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 Agriculture and Markets

NOTICE OF ADOPTION

Captive Cervids

I.D. No. AAM-44-13-00007-A
Filing No. 265
Filing Date: 2014-04-01
Effective Date: 2014-04-16

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

Action taken: Amendment of sections 68.1, 68.2, 68.3, 68.5, 68.7 and 68.8 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 18, 72 and 74

Subject: Captive cervids.

Purpose: To prevent the reintroduction and spread of chronic wasting disease in New York State.

Text or summary was published in the October 30, 2013 issue of the Register, I.D. No. AAM-44-13-00007-EP.

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

Text of rule and any required statements and analyses may be obtained from: David Smith, DVM, Director, Division of Animal Industry, NYS Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235, (518) 457-3502

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 5th year after the year in which this rule is being adopted

Assessment of Public Comment

The Department received comments on amendments of sections 68.1, 68.2, 68.3, 68.5, 68.7 and 68.8 of 1 NYCRR, which would help prevent the introduction and spread of chronic wasting disease (CWD) in captive cervids in New York State. A hearing was held on December 19, 2013. The Department received comments during the hearing and the public comment period.

Comments Supporting the Amendments:

Comment: One commenter urged an import ban on all cervids since there are too many unknown variables about CWD and its impact on captive cervids and wildlife.

Comment: One commenter contended that the ban should be in place until a live test is developed.

Comment: One commenter indicated that the import ban is the only effective way to protect the wild deer population. Two other commenters stated that the importation of cervids into the State could put other wild animals at risk.

Comment: One commenter commented that white-tailed deer are an important ecological, recreational and economic resource which could be devastated by the reintroduction of CWD into New York.

Comment: One commenter observed that the wild white-tail deer population generates approximately $780-million by hunting and associated businesses and $290-million in State and local taxes.

Comment: One commenter noted that recent cases of CWD in other states have shown that currently used precautions -- such as “closed herds,” “certified herds” and “double fencing” – have not prevented the spread of CWD.

Comment: One commenter urged a ban on all cervid imports, noting that CWD may pose a risk to the health of other captive cervids and wildlife.

Comment: One commenter noted that white-tail deer have an economic impact of nearly $800-million dollars, which would be threatened if CWD were to emerge.

Comment: One commenter observed that because CWD is not fully understood, a “hardline” approach should be taken to control the disease.

Comment: One commenter asserted that disease transmission from captive to free-ranging cervids is a major threat to hunting and wildlife management.

Comment: One commenter noted that allowing the import of animals increases the chance of spreading CWD and other diseases.

Comment: One commenter noted that the health and well being of animals in zoos is of importance to accredited members of the Association of Zoos and Aquariums (AZA).

Response: The Department recognizes the factual support, concerns and opinions offered in comments described above, many of which provide the basis for the proposed amendments designed to help prevent the introduction and spread of chronic wasting disease (CWD) in captive cervids in New York State.

Comments Opposing the Amendments:

Issue/Concern: One commenter argued that the State does not know enough about CWD to make a “drastic decision.”

Response: CWD is an incurable and deadly disease. Our lack of knowledge on modes of transmission, incubation periods and live animal testing requires us to be more, not less, restrictive.

Issue/Concern: One commenter suggested that CWD existed for many years and its spread cannot be explained by the importation of infected deer. The commenter noted that if CWD lives in the soil, the imposition of burdens on captive deer farmers is wrong.

Response: CWD spreads slowly naturally but it has emerged hundreds of miles away from any known infection in New Mexico, Wisconsin, West Virginia, and New York. The emergence in these areas is best explained by movement of deer and elk. The “survivability” of CWD in the soil argues for more restrictive measures to prevent its introduction.

Issue/Concern: One commenter noted that there has been only one case of CWD in New York State since 2001 and the deer in question did not

come from a monitored farm; and many commenters opposing the proposed amendments expressed the view that the current regulations are working.

Response: There were seven CWD positive white-tailed deer discovered in New York in 2005. Five CWD positive animals were found in two herds, four in the index herd and one which was moved from the index herd to the second herd. Both herds were enrolled in one of the two CWD herd programs offered by the Department. The other two CWD positive animals were wild white-tailed deer which were harvested within 10 miles of the two infected captive deer herds. In other states with regulations similar to New York's (prior to the adoption of the emergency regulations) CWD has been discovered in certified herds.

Issue/Concern: Several commenters indicated that CWD cannot be transmitted to other animals or people.

Response: A paper has just been published that presents evidence that while transmission of CWD to other species appears to be unlikely, there is no biochemical mechanism to prevent it from happening.

Issue/Concern: One commenter argued that CWD is not the "massive contagion" that some claim it is.

Response: We don't know how extensive an outbreak of CWD would be if it were left unchecked.

Issue/Concern: One commenter questioned why there is an emergency now when CWD was first discovered in 1967. The commenter also questioned the science behind prohibiting imports until 2018.

Response: Recent outbreaks in West Virginia, Maryland, Virginia, Pennsylvania and Missouri are a concern. We believe the risk of introduction is rising. There is a provision for review of this regulation to be done no later than August 2018. With the increase of scientific knowledge about CWD, the risk of CWD may be reduced by then.

Issue/Concern: Two commenters suggested that rather than implementing the new regulations, the Department should strengthen the current ones. After five years, the increased restrictions could be reevaluated.

Response: Recent new cases of CWD in other states show that even these restrictions would be inadequate. Requiring captive cervids to be imported only from those facilities more than 100 miles from any known CWD case will decrease the chance of exposure of captive cervids to CWD infected wild cervids near the facility of origin. However, this requirement cannot guarantee the herd of origin from unknowingly having or acquiring an infected captive cervid.

Issue/Concern: Two commenters suggested that adequate fencing to prevent the comingling of wild and captive deer would prevent the potential spread of CWD from wild to captive deer.

Response: There have been many incidents in New York and elsewhere in which poor quality fence construction, inadequate maintenance, gates left open, vandalism and accidents have resulted in captive cervids escaping from enclosures.

Issue/Concern: One commenter suggested that the State follow the standards under the federal rule, since New York is one of six states approved for the federal CWD program.

Response: New York is one of 23 states with a USDA Approved State CWD Herd Certification Program (HCP) which meets the minimum requirements of the national CWD HCP. The federal standards give states the latitude to enact/enforce standards that exceed the federal minimum standards, so in essence, the Department is following the federal program.

Issue/Concern: One commenter suggested that it would be better to test and monitor deer than prohibit importation.

Response: This would mean dealing with an incurable, insidious disease after it has been brought it into the State.

Issue/Concern: One commenter indicated that monitoring and inspection of deer carcasses is needed, since one case of CWD entered New York State through carcass scrapings.

Response: The most likely explanation of the 2005 detection of CWD in Oneida County is that the prions arrived with taxidermy materials imported from a state where CWD is endemic.

Issue/Concern: Two commenters expressed the view that the State chose regulating deer farms as the cheaper alternative to testing wild deer.

Response: The Department of Agriculture and Markets has jurisdiction over domestic livestock. The Department does not regulate wild animal health and has no power to test or regulate wild cervids. The Department, however, does have a responsibility to protect the commonly held wild animal resources of this state from diseases that may be present in captive wildlife and domestic livestock.

Issue/Concern: A number of commenters expressed the view that deer farms are not responsible for the spread of CWD; rather, officials should look to wild deer and hunted deer as sources for the disease.

Response: There are probably several ways for CWD to be spread to new areas. This Department has control of one way which allows the disease to spread hundreds of miles. To neglect trying to control this risk because there are other risks we can't directly control is not viable.

Issue/Concern: Many commenters said that the regulations would be injurious to deer farms and would hurt the economy since farms may be put out of business resulting in job losses. Other commenters opposed the regulation because they believe it will increase the price of New York bred and raised deer.

Response: The Department is mindful of the economic impact claimed by some commentators opposing the regulations. Significantly, however, no industry group or farmer has provided any financial data of any kind to support the general and conclusory allegations. Moreover, only a small percentage of cervid farmers actually imports animals.

On the other hand, in-state farmers involved in breeding could benefit from increased demand, which may prompt them to expand their herds and hire additional workers to care for their animals and maintain their fences.

Issue/Concern: One commenter stated that the regulation would be costly to small businesses, citing the requirement for a restraint system which could cost as much as $15,000. This commenter observed that anesthesia is much less expensive and just as effective.

Response: Repeated handling and darting of animals have substantial risk of harm to both the animals and the handlers. Further, regulations at section 68.2(e) already require adequate handling facilities. While it is possible that proper facilities could cost as much as the commenter claims, a less complex system can be built for much less money.

Issue/Concern: Many commenters indicated that the interstate movement of deer is needed to improve the genetics and bloodlines of their deer herds. One commenter pointed out that without the ability to import deer, farmers would be unable to breed and produce distinctive and unique animals desired by patrons of the deer and elk farming industry.

Response: The Department still permits the importation of semen and embryos from susceptible species, so there will still be means of introducing new bloodlines to New York captive deer herds, other than live animal importations.

Issue/Concern: One commenter stated that the regulations may result in deer farmers being unable to find out-of-state markets for their deer, since out-of-state farmers may not deal with farmers who cannot purchase deer outside of New York State.

Response: The commenter provided no factual support for this claim. Even before 2012, there weren't large numbers of deer and elk leaving the state.

In 2013 two white-tailed deer breeders in New York sold 39 high quality shooter bucks to hunt park facilities in three other states because no preserve owners in New York were interested in purchasing their product for their asking price.

Issue/Concern: One commenter said that preventing the movement of semen from out-of-state to New York State would undermine the deer farmer's ability to improve their herd's genetics and bloodlines. Another commenter said that the importation of semen should be allowed since there is no proof that CWD is transmitted through semen.

Response: The importation of deer and elk semen is not prohibited in this regulation.

Sufficient genetic diversity can be maintained through males and females already in New York and through imported semen during the five year period covered by this regulation.

Issue/Concern: A number of commenters questioned why zoos are exempt from the requirements of the regulations.

Response: AZA (Association of Zoos and Aquariums) zoos are an entirely different level of risk than the average captive deer business. AZA zoos have smaller collections of CWD susceptible species, the animals are monitored throughout the day, escapes are extremely rare, there is a perimeter fence in addition to the animals' primary enclosure, the amount of primary enclosure fence that must be maintained is much less, there is careful veterinary oversight, there are post mortem exams on nearly all mortalities, and CWD sampling opportunities are very seldom missed.

Office of Children and Family Services

EMERGENCY RULE MAKING

Child Care Market Rates

I.D. No. CFS-15-14-00002-E
Filing No. 264
Filing Date: 2014-04-01
Effective Date: 2014-04-01

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

Action taken: Amendment of section 415.9(j)(1); repeal of section 415.9(j)(3); and addition of new section 415.9(j)(3) to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f) and title 5-C

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

Specific reasons underlying the finding of necessity: The adoption of these regulations on an emergency basis is necessary to protect the health, safety and welfare of families and children receiving subsidized child care in New York State. Federal statute, section 658E(c)(4)(A) of the Social Security Act, and federal regulation, 45 CFR 98.43(a), require that the State establish payment rates for federally-funded child care subsidies that are sufficient to ensure equal access for eligible children. The market rates that are being replaced are based on a survey conducted in 2011 and as a result, continuing to maintain the existing rates could result in subsidized families losing equal access for eligible children to child care arrangements, or being unable to find appropriate child care.

Subject: Child Care Market Rates.

Purpose: To revise the child care market rates.

Text of emergency rule: Paragraph (1) of subdivision (j) of section 415.9 is amended to read as follows:

(1) Effective [October 1, 2011] *April 1, 2014,* the following are the local market rates for each social services district set forth by the type of provider, the age of the child and the amount of time the child care services are provided per week.

Paragraph (3) of subdivision (j) of section 415.9 is repealed in its entirety and re-enacted as follows:

(3) The market rates are established in five groupings of social services districts. The rates established for a group apply to all districts in the designated group. The district groupings are as follows:

CHILD CARE MARKET RATES

Market rates are established in five groupings of social services districts as follows:

GROUP 1: Nassau, Putnam, Rockland, Suffolk, Westchester

GROUP 2: Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Saratoga, Schenectady, Tompkins, Warren

GROUP 3: Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, Yates

GROUP 4: Albany, Dutchess, Orange, Ulster

GROUP 5: Bronx, Kings, New York, Queens, Richmond

GROUP 1 COUNTIES:

Nassau, Putnam, Rockland, Suffolk, and Westchester

DAY CARE CENTER

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$340*	*$311*	*$285*	*$283*
DAILY	*$68*	*$62*	*$57*	*$57*
PART-DAY	*$45*	*$41*	*$38*	*$38*
HOURLY	*$9.50*	*$9.25*	*$10.00*	*$10.00*

REGISTERED FAMILY DAY CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$275*	*$250*	*$250*	*$250*
DAILY	*$56*	*$55*	*$50*	*$50*
PART-DAY	*$37*	*$37*	*$33*	*$33*
HOURLY	*$10.00*	*$10.00*	*$10.00*	*$10.00*

GROUP FAMILY DAY CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$285*	*$275*	*$275*	*$275*
DAILY	*$60*	*$60*	*$59*	*$55*
PART-DAY	*$40*	*$40*	*$39*	*$37*
HOURLY	*$10.00*	*$10.00*	*$10.00*	*$10.00*

(Group 1 Counties)

SCHOOL-AGE CHILD CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$0*	*$0*	*$0*	*$283*
DAILY	*$0*	*$0*	*$0*	*$57*
PART-DAY	*$0*	*$0*	*$0*	*$38*
HOURLY	*$0*	*$0*	*$0*	*$10.00*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$179*	*$163*	*$163*	*$163*
DAILY	*$36*	*$36*	*$33*	*$33*
PART-DAY	*$24*	*$24*	*$21*	*$21*
HOURLY	*$6.50*	*$6.50*	*$6.50*	*$6.50*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE ENHANCED RATE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$193*	*$175*	*$175*	*$175*
DAILY	*$39*	*$39*	*$35*	*$35*
PART-DAY	*$26*	*$26*	*$23*	*$23*
HOURLY	*$7.00*	*$7.00*	*$7.00*	*$7.00*

GROUP 2 COUNTIES:

Columbia, Erie, Monroe, Onondaga, Ontario, Rensselaer, Saratoga, Schenectady, Tompkins and Warren

DAY CARE CENTER

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$246*	*$231*	*$215*	*$200*
DAILY	*$52*	*$49*	*$44*	*$40*
PART-DAY	*$35*	*$33*	*$29*	*$27*
HOURLY	*$8.50*	*$8.25*	*$8.50*	*$7.00*

REGISTERED FAMILY DAY CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$175*	*$175*	*$170*	*$160*
DAILY	*$40*	*$38*	*$35*	*$32*

PART-DAY	*$27*	*$25*	*$23*	*$21*
HOURLY	*$5.50*	*$5.75*	*$5.75*	*$5.75*

GROUP FAMILY DAY CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$190*	*$180*	*$175*	*$170*
DAILY	*$38*	*$40*	*$38*	*$35*
PART-DAY	*$25*	*$27*	*$25*	*$23*
HOURLY	*$6.00*	*$6.00*	*$6.00*	*$6.00*

(Group 2 Counties)
SCHOOL-AGE CHILD CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$0*	*$0*	*$0*	*$200*
DAILY	*$0*	*$0*	*$0*	*$40*
PART-DAY	*$0*	*$0*	*$0*	*$27*
HOURLY	*$0*	*$0*	*$0*	*$7.00*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$114*	*$114*	*$111*	*$104*
DAILY	*$26*	*$25*	*$23*	*$21*
PART-DAY	*$18*	*$16*	*$15*	*$14*
HOURLY	*$3.58*	*$3.74*	*$3.74*	*$3.74*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE ENHANCED RATE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$123*	*$123*	*$119*	*$112*
DAILY	*$28*	*$27*	*$25*	*$22*
PART-DAY	*$19*	*$18*	*$16*	*$15*
HOURLY	*$3.85*	*$4.03*	*$4.03*	*$4.03*

GROUP 3 COUNTIES:
Allegany, Broome, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Niagara, Oneida, Orleans, Oswego, Otsego, Schoharie, Schuyler, Seneca, St. Lawrence, Steuben, Sullivan, Tioga, Washington, Wayne, Wyoming, and Yates
DAY CARE CENTER

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$190*	*$180*	*$170*	*$160*
DAILY	*$42*	*$40*	*$38*	*$35*
PART-DAY	*$28*	*$27*	*$25*	*$23*
HOURLY	*$6.75*	*$6.75*	*$6.25*	*$6.25*

REGISTERED FAMILY DAY CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$150*	*$140*	*$140*	*$140*
DAILY	*$30*	*$30*	*$30*	*$29*
PART-DAY	*$20*	*$20*	*$20*	*$19*
HOURLY	*$4.75*	*$4.50*	*$4.50*	*$5.00*

GROUP FAMILY DAY CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$150*	*$150*	*$148*	*$140*
DAILY	*$35*	*$33*	*$32*	*$30*
PART-DAY	*$23*	*$22*	*$21*	*$20*
HOURLY	*$5.00*	*$5.00*	*$5.00*	*$5.00*

