

RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice.
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Department of Corrections and Community Supervision

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Edgecombe Residential Treatment Facility

I.D. No. CCS-21-13-00001-P

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

Proposed Action: This is a consensus rule making to amend section 100.96 of Title 7 NYCRR.

Statutory authority: Correction Law, section 70

Subject: Edgecombe Residential Treatment Facility.

Purpose: To add work release and residential treatment for females to Edgecombe Residential Treatment Facility.

Text of proposed rule: Amend 100.96, 7 NYCRR, as follows: amend Section (b) and repeal Section (c)

(a) There shall be in the department a facility to be known as Edgecombe Residential Treatment Facility, which shall be located in the borough of Manhattan, City and State of New York, and which shall consist of the property under the jurisdiction of the department on the land and building at 611 Edgecombe Avenue, New York, NY 10032.

(b) Edgecombe Residential Treatment Facility shall be *classified as a minimum security correctional facility for offenders*[males] 16 years of age or older *to be used for the following purposes.*

- (1) *general confinement facility for males;*
- (2) *residential treatment facility for males; and*
- (3) *work release and residential treatment facility for females.*

[(c) Edgecombe Residential Treatment Facility shall be classified as a

minimum security correctional facility, to be used for the following functions:

- (1) [Reserved]
- (2) residential treatment facility; and
- (3) general confinement facility.]

Text of proposed rule and any required statements and analyses may be obtained from: Maureen E. Boll, Deputy Commissioner and Counsel, NYS Department of Corrections and Community Supervision, 1220 Washington Avenue - Harriman State Campus - Building 2, Albany, NY 12226-2050, (518) 457-4951, email: Rules@doccs.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.

Consensus Rule Making Determination

The Department of Corrections and Community Supervision has determined that no person is likely to object to the proposed action. See SAPA section 102(11)(a).

The proposed rule change amends 7 NYCRR § 100.96 to reflect the addition of work release and residential treatment program for females at Edgecombe Residential Treatment Facility. The Department's authority resides in section 70 of Correction Law, which mandates that each correctional facility must be designated in the rules and regulations of the Department and assigns the Commissioner the duty to classify each facility with respect to the type of security maintained and the function as specified. See Correction Law § 70(6).

Job Impact Statement

A job impact statement is not submitted because this proposed rule will have no adverse impact on jobs or employment opportunities. This proposal reflects the addition of work release and residential treatment program for females at Edgecombe Residential Treatment Facility.

Department of Environmental Conservation

NOTICE OF ADOPTION

Volatile Organic Compound (VOC) Limits Used in Surface Coating Processes

I.D. No. ENV-44-12-00016-A

Filing No. 496

Filing Date: 2013-05-06

Effective Date: 30 days after filing

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

Action taken: Amendment of Parts 200 and 201, and Subparts 228-1 and 228-2 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 3-0303, 19-0103, 19-0105, 19-0107, 19-0301, 19-0302, 19-0303, 19-0305, 71-2103 and 71-2105; and section 182 of the Federal Clean Air Act (42 USC section 7511a)

Subject: Volatile organic compound (VOC) limits used in surface coating processes.

Purpose: Improve air quality by reducing the emissions of VOCs which are precursors to Ozone (smog).

Substance of final rule: The New York State Department of Environmental Conservation (Department) proposes to revise Parts 200, 'General Provisions,' and 201, 'Permits and Registrations'; and Subparts 228-1, 'Surface Coating Processes' and 228-2, 'Commercial and Industrial Adhesives, Sealants and Primers,' of Title 6 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (6 NYCRR). The proposed changes to Subpart 228-1, and attendant revisions to Parts 200 and 201, incorporate federal Control Techniques Guidelines (CTGs) establishing Reasonably Available Control Technology (RACT) for volatile organic compounds (VOCs) emitted by surface coating processes.

Proposed revisions to Part 200 will add three references in Table 1 of Section 200.9; and update the publication date and page numbers of existing referenced documents to the 2006 Code of Federal Regulations.

Proposed revisions to Part 201 revise the criteria for a facility performing surface coating processes to qualify as an exempt activity pursuant to 6 NYCRR Part 201-3.2(c)(17). The existing provisions exempt facilities using less than 25 gallons per month of coating materials (paints) and cleaning solvents, combined. The proposed revision provides an optional exemption criterion for facilities with actual VOC emissions of 1,000 pounds or less from coating materials in any 12-month period. The final revisions to Part 201 differ slightly from the proposed text due to intervening Part 201 rulemaking changes which became effective on February 22, 2013. In addition, a non-substantive change was made to clarify language regarding the optional VOC exemption criteria.

Proposed Section 228-1.1, 'Applicability and Exemptions', is being revised to reflect the applicability criteria specified in seven of EPA's final CTGs for specific coating processes. Consistent with the current regulation, all surface coating facilities located in the New York City metropolitan area, and the Orange County towns of Blooming Grove, Chester, Highlands, Monroe, Tuxedo, Warwick, and Woodbury, are subject to the regulation. Surface coating facilities located outside the above counties and towns have specific applicability criteria for various surface coating processes. These criteria range from a facility using 55 gallons of coating or more per year up to having a potential to emit 50 tons or more of VOCs on an annual basis. Typically, only facilities that have actual emissions of three tons per year or more are subject to the control requirements of the revised regulation. All others are subject only to Section 228-1.3, 'General Requirements'.

Proposed Section 228-1.2, 'Definitions,' sets forth several definitions specific to Subpart 228-1. This section includes many new definitions that are consistent with the federal CTGs, including several added coating types used in the updated coating processes. Unless they are inconsistent with Subpart 228-1, the definitions in Part 200 also apply.

Proposed Section 228-1.3, 'General Requirements', is a new section added to Subpart 228-1 which describes the minimum requirements applicable to all surface coating facilities. It combines provisions from the current regulations related to: opacity limit; recordkeeping; prohibition of sale or specification; and handling, storage and disposal of volatile organic compounds. It also sets forth acceptable application techniques common to many surface coating processes.

Proposed Section 228-1.4, 'Requirements for controlling VOC emissions using compliant materials' lists the maximum VOC content allowed for coatings used in surface coating processes. The proposed revisions include additional requirements as well as exceptions specific to a coating process, coating type or application requirements.

Proposed Section 228-1.5, 'Requirements for controlling VOC emissions using add on controls or coating systems' provides alternatives to complying with the VOC content limits of Section 228-1.4. Most coating processes are allowed alternative means of compliance. Under the proposed revisions, they can comply with the regulation by: 1) controlling their emissions using a capturing system followed by treatment of the VOCs; 2) using a combination of VOC content coatings compliant with Section 228-1.4 along with non-compliant ones, and with or without added controls, in a "coating system", acceptable to the Department; or 3) providing a process-specific reasonably available control technology (RACT) demonstration, subject to the satisfaction of the Department, which shows that the requirements cannot be economically or technically achieved.

Proposed Section 228-1.6, 'Reports, sampling and analysis', specifies the requirements necessary to determine and maintain compliance with the regulation. This section allows the Department to have reasonable access to subject facilities to obtain samples of any material containing VOC in order to determine compliance, and specifies the test methods used for add on control systems to show compliance with the applicable requirements.

Proposed revisions to Subpart 228-2 make clarifying changes and are non-substantive. Also, the Department has determined Subsection 228-2.7(a)(1), the labeling provision requiring that manufacturers specify the category name, is unnecessary and is therefore removing that provision.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 228-1.1(a)(1), (b)(9), 228-1.3(b)(1), 228-1.4(b)(8), (9), (c)(3), (d)(3), 228-1.6(f), 228-2.2(a)(6), 200.9 and 201-3.2(c)(17).

