate compliance activities regarding the assignment of the investigator, such as the development of collaborative agreements by smaller agencies, training additional investigators, and changes in agencies' policies and procedures concerning the assignment of investigators. The proposed amendments will apply to serious reportable incidents and allegations of abuse that occurred or were discovered on or after the effective date of the regulations so it does not require that providers reassign cases which would already have been opened on that date.

The amendments will have no effect on local governments.

3. Professional services: There may be additional professional services required as a result of these amendments as providers may choose to hire an outside investigator to conduct investigations of serious reportable incidents and allegations of abuse. The amendments will not add to the professional service needs of local governments.

4. Compliance costs: Providers might incur modest additional costs due to the new restrictions on the choice of an investigator. Providers may either incur the cost of hiring an outside investigator, paying for overtime costs, investigations training of more employees, or hiring more employees to absorb the added responsibilities of those employees who are not precluded by these amendments. Voluntary providers that opt to develop collaborative agreements with other voluntary providers may or may not incur added costs. Conversely, in the long term, more effective investigations might reduce future incidents and abuse, resulting in savings. OPWDD is unable to quantify these potential additional costs and savings.

5. Economic and technological feasibility: The proposed amendments do not impose the use of any new technological processes on regulated parties.

6. Minimizing adverse economic impact: The proposed amendments are expected to result in minimal adverse economic impact to providers. OPWDD considered the approaches for minimizing the adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. OPWDD expects that providers are generally already in compliance with existing regulations that discourage them from using immediate supervisors to conduct investigations, which will minimize or eliminate any potential adverse impact on providers that could result from these proposed amendments. As mentioned in the section of this document that addresses compliance requirements, OPWDD anticipates that the prohibition that applies to supervisors in the chain of command might necessitate compliance activities regarding the assignment of the investigator, especially for smaller providers. The development of collaborative agreements between providers will minimize the economic impact on smaller providers, since the providers can thereby avoid the cost of hiring outside investigators if they investigate each others' incidents. In rare instances when the voluntary providers are unable to properly conduct investigations in accordance with the proposed requirements, and are unable to make other arrangements, OPWDD may choose to assign a state employee to investigate the incident or allegation of abuse.

7. Small business participation: The similar proposed regulations were discussed with representatives of providers, including the New York State Association of Community and Residential Agencies (NYSACRA), on April 18, 2011. Some of the members of NYSACRA have fewer than 100 employees. Finally, OPWDD has notified all providers of these amendments, including providers that are small businesses.

Rural Area Flexibility Analysis

1. Description of the types and estimation of the number of rural areas in which the rule will apply: OPWDD services are provided in every county in New York State. 44 counties have a population less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. 9 counties with certain townships have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga and Orange.

The proposed amendments have been reviewed by OPWDD in light of their impact on rural areas. These amendments would reduce conflicts of interest in the investigation and review of serious reportable incidents and allegations of abuse in the OPWDD system. OPWDD is unable to quantify the potential additional costs and savings to providers as a result of these amendments. The geographic location of any given program (urban or rural) will not be a contributing factor to any additional costs to providers.

2. Compliance requirements: The proposed amendments prohibit immediate supervisors and parties in the chain of command of staff directly involved in serious reportable incidents or allegations of abuse from performing investigations of such incidents or allegations. Additionally, these regulations restrict immediate supervisors from reviewing such investigations as a member of the provider's incident review committee.

Existing regulations already discourage providers from using immediate supervisors to conduct or review investigations of serious reportable incidents and allegations of abuse. Therefore, it is reasonable to assume that providers will generally already be in compliance with this provision and will have few difficulties in complying with the outright prohibition that applies to immediate supervisors. Currently, there is no provision that addresses the potential conflict with supervisors in the chain of command, so OPWDD anticipates that this prohibition might necessitate compliance activities regarding the assignment of the investigator, such as the development of collaborative agreements by smaller agencies, training additional investigators, and changes in agencies' policies and procedures concerning the assignment of investigators. The proposed amendments will apply to serious reportable incidents and allegations of abuse that occurred or were discovered on or after the effective date of the regulations so it does not require that providers reassign cases which would already have been opened on that date.

The amendments will have no effect on local governments.

3. Professional services: There may be additional professional services required as a result of these amendments as providers may choose to hire an outside investigator to conduct investigations of serious reportable incidents and allegations of abuse. The amendments will not add to the professional service needs of local governments.

4. Compliance costs: Providers might incur modest additional costs due to the new restrictions on the choice of an investigator. Providers may either incur the cost of hiring an outside investigator, paying for overtime costs, investigations training of more employees, or hiring more employees to absorb the added responsibilities of those employees who are not precluded by these amendments. Voluntary providers that opt to develop

collaborative agreements with other voluntary providers may or may not incur added costs. Conversely, in the long term, more effective investigations might reduce future incidents and abuse, resulting in savings. OPWDD is unable to quantify these potential additional costs and savings.

5. Minimizing adverse impact: The proposed amendments are expected to result in minimal adverse economic impact to providers. OPWDD considered the approaches for minimizing the adverse economic impact as suggested in section 202-bb(2)(b) of the State Administrative Procedure Act. OPWDD expects that providers are generally already in compliance with existing regulations that discourage them from using immediate supervisors to conduct investigations, which will minimize or eliminate any potential adverse impact on providers that could result from these proposed amendments. As mentioned in the section of this document that addresses compliance requirements, OPWDD anticipates that the prohibition that applies to supervisors in the chain of command might necessitate compliance activities regarding the assignment of the investigator, especially for smaller providers. The development of collaborative agreements between providers will minimize the economic impact on smaller providers, since the providers can thereby avoid the cost of hiring outside investigators if they investigate each others' incidents. In rare instances when the voluntary providers are unable to properly conduct investigations in accordance with the proposed requirements, and are unable to make other arrangements, OPWDD may choose to assign a state employee to investigate the incident or allegation of abuse.