(Group 3 Counties)
SCHOOL-AGE CHILD CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$0*	*$0*	*$0*	*$160*
DAILY	*$0*	*$0*	*$0*	*$35*
PART-DAY	*$0*	*$0*	*$0*	*$23*
HOURLY	*$0*	*$0*	*$0*	*$6.25*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE STANDARD RATE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$98*	*$91*	*$91*	*$91*
DAILY	*$20*	*$20*	*$20*	*$19*
PART-DAY	*$13*	*$13*	*$13*	*$12*
HOURLY	*$3.09*	*$2.93*	*$2.93*	*$3.25*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE ENHANCED RATE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$105*	*$98*	*$98*	*$98*
DAILY	*$21*	*$21*	*$21*	*$20*
PART-DAY	*$14*	*$14*	*$14*	*$13*
HOURLY	*$3.33*	*$3.15*	*$3.15*	*$3.50*

GROUP 4 COUNTIES:
Albany, Dutchess, Orange, and Ulster
DAY CARE CENTER

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$252*	*$240*	*$220*	*$211*
DAILY	*$58*	*$55*	*$49*	*$43*
PART-DAY	*$39*	*$37*	*$33*	*$29*
HOURLY	*$8.50*	*$8.25*	*$8.00*	*$8.25*

REGISTERED FAMILY DAY CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$200*	*$199*	*$190*	*$188*
DAILY	*$44*	*$40*	*$40*	*$40*
PART-DAY	*$29*	*$27*	*$27*	*$27*
HOURLY	*$7.00*	*$7.00*	*$7.00*	*$7.00*

GROUP FAMILY DAY CARE

AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*

WEEKLY	*$225*	*$204*	*$200*	*$200*
DAILY	*$45*	*$45*	*$41*	*$38*
PART-DAY	*$30*	*$30*	*$27*	*$25*
HOURLY	*$8.75*	*$8.00*	*$8.00*	*$8.00*

(Group 4 Counties)
SCHOOL-AGE CHILD CARE
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$0*	*$0*	*$0*	*$211*
DAILY	*$0*	*$0*	*$0*	*$43*
PART-DAY	*$0*	*$0*	*$0*	*$29*
HOURLY	*$0*	*$0*	*$0*	*$8.25*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE STANDARD RATE
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$130*	*$129*	*$124*	*$122*
DAILY	*$29*	*$26*	*$26*	*$26*
PART-DAY	*$19*	*$18*	*$18*	*$18*
HOURLY	*$4.55*	*$4.55*	*$4.55*	*$4.55*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE ENHANCED RATE
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$140*	*$139*	*$133*	*$132*
DAILY	*$31*	*$28*	*$28*	*$28*
PART-DAY	*$20*	*$19*	*$19*	*$19*
HOURLY	*$4.90*	*$4.90*	*$4.90*	*$4.90*

GROUP 5 COUNTIES:
Bronx, Kings, New York, Queens, and Richmond
DAY CARE CENTER
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$330*	*$255*	*$233*	*$215*
DAILY	*$56*	*$53*	*$47*	*$43*
PART-DAY	*$37*	*$35*	*$31*	*$29*
HOURLY	*$15.75*	*$17.00*	*$15.75*	*$10.75*

REGISTERED FAMILY DAY CARE
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$175*	*$160*	*$150*	*$150*
DAILY	*$33*	*$32*	*$31*	*$30*
PART-DAY	*$22*	*$21*	*$21*	*$20*
HOURLY	*$16.00*	*$12.00*	*$13.25*	*$13.00*

GROUP FAMILY DAY CARE
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$200*	*$185*	*$175*	*$175*
DAILY	*$38*	*$37*	*$35*	*$35*
PART-DAY	*$25*	*$25*	*$23*	*$23*
HOURLY	*$18.75*	*$16.00*	*$13.25*	*$14.00*

(Group 5 Counties)
SCHOOL-AGE CHILD CARE
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$0*	*$0*	*$0*	*$215*
DAILY	*$0*	*$0*	*$0*	*$43*
PART-DAY	*$0*	*$0*	*$0*	*$29*
HOURLY	*$0*	*$0*	*$0*	*$10.75*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE STANDARD RATE
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$114*	*$104*	*$98*	*$98*
DAILY	*$21*	*$21*	*$20*	*$20*
PART-DAY	*$14*	*$14*	*$14*	*$13*
HOURLY	*$10.40*	*$7.80*	*$8.61*	*$8.45*

LEGALLY-EXEMPT FAMILY CHILD CARE AND IN-HOME CHILD CARE ENHANCED RATE
AGE OF CHILD

	Under 1½	*1½-2*	*3-5*	*6-12*
WEEKLY	*$123*	*$112*	*$105*	*$105*
DAILY	*$23*	*$22*	*$22*	*$21*
PART-DAY	*$15*	*$15*	*$15*	*$14*
HOURLY	*$11.20*	*$8.40*	*$9.28*	*$9.10*

SPECIAL NEEDS CHILD CARE

The rate of payment for child care services provided to a child determined to have special needs is the actual cost of care up to the statewide limit of the highest weekly, daily, part-day or hourly market rate for child care services in the State, as applicable, based on the amount of time the child care services are provided per week regardless of the type of child care provider used or the age of the child.

The highest full time market rate in the State is:
WEEKLY $ 340
DAILY $ 68
PART-DAY $ 45
HOURLY $ 18.75

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 June 29, 2014.

Text of rule and any required statements and analyses may be obtained from: Public Information Office, NYS Office of Children and Family Services, 52 Washington Street, Rensselaer, NY 12144, (518) 473-7793

Regulatory Impact Statement

Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Commissioner of the Office of Children and Family Services (Office) to establish rules, regulations and policies to carry out the Office's powers and duties under the SSL.

Section 34(3)(f) of SSL authorizes the Commissioner of the Office to establish regulations for the administration of public assistance and care within the State.

Section 410(1) of the SSL authorizes a social services official of a county, city or town to provide day care for children at public expense and authorizes the Office to establish criteria for when such day care is to be provided.

Title 5-C (sections 410-u through 410-z) of the SSL governs the New York State Child Care Block Grant (NYSCCBG). It includes provisions regarding the use of funds by social services districts, the types of families eligible for services, the amount of local funds that must be spent on child care services, and reporting requirements. The Office is required to specify certain NYSCCBG requirements in regulation.

Section 410-x(4) of the SSL requires the Office to establish, in regulation, the applicable market-related payment rates that will establish the ceilings for State and federal reimbursement for payments made under the New York State Child Care Block Grant.

Federal statute, 42 U.S.C.A. § 9858-c(c)(4)(A), and federal regulation, 45 CFR 98.43(a), require that the State establish payment rates for

federally-funded child care subsidies that are sufficient to ensure such equal access to care that is provided to children whose parents/caretakers are not eligible to receive assistance under federal or state programs. Additionally, federal regulation 45 CFR 98.43(b)(2) requires that payment rates be based on a local market survey conducted no earlier than two years prior to the effective date of the approved State plan for the Child Care and Development Fund.

2. Legislative objectives:

The legislative intent of the child care subsidy program is to assist low income families in meeting their child care costs in programs that provide for the health and safety of their children. The legislative intent is to have child care subsidy payment rates that reflect market conditions and that are adequate to enable subsidized families to access child care services comparable to other families not in receipt of a child care subsidy.

The regulations support the legislative objectives underlying Sections 332-a, 334, 335 and 410 and Title 5-C of the SSL to provide child care services to public assistance recipients and low income families when necessary to promote self-sufficiency and protect children. In addition, the regulations provide social services districts with greater local flexibility to provide child care services in the manner that best meets the needs of their local communities.

3. Needs and benefits:

The State is required under the Federal Child Care and Development Fund to adjust child care payment rates with each new State Plan based on a current survey of providers. The current State Plan covers the period October 1, 2013 through September 30, 2015. A current survey of providers was conducted from February to July of 2013. These regulations are needed to adjust existing rates that were established based on a survey done in 2011. Adjustments to the child care market rates reflect both increases and decreases in the five groupings of counties.

Decreases in the child care market rates reflect the market place and provide comparable access for those families in receipt of a child care subsidy to those families that do not receive a child care subsidy, as required by federal and State laws.

4. Costs:

Under section 410-v(2) of the SSL, the State is responsible for reimbursing social services districts for 75 percent (75%) of the costs of providing subsidized child care services to public assistance recipients; and social services districts are responsible for the other 25 percent (25%) of such costs. In addition, the State is responsible for reimbursing social services districts for 100 percent (100%) of the costs of providing child care services to other eligible low-income families. The State reimbursement for these child care services is made from the State and/or federal funds allocated to the New York State Child Care Block Grant, and is limited on an annual basis to each social services district's New York State Child Care Block Grant allocation for that year.

Under the State Budget for SFY 2013-2014, social services districts received their allocations of $739,036,409 in federal and State funds under the New York State Child Care Block Grant. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their Block Grant allocations. In addition, social services districts may use block grant funds to serve the optional category of eligible individuals set forth in these regulations. Social services districts may also use block grant funds allocated to them to increase the enhanced rate from 70 percent (70%) up to 75 percent (75%), if social services districts select this option.

5. Local government mandates:

Social services districts will be required to make payments for subsidized child care services based on the actual cost of care up to the applicable market rates. Social services districts will need to review cases to determine whether the payments reflect the actual cost of care up to applicable market rates. Payment adjustments will have to be made, as appropriate.

6. Paperwork:

Social services districts will need to process any required payment adjustments after conducting the necessary case reviews.

7. Duplication:

The new requirements do not duplicate any existing State or federal requirements.

8. Federal standards:

The regulations are consistent with applicable federal regulations. 45 CFR 98.43(a), (b)(2) and (b)(3) require that the State establish payment rates that are sufficient to ensure equal access to comparable care received by unsubsidized families, based on a survey of providers, and consistent with the parental choice provisions in 45 CFR 98.30.

9. Compliance schedule:

These provisions must be implemented effective on April 1, 2014.

10. Alternative approaches:

No alternative approaches were considered because federal regulation requires that payment rates be based on a local market rate survey.

Regulatory Flexibility Analysis

1. Effect on small businesses and local governments:

The adjustments to the child care market rates will affect the 58 social services districts. There is a potential effect on over 20,000 licensed and registered child care providers and an estimated 46,000 informal providers that may provide child care services to families receiving a child care subsidy.

2. Compliance requirements:

Social services districts will be required to make payments for subsidized child care services based on the actual cost of care up to the applicable market rates. Social services districts will need to review cases to determine whether the payments reflect the actual cost of care up to applicable market rates. Payment adjustments will have to be made, as appropriate.

3. Professional Services:

Neither social services districts, nor child care providers, should have to hire additional professional staff in order to implement these regulations.

4. Compliance costs:

Under section 410-v(2) of the Social Services Law, the State is responsible for reimbursing social services districts for 75 percent (75%) of the costs of providing subsidized child care services to public assistance recipients; social services districts are responsible for the other 25 percent (25%) of such costs. In addition, the State is responsible for reimbursing social services districts for 100 percent (100%) of the costs of providing child care services to other eligible low-income families. The State reimbursement for these child care services is made from the State and/or federal funds allocated to the New York State Child Care Block Grant, and is limited on an annual basis to each district's State Child Care Block Grant allocation for that year.

Under the State Budget for SFY 2013-14, social services districts received their allocations of $739,036,409 in federal and State funds under the New York State Child Care Block Grant. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their Block Grant allocations.

Social services districts will be required to provide an enhanced market rate, on behalf of parents for subsidized child care services, to legally-exempt family child care and in-home child providers who have completed ten hours of training annually, as approved by the legally-exempt caregiver enrollment agency. Such an enhanced rate will be at least seventy percent (70%) of the family child care rate. Social services districts have the option to pay up to seventy-five percent (75%) of the family child care rate as the enhanced market rate, if the social services district selects this option in its Children and Family Services Plan.

5. Economic and technological feasibility:

The child care providers and social services districts affected by the regulations have the economic and technological ability to comply with the regulations.

6. Minimizing adverse impact:

The market rates were developed in accordance with federal guidelines for conducting a survey of child care providers and with standard statistical methodology to minimize adverse impact. The Office applied standard statistical methods to choose a sample of 4,474 licensed and registered child care providers so that the survey was representative throughout the State. The rates were analyzed to establish the market rates at the 69th percentile of the amounts charged. The market rates are clustered into five distinct groupings of counties based on similarities in rates among the counties in each group. As a result, the rates established for counties are based on the actual prices for care that were reported in the survey within the counties. Adjustments to the child care market rates reflect the market place and provide access comparable to those families not receiving a child care subsidy.

Adjustments to the child care market rates reflect both increases and decreases in the five groupings of counties. Decreases in the child care market rates reflect the market place and provide comparable access for families receiving a child care subsidy to those families not receiving a child care subsidy, as required by federal and State laws. Increases in the rates will enable social services districts to provide temporary assistance recipients and low-income families receiving subsidized child care services with access to those child care providers who charge more than the previous market rates.

The market rates for legally-exempt family child care and in-home child care were established based on a 65 percent (65%) differential applied to the market rates established for family day care. This differential reflects the higher costs associated with meeting the higher regulatory standards to become a registered family day care provider. The enhanced market rate for legally-exempt family and in-home child care providers is based on a 70 percent (70%) differential applied to the child care market rates established for registered family day care. The 70 percent (70%) reflects an incentive to legally exempt providers to pursue a minimum of ten hours

of approved training. Additionally, the regulation allows local social services districts, through their Child and Family Services Plans, to increase the enhanced market rate up to 75 percent (75%) of the applicable registered family day care market rate.

The regulations recognize that there may be differences in the needs among social services districts. To the extent allowed by statute, the regulations provide social services districts with flexibility in designing their child care subsidy programs in a manner that will best meet the needs of their communities.

7. Small business and local government participation:

In accordance with federal regulatory requirements, OCFS conducted a telephone survey of a sample of regulated providers. Prior to conducting the telephone survey, a letter was sent to all regulated child care providers to inform them that they might be included among the sample of providers called to participate in the market rate survey. A copy of the questions was also sent so that providers could prepare responses. A market research firm conducted the telephone survey in English and in Spanish, as needed, and had the resources available to assist providers in other languages, if needed as well. Rate data was collected from 4,474 providers and that information formed the basis for the updated market rates.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The regulations will affect the 44 social services districts located in rural areas of the State and the child care providers located in those social services districts.

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

The regulations will not result in any new reporting or recordkeeping requirements for social services districts.

Social services districts will be required to make payments for subsidized child care services based on the actual cost of care up to the new market rates. Social services districts will need to review cases to determine if the payments reflect the actual cost of care up to the appropriate market rate. Neither social services districts, nor child care providers, should have to hire additional professional staff in order to implement these regulations.

Social services districts will be required to provide an enhanced market rate, on behalf of parents for subsidized child care services, to legally-exempt family child care and in-home child providers who have completed ten hours of training annually, as approved by the legally-exempt caregiver enrollment agency. Such an enhanced rate will be at least seventy percent (70%) of the family child care rate. Social services districts do have the option to pay up to seventy five percent (75%) of the family child care rate as the enhanced market rate, if the social services district selects this option in its Children and Family Services Plan.

3. Costs:

Under the State Budget for SFY 2013-2014, social services districts received their allocations of $739,036,409 in federal and State funds under the New York State Child Care Block Grant. Social services districts have the option to transfer a portion of their Flexible Fund for Family Services allocations to the New York State Child Care Block Grant to supplement their New York State Child Care Block Grant allocations.

Under section 410-v(2) of the Social Services Law, the State is responsible for reimbursing social services districts for 75 percent (75%) of the costs of providing subsidized child care services to public assistance recipients; social services districts are responsible for the other 25 percent (25%) of such costs. In addition, the State is responsible for reimbursing social services districts for 100 percent (100%) of the costs of providing child care services to other eligible low-income families. The State reimbursement for these child care services is made from the State and/or federal funds allocated to the State Child Care Block Grant, and is limited on an annual basis to each social services district's State Child Care Block Grant allocation for that year.

In addition, social services districts may use block grant funds to serve the optional category of eligible individuals set forth in these regulations. Social services districts may also use block grant funds allocated to them to increase the enhanced rate from 70 percent (70%) up to 75 percent (75%), if social services districts select this option in its Children and Family Services Plan.

4. Minimizing adverse impact:

The market rates were developed in accordance with federal guidelines for conducting a survey of child care providers and with standard statistical methodology to minimize adverse impact. The Office applied standard statistical methods to choose a sample of 4,474 licensed and registered child care providers so that the survey was representative throughout the State. The rates were analyzed to establish the market rates at the 69th percentile of the amounts charged. The market rates are clustered into five distinct groupings of counties based on similarities in rates among the counties in each group. As a result, the rates established for counties are based on the actual prices for care that were reported in the survey within the counties. Adjustments to the child care market rates reflect the market place and provide access comparable to those families not receiving a child care subsidy.

Adjustments to the child care market rates reflect both increases and decreases in the five groupings of counties. Decreases in the child care market rates reflect the market place and provide comparable access for families receiving a child care subsidy to those families not receiving a child care subsidy, as required by federal and State laws. Increases in the rates enable social services districts to provide temporary assistance recipients and low-income families receiving subsidized child care services with access to those child care providers who charge more than the previous market rates.