Text of rule and any required statements and analyses may be obtained from: John L. Henkes, PE, NYSDEC, Division of Air Resources, 625 Broadway, Albany, NY 12233-3254, (518) 402-8403, email: airregs@gw.dec.state.ny.us

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

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

No changes were made to previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Initial Review of Rule

As a rule that requires a Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement this rule will be initially reviewed in the calendar year 2016, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Department of Environmental Conservation (Department) is amending 6 NYCRR Subpart Part 228-1, Surface Coating Processes; with attendant changes to 6 NYCRR Part 200, General Provisions, and Part 201, Permitting Requirements. The changes include re-organization; lowering of some applicability criteria; major changes to coating categories and VOC content limits; and VOC treatment efficacy. These revisions will update the current regulation, consistent with EPA's current 'Control Technique Guidelines' for affected surface coating processes. This rulemaking also re-organizes and makes clarifying changes to 6 NYCRR Part 228-2, Commercial and Industrial Adhesives, Sealants and Primers.

The Department published the proposed regulations on October 31, 2012. Hearings were held in Avon on December 18, 2012; Albany on December 20, 2012; and Long Island City on December 17, 2012. The comment period closed at 5:00 p.m. on December 28, 2012. The Department received written comments from nine commenters representing coating industry trade organizations/associations and Government agencies including: the U.S. Environmental Protection Agency, U.S. Department of Defense, and the Business Council of New York State. The Department assessed these comments in the Assessment of Public Comments (APC) document included with this rulemaking.

The commenters generally expressed support for the Department's adoption of the proposed regulations. No comments were received expressing opposition to the proposed regulation. Most of the comments received were general in nature or requests for clarification. There were also a number of specific requests to change VOC limits from those proposed; and add coating types/categories and VOC limits that were not proposed. None these types of requests were incorporated into the final regulation. Some comments were beyond the scope of this rulemaking, or lacked sufficient justification to make requested changes to the proposed rule at this time.

Department of Financial Services

EMERGENCY RULE MAKING

Unclaimed Life Insurance Benefits and Policy Identification

I.D. No. DFS-21-13-00002-E

Filing No. 495

Filing Date: 2013-05-06

Effective Date: 2013-05-06

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

Action taken: Addition of Part 226 (Regulation 200) to Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202 and 302; and Insurance Law, sections 301, 316, 1102, 1104, 2601, 4521, 4525 and art. 24

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

Specific reasons underlying the finding of necessity: Many life insurance companies and fraternal benefit societies ("insurers") have not adopted or

implemented reasonable procedures and standards for investigating claims and locating beneficiaries with respect to death benefits payable under life insurance policies, annuity contracts and accounts ("policies and accounts"). The Department conducted an investigation into how such insurers track life insurance policy holders. The Department's investigation found that many insurers regularly use lists of recent deaths from the U.S. Social Security Administration ("SSA") to promptly cease making annuity payments. However, most insurers had not been using that list to determine whether death benefits were payable to beneficiaries or amounts under accounts appropriately distributed. While insurers were extremely diligent about terminating benefits, they were much less so in seeing that benefits were paid to beneficiaries and that monies held by them in accounts were properly distributed.

On July 5, 2011, the Department issued a letter to insurers, pursuant to New York Insurance Law section 308 ("308 Letter"), that required every insurer to submit a report that included a narrative summary of the SSA's Death Master File ("SSA Master File") cross-check procedures implemented by the insurer; the overall results of the SSA Master File cross-check; the current procedures utilized by the insurer to locate beneficiaries, and a serial listing of death benefits paid as a result of the SSA Master File cross-check. To date, over \$262 million has been paid to beneficiaries nationwide, including more than \$95 million paid to New York beneficiaries. The 308 Letter required a one-time cross-check of the SSA Master File. This rule requires insurers to continue to perform regular SSA Master File cross-checks and to request more detailed beneficiary information (e.g., social security number, address) when policies are issued to facilitate locating and making payments to beneficiaries.

The current system leads to many abuses, for example in situations where deaths occur but without claims being filed, with an insurer continuing to deduct premiums from the account value or cash value until policies lapse. In other instances, the policies or accounts may simply remain dormant after death. In these instances, a valid death benefit is either not paid or distributed or is delayed. Insurers must take reasonable steps to ensure that policyowners and policy beneficiaries are provided with all of the benefits for which they have paid and to which they are entitled.

To ensure that policyowners and policy beneficiaries are provided with all such benefits, this Part requires insurers to implement reasonable procedures to identify unclaimed death benefits, locate beneficiaries, and make prompt payments. In addition, to further ensure payment of unclaimed benefits, this Part requires insurers to respond to requests from the Superintendent to search for policies insuring the life of, or owned by, decedents, and to initiate the claims process for any death benefits that are identified as a result of those requests. Any delay in implementing these requirements will result in beneficiaries not receiving benefits or having monies distributed to them to which they are entitled, and in insurers thereby undeservedly retaining such amounts.

For the reasons stated above, the promulgation of this regulation on an emergency basis is necessary for the general welfare.

Subject: Unclaimed Life Insurance Benefits and Policy Identification.

Purpose: To ensure payment of unclaimed benefits to policyowners and policy beneficiaries.

Text of emergency rule: *Unclaimed Life Insurance Benefits And Policy Identification*

Section 226.0 Purpose

(a) The Department has conducted an investigation into how life insurance companies and fraternal benefit societies track life insurance policyholders. The Department's investigation has found that many insurers have been regularly using lists of recent deaths from the Social Security Administration to promptly cease making annuity payments. However, most insurers had not been using the lists to determine whether death benefits were payable to beneficiaries.

(b) The public needs to know that insurers are taking reasonable steps to ensure that policyowners and policy beneficiaries are provided with all of the life insurance benefits for which they have paid and to which they are entitled. In particular, there may be instances where a death has occurred and no claim has been filed, but premiums continue to be deducted from the existing policy values until the policy lapses. In other instances, the policies or accounts may simply remain dormant after death. In these instances, a valid death benefit is either not paid or distributed or is delayed.

(c) To ensure that policyowners and policy beneficiaries are provided with all of the benefits for which they have paid and to which they are entitled, this Part requires insurers to implement reasonable procedures to identify unclaimed death benefits, locate beneficiaries, and make prompt payments. In addition, to further ensure payment of unclaimed benefits, this Part requires insurers to respond to requests from the superintendent to search for policies insuring the life of, or owned by, decedents and to initiate the claims process for any death benefits that are identified as a result of those requests.

Section 226.1 Definitions

(a) Account means:

(1) any mechanism, whether denoted as a retained asset account or otherwise, whereby the settlement of proceeds payable to a beneficiary under a policy is accomplished by the insurer or an entity acting on behalf of the insurer placing the proceeds into an account where the insurer retains those proceeds and the beneficiary has check or draft writing privileges; or

(2) any other settlement option relating to the manner of distribution of the proceeds payable under a policy.

(b) Death index means the death master file maintained by the United States social security administration or any other database or service that is at least as comprehensive as the death master file maintained by the United States social security administration and that is acceptable to the superintendent.

(c) Insured means an individual covered by a policy or an annuitant when the annuity contract provides for benefits to be paid or other monies to be distributed upon the death of the annuitant.

(d) Insurer means a life insurance company or fraternal benefit society.

(e) Lost policy finder means a service made available by the Department of Financial Services on its website or otherwise developed by the superintendent either on his or her own or in conjunction with other state regulators, to assist consumers with locating unclaimed life insurance benefits.

(f) Policy means a life insurance policy, an annuity contract, a certificate under a life insurance policy or annuity contract, or a certificate issued by a fraternal benefit society, under which benefits are to be paid upon the death of the insured, including a policy that has lapsed or been terminated.

Section 226.2 Applicability

(a) This Part shall apply to a policy issued by a domestic insurer and any account established under or as a result of such policy; or

(2) delivered or issued for delivery in this state by an authorized foreign insurer and any account established under or as a result of such policy.