6. Participation of public and private interests in rural areas: The proposed regulations were discussed with representatives of providers on April 18, 2011. Provider associations which were present, such as NYSARC, the NYS Association of Community and Residential Agencies, NYS Catholic Conference, and CP Association of NYS, represent providers throughout New York State including those in rural areas. OPWDD has also notified all providers of these amendments, including providers that are located in rural areas.

Job Impact Statement

A Job Impact Statement for these proposed amendments is not being submitted because OPWDD does not anticipate a substantial adverse impact on jobs and employment opportunities. The proposed amendments prohibit immediate supervisors and parties in the chain of command of directly involved employees from conducting investigations of serious reportable incidents and allegations of abuse. Additionally, these regulations restrict immediate supervisors from reviewing such investigations as a member of the provider's incident review committee.

The proposal does not change the overall amount of work that must be performed; it merely restricts the choice of which person can perform the work. The proposed regulations are therefore not expected to have any adverse impact on employment opportunities. Conversely, there may be a minimal positive impact on jobs as some providers may respond to the proposed restrictions by hiring additional employees to perform investigations, developing collaborative agreements between each other to perform investigations on each other's behalf, or by increasing the use of outside contractors.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Requirements for Training of Employees, Volunteers, Family Care Providers, and Board Members in the OPWDD System

I.D. No. PDD-33-11-00004-P

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

Proposed Action: Amendment of section 633.8 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00

Subject: Requirements for training of employees, volunteers, family care providers, and board members in the OPWDD system.

Purpose: To require annual training in positive relationships, abuse/incidents and safety and security procedures in some situations.

Text of proposed rule:

Paragraph 633.8(a)(1) is amended as follows:

(1) It is the responsibility of the agency/[facility] or the sponsoring agency to heighten the awareness of its employees, volunteers, and [or] family care providers to those factors which affect and/or contribute to situations that can be potentially abusive or harmful. To this end, there shall be training (see [Glossary.] section 633.99 of this Part) of employees, volunteers and family care providers to meet the needs of staff, volunteers and persons *who receive services* [in the facility] in the following topics:

- (i) principles of human growth and development;
- (ii) characteristics of the persons served;
- (iii) *promoting positive relationships*;
- [(iii)] (iv) abuse prevention, identification, reporting, and processing of allegations of abuse;
- [(iv)] (v) laws, regulations and policies/procedures governing protection from abuse;
- [(v)] (vi) incident and abuse reporting and processing;
- [(vi)] (vii) the [facility's] *agency's* safety and security procedures (including fire safety);
- [(vii)] (viii) the prevention of circumstances that would result in exposure to body substances which could put persons or others at significant risk (see glossary) for HIV infection (see glossary);
- [(viii)] (ix) the program for managing anyone exposed to significant risk body substances during circumstances which meet the criteria for significant risk contact; and
- [(ix)] (x) other appropriate topics relative to safety and welfare, especially those that may be related to the functions of the employee, volunteer or family care provider. [; and]

Paragraph 633.8(a)(2) is deleted as follows and paragraphs (3) - (5) are renumbered to be paragraphs (2) - (4):

[(2) While administrators, with substantially equivalent knowledge or experience, may be exempted from specific training programs in accordance with the policies/procedures of the agency, their involvement in such training provides them with the opportunity to model, supervise and understand the employees and volunteers whom they supervise, and is highly desirable.]

Renumbered paragraphs 633.8(a)(3) and (4) are amended as follows:

(3) The agency/[facility] or sponsoring agency shall monitor the need for and supervise the provision of such training specified in paragraphs (1)-[(3)] (2) of this subdivision.

(4) All reasonable and necessary actions shall be taken to ensure that employees, volunteers and family care providers are kept apprised on a current basis of all applicable policies and procedures relating to the protection of [clients] *individuals receiving services* from abuse.

Paragraph 633.8(b)(1) is amended as follows:

(1) [OMRDD] *OPWDD* shall verify that employees [(other than exempted administrators)], volunteers, [or] family care providers have received or will receive training within three months of initial employment, *commencing volunteer activities, or initial certification as a family care provider. The training shall be on:*

- (i) principles of human growth and development;
- (ii) characteristics of the persons served;
- (iii) *promoting positive relationships*;
- [(iii)] (iv) abuse prevention, identification, reporting, and processing of allegations of abuse;
- [(iv)] (v) laws, regulations and policies/procedures governing protection from abuse;
- [(v)] (vi) incident reporting and processing;
- [(vi)] (vii) the [facility's] *agency's* safety and security procedures (including fire safety); and
- [(vii)] (viii) other appropriate topics relative to the safety and welfare as may have been specified by the [facility] *agency*.

A new paragraph 633.8(b)(2) is added as follows and existing paragraphs (2) - (3) are renumbered to be (3) - (4):

(2) *Employees, volunteers and family care providers shall receive training in the areas listed in subparagraphs (1)(iii) - (vii) of this subdivision on at least an annual basis.*

A new paragraph 633.8(b)(5) is added as follows:

(5) *Effective November 1, 2011, members of boards of directors of certain not-for-profit corporations shall receive training within three months of the date the party becomes a board member.*

(i) *This requirement applies only to not-for-profit corporations which operate certified facilities and/or provide Home and Community Based Waiver Services and/or provide Medicaid Service Coordination.*

(ii) *Training of board members is required in the following topics:*
(a) *abuse prevention, identification, reporting, and processing of allegations of abuse;*

(b) *laws, regulations and policies/procedures governing protection from abuse; and*

(c) *incident reporting and processing.*

(iii) *All parties serving on boards of directors on November 1, 2011 shall receive the specified training by February 1, 2012 (if the party remains on the board of directors on February 1, 2012).*

Text of proposed rule and any required statements and analyses may be obtained from: Barbara Brundage, Director, Regulatory Affairs Unit, OPWDD, 44 Holland Avenue, Albany, New York 12229, (518) 474-1830, email: barbara.brundage@opwdd.ny.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.