The market rates for legally-exempt family child care and in-home child care were established based on a 65 percent (65%) differential applied to the market rates established for family day care. This differential reflects the higher costs associated with meeting the higher regulatory standards to become a registered family day care provider. The enhanced market rate for legally-exempt family and in-home child care providers is based on a 70 percent (70%) differential applied to the child care market rates established for registered family day care. The 70 percent (70%) differential reflects an incentive to legally exempt providers to pursue a minimum of ten hours of approved training. Additionally, the regulation allows local social services districts, through their Child and Family Services Plans, to increase the enhanced market rate up to 75 percent (75%) of the applicable registered family day care market rate.

The regulations recognize that there may be differences in the needs among social services districts. To the extent allowed by statute, the regulations provide social services districts with flexibility in designing their child care subsidy programs in a manner that will best meet the needs of their communities.

5. Rural area participation:

Federal regulation 45 CFR 98.43(b)(2) requires that payment rates be based on a local market survey conducted no earlier than two years prior to the effective date of the approved State plan for the Child Care and Development Fund. In accordance with the federal regulatory requirements, OCFS conducted a telephone survey of a sample of regulated providers. The sample drawn was representative of the regions across the State and, therefore, providers located in rural areas were appropriately represented in the survey. Prior to conducting the telephone survey, a letter was sent to all regulated child care providers to inform them that they might be included among the sample of providers called to participate in the market rate survey. A copy of the questions was also sent so that providers could prepare responses. A market research firm conducted the telephone survey in English and in Spanish, as needed, and had resources available to assist providers in other languages. Rate data was collected from 4,474 providers and that information formed the basis for the updated market rates.

Job Impact Statement

Section 201-a of the State Administrative Procedure Act requires a job impact statement to be filed if proposed regulations will have an adverse impact on jobs and employment opportunities in the State.

Adjustments to the child care market rates reflect both increases and decreases. Decreases in the child care market rates reflect the market place and OCFS believes that they are not substantial enough to cause the loss of jobs in child care programs.

Education Department

EMERGENCY RULE MAKING

Interpretation and Translation Services for Limited English Proficient (LEP) Individuals by Mail Order Pharmacies

I.D. No. EDU-11-14-00002-E

Filing No. 260

Filing Date: 2014-03-28

Effective Date: 2014-03-30

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

Action taken: Amendment of section 63.11 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207 (not subdivided), 6504 (not subdivided), 6507(2)(a), 6810(1) and 6829(4); and L. 2012, ch. 57, part V

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

Specific reasons underlying the finding of necessity: The purpose of the proposed amendment is to implement Education Law section 6829(4), as added by Section 3 of Part V of Chapter 57 of the Laws of 2012, which establishes interpretation and translation requirements for all mail order pharmacies conducting business in New York State. The proposed amendment implements the provisions of section 6829(4) of the Education Law that, effective March 30, 2014, requires all mail order pharmacies sending prescriptions to individuals in New York State to provide interpretation and translation services for Limited English Proficient (LEP) individuals. It also subjects mail order pharmacies to the same interpretation and translation services requirements as are now required for covered pharmacies within the state. The information for which competent oral interpretation and translation services shall be provided will be prescription medication labels, warning labels and other written materials.

Because the Board of Regents meets at fixed intervals, the earliest the proposed amendment can be presented for adoption as a permanent rule, after expiration of the required 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(1) and (5), would be the May 19-20, 2014 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the May meeting, would be June 4, 2014, the date a Notice of Adoption would be published in the State Register. However, the provisions of Education Law section 6829(4) become effective on March 30, 2014.

Emergency action is necessary for the preservation of the public health and general welfare in order to enable the State Education Department to immediately establish requirements to timely implement Education Law section 6829(4), as added by Section 3 of Part V of Chapter 57 of the Laws of 2012, so that LEP individuals can receive competent oral interpretation services and translation services from the mail order pharmacies that fill their prescriptions.

It is anticipated that the proposed amendment will be presented for adoption as a permanent rule at a subsequent Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 45-day public comment period prescribed by the State Administrative Procedure Act.

Subject: Interpretation and translation services for Limited English Proficient (LEP) individuals by mail order pharmacies.

Purpose: To implement section 6829(4) of the Education Law, as added by part V of chapter 57 of the Laws of 2012.

Text of emergency rule: 1. Paragraph (7) of subdivision (a) of section 63.11 of the Regulations of the Commissioner of Education is added, effective March 30, 2014, to read as follows:

(7) Mail order pharmacy shall mean a pharmacy that dispenses most of its prescriptions through the United States postal service or other delivery system.

2. Subdivision (b) of section 63.11 of the Regulations of the Commissioner of Education is amended, effective March 30, 2014, as follows:

(b) Provision of competent oral interpretation services and translation services. Except as otherwise provided in subdivision (e) of this section:

(1) For purposes of counseling an individual about his or her prescription medications or when soliciting information necessary to maintain a patient medication profile, each covered pharmacy *and mail order pharmacy* shall provide free, competent oral interpretation services and translation services in such individual's preferred pharmacy primary language to each LEP individual requesting such services or when filling a prescription that indicates that the individual is limited English proficient at such covered pharmacy *or mail order pharmacy*, unless the LEP individual is offered and refuses such services.

(2) With respect to prescription medication labels, warning labels and other written materials, each covered pharmacy *and mail order pharmacy* shall provide free, competent oral interpretation services and translation services to each LEP individual filling a prescription at such covered pharmacy *or mail order pharmacy* in such individual's preferred pharmacy *primary* language, unless the LEP individual is offered and refuses such services or the medication labels, warning labels and other written materials have already been translated into the language spoken by the LEP individual.

(3) Translation and competent oral interpretation shall be provided in the preferred pharmacy primary language of each LEP individual, provided that no covered pharmacy *or mail order pharmacy* shall be required to provide translation or competent oral interpretation of more than seven languages.

(4) The services required by this subdivision may be provided by a staff member of the *covered* pharmacy *or mail order pharmacy* or a third-party contractor. Such services shall be provided on an immediate basis but need not be provided in-person or face-to-face.

3. Paragraph (1) of subdivision (c) of section 63.11 of the Regulations of the Commissioner of Education is amended, effective March 30, 2014, as follows:

(1) In accordance with Education Law section 6829(3), each covered pharmacy shall conspicuously post a notice to inform LEP individuals of their rights to free, competent oral interpretation services and translation services. Such notice shall include the following statement in English and in each of the pharmacy primary languages: ''Point to your language. Language assistance will be provided at no cost to you.'' *With each initial transaction with patients seeking mail order services, mail order pharmacies shall provide printed materials in English and in each of the pharmacy primary languages, explaining the availability of competent oral interpretation services and translation services. In addition, mail order pharmacies that are nonresident establishments shall provide any required information pursuant to section 63.8(b)(6) of this Part in English and in each of the pharmacy primary languages.*

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-11-14-00002-P, Issue of March 19, 2014. The emergency rule will expire June 25, 2014.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, State Education Department, Office of Counsel, State Education Building, Room 148, 89 Washington Ave., Albany, NY 12234, (518) 474-6400, email: legal@mail.nysed.gov

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions.

Subparagraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner to promulgate regulations in administering the admission to and the practice of the professions.

Subdivision (1) of section 6810 of the Education Law, as amended by section 2 of Part V of Chapter 57 of the Laws of 2012, provides that all prescription drug labels shall conform to rules and regulations as promulgated by the Commissioner pursuant to section 6829 of the Education Law.

Subdivision (4) of section 6829 of the Education Law, as added by section 3 of Part V of Chapter 57 of the Laws of 2012, requires the Commissioner, in consultation with the Commissioner of the Department of Health (DOH), to promulgate regulations, effective March 30, 2014, requiring all mail order pharmacies conducting business in New York State to provide free, competent oral interpretation services and translation services to persons filling a prescription through such mail order pharmacies whom are identified as Limited English Proficient (LEP) individuals. Specifically, Education Law § 6829(4) requires the regulations to address the concerns of affected stakeholders and reflect the findings of a thorough analysis of issues including: (a) how persons shall be identified as LEP individuals, in light of the manner by which prescriptions are currently received by mail order pharmacies; (b) which languages shall be considered; (c) the manner and circumstances in which competent oral interpretation services and translation services shall be provided; (d) the information for which competent oral interpretation services and translation services shall be provided; (e) anticipated utilization, available resources, and cost considerations; and (f) standards for monitoring compliance with the regulations and ensuring the delivery of quality competent oral interpretation services and translation services.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment carries out the intent of the aforementioned statutes, particularly section 3 of the Part V of Chapter 57 of the Laws of 2012 that amended Article 137 of the Education Law by adding a new section 6829, which, inter alia, requires mail order pharmacies sending prescriptions to individuals in New York State to provide interpretation and translation services to LEP individuals. The proposed amendment subjects mail order pharmacies to the same interpretation and translation requirements that have been required for covered pharmacies within New York State since 2013. Specifically, the proposed amendment requires that with each initial transaction with patients seeking mail order pharmacy services, in addition to English, mail order pharmacies provide printed materials in Chinese, Italian, Russian and Spanish, explaining the availability of competent oral interpretation services and translation services. Persons will be identified as LEP individuals when they request such oral interpretation services and translation services or when such mail order pharmacy fills a prescription that indicates that the individual is a LEP individual. The manner and circumstances in which competent oral interpretation services and translation services will be provided is by a staff

member of the mail order pharmacy or third-party contractor and services will be provided on an immediate basis but need not be provided in-person or face-to-face. The information for which competent oral interpretation and translation services shall be provided will be prescription medication labels, warning labels and other written materials. With respect to anticipated utilization, available resources, and cost considerations, based upon experience with the existing requirements for translation services in the New York City metropolitan area, the proposed requirements should prove to be neither costly nor logistically difficult for mail order pharmacies. Additionally, regarding standards for monitoring compliance with the regulations and ensuring the delivery of quality competent oral interpretation services and translation services, as in all such matters, complaints of non-compliance will be investigated and since out-of-state pharmacies require registration with the Department, they are also subject to the Department's professional discipline processes.

3. NEEDS AND BENEFITS:

The purpose of the proposed rule is to ensure that, similar to covered pharmacies, mail order pharmacies that conduct business in New York State provide LEP individuals with specified translation and interpretation services. The proposed amendment is necessary to conform the Regulations of the Commissioner of Education to Section 3 of Part V of Chapter 57 of the Laws of 2012.

As required by statute, the proposed rule is also needed to establish the requirements for the provision of interpretation and translation services by mail order pharmacies that send prescriptions to the LEP individuals within New York State.

4. COSTS:

(a) Costs to State government. The proposed rule implements statutory requirements and establishes standards as directed by statute, and will not impose any additional costs on State government beyond those imposed by the statutory requirements.

(b) Costs to local government. There are no additional costs to local governments.

(c) Cost to private regulated parties. The proposed rule does not impose any additional costs on regulated parties beyond those imposed by statute.

(d) Cost to the regulatory agency. The proposed rule does not impose any additional costs on the Department beyond those imposed by statute.

5. LOCAL GOVERNMENT MANDATES:

The proposed rule implements the requirements of section 6829(4) of the Education Law, as added by Section 3 of Part V of Chapter 57 of the Laws of 2012. It does not impose any program, service, duty, or responsibility upon local governments.

6. PAPERWORK:

The proposed rule imposes no new reporting requirements.

7. DUPLICATION:

The proposed amendment is necessary to implement Section 3 of Part V of Chapter 57 of the Laws of 2012. There are no other State or Federal requirements on the subject matter of this amendment. Therefore, the proposed amendment does not duplicate other existing State or Federal requirements.

8. ALTERNATIVES:

The 2012 New York State budget legislation included certain amendments to the Education Law which are commonly referred to as the SafeRx Law (L. 2012, c. 57, Part V). This law, which generally became effective March 30, 2013, includes provisions to assist LEP individuals who need interpretation and translation services when filling prescriptions at covered pharmacies. Effective May 30, 2013, the Board of Regents approved regulations affecting those covered pharmacies located within New York State. Following a series of open forums and consultations with stakeholders, the Regents accepted the recommendation that the entire State be considered a single "region." In accordance with the statutory requirements and the analysis of census data, this determination resulted in a requirement that interpretation and translation services be provided in four languages, in addition to English. Other regional determinations were rejected since most led to fewer languages being covered in almost all upstate localities. Therefore, covered New York State pharmacies must now provide competent oral interpretation services and translation services in Chinese, Italian, Russian and Spanish.

The 2012 legislation also required the Commissioner of Education, in consultation with the Commissioner of DOH, to promulgate regulations, effective March 30, 2014, to establish translation and interpretation requirements for mail order pharmacies. The proposed amendment is needed to conform the Regulations of the Commissioner of Education to Section 3 of Part V of Chapter 57 of the Laws of 2012.

Consideration was given to information gathered as part of the aforementioned open forums and consultations with stakeholders, as well as experience with the existing interpretation and translation services requirements for covered pharmacies, and ultimately it was decided, consistent with the above rationale for covered pharmacies, that mail order pharmacies shall be subject to the same interpretation and translation requirements that have been required for covered pharmacies within New York State since 2013. Within this context, there were no significant alternatives to the proposed amendment and none where considered.

9. FEDERAL STANDARDS:

Since, there are no applicable federal standards for the provision of interpretation and translation services to LEP individuals by mail order pharmacies, the proposed amendment does not exceed any minimum federal standards for the same or similar subject areas.

10. COMPLIANCE SCHEDULE:

The proposed amendment is necessary to conform the Regulations of the Commissioner of Education to Section 3 of Part V of Chapter 57 of the Laws of 2012. Mail order pharmacies conducting business in New York State must comply with the interpretation and translation services requirements for LEP individuals on the effective date of the authorizing statute, March 30, 2014. It is anticipated that licensees will be able to comply with the proposed rule by the effective date so that no additional period of time will be necessary to enable regulated parties to comply.

Regulatory Flexibility Analysis

The purpose of the proposed amendment is to implement the provisions of section 6829(4) of the Education Law, as added by Section 3 of Part V of Chapter 57 of the Laws of 2012 that, effective March 30, 2014, require all mail order pharmacies sending prescriptions to individuals in New York State to provide interpretation and translation services for Limited English Proficient ("LEP") individuals. The proposed amendment also subjects mail order pharmacies to the same interpretation and translation services requirements as are now required for covered pharmacies within the State. Specifically, pursuant to the proposed amendment, with each initial transaction with individuals seeking mail order pharmacy services, in addition to English, mail order pharmacies will provide printed materials, in Chinese, Italian, Russian and Spanish, explaining the availability of competent oral interpretation services and translation services. Persons will be identified as LEP individuals when they request such oral interpretation services and translation services or when such mail order pharmacy fills a prescription that indicates that the individual is a LEP individual. The manner and circumstances in which competent oral interpretation services and translation services will be provided is by a staff member of the mail order pharmacy or third-party contractor and services will be provided on an immediate basis but need not be provided in-person or face-to-face. The information for which competent oral interpretation services and translation services shall be provided will be prescription medication labels, warning labels and other written materials.

The proposed amendment applies the same translation and interpretation requirements to mail order pharmacies that were established for covered pharmacies in 2013 and does not impose any additional costs on regulated parties beyond those required under the statute. Additionally, based upon experience with the existing requirements for translation services in the New York City metropolitan area, the proposed amendment should prove to be neither costly nor logistically difficult for mail order pharmacies.

The proposed amendment will affect all mail order pharmacies registered by the State Education Department (Department). The Department estimates that there are 5,044 registered pharmacies in New York State and 535 non-resident pharmacies are also registered to ship prescriptions into New York State. The Department estimates that fewer than 50 of these registered pharmacies are considered to be mail order pharmacies under the statutory definition and, of these pharmacies, none are small businesses. The proposed rule establishes translation and interpretation requirements for mail order pharmacies. It will not impose any new reporting, recordkeeping, or other compliance requirements, or have any adverse economic impact on small businesses or local governments. Because it is evident from the nature of the proposed amendment that it will not adversely affect small businesses or local governments, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required, and one has not been prepared.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed amendment will apply to 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. Of the 5,044 pharmacies registered by the State Education Department ("Department") and the 535 non-resident registered pharmacies, the Department estimates that fewer than 50 of these registered pharmacies are considered to be mail order pharmacies under the statutory definition. Of these mail order pharmacies, one mail order pharmacy reports its permanent address of record is in a rural county.

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

The proposed amendment will apply to all mail order pharmacies

conducting business in New York State. The proposed amendment implements the provisions of section 6829(4) of the Education Law, as added by Section 3 of Part V of Chapter 57 of the Laws of 2012 that, effective March 30, 2014, requires all mail order pharmacies sending prescriptions to individuals in New York State to provide interpretation and translation services for Limited English Proficient (LEP) individuals. It also subjects mail order pharmacies to the same interpretation and translation services requirements as are now required for covered pharmacies within the state. Specifically, with each initial transaction with individuals seeking mail order pharmacy services, in addition to English, mail order pharmacies will provide printed materials, in Chinese, Italian, Russian and Spanish, explaining the availability of competent oral interpretation services and translation services. Persons will be identified as LEP individuals when they request such oral interpretation services and translation services or when such mail order pharmacy fills a prescription that indicates that the individual is a LEP individual. The manner and circumstances in which competent oral interpretation services and translation services will be provided is by a staff member of the mail order pharmacy or third-party contractor and services will be provided on an immediate basis but need not be provided in-person or face-to-face. The information for which competent oral interpretation services and translation services shall be provided will be prescription medication labels, warning labels and other written materials.