(b) Notwithstanding subdivision (a) of this section, with respect to a policy delivered or issued for delivery outside this state, a domestic insurer may, in lieu of the requirements of this Part, implement procedures that meet the minimum requirements of the state in which the insurer delivered or issued the policy, provided that the superintendent determines that such other requirements are no less favorable to the policyowner and beneficiary than those required by this Part.

Section 226.3 Multiple Policy Search Procedures

(a) Upon receiving notification of the death of an insured or account holder or in the event of a match made by a death index cross-check pursuant to section 226.4 of this Part, an insurer shall search every policy or account subject to this Part to determine whether the insurer has any other policies or accounts for the insured or account holder.

(b) An insurer that receives a notification of death of an insured or account holder, or identifies a death index match, shall notify each United States affiliate, parent, or subsidiary, and any entity with which the insurer contracts that may maintain or control records relating to policies or accounts covered by this Part of the notification or verified death index match. An insurer shall take all steps necessary to have each affiliate, parent, subsidiary, or other entity perform the search required by subdivision (a) of this section.

Section 226.4 Standards for investigating claims and locating claimants under policies and accounts

(a)(1) Except as set forth in paragraph (2) of this subdivision, at no later than policy delivery or the establishment of an account and upon any change of insured, owner, account holder, or beneficiary, an insurer shall request information sufficient to ensure that all benefits or other monies are distributed to the appropriate persons upon the death of the insured or account holder, including, at a minimum, the name, address, date of birth, social security number, and telephone number of every owner, account holder, insured and beneficiary of such policy or account, as applicable.

(2) Where an insurer issues a policy or provides for an account based on information received directly from an insured's employer, the insurer may obtain the beneficiary information described in paragraph (1) of this subdivision by communicating with the insured after the insurer's receipt of the information from the insured's employer.

(b)(1) An insurer shall use the latest available updated version of the death index to cross-check every policy and account subject to this Part, except as specified in subdivision (h) of this section. The cross-checks shall be performed no less frequently than quarterly. An insurer may submit a request to the superintendent for the insurer to perform the cross-checks less frequently than quarterly, but in no event shall the cross-checks be performed less frequently than semi-annually. The superintendent may grant such a request upon the insurer's demonstration of hardship.

(2) The cross-checks shall be performed using:

(i) the insured or account holder's social security number; or
 (ii) where the insurer does not know the insured or account holder's social security number, the name and date of birth of the insured or account holder.

(3) An insurer may comply with the requirements of this subdivision by using the full death index once annually and using the death index update files for the remaining cross-checks in that year.

(c) If an insurer uses a resource instead of or in addition to a death index in order to terminate benefits or close an account, the insurer shall also use that resource when cross-checking policies or accounts pursuant to subdivision (b) of this section.

(d) If an insurer uses a resource more frequently than quarterly in order to terminate benefits or close an account, the insurer shall use that resource with the same frequency when cross-checking policies or accounts pursuant to subdivision (b) of this section.

(e)(1) Every insurer shall implement reasonable procedures to account for common variations in data that would otherwise preclude an exact match with a death index, including:

(i) nicknames, initials used in lieu of a first or middle name, use of a middle name, compound first and middle names, and interchanged first and middle names;

(ii) compound last names, and blank spaces or apostrophes in last name;

(iii) incomplete date of birth data, and transposition of the "month" and "date" portions of the date of birth;

(iv) incomplete social security number; and

(v) common data entry errors in name, date of birth and social security data.

(2) An insurer that does not have in place on the effective date of this Part reasonable procedures to implement paragraph (1) of this subdivision shall do so as expeditiously as possible but no later than 150 days after such effective date.

(f) If an insurer only has a partial name, social security number, date of birth, or a combination thereof, of the insured or account holder under a policy or account, then the insurer shall use the available information to perform the cross-check pursuant to subdivision (b) of this section, which may be accomplished by using the procedures outlined in subdivision (e)(1) of this section.

(g) Every insurer shall establish reasonable procedures to locate beneficiaries and shall make prompt payments or distributions in accordance with Part 216 of this Title (Insurance Regulation 64).

(h) This section shall not apply to any policy or any account:

(1) where the insurer has fully satisfied all obligations under the policy or account prior to the date that the cross-check is performed;

(2) where the insurer has paid full death benefits on all insureds under the policy, or where the remaining obligations have been transferred to one or more new policies or accounts providing benefits of any kind in the event of the death of the insured or account holder;

(3) where the insurer has paid full surrender benefits on the policy, including a policy that is replaced after full surrender;

(4) where the policy has been rescinded and the insurer has returned all paid premiums;

(5) where the policy has been returned under a free-look provision and the insurer has returned all paid premiums;

(6) where the insurer has paid full maturity benefits under the policy;

(7) where the insurer does not maintain or control the records containing the information necessary to comply with the requirements of this section under a group policy administered by the group policyholder;

(8) where all monies due under the policy or account have escheated in accordance with state unclaimed property statutes;

(9) where the insurer has novated the policy;

(10) where the policy is a group annuity contract that funds employer-sponsored retirement plans and the insurer is not obligated by the terms of the contract to pay death benefits directly to the plan participant's beneficiary;

(11) where the insurer receives payroll deduction contributions for either a group or individual policy and a payment has been made in the 90 days prior to a cross-check;

(12) except as to retired employees, where premiums are wholly paid by an employer on an individual or group policy; or

(13) where a policy has lapsed or terminated with no benefits payable that was cross-checked with a death index within the 18 months preceding the effective date of this section or that was cross-checked with a death index more than 18 months prior to the most recent cross-check conducted by the insurer.

Section 226.5 Lost policy finder application procedures

(a) An insurer shall:

(1) upon receiving a request forwarded by the superintendent through a lost policy finder, search for policies, excluding group policies administered by group policyholders where the insurer does not maintain or

control the records containing the information necessary to comply with the requirements of section 226.4 of this Part, and any accounts subject to this Part that insure the life of, or are owned by, an individual named as the decedent in the request forwarded by the superintendent;

(2) report to the superintendent through a lost policy finder:

(i) within 30 days of receiving the request, or within 45 days of receiving the request where the insurer contracts with another entity to maintain the insurer's records, the findings of the search; and

(ii) where the search reveals that benefits may be due, within 30 days of the final disposition of the request, the benefit paid and any other information requested by the superintendent; and

(3) within 30 days of receiving the request, or within 45 days of receiving the request where the insurer contracts with another entity to maintain the insurer's records, for each identified policy and account insuring the life of, or owned by, the named decedent, provide to:

(i) a requestor who is also the beneficiary of record on the identified policy or account all items, statements and forms that the insurer reasonably believes to be necessary in order to file a claim; or

(ii) a requestor who is not the beneficiary of record on the identified policy or account the requested information to the extent permissible to be disclosed in accordance with Part 420 (Insurance Regulation 169) of this Title and any other applicable privacy law, and to take such other steps necessary to facilitate the payment of any benefit that may be due under the identified policy or account.

(b)(1) An insurer shall establish procedures to electronically receive the lost policy finder request from, and make reports to, the superintendent as provided for in subdivision (a) of this section. When transmitted electronically, the date that the superintendent forwards the request shall be deemed to be the date of receipt by the insurer; provided however that if the date is a Saturday, Sunday or a public holiday, as defined in General Construction Law section 24, then the date of receipt shall be as provided in General Construction Law section 25-a.

(2) An insurer required to electronically receive and submit pursuant to this Part may apply to the superintendent for an exemption from the requirement that the submission be electronic by submitting a written request to the superintendent for approval.

(3) The insurer's request for an exemption shall specify whether it is making the request for an exemption based upon undue hardship, impracticability, or good cause, and set forth a detailed explanation as to the reason that the superintendent should approve the request.