Additional matter required by statute: Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described herein will have no effect on the environment, and an E.I.S. is not needed.

Regulatory Impact Statement

1. Statutory Authority:

a. OPWDD has the statutory responsibility to provide and encourage the provision of appropriate programs and services in the area of care, treatment, rehabilitation, education and training of persons with developmental disabilities, as stated in the New York State Mental Hygiene Law Section 13.07.

b. OPWDD has the statutory authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the New York State Mental Hygiene Law Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerning the operation of programs, provision of services and facilities pursuant to the New York State Mental Hygiene Law Section 16.00.

2. **Legislative Objectives:** These proposed amendments further the legislative objectives embodied in sections 13.07, 13.09(b), and 16.00 of the Mental Hygiene Law. The proposed amendments would improve the quality of services in the OPWDD system by requiring annual training of state and voluntary agency personnel.

3. **Needs and Benefits:** OPWDD is continually striving to reduce incidents and abuse in its system. The most important element in this effort is to make sure that the individuals who provide services to people with developmental disabilities are both knowledgeable about abuse and act responsibly.

OPWDD currently requires that employees and volunteers of state and non-state providers and family care providers receive training in specific areas when they begin to provide services. The training must include abuse prevention, identification, reporting and processing of allegations of abuse; laws, regulations and policies/procedures governing protection from abuse; and incident and abuse reporting and processing. Current regulations also specify that these individuals be kept apprised on a current basis of all applicable policies and procedures related to protection from abuse. However, this provision does not identify any specific timetable.

The proposed amendments add a requirement that all employees and volunteers of state and non-state providers and family care providers receive initial and annual training on how to promote positive relationships with the individuals they serve. The relationships between individuals providing services and individuals receiving services have an impact on how services are delivered to individuals. OPWDD believes that training on promoting positive relationships will enhance service delivery, thereby helping to prevent abuse in its system.

OPWDD is also proposing that the training currently required for new employees, volunteers and family care providers about abuse and incidents, as well as safety and security procedures, be repeated on at least an annual basis. OPWDD considers that periodic training is important to make sure that all personnel and family care providers in the OPWDD are knowledgeable about what constitutes abuse, how to prevent abuse, and their responsibilities to report and to take appropriate action when abuse is suspected. In addition, it is vitally important that individuals providing services receive at least annual training on the agency's safety and security procedures. The proposed regulations add a specific reference to fire safety procedures.

OPWDD has found that it is necessary to train employees annually in areas such as medication administration and the use of personal intervention techniques in order to be sure that these procedures are performed correctly. Similarly, OPWDD considers that annual training in promoting positive relationships, abuse prevention and reporting, as well as safety and security procedures, is necessary to be sure of the individual's competency in these vital areas. If individuals are not trained on a regular basis, they may forget essential information related to abuse or may not be current regarding changes in pertinent laws, regulations or policies. Training also reinforces the importance of abuse prevention and reporting.

The proposed regulations also add a new requirement that members of boards of directors of not-for-profit corporations receive one-time training pertaining to abuse and incidents. This requirement applies to not-for-profit corporations which operate certified facilities and/or provide HCBS waiver services and/or provide Medicaid Service Coordination. OPWDD expects that this training will enhance the effectiveness of boards of directors of voluntary agencies in providing oversight related to these topics and will reduce future incidents and abuse allegations.

4. Costs:

a. Costs to the agency and to the State and its local governments: OPWDD will not incur additional costs associated with the provision of training to state employees because OPWDD has already made the com-

mitment to provide this training annually. There is no anticipated impact on Medicaid rates, prices or fees. Consequently, there is no impact on the federal government, New York State or local governments because there are no changes in Medicaid expenditures.

b. Costs to private regulated parties: Costs will be incurred by voluntary providers for training required employees, volunteers, family care providers and members of the board and for replacing such necessary individuals while they are being trained. Providers will not be able to recoup these expenditures through rates, fees or prices. OPWDD is aware that many voluntary providers are already providing annual training in these vital areas. These providers will not be incurring any additional costs. However, OPWDD does not have information about the extent of annual training currently being provided. For the purpose of this estimate, OPWDD assumes that approximately half of the required training is already being provided. This would result in an estimated cost to voluntary providers of approximately \$4.5 million. The costs would be much lower in the event that more than half of the required training is already being provided.

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village; or school, fire, or other special district.

6. Paperwork: The proposed regulations will require modest additional paperwork. Training individuals on an annual basis will likely necessitate the production of training materials. In addition, documentation of the training must be maintained.

7. Duplication: The proposed amendments do not duplicate any existing State or federal requirements applicable to programs and services under the jurisdiction of OPWDD.

8. Alternatives: In addition to training on topics such as abuse prevention and reporting and safety and security procedures, OPWDD had considered requiring annual training on other topics required by existing regulations for new employees, volunteers and family care providers of state and voluntary agencies. These topics include: principles of human growth and development, characteristics of the persons served, and other appropriate topics relative to the safety and welfare as may have been specified by the facility. However, upon reconsideration of its initial proposal, OPWDD observed that annual training related to these topics is unnecessary for veteran employees, volunteers and family care providers who regularly provide services to individuals and who have a fundamental knowledge base. OPWDD believes that mandating unnecessary trainings on an annual basis would only hinder providers from focusing on topic areas that are of more value to experienced employees, volunteers and family care providers, such as promoting positive relationships, abuse prevention and reporting and safety and security procedures. As expressed in the needs and benefits section, refresher trainings in these topics are necessary to ensure competency in these vital areas. Consequently, OPWDD has determined that the proposed amendments are more in line with its goals to provide a safe environment for individuals and to reduce abuse in its system.