The proposed amendment will not impose any additional professional services requirements on entities in rural areas.

3. COSTS:

The proposed amendment does not impose any additional costs on regulated parties beyond those required under the statute.

4. MINIMIZING ADVERSE IMPACT:

In developing the proposed amendment, the Department obtained input from representatives of the professions of nursing, medicine, podiatry, midwifery and dentistry. In addition, it held public hearings in Buffalo, Albany, and New York City. More than 20 public advocacy groups and representatives of the retail pharmacy chains have commented on the proposals. Further discussions were then held with representatives of the advocacy groups and of the retail pharmacy chains. The concerns of those commenting on the proposals were taken into account in modifying the original proposal, and the proposal represented in the proposed regulations was acceptable to both the advocacy groups and the chain retail pharmacies. The proposed regulations make no exception for individuals who live in rural areas, as the legislation did not permit such an exception. Therefore, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt entities in rural areas from coverage by the proposed amendment.

5. RURAL AREAS PARTICIPATION:

Comments on the proposed amendment were solicited from the Department of Health, statewide organizations representing parties having an interest in providing services to LEP individuals and stakeholders in providing more clear direction to patients regarding their medication regimens. Included in this group were representatives of the State Boards of Pharmacy, Medicine, Nursing, Dentistry, Podiatry, and Midwifery, and professional associations representing the pharmacy profession, such as the Pharmacists Society of the State of New York and the New York State Council of Health System Pharmacists and the New York Chain Pharmacy Association. These groups have representation from rural areas.

6. INITIAL REVIEW OF RULE (SAPA § 207):

Pursuant to State Administrative Procedure Act section 207(1)(b), the Department proposes that the initial review of this rule shall occur in the fifth calendar year after the year in which the rule is adopted, instead of in the third calendar year. The justification for a five year review period is that the proposed amendment is necessary to implement statutory requirements in section 6829(4) of the Education Law, as added by Section 3 of Part V of Chapter 57 of the Laws of 2012, and therefore the substantive provisions of the proposed amendment cannot be repealed or modified unless there is a further statutory change. Accordingly, there is no need for a shorter review period. The State Education Department invites public comment on the proposed five year review period for this rule. Comments should be sent to the agency contact listed in item 10 of the Notice of Proposed Rule Making published herewith, and must be received within 45 days of the State Register publication date of the Notice.

Job Impact Statement

Section 6829(4) of the Education Law, as added by Section 3 of Part V of Chapter 57 of the Laws of 2012, establishes interpretation and translation requirements for all mail order pharmacies conducting business in New York State. The proposed amendment implements the provisions of section 6829(4) of the Education Law that, effective March 30, 2014, require all mail order pharmacies sending prescriptions to individuals in New York State to provide interpretation and translation services for Limited English Proficient (LEP) individuals. It also subjects mail order pharmacies to the same interpretation and translation services requirements as are now required for covered pharmacies within the state. Specifically, with each initial transaction with individuals seeking mail order pharmacy services, in addition to English, mail order pharmacies will provide printed materials in Chinese, Italian, Russian and Spanish, explaining the availability of competent oral interpretation services and translation services. Persons will be identified as LEP individuals when they request such oral interpretation services and translation services or when such mail order pharmacy fills a prescription that indicates that the individual is a LEP individual. The manner and circumstances in which competent oral interpretation services and translation services will be provided is by a staff member of the mail order pharmacy or third-party contractor and services will be provided on an immediate basis but need not be provided in-person or face-to-face. The information for which competent oral interpretation and translation services shall be provided will be prescription medication labels, warning labels and other written materials.

Because the proposed amendment implements specific statutory requirements and directives, any impact on jobs and employment opportunities created by establishing translation and interpretation requirements for mail order pharmacies sending prescriptions to individuals in New York State is attributable to the statutory requirement, not the proposed amendment, which simply establishes standards that conform to the requirements of the statute. In any event, the same translation and interpretation requirements were established for covered pharmacies in 2013, and the Department is not aware that those requirements significantly affected jobs or employment opportunities in those pharmacies.

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Certification As a Clinical Nurse Specialist (CNS)

I.D. No. EDU-15-14-00003-P

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

Proposed Action: Amendment of sections 52.12, 64.4 and 64.8 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207 (not subdivided), 212(3), 6504 (not subdivided), 6507(2)(a), 6910(1), (2), (3), (4), (5), 6911(1) and (2); and L. 2013, ch. 364

Subject: Certification as a clinical nurse specialist (CNS).

Purpose: To implement chapter 364 of the Laws of 2013.

Text of proposed rule: 1. Paragraph (3) of subdivision (b) of section 52.12 of the Regulations of the Commissioner of Education is added, effective September 27, 2014, to read as follows:

(3) Clinical nurse specialist education programs.

(i) Registration. A clinical nurse specialist education program is a master's degree, doctoral degree or post master's certificate program, which prepares graduates to practice as a clinical nurse specialist as permitted by section 6911 of the Education Law. No clinical nurse specialist education program shall be offered in this State until such program has been registered by the department.

(ii) Admission. A clinical nurse specialist education program sponsor shall ensure that each student holds a baccalaureate degree in nursing and an unrestricted license and current registration as a registered professional nurse in New York State prior to enrolling the student in any preceptorship, course or other activity that includes clinical practice.

(iii) Curriculum. The curriculum shall include, in addition to the requirements of section 52.2(c) of this Title, clinical practice education of at least five hundred hours which is supervised by a clinical nurse specialist, nurse practitioner or physician practicing in the specialty area of the clinical nurse specialist program.

(iv) Credential. Upon satisfactory completion of all components of the registered clinical nurse specialist education program, a certificate of completion of a course of study for clinical nurse specialists shall be issued to each individual by the education program sponsor.

2. Subdivision (b) of section 64.4 of the Regulations of the Commissioner of Education is amended, effective September 27, 2014, as follows:

(b) Professional study. To meet the professional education requirements for certification *as a nurse practitioner* in this State, the applicant shall present evidence of:

(1)….
(2)….

3. Paragraph (1) of subdivision (c) of section 64.4 of the Regulations of the Commissioner of Education is repealed, and paragraphs (2) and (3) of subdivision (c) are renumbered as paragraphs (1) and (2), respectively, effective September 27, 2014.

4. Subdivision (d) of section 64.4 of the Regulations of the Commissioner of Education is repealed, and subdivision (e) of section 64.4 is relettered as subdivision (d), effective September 27, 2014.

5. Section 64.8 of the Regulations of the Commissioner of Education is added, effective September 27, 2014, to read as follows:

§ 64.8 Clinical nurse specialist certification.

(a) Requirements for certification. An applicant for certification as a clinical nurse specialist shall:

(1) submit an application, together with the required fee, to the department;

(2) hold an unrestricted license and current registration to practice as a registered professional nurse in New York State; and

(3) present evidence, satisfactory to the department, of meeting all applicable professional education and experience requirements for certification as a clinical nurse specialist.

(b) Professional education and experience criteria. To meet the professional education and experience requirements for certification as a clinical nurse specialist in this State, the applicant shall present evidence of having met the criteria in one of the four paragraphs below:

(1) completion of a clinical nurse specialist education program registered by the department; or

(2) completion of an education program determined by the department to be equivalent to a clinical nurse specialist education program registered by the department and current certification as a clinical nurse specialist by a national certifying body acceptable to the department; or

(3) holding a license or certification as a clinical nurse specialist issued by another state or country and meeting the substantial equivalent of the New York State requirements for certification, as determined by the department; or

(4) submitting an application and the required fee for certification as a clinical nurse specialist to the department prior to September 15, 2015 and satisfactorily meeting, as determined by the department, the criteria set forth in subparagraph (i) or (ii) of this paragraph prior to September 15, 2017:

(i) completion of a master's degree program in clinical nursing practice, which is determined by the department to be substantially equivalent to the preparation provided by a registered clinical nurse specialist education program, and completion, on or after January 1, 2011, of at least three thousand hours of clinical practice as a registered professional nurse in a clinical nurse specialty area in a general hospital licensed pursuant to article 28 of the Public Health Law; or

(ii) current certification as a clinical nurse specialist by a national certifying body acceptable to the department.

(c) Certificates.

(1) A clinical nurse specialist certificate issued to a registered professional nurse shall reflect the nurse's specialty area of clinical nurse specialist academic preparation.

(2) A registered professional nurse may apply for certification as a clinical nurse specialist in more than one specialty area of practice. A complete application and fee shall be required for each certificate.

Text of proposed rule and any required statements and analyses may be obtained from: Kirti Goswami, State Education Department, Office of Counsel, State Education Building, Room 148, 89 Washington Ave., Albany, NY 12234, (518) 474-6400, email: legal@mail.nysed.gov

Data, views or arguments may be submitted to: Office of the Professions, Office of the Deputy Commissioner, State Education Department, State Education Building 2M, 89 Washington Ave., Albany, NY 12234, (518) 486-1765, email: opdepcom@mail.nysed.gov

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

Subdivision (3) of section 212 of the Education Law authorizes the State Education Department ("Department") to determine and set fees for certifications and permits.

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions.

Paragraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner of Education to promulgate regulations in administering the admission to and the practice of the professions.

Section 6910 of the Education Law defines requirements for certification as a nurse practitioner and authorizes the standards for such certification to be included in regulations promulgated by the Commissioner of Education.

Subdivision (1) of section 6911 of the Education Law, as added by Chapter 364 of the Laws of 2013, establishes the criteria for certification as a clinical nurse specialist, including license and education requirements, application filing, and certification fees.

Subdivision (2) of section 6911 of the Education Law, as added by Chapter 364 of the Laws of 2013, establishes that only certified persons may use the title "clinical nurse specialist" and/or the designation "CNS."

2. LEGISLATIVE OBJECTIVES:

The proposed rule carries out the intent of Chapter 364 of the Laws of 2013 that amended Article 139 of the Education Law by adding a new section 6911, which establishes the criteria for certification as a clinical nurse specialist and protects the title "clinical nurse specialist" and the designation "CNS" to ensure that only those properly educated and properly prepared to be clinical nurse specialists hold themselves out as such. Specifically, the proposed rule establishes the requirements for clinical nurse specialist education programs, which include registration, admission, curriculum and credential requirements for clinical nurse specialist education programs offered in New York State. The proposed rule also establishes requirements for certification as a clinical nurse specialist, which include, but are not limited to, professional education and clinical experience requirements. The proposed rule requires an applicant for certification as a clinical nurse specialist to submit an application, together with the required fee, to the Department. It further requires the applicant to be currently licensed and registered in New York State and either a graduate of a clinical nurse specialist education program registered by the Department or able to meet alternative criteria acceptable to the Department relating to professional certification, education or clinical experience.

Finally, the proposed amendment will also repeal certain regulatory provisions relating to nurse practitioner certification in section 64.4 of the Regulations of the Commissioner of Education, as those provisions no longer have any application.

3. NEEDS AND BENEFITS:

The purpose of the proposed rule is to ensure that only those registered professional nurses who are properly educated and prepared to be clinical nurse specialists hold themselves out as such by establishing requirements for clinical nurse specialist certification. The proposed rule is necessary to conform the Regulations of the Commissioner to Chapter 364 of the Laws of 2013.

As required by statute, the proposed rule is also needed to establish the requirements for clinical nurse specialist education programs.

4. COSTS:

(a) Costs to State government: The proposed rule implements statutory requirements and establishes standards as directed by statute, and will not impose any additional costs on State government beyond those imposed by the statutory requirements.

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

(c) Cost to private regulated parties: The proposed rule does not impose any additional costs on regulated parties beyond those imposed by statute. As required by Education Law section 6911(1)(d), those individuals seeking certification as a clinical nurse specialist must pay a fee to the Department of $50 for each initial certificate authorizing clinical nurse specialist practice and a triennial registration fee of $30. Higher education institutions that seek to register clinical nurse specialist education programs with the Department, including those in rural areas, may incur costs related to the development and maintenance of such education programs and their registration. It is anticipated that such costs will be minimal because many higher education institutions are already offering courses that would or could, with slight adjustments, meet the registration requirements for a clinical nurse specialist education program, and that higher education institutions should be able to use their existing staffs and resources to revise their courses and curricula to meet the clinical nurse specialist certification requirements.

(d) Cost to the regulatory agency: The proposed rule does not impose any additional costs on the Department beyond those imposed by statute. Any associated costs to the Department will be offset by the fees charged to applicants and no significant cost will result to the Department.

5. LOCAL GOVERNMENT MANDATES:

The proposed rule implements the requirements of section 6911 of the Education Law, as added by Chapter 364 of the Laws of 2013, by establishing standards for individuals to be certified to practice as a clinical nurse specialist and standards for clinical nurse specialist education programs provided by institutions of higher education, and protects the title "clinical nurse specialist" and the designation "CNS" to ensure that only those properly educated and prepared to be clinical nurse specialists hold themselves out as such. It does not impose any program, service, duty, or responsibility upon local governments.

6. PAPERWORK:
The proposed rule imposes no new reporting or other paperwork requirements beyond those imposed by the statute.
7. DUPLICATION:
The proposed rule is necessary to implement Chapter 364 of the Laws of 2013. There are no other state or federal requirements on the subject matter of this proposed rule. Therefore, the proposed rule does not duplicate other existing state or federal requirements.
8. ALTERNATIVES:
The proposed rule is necessary to conform the Regulations of the Commissioner of Education to Chapter 364 of the Law of 2013 and repeal certain regulatory provisions in section 64.4 of the Regulations of the Commissioner of Education, as those provisions no longer have any application. There are no significant alternatives to the proposed rule and none were considered.
9. FEDERAL STANDARDS:
Since, there are no applicable federal standards for clinical nurse specialist certification and clinical nurse specialist education programs, the proposed rule does not exceed any minimum federal standards for the same or similar subject areas.
10. COMPLIANCE SCHEDULE:
The proposed rule is necessary to conform the Regulations of the Commissioner of Education to Chapter 364 of the Laws of 2013. Registered professional nurses seeking certification as clinical nurse specialists from the Department must comply with the certification requirements on the effective date of the authorizing statute, September 27, 2014. It is anticipated that registered professional nurses seeking such certification will be able to comply with the proposed rule by the effective date so that no additional period of time will be necessary to enable regulated parties to comply.

Regulatory Flexibility Analysis

The proposed rule implements the requirements of section 6911 of the Education Law, as added by Chapter 364 of the Laws of 2013, by establishing standards for individuals to be certified to practice as a clinical nurse specialist and standards for clinical nurse specialist education programs provided by institutions of higher education, and protects the title "clinical nurse specialist" and the designation "CNS" to ensure that only those properly educated and prepared to be clinical nurse specialists hold themselves out as such. The proposed rule will not impose any reporting, recordkeeping, or other compliance requirements or costs, or have an adverse impact, on small businesses or local governments. Because it is evident from the nature of the proposed rule that it will not affect small businesses or local governments, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis is not required and one has not been prepared.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:
The proposed rule will apply to registered professional nurses, who voluntarily apply to the State Education Department (Department) for certification as clinical nurse specialists and to higher education institutions that seek to register clinical nurse specialist education programs with the Department, including 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. Of the approximately 282,000 registered professional nurses who are registered to practice in New York State, approximately 30,100 reported their permanent address of record is in a rural county of the State. Additionally, advanced degree granting nurse education programs are located in many, but not all, rural counties.
2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:
As required by Chapter 364 of the Laws of 2013, which will become effective September 27, 2014, the proposed rule establishes certification for clinical nurse specialists to protect the title "clinical nurse specialist" and the designation "CNS" by ensuring that only those properly educated and prepared to be clinical nurse specialists hold themselves out as such. The proposed amendment to 52.12 of the Regulations of the Commissioner of Education and addition of section 64.8 to the Regulations of the Commissioner of Education implement the clinical nurse specialist certification requirements of Chapter 364.
The proposed amendment to section 52.12 of the Regulations of the Commissioner establishes the requirements for clinical nurse specialist education programs. These requirements include registration, admission, curriculum and credential requirements for clinical nurse specialist education programs offered in New York State.
The proposed addition of section 64.8 to the Regulations of the Commissioner establishes requirements for certification as a clinical nurse specialist, which include, but are not limited to, professional education and clinical experience requirements. The proposed rule requires an applicant for certification as a clinical nurse specialist to submit an application, together with the required fee, to the Department. It also requires the applicant to be currently licensed and registered in New York State and either a graduate of a clinical nurse specialist education program registered by the Department or able to meet alternative criteria acceptable to the Department relating to professional certification, education or clinical experience.
In addition, the proposed amendment will repeal certain regulatory provisions relating to nurse practitioner certification in section 64.4 of the Regulations of the Commissioner of Education, as those provisions no longer have any application.
The proposed rule will not require any higher education institution to offer an education program that prepares registered professional nurses to practice as clinical nurse specialists. The proposed rule will not impose any reporting, recordkeeping or other requirements on higher education institutions in rural areas, unless they seek to register a clinical nurse specialist education program with the Department. Such higher education institutions will have reporting and record keeping obligations related to the development and maintenance of their clinical nurse specialist education programs, as well as the registration of such programs with the Department.
The proposed rule will not impose any additional professional services requirements on entities in rural areas.
3. COSTS:
The proposed rule will not require any registered professional nurse to become certified as a clinical nurse specialist. With respect to registered professional nurses seeking certification from the Department as clinical nurse specialists, including those in rural areas, the proposed rule does not impose any additional costs beyond those required by statute. As required by Education Law section 6911(1)(d), those individuals seeking certification as a clinical nurse specialist must pay a fee to the Department of $50 for each initial certificate authorizing clinical nurse specialist practice and a triennial registration fee of $30.
The proposed rule will not require higher education institutions to offer education programs that prepare registered professional nurses to practice as clinical nurse specialists and does not impose any costs on them. However, higher education institutions that seek to register clinical nurse specialist education programs with the Department, including those in rural areas, may incur costs related to the development and maintenance of such education programs and their registration. It is anticipated that such costs will be minimal because many higher education institutions are already offering courses that would or could, with slight adjustments, meet the registration requirements for a clinical nurse specialist education program, and that higher education institutions should be able to use their existing staffs and resources to revise their courses and curricula to meet the clinical nurse specialist certification requirements.
4. MINIMIZING ADVERSE IMPACT:
The proposed rule implements the clinical nurse specialist certification requirements of Chapter 364. The statutory requirements do not make exceptions for individuals who live or work in rural areas. Nor do they make exceptions for higher education institutions located in rural areas. Thus, the Department has determined that the proposed rule's requirements should apply to all registered professional nurses seeking certification as clinical nurse specials and all higher education institutions seeking to register clinical nurse specialist education programs with the Department, regardless of geographic location, to help ensure continuing competency across the State. The Department has also determined that uniform standards for the Department's review of prospective registered clinical nurse specialist education programs are necessary to ensure quality clinical nurse specialist education in all parts of the State. Because of the nature of the proposed rule, alternative approaches for rural areas were not considered.
5. RURAL AREAS PARTICIPATION:
Comments on the proposed rule were solicited from statewide organizations representing all parties having an interest in the practice of registered professional nursing. These organizations included the State Board for Nursing and professional associations representing the nursing profession and nursing educators. These groups have members who live or work or provide nursing education in rural areas.
6. INITIAL REVIEW OF RULE (SAPA § 207):
Pursuant to State Administrative Procedure Act section 207(1)(b), the State Education Department proposes that the initial review of this rule shall occur in the fifth calendar year after the year in which the rule is adopted, instead of in the third calendar year. The justification for a five year review period is that the proposed rule is necessary to implement statutory requirements in section 6911 of the Education Law, as added by Chapter 364 of the Laws of 2013, and therefore the substantive provisions of the proposed rule cannot be repealed or modified unless there is a further statutory change. Accordingly, there is no need for a shorter review period. The Department invites public comment on the proposed five year review period for this rule. Comments should be sent to the agency contact listed in item 10 of the Notice of Proposed Rule Making published here-