(4) The insurer requesting an exemption shall submit, upon the superintendent's request, any additional information necessary for the superintendent to evaluate the insurer's request for an exemption.

(5) The insurer shall be exempt from the electronic submission requirement upon the superintendent's written determination so exempting the insurer. The superintendent's determination will specify the basis upon which the superintendent is granting the request and for how long the exemption applies.

(6) If the superintendent approves an insurer's request for an exemption from the electronic submission requirement, then the insurer shall make a physical submission in a form and manner acceptable to the superintendent.

Section 226.6 Report to the comptroller

An insurer subject to this Part shall include in the report required under Abandoned Property Law section 703 any information on unclaimed benefits due pursuant to this Part and the number of policies and accounts that the insurer has identified pursuant to section 226.4 of this Part for the prior calendar year under which any outstanding monies have not been paid or distributed by December thirty-first of such year, except potential matches still being investigated pursuant to section 226.4 of this Part. A copy of the report also shall be filed with the superintendent.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire August 3, 2013.

Text of rule and any required statements and analyses may be obtained from: Sally Geisel, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 480-5287, email: sally.geisel@dfs.ny.gov

Regulatory Impact Statement

1. Statutory authority: The Superintendent's authority for promulgation of this rule derives from sections 202 and 302 of the Financial Services Law ("FSL") and sections 301, 316, 1102, 1104, 2601, 4521 and 4525 and Article 24 of the Insurance Law.

FSL section 202 establishes the office of the Superintendent and designates the Superintendent to be the head of the Department of Financial Services.

FSL section 302 and Insurance Law section 301 authorize the Superintendent to effectuate any power accorded by the Insurance Law, the Bank-

ing Law, the Financial Services Law, or any other law of this state and to prescribe regulations interpreting, among others, the Insurance Law.

Insurance Law section 316 authorizes the Superintendent to promulgate regulations to require an insurer or other person or entity that makes a filing or submission with the Superintendent, pursuant to the Insurance Law, to do so by electronic means.

Insurance Law section 1102 authorizes the Superintendent to refuse to issue or renew an insurer's license if such refusal will best promote the interests of the people of this state.

Insurance Law section 1104 authorizes the Superintendent to revoke the license of a foreign insurer if such revocation is reasonably necessary to protect the interests of the people of this state.

Insurance Law Article 24 regulates trade practices in the insurance industry by prohibiting practices that constitute unfair methods of competition or unfair or deceptive acts or practices.

Insurance Law section 2601 prohibits insurers from engaging in unfair claim settlement practices, including the failure to adopt and implement reasonable standards for prompt investigation of claims.

Insurance Law section 4521 authorizes the Superintendent to revoke or suspend a fraternal benefit society's license if such society is not carrying out its contracts in good faith.

Insurance Law section 4525 applies Articles 3 and 24 of the Insurance Law to authorized fraternal benefit societies.

2. Legislative objectives: The Department has been investigating allegations of unfair claims and trade practices by authorized life insurers and fraternal benefit societies (collectively herein, "insurers"). The Department is concerned that many insurers have not adopted or implemented reasonable procedures and standards to investigate claims and locate beneficiaries with respect to death benefits due under policies and accounts. In particular, there may be instances in which a death has occurred and no claim has been filed, but premiums continue to be deducted from the account value or cash value until the policy lapses. In other instances, the policies or accounts may simply remain dormant after death. In these instances, a valid death benefit is either not paid or distributed or is delayed.

The Department met with several insurers that have substantial writings in New York to discuss past and current claim and death benefit payment practices. Some insurers have used the U.S. Social Security Administration's Death Master File ("SSA Master File") to confirm the death of a contract holder so that it may cease making annuity payments, but have not used the SSA Master File to determine whether any death benefit payments are due under insurance policies or other accounts.

The Department sent a letter dated July 5, 2011, to every insurer requesting the submission of a special report, pursuant to Insurance Law section 308 (the "308 Letter"). The 308 Letter required the insurer to submit a report that included a narrative summary of the SSA Master File cross-check procedures implemented by the insurer; the overall results of the SSA Master File cross-check; the current procedures utilized by the insurer to locate beneficiaries, and a seriatim listing of death benefits paid as a result of the SSA Master File cross-check. After matches were identified, each insurer was directed to provide to the Superintendent a final report updating the actions it had taken to investigate the matches to determine whether a death benefit payment was due, and to describe the procedures it had implemented to locate the beneficiaries and make payments, where appropriate. To date, well over \$262 million has been paid nationwide to beneficiaries, including more than \$95 million that was paid to New York beneficiaries.

The 308 Letter was a one-time comparison of the SSA Master File. This rule is necessary to require insurers to continue to make the cross-checks on an ongoing basis. This rule requires insurers to continue to perform regular cross-checks using the SSA Master File, or other database or service acceptable to the Superintendent, and to request more detailed beneficiary information (e.g., social security number, address) to facilitate locating and making payments to beneficiaries.

The regulation also addresses another matter of concern. The Department regularly receives requests from family members and other potential beneficiaries requesting assistance in locating lost policies. Although certain fee-based services have been available to provide some assistance, there has not been an efficient, no-fee mechanism by which the Department could assist the public.

The Department has now developed a Lost Policy Finder application that offers a free-of-charge service to assist in locating unclaimed benefits on policies insuring the life of, or owned by, the deceased and accounts that are established under or as a result of such policies.

This rule requires insurers to establish procedures to respond within 30 days of the Department's notification of a request to identify coverage, which the Department received through its new Lost Policy Finder application, or within 45 days of receiving the request where the insurer contracts with another entity to maintain the insurer's records. The rule also requires the insurer to notify the beneficiary, within 30 days of the notification, or within 45 days of receiving the request where the insurer

contracts with another entity to maintain the insurer's records, of all items necessary to file a claim, if the insurer determines that there are benefits to be paid or other monies to be distributed.

3. Needs and benefits: Many insurers have still not adopted or implemented reasonable procedures and standards to investigate claims and locate beneficiaries with respect to death benefits under policies and accounts. The Department conducted an investigation into how insurers track life insurance policy holders. The Department found that many insurers have been regularly using lists of recent deaths from the Social Security Administration to promptly cease making annuity payments. However, most had not been using it to determine whether death benefits were payable to beneficiaries.

This leads to many abuses. For example, in some instances, a death may occur and no claim filed, but premiums continue to be deducted from the account value or cash value until the policy lapses. In other cases, the policies or accounts may simply remain dormant after death. In these instances, a valid death benefit is either not paid or distributed or is delayed.

While insurers were extremely diligent about terminating benefits, they were much less so in seeing that benefits were paid to beneficiaries and monies held by them in accounts were properly distributed. Insurers must take reasonable steps to ensure that policyowners and policy beneficiaries are provided with all of the benefits for which they have paid and to which they are entitled.

To ensure that policyowners and policy beneficiaries are provided with all of the benefits for which they have paid and to which they are entitled, this Part requires insurers to implement reasonable procedures to identify unclaimed death benefits, locate beneficiaries, and make prompt payments. In addition, this Part requires insurers to respond to requests from the Superintendent to search for policies insuring the life of, or owned by, decedents and to initiate the claims process for any death benefits that are identified as a result of those requests. It also establishes a filing requirement with the Office of the Comptroller regarding unpaid benefits.

4. Costs: Many insurers have already implemented procedures similar to those required by this rule to terminate annuity payments. In response to the 308 Letter sent by the Department to insurers in July 2011, a number of insurers confirmed that they have already established, or are in the process of establishing, the standards and procedures required by this rule. As a result, such insurers should incur minimal additional costs to comply with the requirements of this rule. The public benefit of ensuring that all policyowners and policy beneficiaries are provided with all of the benefits for which they have paid and to which they are entitled outweighs the incidental costs of complying with this rule.