9. Federal Standards: The proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule: OPWDD expects to finalize the proposed regulations effective November 1, 2011. OPWDD will inform all agencies of its intention to require annual training with sufficient lead time for agencies to provide the necessary training.

Regulatory Flexibility Analysis

1. Effect on small business: The OPWDD has determined, through a review of the certified cost reports, that most OPWDD-funded services are provided by non-profit agencies which employ more than 100 people overall. However, some smaller agencies which employ fewer than 100 employees overall would be classified as small businesses. Currently, there are approximately 700 agencies providing services which are certified, authorized or funded by OPWDD. OPWDD is unable to estimate the portion of these providers that may be considered to be small businesses.

The proposed amendments have been reviewed by OPWDD in light of their impact on small businesses. These amendments require annual training for employees, volunteers and family care providers. The proposed regulations also add a new requirement that members of boards of directors of not-for-profit corporations receive one-time training pertaining to abuse and incidents. The amendments will have an estimated aggregate fiscal impact of \$4.5 million for voluntary agencies.

2. Compliance requirements: The proposed amendments require providers to their train employees, volunteers and family care providers on an annual basis. The amendments also add a new requirement that members of boards of directors of not-for-profit corporations receive one-time training pertaining to abuse and incidents. This requirement applies to providers which operate certified facilities and/or provide HCBS waiver services and/or provide Medicaid Service Coordination.

The amendments will have no effect on local governments.

3. Professional services: There are no additional professional services

required as a result of these amendments and the amendments will not add to the professional service needs of local governments. Providers may choose to engage outside professional trainers but this is not required. Similarly, providers may choose to hire employees who are professional trainers.

4. Compliance costs: The estimated cost of compliance is \$4.5 million for all non-state providers. There are no costs to local governments.

5. Economic and technological feasibility: The proposed amendments do not impose on regulated parties, the use of any new technological processes.

6. Minimizing adverse economic impact: OPWDD has reviewed and considered the approaches for minimizing the adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. OPWDD will be conducting training sessions for its own employees, volunteers and family care providers. When necessary, OPWDD will allow some small business providers which have minimal employees to send their employees, volunteers and family care providers to OPWDD training sessions. OPWDD has also developed training materials related to positive relationships and abuse/incidents which have been posted on its website and are available to all providers free of charge. Non-state providers can choose to have employees provide the necessary training using these training materials in lieu of hiring outside trainers and/or purchasing or developing their own training curricula. This will minimize the cost of complying.

7. Small business participation: The proposed regulations were discussed with representatives of providers, including the New York State Association of Community and Residential Agencies (NYSACRA), on April 18, 2011. Some of the members of NYSACRA have fewer than 100 employees. Finally, OPWDD will be mailing these proposed amendments to all voluntary providers, including voluntary providers that are small businesses.

Rural Area Flexibility Analysis

1. Description of the types and estimation of the number of rural areas in which the rule will apply: OPWDD services are provided in every county in New York State. 44 counties have a population less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. 9 counties with certain townships have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga and Orange.

The proposed amendments have been reviewed by OPWDD in light of their impact on entities in rural areas. The proposed amendments are expected to result in additional expenditures of approximately \$4.5 million for non-state providers of services in the OPWDD system for all of New York State. While the additional requirement will have an adverse fiscal impact on providers, the geographic location of any given program (urban or rural) will not be a contributing factor to any such impact.

2. Compliance requirements: The proposed amendments require that state and non-state providers train their employees, volunteers and family care providers on an annual basis. The amendments also add a new requirement that members of boards of directors of not-for-profit corporations receive one-time training pertaining to abuse and incidents. This requirement applies to voluntary agencies which operate certified facilities and/or provide HCBS waiver services and/or provide Medicaid Service Coordination.

The amendments will have no effect on local governments.

3. Professional services: There are no additional professional services required as a result of these amendments and the amendments will not add to the professional service needs of local governments. State and Voluntary providers may choose to engage outside professional trainers but this is not required. Similarly, providers may choose to hire employees who are professional trainers.

4. Compliance costs: The estimated cost of compliance is \$4.5 million for all voluntary providers. There are no costs to local governments.

5. Minimizing adverse economic impact: OPWDD has reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-bb(2)(b) of the State Administrative Procedure Act. OPWDD will be conducting training sessions for its own employees, volunteers and family care providers. When necessary, OPWDD will allow some voluntary providers which have minimal employees to send their employees, volunteers and family care providers to OPWDD training sessions. Some of these voluntary providers are in rural areas. OPWDD has also developed training materials related to positive relationships and abuse/incidents which have been posted on its website and are available to all providers free of charge. Non-state providers can choose to have employees provide the necessary training using these training materials in

lieu of hiring outside trainers and/or purchasing or developing their own training curricula. This will minimize the cost of complying.

6. Participation of public and private interests in rural areas: The proposed regulations were discussed with representatives of providers on April 18, 2011. Provider associations which were present, such as NYSARC, the NYS Association of Community and Residential Agencies, NYS Catholic Conference, and CP Association of NYS, represent providers throughout New York State including those in rural areas. OWPDD will be mailing these amendments to all providers, including providers that are located in rural areas.

Job Impact Statement

A Job Impact Statement for these proposed amendments is not being submitted because OPWDD does not anticipate a substantial adverse impact on jobs and employment opportunities. The proposed amendments require annual training of agency personnel. There may be a modest increase in job opportunities for trainers as a result of these amendments. In addition, there may be a modest increase in job opportunities as additional employees of state and voluntary providers may be necessary in some instances to replace employees while they are being trained.