with, and must be received within 45 days of the State Register publication date of the Notice.

Job Impact Statement

Section 6911 of the Education Law, as added by Chapter 364 of the Laws of 2013, effective September 27, 2014, establishes certification for clinical nurse specialists and protects the title "clinical nurse specialist" and the designation "CNS" to ensure that only those properly educated and prepared to be clinical nurse specialists hold themselves out as such. The proposed amendment to section 52.12 of the Regulations of the Commissioner and addition of section 64.8 to the Regulations of the Commissioner of Education implement Chapter 364 of the Laws of 2013 by establishing criteria for certification as a clinical nurse specialist, including: registration, admission, curriculum and credential requirements for clinical nurse specialist education programs; an application filing requirement; and license and education requirements.

The proposed amendment would also repeal certain regulatory provisions relating to nurse practitioner certification in section 64.4 of the Regulations of the Commissioner of Education, as those provisions no longer have any application.

The proposed amendment to section 52.12 of the Regulations of the Commissioner and addition of section 64.8 of the Regulations to the Commissioner of Education implement specific statutory requirements and directives. Therefore, any impact on jobs and employment opportunities created by establishing certification requirements for clinical nurse specialists is attributable to the statutory requirement, not the proposed amendment and rule, which simply establish standards that conform to the requirements of the statute.

The proposed rule will not have a substantial adverse impact on jobs and employment opportunities. Because it is evident from the nature of the proposed rule that they will have no adverse impact on jobs or employment opportunities attributable to their adoption or only a positive impact, no affirmative steps were needed to ascertain these facts and none were taken. Accordingly, a job impact statement is not required and one was not prepared.

New York State Gaming Commission

EMERGENCY RULE MAKING

Implementation of Rules Pertaining to Gaming Facility Request for Application and Gaming Facility License Application

I.D. No. SGC-15-14-00001-E

Filing No. 263

Filing Date: 2014-03-31

Effective Date: 2014-03-31

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

Action taken: Addition of sections 5300.1-5300.5 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1305(20) and 1307(2)

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

Specific reasons underlying the finding of necessity: The Commission has determined that immediate adoption of these rules is necessary for the preservation of the general welfare. On March 31, 2014, the Gaming Facility Location Board, which the Commission established pursuant to section 109-a of the Racing, Pari-Mutuel Wagering and Breeding Law (the "PML"), will issue a Request for Applications ("RFA") for applicants seeking a license to develop and operate a gaming facility in New York State pursuant to the Upstate New York Gaming Economic Development Act of 2013, as amended by Chapter 175 of the Laws of 2013 (the "Act"). The Act authorizes four upstate destination gaming resorts to enhance economic development in upstate New York. The immediate adoption of these rules is necessary to prescribe the form of the RFA and the information required to be submitted therewith, as required by subdivision 2 of section 1307 of the PML, to enable the Gaming Facility Location Board to carry out its statutory duties. Standard rule making procedures would prevent the Gaming Facility Location Board from commencing the fulfillment of its statutory duties.

Subject: Implementation of rules pertaining to gaming facility request for application and gaming facility license application.

Purpose: To facilitate a fair and transparent process for applying for a license to operate a gaming facility.

Substance of emergency rule: This addition of Part 5300 of Subtitle T of Title 9 NYCRR will add new Sections 5300.1 through 5300.5 to allow the New York State Gaming Commission ("Commission") to prescribe the form of the applications for a gaming facility license.

The new Part of the Gaming Commission regulations describes the form of application for applicants seeking a gaming facility license and the information the applicant must provide. Section 5300.1 sets forth the form of the application including disclosure of identifying information, finance and capital structure of the proposed gaming facility, economic and market analysis, proposed land and design of facility space, assessment of local support and plans to address regional tourism, problem gambling, workforce development and resource management. Section 5300.2 describes the scope of background information the applicant and related parties must provide in three disclosure forms, the Gaming Facility License Application Form, the Multi-Jurisdictional Personal History Disclosure Form and the Multi-Jurisdictional Personal History Disclosure Supplemental Form. Section 5300.3 describes the process by which all applicants for a gaming facility license shall submit fingerprints as part of a background investigation. Section 5300.4 describes the applicant's duty to update its application with any updates following submission of the application. Section 5300.5 describes the application fee and procedure for refunding a portion of such fee in certain circumstances.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires June 28, 2014.

Text of rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3407, email: gamingrules@gaming.ny.gov

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

A Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not submitted, but will be published in the *Register* within 30 days of the rule's effective date.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Prohibited Substances and Out of Competition Drug Testing for Harness Racing

I.D. No. SGC-15-14-00005-P

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

Proposed Action: Amendment of section 4120.17 of Title 9 NYCRR.

Statutory authority: Racing Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19), 122 and 902(1)

Subject: Prohibited substances and out of competition drug testing for harness racing.

Purpose: To enhance the integrity and safety of standardbred horse racing.

Text of proposed rule: Section 4120.17 of 9 NYCRR would be amended as follows:

§ 4120.17. Out-of-competition testing.

(a) Out-of-competition collection of samples.

(1) The commission may at a reasonable time on any date take a blood, urine or other biologic sample from a horse that is on a nomination list or [(a) Any horse on the grounds of a racetrack under the jurisdiction of the commission or stabled off track grounds is subject to testing without advance notice for blood doping, gene doping, protein and peptide-based drugs, including toxins and venoms, and other drugs and substances while] under the care or control of a trainer or owner *who is* licensed by the commission*, in order to enhance the ability of the commission laboratory to detect or confirm the impermissible administration of a drug or other substance to the horse.*

(2) Horses to be tested may be selected at random, for cause or as determined by a commission judge or executive official.

[(b) Horses to be tested shall be selected at the discretion of the State judges or any commission representative.]

(3) A selected horse that is not made available for sampling is ineligible to race for 180 days, unless the commission determines that circumstances unavoidably prevented the owner and trainer from making the horse available for sampling.

(4) If a selected horse is not involved in activities related to racing in New York, then the trainer or owner may represent this to the commission and the commission will not sample the horse. If the trainer makes such a representation and the managing owner has previously provided the commission with a means for the commission to give immediate telephonic notification to the managing owner that the trainer made such a representation, then the commission shall transmit such notification to the managing owner and the eligibility of the horse shall be preserved if the managing owner is able to make the horse available for immediate sampling. [Horses to be tested shall be selected from among those anticipated to compete at New York tracks within 180 days of the date of testing or demand for testing.]

(b) Sampling procedure.

(1) Samples shall be taken under the supervision and direction of a person who is employed or designated by the commission and is qualified to safeguard the health and safety of the horse. A veterinarian shall collect all blood samples.

(2) The person who takes samples for the commission shall provide identification and disclose the purpose of the sampling to the trainer or designated attendant of the horse.

(3) The owner, trainer and/or their designees shall cooperate with the person who takes samples for the commission by immediately assisting in the location and identification of the horse, making the horse available at a stall or other safe location to collect the samples and witnessing the taking of the samples.

(4) The commission, if requested and in its sole discretion, may permit the owner or trainer to present an off-track horse for sampling at a time and licensed racetrack designated by the commission.

(5) An owner or trainer does not consent to a search of the premises by making a horse available for sampling at an off-track location.

(6) The commission may arrange for the sampling of an out-of-state horse by the racing commission or other designated person in the jurisdiction where the horse is located. Such racing commission or other designated person shall follow the relevant provisions of this rule and the test results shall be available to the jurisdiction in which the horse is located for its regulatory use. The commission, if requested and in its sole discretion, may permit the owner or trainer instead to present the horse for sampling in New York State at a time and place designated by the commission.

(7) A commission judge or executive official [(c) The State judges or any commission representative] may require any horse of a licensed trainer or owner to be brought *promptly* to a *race*track under the jurisdiction of the commission for out-of-competition testing when*:*

(i) the commission has reasonable grounds to believe that the horse might have been impermissibly administered a drug or other substance;

(ii) the commission has no other practical means to collect such samples without reducing the ability of the commission laboratory to detect or confirm the impermissible administration of a drug or other substance to a horse; and

(iii) the horse is stabled out-of-state *but* [at a site located] within a radius not greater than 100 miles from *such* [a] New York State racetrack.

The trainer is responsible to have the horse or horses available at the designated time and location.

[(d) A commission veterinarian or any licensed veterinarian authorized by the State judges or any commission representative may at any time take a urine or blood sample from a horse for out-of-competition testing.]

(8) No person shall knowingly interfere with or obstruct a sampling.

(9) A licensed racetrack at which a horse may be located shall cooperate fully with a person who is authorized to take samples. The person who collects samples for the commission on track may require that the collection be done at the test barn.

(c) [(e)] Prohibited substances*.* [are:]

(1) The presence in or administration to a horse of the following doping agents or drugs, in the absence of extraordinary mitigating circumstances that excuse the owner and trainer from their failure to fulfill their duties and responsibilities, is prohibited at any time:

(i) Blood [blood] doping agents [including, but not limited to,]*: any substance, including a protein- or peptide-based agent or drug, that is capable of abnormally enhancing the oxygenation of body tissues, including but not limited to* erythropoietin (EPO), darbepoetin (e.g., Aransep), Oxyglobin, *aminoimidazole carboxamide ribonucleotide ("AICAR"), Myo-Inositol Trispyrophosphate ("ITTP") and* Hemopure[, Aransep, or any substance that abnormally enhances the oxygenation of body tissues;].

[(2)] *(ii) Gene* [gene] doping agents: [or the nontherapeutic use of] *a* gene[s], genetic element[s], [and/] or cell[s] that *alters the expression of genes for normal physiological functions and that may* [have the capacity to enhance athletic performance or] produce analgesia *or enhance the performance of a horse beyond its natural ability, including but not limited to thymosin beta-4 ("TB500"). This shall not apply to such agents when used off-track in an accepted veterinary treatment to assist a disabled horse to become healthy, without producing analgesia or potentially enhancing the performance of the horse beyond its natural ability, provided that such use is documented in the contemporaneous veterinary records of the horse.*[;]

[(3)] *(iii) Any other* protein- [and] *or* peptide[-] based *agent or* drug[s,] *that may produce analgesia or enhance the performance of a horse beyond its natural ability,* including *but not limited to* toxins*,* [and] venoms *and allosteric effectors*.

(iv) The substances described in this Paragraph are prohibited regardless of any of the provisions of section 4120.2 of this Part.

(2) No person shall possess or use the prohibited substances described in Paragraph (1) of this subdivision on the premises of any licensed racetrack.

(3) It shall be an affirmative defense to a violation of this section that the person used the prohibited substance only in a time, place and manner specifically permitted in writing by the commission before the administration of such substance, for a recognized therapeutic use, and subject to such appropriate limitations as the commission shall place on the return of the horse to running races.

[(f) The presence of any substance at any time described in paragraphs (1), (2) or (3) of subdivision (e) of this section is a violation of this section for which the horse may be declared ineligible to participate until the horse has tested negative for the identified substance, and for which the trainer shall be responsible pursuant to section 4120.4 of this Part.]

[(g) The trainer, owner, and/or their designees and any licensed or franchised racing corporation shall cooperate with the commission and the commission's representatives and designees by:]

[(1) assisting in the immediate location and identification of the horse selected for out-of-competition testing;]

[(2) providing a stall or safe location to collect the samples;]

[(3) assisting in properly procuring the samples; and]

[(4) obeying any instruction necessary to accomplish the provisions of this section.]

[The failure or refusal to cooperate in the above by any franchisee, licensee or other person shall subject the franchisee, licensee or person to penalties, including license suspension or revocation, the imposition of a fine and exclusion from tracks or facilities subject to the jurisdiction of the commission.]

(d) Penalties

(1)[(h)] A[ny] horse [which is not made available for testing as directed, including the failure to grant access on a timely basis, shall in the absence of acceptable mitigating circumstances,] *found to be in violation of this rule shall* be ineligible to participate in racing *until it is certain that the horse is no longer affected by the prohibited substance and for not less than 180* [for one hundred twenty] days*, after which the horse must qualify in a workout satisfactory to the judges and test negative for doping agents and drugs. The minimum fixed period of ineligibility for a horse in violation of this rule shall be reduced from 180 to 30 days if the trainer had never violated this rule or similar rules in other jurisdictions and had, for any violations of Part 4120 or similar rules in other jurisdictions, fewer than 180 days in lifetime suspensions or revocations and fewer than two suspensions or revocations of 15 days or more in the preceding 24 months*.

(2) A person who is found responsible for a violation of paragraph (1) of subdivision (c) of this section shall, in [(i) In] the absence of extraordinary mitigating circumstances, *incur* a minimum penalty of a 10-year suspension *in addition to any other penalties authorized in this Article.* [will be assessed for any violation set forth in subdivision (f).]

(e) A buyer who was not aware that a horse is or may be determined ineligible under this section may void the purchase, provided that the buyer does so within 10 days after receiving notice of the horse's ineligibility.

(f) [(j)] An application to the commission for an occupational license shall be deemed to constitute consent for access to any off-track premises on which horses owned and/or trained by the individual applicant are stabled. The applicant shall take any steps necessary to authorize access by commission representatives to such off-track premises.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, P.O. Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.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

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2), 104(1), (19), 122, and 902(1). Under Section 103(2), the Commission is responsible to supervise, regulate, and administer all horse racing

and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations, and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Section 122 continues previous rules and regulations of the legacy New York State Racing and Wagering Board, subject to the authority of the Commission to modify or abrogate such rules and regulations. Section 902(1) prescribes that a state college within New York with an approved equine science program shall conduct equine drug testing to assure public confidence in and to continue the high degree of integrity at pari-mutuel race meetings, and authorizes the Commission to promulgate any rules and regulations necessary to implement such equine drug testing program and to impose substantial administrative penalties for racing a drugged horse.

2. Legislative objectives: To enable the Commission to preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making proposes amendments to the Commission's harness racing out-of-competition testing ("OCT") rule to clarify the existing rule, incorporate enforcement protocols of the Commission, and make it more uniform with the Commission's OCT rule for thoroughbred racing. The proposal would also reorganize the existing rule into new subdivisions.

The Commission's OCT program requires New York licensed owners and trainers to allow their racehorses to be sampled on request. The primary reason for OCT is to detect the administration of doping agents that unnaturally change the physiology of the horse, can be administered many weeks or even months before racing in New York, powerfully affect the speed of horses as they are about race, are not required to provide veterinary care, and cannot be detected in samples collected from a racehorse on race day. Out-of-competition testing also makes it possible to detect "drug cocktails." A drug cocktail is the administration of various drugs in sub-clinical doses, thus creating laboratory results in race-day samples that are consistent with being administered too long before race day to affect the race but which are efficacious because of drug interactions. Such purposes for OCT are set forth in paragraph (a)(1) of the rule.