The cost to the Department, and the Office of the Comptroller, will be minimal because existing personnel are available to verify and ensure compliance of this rule. There are no costs to any other state government agency or local government.

5. Local government mandates: The rule imposes no new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: Section 226.5 of this rule requires every insurer to report to the Superintendent, within 30 days of receiving the Superintendent's request to search for policies and accounts, or within 45 days of receiving the request where the insurer contracts with another entity to maintain the insurer's records, the findings of that search. In addition, within 30 days of the final disposition of the request, every insurer is required to report the benefits or amounts paid, if any, as a result of the search, and any other information requested by the Superintendent. Section 226.6 of this rule requires every insurer to submit a report to the Office of the Comptroller specifying the number of policies and accounts that the insurer has identified through a death index match or notification of the death of an insured or account holder, for the prior calendar year, any outstanding monies that have not been paid or distributed by December thirty-first of such year.

7. Duplication: This rule will not duplicate any existing state or federal rule.

8. Alternatives: There are no viable alternatives to this rule. As a result of the 308 Letter, to date, more than \$262 million has been paid to beneficiaries nationwide, including more than \$95 million paid to New York beneficiaries. The benefit to the public on an on-going basis is unquestionable. While some insurers may voluntarily implement these procedures, promulgation of this rule is necessary to require all insurers to do so. This rule addresses unfair claims and trade practices by insurers in a manner that protects the public while providing minimal burdens on insurers.

After considering comments received from insurers after the 308 Letter was issued, the Department issued guidance to supplement the 308 Letter. This rule incorporates those comments.

9. Federal standards: There are no minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: Many insurers have already implemented procedures similar to those required by this rule to terminate annuity

payments. In response to the 308 Letter, a number of insurers confirmed that they have already established, or are in the process of establishing, the standards and procedures required by this rule. Additionally, the standards included in this rule were previously adopted on an emergency basis, effective June 13, 2012. Thus, insurers have been required to comply with the requirements of the rule since that time. Therefore, this rule will take effect upon filing with the Secretary of State; however, under section 226.4(f)(2), an insurer that does not have in place on the effective date of this Part reasonable procedures to implement section 226.4(f)(1) shall do so as expeditiously as possible but no later than 150 days after such effective date.

Regulatory Flexibility Analysis

1. Small businesses: The Department of Financial Services finds that this rule will not impose any adverse economic impact or any reporting, recordkeeping or other compliance requirements on small businesses. The basis for this finding is that this rule is directed at life insurers and fraternal benefit societies (collectively, "insurers") authorized to do business in New York State, none of which fall within the definition of "small business" as found in section 102(8) of the State Administrative Procedure Act. The Department of Financial Services has reviewed filed reports on examination and annual statements of these authorized insurers and believes that none of them fall within the definition of "small business," because there are none which are both independently owned and have less than one hundred employees.

2. Local governments: This rule does not impose any adverse economic impact on local governments, including reporting, recordkeeping, or other compliance requirements.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Insurers covered by this rule do business in every county in this state, including rural areas as defined under State Administrative Procedure Act Section 102(13).

2. Reporting, recordkeeping and other compliance requirements, and professional services: This rule requires authorized life insurers and fraternal benefit societies (collectively, "insurers") to establish standards for investigating claims and locating claimants under policies and accounts providing benefits in the event of the death of an insured or account holder. It also requires insurers to establish procedures to search for policies and accounts upon receipt of a death notice or the Superintendent's notification of a request to identify coverage, which was received through the Lost Policy Finder application. It requires insurers to perform, no less than quarterly, a cross-check of the death index (i.e., the U.S. Social Security Administration's Death Master File ("SSA Master File") or any other database or service that is acceptable to the Superintendent). In addition, it requires insurers to establish procedures for lost policy searches, and establishes a filing requirement with the Office of the Comptroller regarding unpaid benefits.

Section 226.5 of this rule requires every insurer to report to the Superintendent, within 30 days of receiving the Superintendent's request to search for policies and accounts, the findings of that search. In addition, within 30 days of the final disposition of the request, every insurer is required to report the benefits or amounts paid, if any, as a result of the search, and any other information requested by the Superintendent. Additionally, section 226.6 of this rule requires every insurer to submit a report to the Office of the Comptroller specifying the number of policies and accounts that the insurer has identified through a death index match or notification of the death of an insured or account holder, for the prior calendar year, any outstanding monies that have not been paid or distributed by December thirty-first of such year.

3. Costs: Many insurers have already implemented procedures similar to those required by this rule to terminate annuity payments. In response to a letter sent by the Department to insurers in July 2011, pursuant to Insurance Law section 308, a number of insurers confirmed that they have already established, or are in the process of establishing, the standards and procedures required by this rule. As a result, such insurers should incur minimal additional costs to comply with the requirements of this rule. The public benefit of ensuring that all policyowners and policy beneficiaries are provided with all of the benefits for which they have paid and to which they are entitled outweighs the incidental costs of complying with this rule.

The cost to the Department, and the Office of the Comptroller, will be minimal because existing personnel are available to verify and ensure compliance with this rule. There are no costs to any other state government agency or local government.

4. Minimizing adverse impact: The public needs to know that insurers are taking reasonable steps to ensure that all policyowners and policy beneficiaries are provided with all of the benefits for which they have paid and to which they are entitled. In particular, there may be instances where a death has occurred and no claim has been filed, but premiums continue to be deducted from the account value or cash value until the policy lapses.

In other instances, the policies or accounts may simply remain dormant after death. In these instances, a valid death benefit is either not paid or distributed or is delayed.

The Department sent a letter, dated July 5, 2011, to every insurer requesting the submission of a special report, pursuant to Insurance Law section 308 (the "308 Letter"). The 308 Letter required the insurer to submit a report that included a narrative summary of the SSA Master File cross-check procedures implemented by the insurer; the overall results of the SSA Master File cross-check; the current procedures utilized by the insurer to locate beneficiaries, and a seriatim listing of death benefits paid as a result of the SSA Master File cross-check. After matches were identified, each insurer was directed to provide to the Superintendent a final report updating the actions it had taken to investigate the matches to determine whether a death benefit payment was due, and to describe the procedures it had implemented to locate the beneficiaries and make payments, where appropriate. To date, well over \$262 million has been paid nationwide to beneficiaries, including more than \$95 million that was paid to New York beneficiaries.

The 308 Letter was a one-time comparison of the SSA Master File. This rule is necessary to require insurers to continue to make the cross-checks on an ongoing basis. This rule requires insurers to continue to perform regular cross-checks using the SSA Master File, or other database or service acceptable to the Superintendent, and to request more detailed beneficiary information (e.g., social security number, address) to facilitate locating and making payments to beneficiaries.

The regulation also addresses another matter of concern. The Department regularly receives requests from family members and other potential beneficiaries requesting assistance in locating lost policies. Although certain fee-based services have been available to provide some assistance, there has not been an efficient, no-fee mechanism by which the Department could assist the public.

The Department has now developed a Lost Policy Finder application that offers a free-of-charge service to assist in locating unclaimed benefits on policies insuring the life of, or owned by, the deceased and accounts that are established under or as a result of such policies.

This rule requires insurers to establish procedures to respond within 30 days of the Department's notification of a request to identify coverage, which the Department received through its new Lost Policy Finder application. The rule also requires the insurer to notify the beneficiary, within 30 days of the notification, of all items necessary to file a claim, if the insurer determines that there are benefits to be paid or other monies to be distributed.

The rule thus ensures that insurers will continue to make death index cross-check efforts so that policyowners and policy beneficiaries will be provided with all of the benefits for which they have paid and to which they are entitled. This rule will result in the rightful payment of millions of dollars of additional benefits to beneficiaries. Therefore, it is necessary for all insurers to comply with the requirements of this rule.