Power Authority of the State of New York

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Rates for Sale of Power and Energy

I.D. No. PAS-33-11-00001-P

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

Proposed Action: Increase hydroelectric preference power rates.

Statutory authority: Public Authorities Law, section 1005(5)

Subject: Rates for sale of power and energy.

Purpose: To maintain the system's fiscal integrity.

Public hearing(s) will be held at: 3:00 p.m., Sept. 19, 2011 at Syracuse, NY; 3:00 p.m., Sept. 20, 2011 at Niagara, NY; and 2:00 p.m., Sept. 22, 2011 at Massena, NY.

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

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

Substance of proposed rule: The Power Authority of the State of New York (the "Authority") proposes to increase the rates for preference power supplied from the Niagara and St. Lawrence Hydroelectric Projects. In total, 1,892 megawatts of power and energy sold by the Authority is currently subject to the preference power rate. The Authority's preference power rates apply generally to sales to forty-seven municipal electric systems, four rural electric cooperatives, the neighboring state customers, three upstate investor owned utilities for resale to their residential customers and the Niagara Project relicensing host communities.

The proposed rate increase would allow the Authority to recover the increased costs associated with serving the customers subject to the preference power rate. In order to mitigate customer bill impacts, the proposed increase will be phased in over a 42-month period from November 2011 through April 30, 2015.

The Authority's proposal would provide for an effective rate of \$11.42/MWh for a typical customer in the 2011 rate year (November 1, 2011 to April 30, 2012), \$12.16/MWh in the 2012 rate year (May 1, 2012 to April 30, 2013), \$12.98/MWh in the 2013 rate year (May 1, 2013 to April 30, 2014) and \$13.87/MWh in the 2014 rate year (May 1, 2014 to April 30, 2015).

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) 390-8095, 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 proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Public Service Commission

NOTICE OF WITHDRAWAL

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

The following rule makings have been withdrawn from consideration:

I.D. No.	Publication Date of Proposal
PSC-02-01-00012-P	January 10, 2001
PSC-24-01-00014-P	June 13, 2001
PSC-06-02-00016-P	February 6, 2002
PSC-15-02-00010-P	April 10, 2002
PSC-16-02-00019-P	April 17, 2002
PSC-29-02-00019-P	July 17, 2002
PSC-41-02-00014-P	October 9, 2002
PSC-44-02-00010-P	October 30, 2002
PSC-09-03-00016-P	March 5, 2003
PSC-09-03-00017-P	March 5, 2003
PSC-22-03-00021-P	June 4, 2003
PSC-22-03-00023-P	June 4, 2003
PSC-22-03-00026-P	June 4, 2003
PSC-51-03-00007-P	December 24, 2003
PSC-16-04-00011-P	April 21, 2004
PSC-16-04-00012-P	April 21, 2004
PSC-16-04-00013-P	April 21, 2004
PSC-22-04-00014-P	June 2, 2004
PSC-45-04-00020-P	November 10, 2004
PSC-02-05-00005-P	January 12, 2005
PSC-12-05-00013-P	March 23, 2005
PSC-13-05-00017-P	March 30, 2005
PSC-19-05-00015-P	May 11, 2005
PSC-41-05-00012-P	October 12, 2005
PSC-24-07-00016-P	June 13, 2007
PSC-24-07-00017-P	June 13, 2007
PSC-24-07-00018-P	June 13, 2007
PSC-24-07-00019-P	June 13, 2007
PSC-24-07-00020-P	June 13, 2007
PSC-24-07-00021-P	June 13, 2007
PSC-24-07-00022-P	June 13, 2007
PSC-24-07-00023-P	June 13, 2007
PSC-24-07-00024-P	June 13, 2007
PSC-29-07-00027-P	July 18, 2007
PSC-29-07-00028-P	July 18, 2007
PSC-29-07-00029-P	July 18, 2007
PSC-32-07-00005-P	August 8, 2007
PSC-10-08-00012-P	March 5, 2008
PSC-32-08-00011-P	August 6, 2008

NOTICE OF ADOPTION

Application for a Waiver of 16 NYCRR Sections 86.3(a)(1)(i) and (iii), 86.3(a)(2), 86.3(b)(1) and (2), 88.4(a)(4)

I.D. No. PSC-52-01-00020-A

Filing Date: 2011-07-28

Effective Date: 2011-07-28

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

Action taken: On 6/20/07, the PSC adopted an order granting Long Island Power Authority (LIPA) waivers of the requirements of 16 NYCRR sections 86.3(a)(1)(i) and (iii), 86.3(a)(2), 86.3(b)(1) and (2), 88.4(a)(4) for application requirements.

Statutory authority: Public Service Law, section 122

Subject: Application for a waiver of 16 NYCRR sections 86.3(a)(1)(i) and (iii), 86.3(a)(2), 86.3(b)(1) and (2), 88.4(a)(4).

Purpose: To approve the application for a waiver of 16 NYCRR sections 86.3(a)(1)(i) and (iii), 86.3(a)(2), 86.3(b)(1) and (2), 88.4(a)(4).

Substance of final rule: The Commission, on June 20, 2007, adopted an order granting Long Island Power Authority (LIPA) waivers of the requirements of 16 NYCRR sections 86.3(a)(1)(i) and (iii), 86.3(a)(2), 86.3(b)(1) and (2), 88.4(a)(4) related to application requirements for replacement of a 138 kV electric transmission line facility between Northport, New York and Norwalk, Connecticut, 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, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

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.
(01-T-1679SA1)

NOTICE OF ADOPTION

Petition for Installation of Equipment on Con Edison Transmission Facilities

I.D. No. PSC-30-07-00010-A

Filing Date: 2011-08-02

Effective Date: 2011-08-02

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

Action taken: On 11/8/07, the PSC adopted an order granting the petition of Consolidated Edison Company of New York, Inc. and New Cingular Wireless for installation of equipment on Con Edison transmission facilities.