Out-of-competition testing is needed because the Commission does not require that the racehorses be stabled on the grounds of the New York racetracks. Rather, the owners and trainers who are in the business of racing their horses in New York harness races may do so no matter where they stable and train their harness horses or engage in other horse racing activities in preparation for racing in New York. The only requirement for such owners and trainers is that they must have an occupational license granted to them by the Commission. Such persons are engaged in New York racing activities when their racehorses are not yet entered to race, as this generally occurs only a few days before race day, and regardless of where their racehorses are located.

The existing OCT testing rule provides that the Commission will not select racehorses for testing that are not anticipated to race in New York for 180 days. Paragraphs (a)(1) and (a)(4) of the rule clarify that this means the Commission may select any horse that is under the care or control of a New York licensed owner or trainer, but that such licensees may excuse from sampling a racehorse that is not involved in activities related to racing in New York. Pursuant to new paragraph (a)(3) of the rule, such horse would then not be permitted to race in New York for at least 180 days. An innocent owner or trainer would have no reason to object to sampling. This period of exclusion serves to deter guilty parties from misrepresenting their intentions, solely to evade sampling, by imposing a substantial period of ineligibility before such horse may race in New York. New paragraph (a)(4) also provides a safeguard for a racehorse owner whose trainer refuses to permit a sampling. The Commission would attempt to reach the owner by telephone, if it has the contact information, so the owner could countermand the trainer and cause the horse to be sampled.

Subdivisions (a) and (b) of the rule have been revised to set forth or clarify a number of the Commission's existing OCT protocols and procedures that ensure that OCT does not unreasonably burden owners and trainers. Paragraph (b)(2) provides that persons collecting samples will present their credentials and disclose the purpose of the sampling. Paragraph (b)(4) states that the owner and trainer may request permission to bring an off-track horse to a licensed racetrack for its sample to be taken. Paragraph (b)(5) states that when an owner or trainer allows a horse to be sampled at an off-track location, this does not constitute consent to a search of the premises. Paragraph (a)(1) states that samples shall be collected at a reasonable time, which is obviously necessary if the Commission is going to obtain the assistance of the racehorse's caretaker to locate and identify the horse, provide a safe location, and witness the sampling. When a horse is located out-of-state, paragraph (b)(6) states that the Commission will have samples collected by a designee or the state racing commission in that jurisdiction. In the rare instances when another racing commission or a designee of the Commission cannot readily collect a sample from an out-of-state racehorse, new paragraph (a)(7) authorizes the Commission to require that the horse be shipped (no more than 100 miles) to a New York racetrack for sampling. The amendment explicitly states the Commission policy to order this only if there is reasonable cause to believe such racehorse might have been doped. Although the delay in waiting for a racehorse to arrive in New York is disadvantageous for the Commission, this authority will continue to help prevent out-of-state racehorses from being insulated from OCT.

If a horse is made available on track, then new paragraph (b)(9) will allow the person who takes samples to require that the racehorse be brought to a central area, the test barn. This minimizes the burden on racetracks, which are required to facilitate the sampling process, when the Commission is unable to deploy its inspectors and veterinarians throughout the racetrack.

The amendments to subdivision (c) will improve the description of substances that are prohibited. The general prohibition of peptide- or protein-based substances is limited, in paragraph (c)(1)(iii), to those that produce analgesia or enhance a horse's performance beyond its natural abilities. This removes an apparent conflict with certain provisions in other Commission rules. In paragraph (c)(1)(i) of the rule, the prohibition of blood doping agents is broadened to include any substances that can abnormally oxygenate bodily tissues. Paragraph (c)(1)(ii) expressly permits the use of gene-doping therapies for treating disabled racehorses when it cannot produce analgesia or enhance a horse's performance beyond its natural abilities. Such therapies may be used off-track without advance permission, and under paragraph (c)(3), any substance that an owner, trainer, or veterinarian is concerned might be prohibited by section 4120.17(c) can be used at any location by first getting the written permission of the Commission (e.g., presiding judge).

Paragraph (d)(1) sets forth the period of the ineligibility of a racehorse after testing positive for prohibited substances. There will be a fixed period of ineligibility, which depends in part on the trainer's record for equine drugging, and a period of ineligibility equivalent to a substance's withdrawal period.

Finally, new subdivision (e) allows a buyer who has learned after the purchase that the racehorse was ineligible to race 10 days to void the sale.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: These amendments will not add any new mandated costs to the existing rules, and the cost of making a horse available for sampling may be reduced in some instances. The new rule gives the owner or trainer the option to ask for permission to produce the horse at a nearby racetrack, including one located in the horse's home state, and sets forth the limited circumstances in which the Commission would direct a person to bring a horse, stabled out-of-state but within 100 miles of a New York racetrack, to such racetrack for sampling.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. The new rule will potentially reduce administrative costs by encouraging horsepersons to bring their horses to a licensed racetrack's test barn for sampling. The cost of samples taken by sister states from out-of-state horses will remain constant, as the owner or trainer will make the horse available during normal training or racing hours when staff is available to collect samples, and the cost of collections by one state will be offset by collections obtained for it by its sister state. The cost to comply for a horseperson to transport a horse to New York from a nearby state could be reduced, although the Commission has never required such transport because of the general availability of out-of-state surrogates that collect samples much more promptly for the Commission. Both states will be able to use a single laboratory test to enforce their own state rules, which will cost less than the normal practice of each state conducting its own laboratory tests. The samples require separate shipping whether collected in or out of state.

There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: The Commission relied on its experience in collecting samples for collaborating states and on the studies and/or advice provided by the Director of the New York State Drug Testing and Research Program, Dr. George A. Maylin.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel harness racing activities.

6. Paperwork: There will be no additional paperwork. The Commission will utilize the existing documents for its chain-of-custody protocol and memorandums of understanding with other state racing commissions, as well as administrative adjudication to determine whether a violation has occurred and what sanctions may be appropriate.

7. Duplication: None.

8. Alternatives. The Commission considered as an alternative a requirement that the trainer of a horse must be notified by certified mail and respond to such notice before any selected horse could be sampled by the Commission. This alternative was rejected because it would involve significant delay and could readily be manipulated by a guilty party to delay or even preclude any attempt by the Commission to collect a timely sample from a racehorse. The Commission also considered a suggestion by a representative of a horseperson's group that the Commission require all off-track stables in New York to be licensed and subject to inspection by the Commission. This alternative was rejected because the administrative costs would be prohibitive and the alternative was far more intrusive than necessary to address the concerns that underlie the out-of-competition program.

9. Federal standards: None.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

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

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rule making proposal because it will have no adverse effect on small businesses, local governments, rural areas, or jobs.

The proposed amendments serve to narrow and simplify the Commission's existing out-of-competition equine drug testing rule for harness racing by codifying the protections afforded to horse owners and trainers and clarifying both the definition of prohibited substances and the rights of owners and trainers whose horses have been selected for sampling. These amendments do not expand the scope of the existing regulatory framework, but merely revise ministerial aspects within the existing out-of-competition rule. This rule will not impose an adverse economic impact on reporting, record keeping or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. Due to the straightforward nature of the rulemaking, there is no need for the development of a small business regulation guide to assist in compliance. These provisions are clear as to what equine drugs are impermissible, when they are impermissible, how the Commission's program will be implemented, and what is necessary to comply with the rule.

New York Gaming Facility Location Board

EMERGENCY RULE MAKING

Rules Pertaining to Gaming Facility Request for Application and Related Fees and Related Hearings

I.D. No. GFB-15-14-00010-E

Filing No. 266

Filing Date: 2014-03-31

Effective Date: 2014-03-31

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

Action taken: Addition of Parts 600 and 601 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 1306(4), (9) and 1319

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

Specific reasons underlying the finding of necessity: The New York State Gaming Facility Location Board (the "Board") has determined that immediate adoption of these rules is necessary for the preservation of the general welfare. On March 31, 2014, the Board, which was established by the New York State Gaming Commission, will issue a Request for Applications ("RFA") for applicants seeking a license to develop and operate a gaming facility in New York State pursuant to the Upstate New York Gaming Economic Development Act of 2013, as amended by Chapter 175 of the Laws of 2013 (the "Act"). The Act authorizes four upstate destination gaming resorts to enhance economic development in Upstate New York. The immediate adoption of these rules is necessary to prescribe required fee information for applicants considering whether or not to submit an application in response to the RFA and to enable the Board to have hearing procedures in place before any potential public hearing occurs. Standard rule making procedures would prevent the Board from commencing the fulfillment of its statutory duties.

Subject: Rules pertaining to gaming facility request for application and related fees and related hearings.

Purpose: To facilitate a fair and transparent process for applying for a license to operate a gaming facility.

Text of emergency rule: Subtitle R of Title 9, Executive, of the NYCRR is amended to name such Subtitle "Gaming Facility Location Board" and add new Parts 600 and 601 as follows:

PART 600
PUBLIC HEARINGS

§ 600.1. Public Hearings.

(a) If the New York Gaming Facility Location Board conducts a public hearing, it shall cause the New York Stare Gaming Commission to post a notice of such hearing on the Gaming Commission's website a reasonable period of time before such meeting.

(b) Any member of the New York Gaming Facility Location Board may preside over a public hearing as chair of the meeting. The conduct of the meeting shall be in the sole and absolute discretion of the chair, who may decide whom to recognize to speak and limit the time allowed to any speaker and the number of speakers. The chair of the meeting may receive written testimony in the discretion of the chair.

PART 601
GAMING FACILITY LICENSE FEES

§ 601.1. Gaming Facility License Fees.

(a) The license fee for a gaming facility license issued by the Gaming Commission pursuant to subdivision 4 of section 1315 of the Racing, Pari-Mutuel Wagering and Breeding Law shall be as follows, unless a gaming facility licensee has agreed to pay an amount in excess of the fees listed below:

(1) in Zone Two, Region One (Counties of Columbia, Delaware, Dutchess, Greene, Orange, Sullivan and Ulster), as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law, the following fees will apply to counties as designated below:

(i) $70,000,000 for a gaming facility in Dutchess and Orange Counties;

(ii) $50,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan and Ulster Counties, if no license is awarded for a gaming facility located in Dutchess or Orange Counties; and

(iii) $35,000,000 for a gaming facility in Columbia, Delaware, Greene, Sullivan and Ulster Counties, if a license is awarded for a gaming facility located in Dutchess or Orange Counties.

(2) $50,000,000 in Zone Two, Region Two (Counties of Albany, Fulton, Montgomery, Rensselaer, Saratoga, Schenectady, Schoharie and Washington), as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law;

(3) in Zone Two, Region Five (Counties of Broome, Chemung (east of State Route 14), Schuyler (east of State Route 14), Seneca, Tioga, Tompkins, and Wayne (east of State Route 14)), as such zone and region are defined in section 1310 of the Racing, Pari-Mutuel Wagering and Breeding Law, the following fees will apply to counties as designated below:

(i) $35,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga or Tompkins Counties;

(ii) $50,000,000 for a gaming facility in Wayne or Seneca Counties; and

(iii) $20,000,000 for a gaming facility in Broome, Chemung, Schuyler, Tioga and Tompkins Counties, if a license is awarded for a gaming facility located in Wayne or Seneca Counties.

(b) A gaming facility licensee shall pay the required license fee by electronic fund transfer according to directions issued by the Gaming Commission.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires June 28, 2014.

Text of rule and any required statements and analyses may be obtained from: Heather McArn, New York State Gaming Commission, 1 Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3408, email: sitingrules@gaming.ny.gov

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

A Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not submitted, but

will be published in the *Register* within 30 days of the rule's effective date.

Department of Health

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Rate Rationalization-Community Residences (CRs)/ Individualized Residential Alternatives (IRAs) Habilitation and Day Habilitation

I.D. No. HLT-15-14-00011-P

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

Proposed Action: Addition of Subpart 86-10 to Title 10 NYCRR.

Statutory authority: Social Services Law, section 363-a; and Public Health Law, section 201(1)(v)

Subject: Rate Rationalization-Community Residences (CRs)/ Individualized Residential Alternatives (IRAs) Habilitation and Day Habilitation.

Purpose: To establish new rate methodology effective July 1, 2014.

Substance of proposed rule (Full text is posted at the following State website:www.health.ny.gov): This regulation establishes a new reimbursement methodology for Supervised and Supportive Community Residences (including Individualized Residential Alternatives) and Day Habilitation programs which will be effective July 1, 2014.

The methodology for these programs will include the following elements:

1) The use of a base period Consolidated Fiscal Report (CFR) for the period of January 1, 2011 – December 31, 2011 for calendar year filers or the period of July 1, 2010 through June 30, 2011 for fiscal year filers.

2) The assignment of geographic location, based on CFR information and consistent with Department of Health regions.

3) Operating, facility and capital components. The operating component recognizes a blend of actual provider costs and average regional costs. The facility component recognizes actual provider costs. The methodology for the capital component has not been significantly changed from that of the previous reimbursement methodology. One adjustment to the methodology for the capital component is that initial reimbursement will only remain in the rate for two years from the date of site certification unless actual costs are verified with the Office for People With Developmental Disabilities. The other adjustment to the methodology is that the thresholds identified are the maximum allowable amounts and will not be exceeded.

4) Wage Equalization factors.

5) A Budget Neutrality factor.

6) A three year phase-in period for transition to the methodology.

For Supervised and Supportive Community Residences (including IRAs) only, the methodology will include:

An acuity factor developed through a regression analysis and based on Developmental Disabilities Profile information.

For Supervised Community Residences (including IRAs) only, the methodology will incorporate:

1) A change in the unit of service from monthly to daily. Commensurate with that change, the methodology will recognize retainer days, therapeutic leave days and vacant bed days.

2) The recognition of an evacuation score factor.

For Day Habilitation programs only, the methodology will include:

The recognition of actual provider to-from transportation costs.

Text of proposed rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

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

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

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

Statutory authority:

Social Services Law (SSL) section 363-a and Public Health Law (PHL) section 201(1)(v) provide that the Department is the single state agency responsible for supervising the administration of the State's medical assistance ("Medicaid") program and for adopting such regulations, not inconsistent with law, as may be necessary to implement the State's Medicaid program.

Legislative objective:

These proposed regulations further the legislative objectives embodied in section 363-a of the Social Services Law and section 201(1)(v) of the Public Health Law. The proposed regulations concern changes in the methodology for reimbursement of residential habilitation services delivered in Community Residences (CRs) and Individualized Residential Alternatives (IRAs), and for day habilitation services.

Needs and benefits:

The Office for People With Developmental Disabilities (OPWDD) and the Department of Health (DOH) are seeking to implement a new reimbursement methodology which complements existing OPWDD requirements concerning residential and day habilitation services, and satisfies commitments included in OPWDD's transformation agreement with the federal Centers for Medicare and Medicaid Services (CMS).

The methodology, which combines regional average cost components, provider specific cost experiences, and other factors, including the needs of individuals served, is expected to result in rates that are consistent with efficiency and economy, and that lead to quality outcomes for individuals receiving services. The purpose of the methodology change is to move from budget to cost-based reimbursement, to provide a clear and transparent method of reimbursement, to move toward consistency in rates across the system, and to provide a more stable system of reimbursement.

Costs:

Costs to the Agency and to the State and its local governments:

The proposed regulations will be cost neutral to the state as the monies appropriated for such services will remain constant and only the distribution of such monies will be subject to change.

The new methodologies do not apply to the state as a provider of services.

There will be no savings or costs to local governments as a result of these regulations because pursuant to Social Services Law sections 365 and 368-a, either local governments incur no costs for these services or the State reimburses local governments for their share of the cost of Medicaid funded programs and services.

Costs to private regulated parties:

The proposed regulations will implement a new reimbursement methodology for residential habilitation delivered in CRs and IRAs and day habilitation. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. However, overall reimbursement to providers will not be changed.

Local government mandates:

There are no new requirements imposed by the rule on any county, city, town, village, school, fire or other special district.

Paperwork:

The proposed amendments will require additional paperwork be completed by providers. The proposed regulations change the unit of service for residential habilitation in supervised CRs and supervised IRAs from a monthly to a daily unit of service. The monthly unit of service required documentation of service delivery on at least twenty-two days each month; the new methodology will require daily documentation. In addition, providers will need to bill for each day that services are delivered, rather than billing on a monthly basis. In addition, the regulations require that providers determine and report retainer days, therapeutic leave days, and vacant bed days.

Duplication:

The proposed regulations do not duplicate any existing State or federal requirements that are applicable to services for persons with developmental disabilities.

Alternatives:

OPWDD developed the methodology in collaboration with DOH and discussed the methodology with representatives of provider associations and with CMS. A variety of factors, including alternate transition plans, were considered; however, the proposed regulations represent the results of decisions made from those discussions and collaboration with DOH.

Federal standards:

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

Compliance schedule:

OPWDD and DOH are planning for the regulations to be effective July 1, 2014. All necessary information, training, and guidance regarding the new service documentation requirements and billing procedures will be provided to agencies in advance of the effective date of regulations. The planned provider training will explain all components, calculations, and provisions of these regulations.