5. Rural area participation: The Department received comments from insurers, including those doing business in rural areas of the State, regarding the 308 Letter. Those comments have been incorporated into this rule.

Job Impact Statement

The Department of Financial Services finds that this rule will have little or no impact on jobs and employment opportunities. This rule requires insurers to set forth standards for investigating claims and locating claimants under policies and accounts providing benefits in the event of an individual's death. It also requires insurers to set up procedures for lost policy searches, and establishes a filing requirement with the Office of the Comptroller regarding unpaid benefits.

The Department does not believe that this rule will have any adverse impact on jobs or employment opportunities, including self-employment opportunities.

Department of Labor

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Deductions from Wages

I.D. No. LAB-21-13-00010-P

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

Proposed Action: Repeal of Part 195; and addition of new Part 195 to Title 12 NYCRR.

Statutory authority: Labor Law, section 193

Subject: Deductions from Wages.

Purpose: To explain the types of deduction that are authorized to be made from wages and the method by which those deductions may be made.

Substance of proposed rule (Full text is posted at the following State website: www.labor.ny.gov): 195-1.1 provides that the purpose of the part is to establish provisions governing authorized deductions for the benefit of employees, for the recovery of overpayments due to clerical or mathematical errors, and for repayment of advances.

195-1.2 Provides to whom the regulation applies and that the regulation requires continued compliance with other laws relating to company stores and wage deductions.

195-2.1 Provides that wage deductions are prohibited unless they are (1) deductions made in accordance with any law, rule or regulation issued by any governmental agency; (2) deductions specified by, or similar to those specified by, section 193 of the Labor Law, authorized by, and for the benefit of, the employee; (3) deductions for the recovery of overpayments made in accordance with the proposed regulation; and (4) deductions for the repayment of wage advances made in accordance with the proposed regulation.

195-2.2 Provides that no employer engaged in performing a public work shall operate a company store if there is a store within two miles of the work site and provides that no deduction shall be made for groceries, provisions, board, lodging or clothing.

195-3.1 Provides that deductions from wages may be made in accordance with a government's law, rule or regulation.

195-4.1 Provides that deductions for the benefit of the employee are authorized if they are listed in Labor Law § 193(b)(1) or are a "similar deduction for the benefit of the employee."

195-4.2 Provides when an employer must seek authorization for a deduction for the benefit of an employee, and provides that such a deduction is authorized if agreed to in a collective bargaining agreement or a written authorization signed by the employee prior to the deduction being made and provides for notice of the deduction to the employee.

195-4.3 Provides that deductions for the benefit of the employee are those listed in Labor Law § 193(b)(1) or those that are: health and welfare benefits; pensions and retirement benefits; child care and educational benefits; charitable benefits; dues and assessments; transportation; and food and lodging. Also provides for deductions that may be made when the employer receives a financial gain and deductions that are prohibited.

195-4.4 Categorizes the deductions that may be made for payments listed in Labor Law § 193(b)(1).

195-4.5 Lists some payments that are not similar and for the benefit of the employee.

195-5.1 Provides the following for deductions for overpayments where such overpayment is due to a mathematical or other clerical error made by the employer: (1) the timing and duration of the deduction; (2) the frequency of the deduction; (3) method of recovery of the overpayment; (4) limitations on the periodic amount of recovery for the overpayment; (5) the timing and contents of a notice of intent to make the deduction; and (6) the procedure that an employee may take if he or she chooses to contest the deduction.

195-5.2 Provides for deductions from an employee's wages for repayment of advances of salary or wages made by the employer. This section provides for: (1) timing and duration of the deduction; (2) the frequency of the deduction; (3) the method of recovery of the advance; (4) limitations on the periodic amount of recovery; (5) authorization for the deduction; and (6) implementation of and a procedure for an employee to contest the deduction.

195-5.3 Provides for the format and method of transmission of authorizations and notifications.

Text of proposed rule and any required statements and analyses may be obtained from: Amy C. Karp, Legislative Counsel, New York State Department of Labor, State Office Campus, Building 12, Room 509, Albany, NY 12240, (518) 457-7350, email: Regulations@labor.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.

Regulatory Impact Statement

Statutory Authority: Labor Law § 21(11), 193 and 199.

Legislative Objectives: The purpose of the authorizing legislation is to allow additional specifically stated deductions for the benefit of an employee; permit the recovery of overpayments due to clerical or mathematical errors; permit the repayment of advances; and to provide for a method for making these deductions.

Needs and Benefits: New Part 195 will improve regulatory conditions in the state by providing clarification of the requirements for making deductions from wages. The new Part 195 will provide benefits to the

regulated community as it will ensure the protection of workers and provide guidance to employers who wish to make deductions from wages. This regulation will inform and serve the public and regulated community, and supplement the Department's ability to monitor and enforce certain deductions.

Costs: The Department estimates the cost to comply with this rule is minimal. There would be a minimal cost to employers to develop and store authorizations, notices and other paperwork that would be required if an employer chooses to make deductions from wages for the benefit of the employee. There would be a minimal cost to employers to provide notices and to develop and execute a procedure for an employee to contest or delay a deduction for an overpayment made to the employee due to mathematical or clerical error or an advance made to the employee, if an employer chooses to deduct an overpayment or advance from wages. The Department estimates that there will be no increased costs to the State to administer the rule.

Local Government Mandate: Labor Law § 193 does not apply to governments or municipalities.

Paperwork: The statute requires that an employer provide notice of the terms and conditions of the deduction and that an employee sign an authorization prior to an employer making a deduction from wages for the benefit of an employee. The statute also requires that an employer provide notice of the procedure for disputing a deduction for an overpayment made to an employee due to clerical or mathematical error or an advance or delaying a deduction for an overpayment or advance and to execute this procedure when necessary. The regulations provide guidance regarding these statutory requirements.

Duplication: This rule does not duplicate, overlap or conflict with any other State or federal requirements.

Alternatives: It has been concluded that regulations relating to the types of deductions that may be made, the method by which an employee should be provided with notice, the nature of employee authorization, and the type of procedures by which an employee may contest certain wage deductions are appropriate to provide employers with guidance and to assist in the equal application of the law.

Federal Standards: Federal regulations regarding wage deductions provide that no deduction shall be made that would reduce an employee's wage to a wage below the minimum wage.

Compliance Schedule: The regulated community will be required to comply with this regulation when it becomes effective. This regulation shall become effective upon publication of its adoption in the State Register.

Regulatory Flexibility Analysis

Effect of Rule: This rule explains the types of deductions that are authorized to be made from wages and the method by which those deductions may be made. The rule applies to all employers, and clarifies the expanded circumstances in which deductions can be made. The rule will not affect small businesses unless they choose to make deductions from an employee's wages and will not affect local governments at all.

Compliance Requirements: Employers that choose to make deductions from wages for the benefit of the employee pursuant to Labor Law § 193(b) would be required to obtain employee written authorizations and provide notice of the deductions. Those employers that choose to make deductions pursuant to Labor Law § 193(c) and (d) for overpayments due to clerical and mathematical errors made to an employee would be required to provide written notice of deductions and notice of procedures for an employee to contest these deductions made for overpayments in addition to providing a procedure for an employee to contest the deductions themselves, and/or the terms of repayment. Employers and employees must enter into an agreement for advances deducted from wages and employers must provide a procedure to contest such deductions. Employers who make deductions from wages for the benefit of the employee must maintain records of those deductions for a period of six years, regardless of whether the employer/employee relationship continues, similar to all other payroll record retention requirements.

Professional Services: No professional services would be required to effectuate the purposes of this rule.

Compliance Costs: While there may be costs associated with the compliance of this rule, if an employer chooses to make deductions from wages pursuant to Labor Law § 193(b),(c) and (d) and this rule, these costs should be minimal.