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

Subject: Petition for installation of equipment on Con Edison transmission facilities.

Purpose: To grant the petition for installation of equipment on Con Edison transmission facilities.

Substance of final rule: The Commission, on November 7, 2007 adopted an order granting the petition of Consolidated Edison Company of New York, Inc. (Con Edison) and New Cingular Wireless for installation of cellular antennas and base equipment on Con Edison transmission facilities, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(07-M-0744SA1)

NOTICE OF ADOPTION

Denying the Petition for Rehearing and Other Relief and Granting Clarification on its Own Motion

I.D. No. PSC-04-08-00011-A

Filing Date: 2011-07-28

Effective Date: 2011-07-28

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

Action taken: On 3/19/08, the PSC adopted an order denying the petition of Carmine F. Vasile, PhD for rehearing and other relief and granting clarification on its own motion.

Statutory authority: Public Service Law, section 122

Subject: Denying the petition for rehearing and other relief and granting clarification on its own motion.

Purpose: To deny the petition for rehearing and other relief and granting clarification on its own motion.

Substance of final rule: The Commission, on March 19, 2008, adopted an order denying the petition of Carmine F. Vasile, PhD for rehearing and other relief and granting clarification on its own motion, 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, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: leann_ayer@dps.state.ny.us An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

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.
(06-M-0878SA4)

NOTICE OF ADOPTION

Waiver of Individual Metering Requirements

I.D. No. PSC-24-11-00006-A

Filing Date: 2011-08-02

Effective Date: 2011-08-02

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

Action taken: On 8/2/11, the PSC adopted an order approving the petition of Rockland Housing Action Coalition, Inc. and Hyenga Lake Development LLC for a waiver of individual metering requirements.

Statutory authority: Public Service Law, section 89

Subject: Waiver of individual metering requirements.

Purpose: To approve a waiver of individual metering requirements.

Substance of final rule: The Commission, on August 2, 2011 adopted an order approving the petition of Rockland Housing Action Coalition, Inc. and Hyenga Lake Development LLC for a waiver of individual metering requirements, 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.
(11-W-0274SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Water Rates and Charges

I.D. No. PSC-33-11-00005-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 request from Arrow Park, Inc. to increase its annual revenue by \$10,052 or 144%, implement a surcharge of \$46.60 per customer and increase its restoration of service charges.

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

Subject: Water rates and charges.

Purpose: For approval to increase annual revenue by about \$10,052 or 144%, and establish a surcharge of \$46.60 per customer.

Substance of proposed rule: On July 22, 2011, Arrow Park, Inc. (Arrow Park or the company) filed several amendments to its tariff PSC No. 3-Water. The company is proposing that Leaf No. 10 Revision 1, which contains increases in its restoration of service charges, and Surcharge Statement No. 1, which would implement a surcharge for recent extraordinary expenditures, become effective November 1, 2011, and that Leaf No. 12 Revision 1, which contains its rate increase request, become effective July 1, 2012.

The company is requesting to be allowed to increase its annual service charge from \$175.29 to \$489, and to increase the usage rate from \$1.55 per thousand gallons to \$2.50 per thousand gallons for all usage. The company estimates that the new rates would produce an increase in annual revenues of \$10,052 or 144%.

Arrow Park is also requesting to be allowed to establish a customer surcharge to recover recent extraordinary expenses which total \$10,438 related to leak repairs and a well pump replacement. To recover this amount the customers would be billed eight payments of \$46.60 per customer. The first payment would be due November 1, 2011, the second payment would be due January 1, 2012, and the surcharge would continue quarterly thereafter until the full amount of \$10,438 is collected.

In addition, Arrow Park requests to be allowed to increase its restoration of service charge from \$10 at all times to \$50 during normal business hours, \$75 outside of normal business hours, and \$100 during weekends and holidays.

Arrow Park provides metered water service to 28 residential customers in the Hamlet of Arrow Park, Town of Monroe, Orange County. Fire protection service is not provided.

The company's tariff and the pending rate increase request will be available online on the Commission's web site on the World Wide Web (www.dps.state.ny.us) located under Commission (Document-Tariffs). The Commission may approve or reject, in whole or in part, or modify the company's requests.

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. Brilling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 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.

(11-W-0389SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Water Rates and Charges

I.D. No. PSC-33-11-00006-P

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

Proposed Action: The Public Service Commission is considering a petition of West Valley Crystal Water Company, Inc. for Emergency Funding Approval.

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 emergency escrow account fund through a customer surcharge.

Substance of proposed rule: On July 8, 2011, West Valley Crystal Water Company, Inc. (West Valley or the company) filed a petition requesting approval to establish an emergency escrow account to be funded through a customer surcharge. The emergency escrow account would be used to cover the cost of repairs to water mains damaged as a result of the National Fuel Gas Distribution Corporation's current efforts to install gas mains in West Valley's service territory. West Valley provides unmetered water service to approximately 217 customers in the Village of West Valley, Cattaraugus County. The Commission may approve or reject, in whole or in part, or modify the company's request.

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

Data, views or arguments may be submitted to: Jaclyn A. Brilling, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 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.

(11-W-0357SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

To Deny, Grant or Modify, in Whole or in Part Central Hudson's Rehearing Request

I.D. No. PSC-33-11-00007-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 by Central Hudson Gas & Electric Corporation seeking rehearing of an Order concerning the deferral of expenses by the Company for the twelve months ended 06/30/2010.