Regulatory Flexibility Analysis

Effect of Rule:

The proposed rule will shift resources across agencies, resulting in some agencies obtaining a higher reimbursement rate and others a lower reimbursement rate. The Department will determine actual costs of such agencies and to appropriately reflect such costs in agency reimbursement rates. The proposed rule primarily affects the operating cost component of agency reimbursement; however, there are changes to the capital cost component as well.

The new operating cost component will reflect actual costs of services to individuals receiving day and residential habilitation services. Such costs will be averaged according to region and across the State. The various averages will be adjusted and weighted for maximum accuracy. The methodology incorporated an acuity adjustment for residential habilitation services. The final operating rate will incorporate actual costs of an agency, the average regional costs of all agencies in such region and the average statewide costs for such services.

The capital cost component of the rate will be the lesser: actual costs, fair market value and threshold rates. Threshold rates will now be the maximum allowable reimbursement costs. The Department will retain the system of prior property approval and attendant system of estimated costs and cost verification processes. However, estimated costs will not exceed two years and the cost verification process shall be amended to place the onus of verification upon the provider agency. The Department recommends such changes as an incentive for such agencies to comply with the cost verification process, where such compliance has been difficult to obtain. A further consequence of the failure to submit actual cost data within the two years prescribed by this rule will be the reduction of the capital cost component to zero until such time as the agency complies.

Compliance Requirements:

The proposed regulations change the unit of service for residential habilitation for supervised IRAs from a monthly to a daily unity of service, effective July 1, 2014. The monthly unit of service required documentation of service delivery on at least twenty-two days each month; the new methodology will require daily documentation. In addition, providers will need to bill for each day that services are delivered, rather than billing on a monthly basis. Providers must also determine and report retainer days and therapeutic leave days.

The proposed rule does not require any additional paperwork requirements for the capital cost component, but changes the consequences of non-compliance.

Professional Services:

No new professional services are required as a result of this amendment.

Compliance Costs:

The proposed rule imposes no new costs on regulated entities.

Economic and Technological Feasibility:

There are technical issues related to units of service that will be managed during the transition to the new methodology. Previously, providers of residential habilitation services used a monthly billing system that required twenty-two days of service delivery. Agencies will now provide the Department with data regarding therapeutic leave days, service days and retainer services provided to individuals. The proposed rule provides two transition periods. The first transitions the monthly unit of service to a daily unit of service, while the second transitions the old methodology to the new regional/cost based approach. The Department does not anticipate that regulated entities will require new professional services as a result of this new rule.

Minimizing Adverse Impact:

The transition to the new methodology may involve significant disruptions to certain providers. Rate rationalization will provide a clear, transparent method of reimbursement that will normalize rates across the industry and make for a more stable system of reimbursement across the services affected. The proposed regulations minimize adverse economic impact in several ways. First, there is a multi-year phase-in period for transition to the new methodology. For providers that will experience a decrease in reimbursement, this will help to smooth the effects of the reduction in revenue. In addition, the inclusion of several factors in the methodology, such as the acuity factor and the E-score factor, will enhance reimbursement for providers who serve individuals with greater needs and/or who require richer staffing than would otherwise be warranted.

Small Business and Local Government Participation:

The methodology was discussed with representatives of providers, including those members of New York State Association of Community and Residential Agencies (NYSACRA) who have fewer than 100 employees, at numerous meetings and conferences. The Department has conveyed its objective to promulgate these amendments to providers, at six meetings/conferences between August 2013 and January 2014. Further, the department is committed to the transparency of this methodology by posting the results by provider on its website.

Rural Area Flexibility Analysis

Effect on Rural Areas:

Description of the types and estimation of the number of rural areas in which the rule will apply: OPWDD services are provided in every county in New York State. Forty three counties have a population of less that 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. Additionally, 10 counties with certain townships have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga, Orange and Saratoga.

The proposed amendments have been reviewed by the Department in light of their impact on rural areas. The proposed amendments establish standards for the provision and funding of residential and day habilitation service under the Home and Community Based Services (HCBS) waiver and make minor technical changes in existing regulations.

Reporting, Recordkeeping and Other Compliance Requirements and Professional Services:

There are technical issues related to units of service that will be managed during the transition to the new methodology. Previously, providers of residential habilitation services used a monthly billing system that required twenty-two days of service delivery. Agencies will now provide the Department with data regarding therapeutic leave days, service days and retainer days provided to individuals. The proposed rule provides two transition periods, the first transitions the monthly unit of service to a daily unit of service while the second transitions the old methodology to the new regional/cost based approach. The Department does not anticipate that regulated entities will require new professional services as a result of this new rule.

Costs:

The proposed rule imposes no new costs on regulated entities.

Minimizing Adverse Impact:

The transition from rates to rates set according to a standardized methodology may involve significant disruptions to certain providers. Rate rationalization will provide a clear, transparent method of reimbursement that will normalize rates across the industry and make for a more stable system of reimbursement across the services affected.

The proposed regulations minimize adverse economic impact in several ways. First, there is a multi-year phase-in period for transition to the new methodology. For providers that will experience a decrease in reimbursement, this will help to smooth the effects of the reduction in revenue. In addition, the inclusion of several factors in the methodology, such as the acuity factor and the E-score factor, will enhance reimbursement for providers who serve individuals with greater needs and/or who require richer staffing than would otherwise be warranted. OPWDD has also been working with providers to develop strategies to assist providers in achieving efficiencies in service provision. This will help providers accommodate a reduction in revenue without compromising the quality of services provided.

Rural Area Participation:

The Department has conveyed its objective to promulgate these amendments to providers, at six meetings/conferences between August 2013 and January 2014. The methodology was discussed with representatives of providers, including providers in rural areas, such as NYSARC, the NYS Association of Community and Residential Agencies, NYS Catholic Conference and CP Association of NYS, some who have fewer than 100 employees, at numerous meetings and conferences. Further, the department is committed to the transparency of this methodology by posting the results by provider on its website.

Job Impact Statement

A job impact statement is not being submitted for these proposed amendments because the Department determined that they will not cause a loss of more than 100 full time annual jobs State wide. The proposed regulations will implement a new reimbursement methodology for residential habilitation delivered in CRs and IRAs and day habilitation. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. However, overall reimbursement to providers will not be changed.

Some providers will experience a decrease in reimbursement as a result of these amendments. The Department expects that most providers in this situation will be able to accommodate the reduction in revenue by making programs more efficient without compromising the quality of services. However, some providers may effectuate a modest reduction in employment opportunities as a result of the decrease in revenue. At the same time, other providers that experience an increase in reimbursement may commensurately increase employment opportunities. Therefore, the Department expects that there will be no overall effect on jobs and employment opportunities as a result of these amendments.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Rate Rationalization—Intermediate Care Facilities for Persons with Developmental Disabilities (ICF/DDs)

I.D. No. HLT-15-14-00012-P

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

Proposed Action: Addition of Subpart 86-11 to Title 10 NYCRR.

Statutory authority: Social Services Law, section 363-a; and Public Health Law, section 201(1)(v)

Subject: Rate Rationalization—Intermediate Care Facilities for Persons with Developmental Disabilities (ICF/DDs).

Purpose: To establish new rate methodology effective July 1, 2014.

Substance of proposed rule (Full text is posted at the following State website:www.health.ny.gov): This regulation establishes a new reimbursement methodology for Intermediate Care Facilities for People with Developmental Disabilities (ICFs/DD) scheduled to be effective July 1, 2014. The methodology for this program will include the following elements:

1) The use of a base period Consolidated Fiscal Report (CFR) for the period of January 1, 2011 – December 31, 2011 for calendar year filers or the period of July 1, 2010 through June 30, 2011 for fiscal year filers.

2) The assignment of geographic location, based on CFR information and consistent with Department of Health regions.

3) Operating, facility, day services and capital components. The operating component recognizes a blend of actual provider costs and average regional costs. The facility component recognizes actual provider costs. The day services component is based on the existing units of service from the provider rate sheet in effect on June 30, 2014 and the July 1, 2014 rate for the service. The methodology for the capital component has not been significantly changed from that of the previous reimbursement methodology. One adjustment to the methodology for the capital component is that initial reimbursement will only remain in the rate for two years from the date of site certification unless actual costs are verified with the Office for People With Developmental Disabilities. The other adjustment to the methodology is that the thresholds identified are the maximum allowable amounts and will not be exceeded.

4) Wage Equalization factors.

5) A Budget Neutrality factor.

6) A three year phase-in period for transition to the methodology.

Text of proposed rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.state.ny.us

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

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

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

Statutory Authority:

Social Services Law (SSL) section 363-a and Public Health Law (PHL) section 201(1)(v) provide that the Department is the single state agency responsible for supervising the administration of the State's medical assistance ("Medicaid") program and for adopting such regulations, not inconsistent with law, as may be necessary to implement the State's Medicaid program.

Legislative Objective:

These proposed regulations further the legislative objectives embodied in sections 363-a of the Social Services Law and section 201(1)(v) of the Public Health Law. The proposed regulations concern changes in the methodology for reimbursement of Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD).

Needs and Benefits:

The Office for People With Developmental Disabilities (OPWDD) and the Department of Health (DOH) are seeking to implement a new reimbursement methodology which complements existing OPWDD requirements concerning ICFs/DD, and satisfies commitments included in OPWDD's transformation agreement with the federal Centers for Medicare and Medicaid Services (CMS).

The methodology, which combines regional average cost components, provider specific cost experiences, and other factors, including the needs of individuals served, is expected to result in rates that are consistent with efficiency and economy, and that lead to quality outcomes for individuals receiving services. The purpose of the methodology change is to provide a clear and transparent method of reimbursement, to move toward consistency in rates across the system, and to provide a more stable system of reimbursement.

Costs:

Costs to the Agency and to the State and its local governments:

The proposed regulations will be cost neutral to the state as the monies appropriated for such services will remain constant and only the distribution of such monies will be subject to change.

The new methodologies do not apply to the state as a provider of services.

There will be no savings or costs to local governments as a result of these regulations because pursuant to Social Services Law sections 365 and 368-a, either local governments incur no costs for these services or the State reimburses local governments for their share of the cost of Medicaid funded programs and services.

Costs to private regulated parties:

The proposed regulations will implement a new reimbursement methodology for ICFs/DD. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. However, overall reimbursement to providers will not be changed.

Local Government Mandates:

There are no new requirements imposed by the rule on any county, city, town, village, school, fire or other special district.

Paperwork:

The proposed amendments are not expected to increase paperwork to be completed by providers.

Duplication:

The proposed regulations do not duplicate any existing State or federal requirements that are applicable to services for persons with developmental disabilities.

Alternatives:

OPWDD developed the methodology in collaboration with DOH and discussed the methodology with representatives of provider associations and with CMS. A variety of factors, including alternate transition plans, were considered; however, the proposed regulations represent the results of decisions made from those discussions and collaboration with DOH.

Federal Standards:

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

Compliance Schedule:

OPWDD and DOH are planning for the regulations to be effective July 1, 2014. All necessary information, training, and guidance regarding the new service documentation requirements and billing procedures will be provided to agencies in advance of the effective date of regulations. The planned provider training will explain all components, calculations, and provisions of these regulations.

Regulatory Flexibility Analysis

Effect of Rule:

The proposed rule will shift resources across agencies, resulting in some agencies obtaining a higher reimbursement rate and others a lower reimbursement rate. The proposed rule primarily affects the operating cost component of agency reimbursement; however, there are changes to the capital cost component as well.

The new operating cost component will reflect actual costs of services to individuals in ICFs/DD. Such costs will be averaged according to region and across the State. The various averages will be adjusted and weighted for maximum accuracy. The final operating rate will incorporate actual costs of an agency, the average regional costs of all agencies in such region and the average statewide costs for such services.

The capital cost component of the rate will be the lesser: actual costs, fair market value and threshold rates. Threshold rates will now be the maximum allowable reimbursement costs. The Department will retain the system of prior property approval and attendant system of estimated costs and cost verification processes. However, estimated costs will not exceed two years and the cost verification process shall be amended to place the onus of verification upon the provider agency. The Department recommends such changes as an incentive for such agencies to comply with the cost verification process, where such compliance has been difficult to obtain. A further consequence of the failure to submit actual cost data within the two years prescribed by this rule will be the reduction of the capital cost component to zero until such time as the agency complies.

Compliance Requirements:

The proposed rule does not require any additional paperwork requirements for the capital cost component, but changes the consequences of non-compliance.

Professional Services:

No new professional services are required as a result of this amendment.

Compliance Costs:

The proposed rule imposes no new costs on regulated entities.

Economic and Technological Feasibility:

The proposed rule provides a transition period from the old methodology to the new regional/cost based approach. The Department does not anticipate that regulated entities will require new professional services as a result of this new rule.

Minimizing Adverse Impact:

The transition to this methodology may involve significant disruptions to certain providers. Rate rationalization will provide a clear, transparent method of reimbursement that will normalize rates across the industry and make for a more stable system of reimbursement across the services affected. The proposed regulations minimize adverse economic impact by utilizing a multi-year phase-in period for transition to the new methodology. For providers that will experience a decrease in reimbursement, this will help to smooth the effects of the reduction in revenue.

Small Business and Local Government Participation:

The methodology was discussed with representatives of providers, including those members of New York State Association of Community and Residential Agencies (NYSACRA) who have fewer than 100 employees, at numerous meetings and conferences. The Department has conveyed its objective to promulgate these amendments to providers, at six meetings/conferences between August 2013 and January 2014. Further, the department is committed to the transparency of this methodology by posting the results by provider on its website.

Rural Area Flexibility Analysis

Effect on Rural Areas:

Description of the types and estimation of the number of rural areas in which the rule will apply: OPWDD services are provided in every county in New York State. 43 counties have a population of less that 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. Additionally, 10 counties with certain townships have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga, Orange and Saratoga.

The proposed amendments have been reviewed by the Department in light of their impact on rural areas. The proposed amendments establish standards for the provision and funding of ICFs/DD and make minor technical changes in existing regulations.

Reporting, Recordkeeping and Other Compliance Requirements and Professional Services:

There are no additional reporting, recordkeeping and other compliance requirements and professional services imposed by these amendments.

The proposed rule provides a transition period from the old methodology to the new regional/cost based approach. The Department does not anticipate that regulated entities will require new professional services as a result of this new rule.

Costs:

The proposed rule imposes no new costs on regulated entities.

Minimizing Adverse Impact:

The transition to the new methodology may involve significant disruptions to certain providers. Rate rationalization will provide a clear, transparent method of reimbursement that will normalize rates across the industry and make for a more stable system of reimbursement across the services affected.

The proposed regulations minimize adverse economic impact by utilizing a multi-year phase-in period for transition to the new methodology. For providers that will experience a decrease in reimbursement, this will help to smooth the effects of the reduction in revenue.

Rural Area Participation:

The Department has conveyed its objective to promulgate these amendments to providers, at six meetings/conferences between August 2013 and January 2014. The methodology was discussed with representatives of providers, including providers in rural areas, such as NYSARC, the NYS Association of Community and Residential Agencies, NYS Catholic Conference and CP Association of NYS, some who have fewer than 100 employees, at numerous meetings and conferences. Further, the department is committed to the transparency of this methodology by posting the results by provider on its website.

Job Impact Statement

A job impact statement is not being submitted for these proposed amendments because the Department determined that they will not cause a loss of more than 100 full time annual jobs State wide. The proposed regulations will implement a new reimbursement methodology for ICFs/DD. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. However, overall reimbursement to providers will not be changed.

Some providers will experience a decrease in reimbursement as a result of these amendments. The Department expects that most providers in this situation will be able to accommodate the reduction in revenue by making programs more efficient without compromising the quality of services. However, some providers may effectuate a modest reduction in employment opportunities as a result of the decrease in revenue. At the same time, other providers that experience an increase in reimbursement may commensurately increase employment opportunities. Therefore, the Department expects that there will be no overall effect on jobs and employment opportunities as a result of these amendments.

Long Island Power Authority

NOTICE OF ADOPTION

Authority's Tariff for Electric Service (''Tariff'')

I.D. No. LPA-51-13-00005-A

Filing Date: 2014-03-28

Effective Date: 2014-04-01

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

Action taken: The Authority adopted a proposal to modify its Tariff for Electric Service to implement changes in connection with the new oversight responsibilities of the New York State Department of Public Service.

Statutory authority: Public Authorities Law, section 1020-f(z) and (u)

Subject: Authority's Tariff for Electric Service (''Tariff'').

Purpose: To revise the Tariff in connection with the new oversight responsibilities of the New York State Department of Public Service.

Text or summary was published in the December 18, 2013 issue of the Register, I.D. No. LPA-51-13-00005-P.

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

Text of rule and any required statements and analyses may be obtained from: Mark B. Smith, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9883, email: msmith@lipower.org

Revised Regulatory Impact Statement

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

Revised Regulatory Flexibility Analysis

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

Revised Rural Area Flexibility Analysis

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

Revised Job Impact Statement

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

Assessment of Public Comment

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

NOTICE OF ADOPTION

Authority's Tariff for Electric Service (''Tariff'')

I.D. No. LPA-51-13-00006-A

Filing Date: 2014-03-28

Effective Date: 2014-04-01

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

Action taken: The Authority adopted a proposal to modify its Tariff for Electric Service to authorize the billing of securitization charges, restructure the Energy Efficiency Cost Recovery Rate, update Delivery Charges and make miscellaneous changes.