Economic and Technological Feasibility: The regulation does not require any use of technology to comply. Although there may be minimal additional costs associated with the new rule, if an employer chooses to make deductions from wages pursuant to Labor Law § 193(b),(c) and (d) and this rule, compliance is economically feasible. § 193 and these regulations do not apply to municipalities or governments.

Minimizing Adverse Impact: If a small business chooses to make deductions from wages for the benefit of an employee, for overpayments due to mathematical and clerical errors or for advances, the paperwork

and requirements regarding authorization, notice and procedures for an employee to contest deductions are minimal. Therefore, the Department does not anticipate that the regulations will adversely impact small employers who comply with this Part. Different requirements for small businesses are not necessary.

Small Business and Local Government Participation: The Department has ensured that small businesses and local governments will have an opportunity to participate in the rule-making process. The Department has also participated in discussions with representatives of affected entities. The Department will elicit input from small businesses during the public comment period.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: The requirements contained in the proposed new rule apply to any employer who chooses to make a deduction from wages for (1) the benefit of an employee, (2) overpayments made to an employee due to a mathematical or clerical error, or (3) advances made to an employee. These employers may include those located in the 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less.

2. Reporting, recordkeeping and other compliance requirements: Employers that choose to make deductions from wages for the benefit of the employee pursuant to Labor Law § 193(b) would be required "to obtain written employee authorizations" and provide employees with notices of the deductions. Those employers that choose to make deductions pursuant to Labor Law § 193(c) and (d) for overpayments due to clerical and mathematical errors or advances made to an employee would be required to provide written notice of deductions and procedures for an employee to contest these deductions, and must also utilize a procedure if an employee chooses to contest these deductions. Employers who make deductions from wages for the benefit of the employee must maintain records during the time the employee from whom the deduction was taken is employed by the employer and for six years after that employee's employment with the employer ends, as they do for other payroll records.

3. Professional services: No professional services will be required to comply with this rule.

4. Costs: The Department estimates the cost to comply with this rule is minimal. There could be a minimal cost to employers to develop and store authorizations, notices and other paperwork required if an employer chooses to make deductions from wages for the benefit of the employee. There would be a minimal cost to employers to provide notice and to develop and execute a procedure for an employee to contest or delay a deduction for an overpayment made to the employee due to mathematical or clerical error or an advance made to the employee, if an employer chooses to make a deduction to recoup an overpayment or advance from wages.

5. Minimizing adverse impact: The requirements of this rule are not mandatory, and if an employer chooses to make deductions from wages for the benefit of an employee, for overpayments due to mathematical and clerical errors or for advances, the paperwork and requirements regarding notice to the employee and procedures for an employee to contest deductions are minimal. Therefore, the Department does not anticipate that the regulations will adversely impact employers who comply with this Part. Different requirements for rural areas were not necessary.

6. Rural area participation: The Department has ensured that employers from rural areas have had an opportunity to participate in the rule-making process. The Department will elicit input from employers and employees in rural areas during the public comment period.

Job Impact Statement

The Department of Labor projects there will be no adverse impact on jobs or employment opportunities in the State of New York as a result of this proposed rule change. The rule provides guidance for deductions from wages as authorized in Labor Law 193. The nature and purpose of the rule is such that it will not have a substantial adverse impact on jobs or employment opportunities and therefore no Job Impact Analysis is required.

Public Service Commission

NOTICE OF ADOPTION

Approval of Emergency Rule As a Permanent Rule

I.D. No. PSC-10-13-00002-A

Filing Date: 2013-05-06

Effective Date: 2013-05-06

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

Action taken: On 5/6/13, the PSC adopted an order approving an emergency rule as a permanent rule appointing the Town of Thompson as the temporary operator of the abandoned White Knight Management, LLC water system.

Statutory authority: Public Service Law, sections 89-c(2) and 112-a

Subject: Approval of emergency rule as a permanent rule.

Purpose: To adopt emergency rule as a permanent rule.

Substance of final rule: The Public Service Commission, on May 6, 2013, adopted an order approving an emergency rule as a permanent rule, appointing the Town of Thompson as the temporary operator of the abandoned White Knight Management, LLC water system to ensure the provision of water service to its customers.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov 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.

(12-W-0364EA2)

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Rates of National Fuel Gas Distribution Corporation

I.D. No. PSC-21-13-00008-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 whether the rates of National Fuel Gas Distribution Corporation should be made temporary, subject to refund, if those rates are higher than necessary for the provision of safe and adequate service.

Statutory authority: Public Service Law, sections 66, 72 and 114

Subject: Rates of National Fuel Gas Distribution Corporation.

Purpose: To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive.

Public hearing(s) will be held at: 10:00 a.m., May 22, 2013 at Department of Public Service, Three Empire State Plaza, 3rd Fl., Albany, 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: By Order issued April 19, 2013, the Public Service Commission instituted a proceeding to determine whether the rates of National Fuel Gas Distribution Corporation should be made temporary, subject to refund, while the Commission investigates whether those rates are higher than necessary to permit the utility to provide safe and adequate service.

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.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: deborah.swatling@dps.ny.gov

Data, views or arguments may be submitted to: Jeffrey C. Cohen, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 408-1978, email: Secretary@dps.ny.gov

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.

(13-G-0136SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

To Consider Policies That May Impact Consumer Acceptance and Use of Electric Vehicles

I.D. No. PSC-21-13-00003-P

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

Proposed Action: The Commission is considering policies that may impact consumer acceptance and use of electric vehicles.

Statutory authority: Public Service Law, sections 5(1)(b), 64, 65 and 66

Subject: To consider policies that may impact consumer acceptance and use of electric vehicles.

Purpose: To consider and further develop policies that may impact consumer acceptance and use of electric vehicles.

Substance of proposed rule: The Secretary to the Public Service Commission issued a "Notice of New Proceeding and Seeking Comments" (Notice) in Case 13-E-0199 regarding Commission policies that may impact consumer acceptance and use of electric vehicles. The Notice provides information related to electric vehicles in New York State, including an explanation of a possible Commission determination of whether it has jurisdiction over publicly available electric vehicle charging stations. Further, the Notice seeks comments from interested parties regarding the impact of a determination on jurisdiction and other policies on consumer acceptance and use of electric vehicles. The Commission is considering whether to revise existing policies and/or implement new policies that may impact consumer acceptance and use of electric vehicles. The Commission may also address 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.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: deborah.swatling@dps.ny.gov

Data, views or arguments may be submitted to: Jeffrey Cohen, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 408-1978, email: secretary@dps.ny.gov

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.

(13-E-0199SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Minor Electric Rate Filing

I.D. No. PSC-21-13-00004-P

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

Proposed Action: The Public Service Commission is considering a tariff filing by Mohawk Municipal Commission, requesting approval to increase its annual base revenues by approximately \$96,576 or 11.5% in P.S.C. No. 2—Electricity, to become effective September 1, 2013.

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

Subject: Minor electric rate filing.

Purpose: To approve an increase in annual base electric revenues by approximately \$96,576 or 11.5%.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a tariff filing by Mohawk Municipal Commission, requesting approval to increase its annual electricity revenues by approximately \$96,576 or 11.5% to P.S.C. No. 2—Electricity. The proposed filing has an effective date of September 1, 2013. The Commission may resolve related matters and may take this action for 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.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza,

Albany, New York 12223-1350, (518) 486-2659, email: Deborah.Swatling@dps.ny.gov

Data, views or arguments may be submitted to: Jeffrey C. Cohen, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 408-1978, email: secretary@dps.ny.gov

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.

(13-E-0191SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

To Implement an Abandonment of Windover's Water System

I.D. No. PSC-21-13-00005-P

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

Proposed Action: The Commission is considering a petition filed by Windover Water Works (Windover) to abandon its water system.

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

Subject: To implement an abandonment of Windover's water system.