Statutory authority: Public Service Law, sections 22 and 66

Subject: To deny, grant or modify, in whole or in part Central Hudson's rehearing request.

Purpose: To deny, grant or modify, in whole or in part Central Hudson's rehearing request.

Substance of proposed rule: Central Hudson Gas & Electric Corporation (Central Hudson or Company) has requested rehearing of a Commission Order concerning the deferral for future rate recovery, with carrying charges, of incremental electric storm restoration, electric bad debt write-off expenses, electric property tax expense and gas property tax expense related to the twelve months ended June 30, 2010, and the ability to offset the above described deferred expenses against certain tax benefits arising from a change in accounting related to repair and maintenance costs. The Commission may adopt, reject or modify, in whole or in part, Central Hudson's rehearing request, and may also consider any related matters.

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. Brilling, 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-0473SP2)

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

Demand Response Programs

I.D. No. PSC-33-11-00008-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 filing by Consolidated Edison Company of New York, Inc. to make various changes in the rates, charges, rules and regulations contained in its Schedule for Steam Service, P.S.C. No. 4—Steam.

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

Subject: Demand Response Programs.

Purpose: To establish pilot programs for demand response and for customer sited supply.

Substance of proposed rule: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison) to establish pilot programs for demand response (“DR”) and for customer sited supply (“CSS”) and to recover costs and lost revenues associated with these programs. Rider F – DR Pilot Program will have a winter DR pilot program (November 1, 2011 through March 31, 2012) and a summer DR pilot program (April 1, 2012 through October 31, 2012). Rider G – CSS Pilot Program is being established for the purchase of steam from steam customers that have a combined heat and power facility on their premises. Con Edison also proposes cost and lost revenue recovery through the Special Monthly Adjustment and the costs of fuel, as applicable. The proposed filing has an effective date of October 17, 2011. The Commission may adopt in whole or in part, modify or reject Con Edison’s proposal. The Commission may apply aspects of its decision here to the requirements for tariffs of other utilities.

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. Brilling, 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. (09-S-0794SP3)

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

Whether to Grant, Deny or Modify, in Whole or in Part the Petition of URAC for a Cease and Desist Order and Other Relief

I.D. No. PSC-33-11-00009-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 whether to grant, deny

or modify, in whole or in part the petition of URAC for a cease and desist order and other relief against Con Edison for allegedly providing erroneous information regarding voluntary time of use rates.

Statutory authority: Public Service Law, sections 2(11), (13), 4(1), 5(1)(b), 65(1), 66(1), (5), (9), (27)(a) and (b)

Subject: Whether to grant, deny or modify, in whole or in part the petition of URAC for a cease and desist order and other relief.

Purpose: Whether to grant, deny or modify, in whole or in part the petition of URAC for a cease and desist order and other relief.

Substance of proposed rule: The Public Service Commission is considering whether to approve, deny, or modify in whole or in part, the petition of Utility Rate Analysis Consultants (URAC) for a cease and desist order against Consolidated Edison Company of New York, Inc. (Con Edison or the Company) for allegedly providing erroneous information to customers regarding voluntary time of use rates. In addition, URAC requests that the Commission order a full investigation into Con Edison’s actions and the detrimental effect such action is allegedly causing on the voluntary time of day program. Should Con Edison concede and/or the Commission find that Con Edison has presented erroneous information to these consumers, URAC requests that a full and detailed explanation be required of the Company and that it also be required to remedy the problem.

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. Brilling, 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. (11-M-0326SP1)

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

Provide Opportunity to Reduce EEPs Cumulative Targets Through 2011 Due to Implementation of Technical Manual

I.D. No. PSC-33-11-00010-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 the need for restated targets for thirteen electric and four gas Energy Efficiency Portfolio Standard (EEPS) programs to account for changes in the way energy savings are calculated in the EEPs Technical Manual.

Statutory authority: Public Service Law, sections 4(1), 5(2) and 66(1)

Subject: To provide opportunity to reduce EEPs cumulative targets through 2011 due to implementation of Technical Manual.

Purpose: To encourage cost-effective electric and gas energy conservation in the State.

Substance of proposed rule: The Commission is considering whether to adopt, in whole or in part, to reject, or to take any other action with respect to a recommendation by the Staff of the Department of Public Service on the need for restated targets for thirteen electric and four gas Energy Efficiency Portfolio Standard (EEPS) programs to account for changes in the way energy savings are calculated because of adoption of the consolidated Technical Manual entitled New York Standard Approach for Estimating Energy Savings from Energy Efficiency Programs - Residential, Multi-Family and Commercial/Industrial Measures,” dated October 15, 2010. The Program Administrators affected by these proposed restated targets are Central Hudson Gas & Electric Corporation; Consolidated Edison Company of New York, Inc.; Orange and Rockland Utilities, Inc.; New York State Electric & Gas Corporation; Rochester Gas and Electric Corporation; and Niagara Mohawk Power Corporation, The Brooklyn Union Gas Company and KeySpan Gas East Corporation d/b/a National Grid.

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. Brilling, 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.

(07-M-0548SP43)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Tariff Changes that are Designed to Amend KEDNY's Tariff to Amend and Clarify the Requirements and Procedures

I.D. No. PSC-33-11-00011-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 the Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Service (tariff).

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff changes that are designed to amend KEDNY's tariff to amend and clarify the requirements and procedures.

Purpose: To make changes to the rates, charges, rules and regulations in KEDNY's tariff to become effective November 1, 2011.

Substance of proposed rule: The Commission is considering a proposal filed by The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to amend and clarify the requirements and procedures for KEDNY's customers taking service under Service Classification No. 5A—Interruptible Sales Service, Service Classification No. 6C—Temperature Control Service Commercial, Service Classification No. 6G—Temperature Control Service Governmental, Service Classification No. 6M—Temperature Control Service Multi-Family, Service Classification No. 18—Non-Core Transportation Service. The proposed filing has an effective date of November 1, 2011. The Commission may adopt in whole or in part, modify or reject KEDNY's proposal. The Commission may apply aspects of its decision here to the requirements for tariffs of other utilities.

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. Brilling, 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.

(11-G-0411SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Lightened and Incidental Regulation of AETS' Ownership and Operation of its Gas Transportation Pipeline

I.D. No. PSC-33-11-00012-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 from Alli-

ance Energy Transmissions - Syracuse LLC (AETS) requesting lightened and incidental regulation of its ownership and operation of its gas transportation pipeline.

Statutory authority: Public Service Law, sections 2(13), (22), 5(1)(b), 64, 65, 66, (13), 68, 69, 69-a, 70, 71, 72, 72-a, 75, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Lightened and incidental regulation of AETS' ownership and operation of its gas transportation pipeline.

Purpose: Consideration of lightened and incidental regulation of AETS' ownership and operation of its gas transportation pipeline.

Substance of proposed rule: The Public Service Commission is considering a petition from Alliance Energy Transmissions - Syracuse LLC (AETS) requesting lightened and incidental regulation of its ownership and operation of the gas transportation pipeline it intends to purchase from Project Orange Associates LLC. The approximately 9.5 mile pipeline runs between the interstate Tennessee Gas Pipeline at an interconnection located in the Town of Lafayette, New York to a site within the campus of Syracuse University in the City of Syracuse, New York, and will be used to provide gas transportation service to Syracuse University. The Commission may adopt, reject or modify, in whole or in part, the relief proposed.

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. Brilling, 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.

(11-G-0397SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Tariff Changes that are Designed to Amend KEDLI's Tariff to Amend and Clarify the Requirements and Procedures

I.D. No. PSC-33-11-00013-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 KeySpan Gas East Corporation d/b/a National Grid (KEDLI) to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Service (tariff).

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff changes that are designed to amend KEDLI's tariff to amend and clarify the requirements and procedures.

Purpose: To make changes to the rates, charges, rules and regulations in KEDLI's tariff to become effective November 1, 2011.

Substance of proposed rule: The Commission is considering a proposal filed by KeySpan Gas East Corporation d/b/a National Grid (KEDLI) to amend and clarify the requirements and procedures for KeySpan's customers taking service under Service Classification No. 4—Interruptible Sales Service, Service Classification No. 7—Interruptible Transportation Service, Service Classification No. 12—Temperature Control Service, and Service Classification No. 13—Temperature Control Transportation Service. The proposed filing has an effective date of November 1, 2011. The Commission may adopt in whole or in part, modify or reject KEDLI's proposal. The Commission may apply aspects of its decision here to the requirements for tariffs of other utilities.

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. Brilling, 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.

(11-G-0412SP1)

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

Petition for Pending Acquisition Transaction

I.D. No. PSC-33-11-00015-P

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

Proposed Action: The PSC is considering a petition of Warwick Valley Telephone Company to acquire the operations of Alteva, LLC.

Statutory authority: Public Service Law, section 107

Subject: Petition for pending acquisition transaction.

Purpose: To permit Warwick Valley Telephone Co. to use revenues for an acquisition.

Substance of proposed rule: The Public Service Commission is deciding whether to grant, modify or deny, in whole or in part, Warwick Valley Telephone Company's petition to acquire the operations of Alteva, LLC. The Commission will consider the petition, which may involve grants of authority under Public Service Law sections 107. The Commission shall consider all other related matters.

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. Brilling, 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.

(11-C-0402SP1)

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

Approval of the Transfers to AETS from Project Orange of a Gas Transportation Pipeline and its Article VII Certificate

I.D. No. PSC-33-11-00016-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 from Alliance Energy Transmissions - Syracuse LLC (AETS) and Project Orange Associates LLC (Project Orange) requesting approval of the transfers a gas transportation pipeline and its Article VII Certificate.

Statutory authority: Public Service Law, sections 70 and 121(2)

Subject: Approval of the transfers to AETS from Project Orange of a gas transportation pipeline and its Article VII Certificate.

Purpose: Consideration of the transfers to AETS from Project Orange of a gas transportation pipeline and its Article VII Certificate.

Substance of proposed rule: The Public Service Commission is considering a petition from Alliance Energy Transmissions - Syracuse LLC (AETS) and Project Orange Associates LLC (Project Orange) requesting approval of the transfers from Project Orange to AETS of an approximately

9.5 mile pipeline and the Public Service Law Article VII Certificate of Environmental Compatibility and Public Need for the pipeline issued by the Commission on June 5, 1989 in Case No. 88-T-082. The pipeline runs between the interstate Tennessee Gas Pipeline at an interconnection located in the Town of Lafayette, New York to a site within the campus of Syracuse University in the City of Syracuse, New York, and will be used to provide gas transportation service to Syracuse University. The Commission may adopt, reject or modify, in whole or in part, the relief proposed.

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. Brilling, 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.

(11-M-0396SP1)

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

Petition for the Submetering of Electricity

I.D. No. PSC-33-11-00017-P

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

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by 56-7th Avenue LLC to submeter electricity at 56-7th Avenue, New York, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Petition for the submetering of electricity.

Purpose: To consider the request of 56-7th Avenue LLC to submeter electricity at 56-7th Avenue, New York, New York.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by 56-7th Avenue LLC to submeter electricity at 56-7th Avenue, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.state.ny.us/f96dir.htm>. For questions, contact: 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. Brilling, 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.

(11-E-0400SP1)