Purpose: To approve the implementation of abandonment of Windover's water system.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a petition filed by Windover Water Works (Windover), to abandon its water system. Windover provides water service to 8 customers in the Town of Evans in Erie County. The Commission may resolve related matters and may take this action for 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.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: Deborah.Swatling@dps.ny.gov

Data, views or arguments may be submitted to: Jeffrey C. Cohen, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 408-1978, email: secretary@dps.ny.gov

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.

(13-W-0196SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Authorization to Lease Property

I.D. No. PSC-21-13-00006-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 filed by New York State Electric & Gas Corporation for approval to lease the Newark Service Center to Rokstad Power, Inc., located in Arcadia, New York, in Wayne County.

Statutory authority: Public Service Law, section 70

Subject: Authorization to lease property.

Purpose: To decide whether to approve the lease of property.

Substance of proposed rule: The Public Service Commission is considering whether to approve, modify or reject, in whole or in part, a petition filed by New York State Electric & Gas Corporation seeking approval to lease property located in Arcadia, New York, Wayne County to Rokstad

Power, Inc. The Commission may resolve related matters and may take this action for 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.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: Deborah.Swatling@dps.ny.gov

Data, views or arguments may be submitted to: Jeffrey C. Cohen, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 408-1978, email: secretary@dps.ny.gov

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.

(13-E-0166SP1)

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

Approval of an Easement to Allow the U.S. Navy to Construct a Water Treatment Facility at NYAW's Seaford Property

I.D. No. PSC-21-13-00007-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 whether to accept, reject or modify of New York American Water, Inc.'s petition for approval to grant an easement to the U.S. Navy for the construction of a water treatment facility at NYAW's Seaford property.

Statutory authority: Public Service Law, section 89-h

Subject: Approval of an easement to allow the U.S. Navy to construct a water treatment facility at NYAW's Seaford property.

Purpose: To approve, reject or modify an easement to allow the U.S. Navy to construct a water treatment facility at NYAW's Seaford property.

Substance of proposed rule: The Commission is considering whether to approve or reject in whole or in part or modify a request sought in a petition filed by New York American Water, Inc. (NYAW) for authorization under Public Service Law § 89-h to grant an easement for part of its Seaford Neck Road property in Seaford, NY, to the United States Navy (Navy) for the construction of a water treatment facility.

The Navy has taken responsibility for a toxic groundwater plume originating a Bethpage facility operated on the behalf of the Navy since the 1930s. The pollutant trichloroethene (TCE), below the Department of Health's minimum level, has been detected in the water at NYAW's Seaford facility since 2006. The Navy has installed a temporary remediation facility but federal law requires the Navy to possess a property interest in the land before it can construct a permanent facility.

NYAW has petitioned the Commission to approve the granting of an easement to the Navy for no cost, so that a permanent treatment facility can be constructed. The proposed easement would last for 50 years or until regulatory agencies determine the facility is no longer required.

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.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: Deborah.Swatling@dps.ny.gov

Data, views or arguments may be submitted to: Jeffrey C. Cohen, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 408-1978, email: secretary@dps.ny.gov

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.

(13-W-0194SP1)

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

Reporting Requirements for Natural Gas Local Distribution Companies

I.D. No. PSC-21-13-00009-P

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

Proposed Action: The Commission is considering a proposal by Staff of the Department of Public Service regarding reporting requirements for natural gas local distribution companies concerning infrastructure expansion and new customers inquiries and installations.

Statutory authority: Public Service Law, sections 5(1), (2), 30 and 31

Subject: Reporting requirements for natural gas local distribution companies.

Purpose: To help ensure efficient and economic expansion of the natural gas system as appropriate.

Substance of proposed rule: The Commission is considering whether to adopt, modify, or reject, in whole or in part, a proposal by the New York State Department of Public Service Staff (Staff) to establish minimum data collection and reporting requirements related to the expansion of natural gas service throughout New York State. Staff's proposal indicates that the collection of certain data points regarding inquiries and requests for natural gas service by prospective natural gas customers will allow the natural gas local distribution companies (LDCs) to more effectively manage their natural gas franchises including planning and designing system expansions.

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.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: Deborah.Swatling@dps.ny.gov

Data, views or arguments may be submitted to: Jeffrey C. Cohen, Acting Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 408-1978, email: secretary@dps.ny.gov

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.

(12-G-0297SP1)

**Urban Development
Corporation**

NOTICE OF ADOPTION

Innovate NY Fund

I.D. No. UDC-10-13-00003-A

Filing No. 500

Filing Date: 2013-05-07

Effective Date: 2013-05-22

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

Action taken: Amendment of Part 4252 of Title 21 NYCRR.

Statutory authority: Urban Development Corporation Act, sections 9-c and 16-u; L. 1968, ch. 174

Subject: Innovate NY Fund.

Purpose: Provide the basis for administration of The Innovate NY Fund.

Text or summary was published in the March 6, 2013 issue of the Register, I.D. No. UDC-10-13-00003-P.

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

Text of rule and any required statements and analyses may be obtained from: Antovk Pidedjian, Sr. Counsel, ESD - Lending Programs, Urban Development Corporation, 633 Third Avenue, New York, NY 10017, (212) 803-3792, email: apidedjian@esd.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2016, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Bonding Guarantee Assistance Program

I.D. No. UDC-10-13-00004-A

Filing No. 497

Filing Date: 2013-05-07

Effective Date: 2013-05-22

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

Action taken: Addition of Part 4253 to Title 21 NYCRR.

Statutory authority: Urban Development Corporation Act, section 5(4); L. 1968, ch. 174; L. 1994, ch. 169, section 16-f

Subject: Bonding Guarantee Assistance Program.

Purpose: Provide the basis for administration of the Bonding Guarantee Assistance Program.

Text or summary was published in the March 6, 2013 issue of the Register, I.D. No. UDC-10-13-00004-P.

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

Text of rule and any required statements and analyses may be obtained from: Antovk Pidedjian, Sr. Counsel, ESD - Lending Programs, Urban Development Corporation, 633 Third Avenue, New York, NY 10017, (212) 803-3792, email: apidedjian@esd.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2016, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Downstate Revitalization Fund

I.D. No. UDC-10-13-00005-A

Filing No. 498

Filing Date: 2013-05-07

Effective Date: 2013-05-22

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

Action taken: Addition of Part 4249 to Title 21 NYCRR.

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

Subject: Downstate Revitalization Fund.

Purpose: Provide the basis for administration of The Downstate Revitalization Fund.

Text or summary was published in the March 6, 2013 issue of the Register, I.D. No. UDC-10-13-00005-P.

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

Text of rule and any required statements and analyses may be obtained from: Antovk Pidedjian, Sr. Counsel, ESD - Lending Programs, Urban Development Corporation, 633 Third Avenue, New York, NY 10017, (212) 803-3792, email: apidedjian@esd.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2016, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Economic Development Fund Program (“EDF”)

I.D. No. UDC-10-13-00006-A

Filing No. 499

Filing Date: 2013-05-07

Effective Date: 2013-05-22

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

Action taken: Amendment of Part 4243 of Title 21 NYCRR.

Statutory authority: Urban Development Corporation Act, sections 9-c and 16-i; L. 1968, ch. 174

Subject: Economic Development Fund Program (“EDF”).

Purpose: Provide the basis for administration of The Champlain Bridge and August-September 2011 Storm and Flood Recovery Fund within EDF.

Text or summary was published in the March 6, 2013 issue of the Register, I.D. No. UDC-10-13-00006-P.

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

Text of rule and any required statements and analyses may be obtained from: Antovk Pidedjian, Sr. Counsel, ESD - Lending Programs, Urban Development Corporation, 633 Third Avenue, New York, NY 10017, (212) 803-3792, email: apidedjian@esd.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2016, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.