Statutory authority: Public Authorities Law, section 1020-f(z) and (u)

Subject: Authority's Tariff for Electric Service (''Tariff'').

Purpose: To authorize the billing of securitization charges; restructure and update rates and charges and make miscellaneous changes.

Text or summary was published in the December 18, 2013 issue of the Register, I.D. No. LPA-51-13-00006-P.

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

Text of rule and any required statements and analyses may be obtained from: Mark B. Smith, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9883, email: msmith@lipower.org

Revised Regulatory Impact Statement

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

Revised Regulatory Flexibility Analysis

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

Revised Rural Area Flexibility Analysis

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

Revised Job Impact Statement

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

Assessment of Public Comment

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

NOTICE OF ADOPTION

Authority's Tariff for Electric Service (''Tariff'')

I.D. No. LPA-01-14-00023-A

Filing Date: 2014-03-28

Effective Date: 2014-03-28

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

Action taken: The Authority adopted a proposal to modify its Tariff for Electric Service to authorize the purchase of 20 MW of renewable resources (other than solar photovoltaic) from customers.

Statutory authority: Public Authorities Law, section 1020-f(z) and (u)

Subject: Authority's Tariff for Electric Service (''Tariff'').

Purpose: To authorize the purchase of 20 MW of renewable resources under Service Classification No. 11 — Buy-Back Service.

Text or summary was published in the January 8, 2014 issue of the Register, I.D. No. LPA-01-14-00023-P.

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

Text of rule and any required statements and analyses may be obtained from: Mark B. Smith, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9883, email: msmith@lipower.org

Revised Regulatory Impact Statement

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

Revised Regulatory Flexibility Analysis

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

Revised Rural Area Flexibility Analysis

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

Revised Job Impact Statement

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

Assessment of Public Comment

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

Office for People with Developmental Disabilities

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Rate Setting for Non-State Providers - IRA/CR Residential Habilitation and Day Habilitation

I.D. No. PDD-15-14-00014-P

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

Proposed Action: Addition of Part 641 and Subpart 641-1 to Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.09(b) and 43.02

Subject: Rate Setting for Non-State Providers - IRA/CR residential habilitation and day habilitation.

Purpose: To establish a new rate methodology effective July 1, 2014.

Public hearing(s) will be held at: 10:30 a.m., June 4, 2014 at Bernard Fineson, VC Rm. 2, Lower Level, 80-45 Winchester Blvd., Bldg. 80-00, Queens Village, NY; and 10:30 a.m., June 3, 2014 at OD Heck, Bldg. 3, 3rd Fl., Rm. 2, 500 Balltown Rd., Schenectady, 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 (Full text is posted at the following State website:www.opwdd.ny.gov): This regulation establishes a new reimbursement methodology for Supervised and Supportive Community Residences (including Individualized Residential Alternatives (IRAs)) and Day Habilitation programs which will be effective July 1, 2014.

The methodology for these programs will include the following elements:

1) The use of a base period Consolidated Fiscal Report (CFR) for the period of January 1, 2011 – December 31, 2011 for calendar year filers or the period of July 1, 2010 through June 30, 2011 for fiscal year filers.

2) The assignment of geographic location, based on CFR information and consistent with Department of Health regions.

3) Operating, facility and capital components. The operating component recognizes a blend of actual provider costs and average regional costs. The facility component recognizes actual provider costs. The methodology for the capital component has not been significantly changed from that of the previous reimbursement methodology. One adjustment to the methodology for the capital component is that initial reimbursement will only remain in the rate for two years from the date of site certification unless actual costs are verified with the Office for People With Developmental Disabilities. The other adjustment to the methodology is that the thresholds identified are the maximum allowable amounts and will not be exceeded.

4) Wage Equalization factors.

5) A Budget Neutrality factor.

6) A three year phase-in period for transition to the methodology.

For Supervised and Supportive Community Residences (including IRAs) only, the methodology will include:

An acuity factor developed through a regression analysis and based on Developmental Disabilities Profile information.

For Supervised Community Residences (including IRAs) only, the methodology will incorporate:

1) A change in the unit of service from monthly to daily. Commensurate

with that change, the methodology will recognize retainer days, therapeutic leave days and vacant bed days.

2) The recognition of an evacuation score factor.

For Day Habilitation programs only, the methodology will include:

The recognition of actual provider to-from transportation costs.

Text of proposed rule and any required statements and analyses may be obtained from: Barbara Brundage, Director, Regulatory Affairs Unit, Office for People With Developmental Disabilities (OPWDD), 44 Holland Avenue, 3rd floor, Albany, NY 12229, (518) 474-1830, email: RAU.Unit@opwdd.ny.gov

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

Public comment will be received until: Five days after the last scheduled public hearing.

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

Regulatory Impact Statement

1. Statutory authority:

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

b. OPWDD has the statutory responsibility for setting Medicaid rates and fees for other services in facilities licensed or operated by OPWDD as stated in section 43.02 of the Mental Hygiene Law.

2. Legislative objective: These proposed regulations further the legislative objectives embodied in sections 13.09(b) and 43.02 of the Mental Hygiene Law. The proposed regulations concern changes in the methodology for reimbursement of residential habilitation services delivered in Community Residences (CRs) and Individualized Residential Alternatives (IRAs), and for day habilitation services.

3. Needs and benefits: OPWDD and the Department of Health (DOH) are seeking to implement a new reimbursement methodology, which complements existing OPWDD requirements concerning residential and day habilitation services, and satisfies commitments included in OPWDD's transformation agreement with the federal Centers for Medicare and Medicaid Services (CMS).

The methodology, which combines regional average cost components, provider specific cost experiences, and other factors, including the needs of individuals served, is expected to result in rates that are consistent with efficiency and economy and that lead to quality outcomes for individuals receiving services. The purpose of the methodology change is to move from budget to cost-based reimbursement, to provide a clear and transparent method of reimbursement, to move toward consistency in rates across the system, and to provide a more stable system of reimbursement.

4. Costs:

a. Costs to the Agency and to the State and its local governments: The proposed regulations will be cost neutral to the state as the monies appropriated for such services will remain constant and only the distribution of such monies will be subject to change.

The new methodologies do not apply to the state as a provider of services.

There will be no savings or costs to local governments as a result of these regulations because pursuant to Social Services Law sections 365 and 368-a, either local governments incur no costs for these services or the State reimburses local governments for their share of the cost of Medicaid funded programs and services.

b. Costs to private regulated parties: The proposed regulations will implement a new reimbursement methodology for residential habilitation delivered in CRs and IRAs and day habilitation. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. However, overall reimbursement to providers will not be changed.

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

6. Paperwork: The proposed amendments will require additional paperwork to be completed by providers. The proposed regulations change the unit of service for residential habilitation in supervised CRs and supervised IRAs from a monthly to a daily unit of service. The monthly unit of service required documentation of service delivery on at least twenty-two days each month; the new methodology will require daily documentation. In addition, providers will need to bill for each day that services are delivered, rather than billing on a monthly basis. In addition, the regulations require that providers determine and report retainer days, therapeutic leave days, and vacant bed days.

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

8. Alternatives: OPWDD developed the methodology in collaboration with DOH and discussed the methodology with representatives of provider associations and with CMS. A variety of factors, including alternate transition plans, were considered; however, the proposed regulations represent the results of decisions made from those discussions and collaboration with DOH.

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

10. Compliance schedule: OPWDD is planning for the regulations to be effective July 1, 2014. OPWDD recognizes that the timeframes established by the State Administrative Procedure Act may preclude the adoption of final regulations effective on that date. If OPWDD is unable to adopt the final regulations effective July 1, it intends to file similar emergency regulations containing the new methodology that would be in effect from July 1 until the final regulations can be adopted.

All necessary information, training, and guidance regarding the new service documentation requirements and billing procedures will be provided to agencies in advance of the effective date of regulations. The planned provider training will explain all components, calculations, and provisions of these regulations.

Regulatory Flexibility Analysis

1. Effect on small business: OPWDD has determined, through a review of the certified cost reports, that most residential habilitation services delivered in Individualized Residential Alternatives (IRAs) and Community Residences (CRs) and most day habilitation services are provided by agencies that employ more than 100 people overall. However, some smaller agencies that employ fewer than 100 employees overall would be classified as small businesses. Currently, there are 348 providers of residential habilitation services delivered in IRAs and CRs and day habilitation services. OPWDD is unable to estimate the portion of these providers that may be considered to be small businesses.

The proposed regulations concern changes in the methodology for reimbursement of residential habilitation services delivered in IRAs and CRs, and for day habilitation services. The methodology, which combines regional average cost components, provider specific cost experiences, and other factors, including the needs of individuals served, is expected to result in rates that are economic and efficient and that lead to quality outcomes for individuals receiving services. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. The overall reimbursement to providers will not change.

2. Compliance requirements: The proposed regulations change the unit of service for residential habilitation in supervised IRAs and supervised CRs from a monthly to a daily unit of service. The monthly unit of service required documentation of service delivery on at least twenty-two days each month (11 days for a half month); the new methodology will require daily documentation. In addition, providers will need to bill for each day that services are delivered, rather than billing on a monthly basis. Providers must also determine and report retainer days, therapeutic leave days, and vacant bed days.

3. Professional services: No additional professional services will be required as a result of these regulations and the regulations will not add to the professional service needs of local governments.

4. Compliance costs: The proposed regulations may require a minor amount of additional paperwork to be completed by providers associated with the change in the unit of service for residential habilitation in supervised IRAs and supervised CRs; however, any compliance costs are expected to be minimal.

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

6. Minimizing adverse economic impact: The proposed regulations minimize adverse economic impact in several ways. First, there is a three year phase-in period for transition to the new methodology. For providers that will experience a decrease in reimbursement, this will help to smooth the effects of the reduction in revenue. In addition, the inclusion of several factors in the methodology, such as the acuity factor and the E-score factor, will enhance reimbursement for providers who serve individuals with greater needs and/or who require richer staffing than would otherwise be warranted. OPWDD has also been working with providers to develop strategies to assist providers in achieving efficiencies in service provision. This will help providers accommodate a reduction in revenue without compromising the quality of services provided.

OPWDD has also reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. OPWDD determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

These amendments impose modest compliance response on regulated parties, associated with the conversion of the unit of service for residential habilitation in supervised CRs and supervised IRAs from monthly to daily. OPWDD considers that these compliance activities are needed to implement the change in the unit of service and cannot be further minimized.

7. Small business participation: The proposed regulations were discussed with representatives of providers at meetings held between August 2013 and January 2014, including the New York State Association of Community and Residential Agencies (NYSACRA) (which represents some providers who have fewer than 100 employees). OPWDD also included information on its plans to change the methodology in information about the Transformation Agreement posted on its website.

OWPDD will be mailing these proposed regulations to all providers, including providers that are small businesses, and will be holding public hearings on the proposed regulations.

Rural Area Flexibility Analysis

1. Description of the types and estimation of the number of rural areas in which the rule will apply: OPWDD services are provided in every county in New York State. 43 counties have a population of less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. Additionally, certain townships in 10 other counties have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga, Orange, and Saratoga.

The proposed regulations concern changes in the methodology for reimbursement of residential habilitation services delivered in Community Residences (CRs) and Individualized Residential Alternatives (IRAs), and for day habilitation services. The methodology, which combines regional average cost components, provider specific cost experiences, and other factors, including the needs of individuals served, is expected to result in rates that are economic and efficient and that lead to quality outcomes for individuals receiving services. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. The overall reimbursement to providers will not change.

2. Compliance requirements: The proposed regulations change the unit of service for residential habilitation in supervised IRAs and supervised CRs from a monthly to a daily unit of service. The monthly unit of service required documentation of service delivery on at least twenty-two days each month (11 days for a half month); the new methodology will require daily documentation. In addition, providers will need to bill for each day that services are delivered, rather than billing on a monthly basis. Providers must also determine and report retainer days, therapeutic leave days, and vacant bed days.

The amendments will have no effect on local governments.

3. Professional services: No additional professional services will be required as a result of these regulations and the regulations will not add to the professional service needs of local governments.

4. Compliance costs: The proposed regulations may require a minor amount of additional paperwork to be completed by providers associated with the change in the unit of service for residential habilitation in supervised IRAs and supervised CRs; however, any compliance costs are expected to be minimal.

5. Minimizing adverse economic impact: The proposed regulations minimize adverse economic impact in several ways. First, there is a three year phase-in period for transition to the new methodology. For providers that will experience a decrease in reimbursement, this will help to smooth the effects of the reduction in revenue. In addition, the inclusion of several factors in the methodology, such as the acuity factor and the E-score factor, will enhance reimbursement for providers who serve individuals with greater needs and/or who require richer staffing than would otherwise be warranted. OPWDD has also been working with providers to develop strategies to assist providers in achieving efficiencies in service provision. This will help providers accommodate a reduction in revenue without compromising the quality of services provided.

OPWDD has also reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-bb(2)(b) of the State Administrative Procedure Act. OPWDD determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

These amendments impose modest compliance response on regulated parties, associated with the conversion of the unit of service for residential habilitation in supervised IRAs and supervised CRs from monthly to daily. OPWDD considers that these compliance activities are needed to implement the change in the unit of service and cannot be further minimized.

6. Participation of public and private interests in rural areas: The proposed regulations were discussed at meetings with representatives of providers held between August 2013 and January 2014, including providers in rural areas, such as NYSARC, the NYS Association of Community and Residential Agencies, NYS Catholic Conference, and CP Association of NYS. OPWDD also included information on its plans to change the methodology in information about the Transformation Agreement posted on its website.

OWPDD will be mailing these proposed regulations to all providers, including providers from rural areas, and will be holding public hearings on the proposed regulations.

Job Impact Statement

A job impact statement is not being submitted for these proposed amendments because OPWDD determined that they will not cause a loss of more than 100 full time annual jobs State wide. The proposed regulations will implement a new reimbursement methodology for residential habilitation delivered in CRs and IRAs and day habilitation. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. However, overall reimbursement to providers will not be changed.

Some providers will experience a decrease in reimbursement as a result of these amendments. OPWDD expects that most providers in this situation will be able to accommodate the reduction in revenue by making programs more efficient without compromising the quality of services. However, some providers may effectuate a modest reduction in employment opportunities as a result of the decrease in revenue. At the same time, other providers that experience an increase in reimbursement may commensurately increase employment opportunities. Therefore, OPWDD expects that there will be no overall effect on jobs and employment opportunities as a result of these amendments.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Rate Setting for Non-State Providers: ICF/DD

I.D. No. PDD-15-14-00013-P

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

Proposed Action: Addition of Subpart 641-2 to Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.09(b) and 43.02

Subject: Rate Setting for Non-State Providers: ICF/DD.

Purpose: To establish a new rate methodology effective July 1, 2014.

Substance of proposed rule (Full text is posted at the following State website:www.opwdd.ny.gov): This regulation establishes a new reimbursement methodology for Intermediate Care Facilities for People with Developmental Disabilities (ICFs/DD) scheduled to be effective July 1, 2014.

The methodology for this program will include the following elements:

1) The use of a base period Consolidated Fiscal Report (CFR) for the period of January 1, 2011 – December 31, 2011 for calendar year filers or the period of July 1, 2010 through June 30, 2011 for fiscal year filers.

2) The assignment of geographic location, based on CFR information and consistent with Department of Health regions.

3) Operating, facility, day services and capital components. The operating component recognizes a blend of actual provider costs and average regional costs. The facility component recognizes actual provider costs. The day services component is based on the existing units of service from the provider rate sheet in effect on June 30, 2014 and the July 1, 2014 rate for the service. The methodology for the capital component has not been significantly changed from that of the previous reimbursement methodology. One adjustment to the methodology for the capital component is that initial reimbursement will only remain in the rate for two years from the date of site certification unless actual costs are verified with the Office for People With Developmental Disabilities. The other adjustment to the methodology is that the thresholds identified are the maximum allowable amounts and will not be exceeded.

4) Wage Equalization factors.

5) A Budget Neutrality factor.

6) A three year phase-in period for transition to the methodology.

Text of proposed rule and any required statements and analyses may be obtained from: Barbara Brundage, Director, Regulatory Affairs Unit, Office for People With Developmental Disabilities (OPWDD), 44 Holland Avenue, 3rd floor, Albany, NY 12229, (518) 474-1830, email: RAU.Unit@opwdd.ny.gov

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

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

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

Regulatory Impact Statement

1. Statutory authority:

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

b. OPWDD has the statutory responsibility for setting Medicaid rates and fees for other services in facilities licensed or operated by OPWDD, as stated in section 43.02 of the Mental Hygiene Law.

2. Legislative objective: These proposed regulations further the legislative objectives embodied in sections 13.09(b) and 43.02 of the Mental Hygiene Law. The proposed regulations concern changes in the methodology for reimbursement of Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD).

3. Needs and benefits: OPWDD and the Department of Health (DOH) are seeking to implement a new reimbursement methodology, which complements existing OPWDD requirements concerning ICFs/DD, and satisfies commitments included in OPWDD's transformation agreement with the federal Centers for Medicare and Medicaid Services (CMS).

The methodology, which combines regional average cost components, provider specific cost experiences, and other factors, including the needs of individuals served, is expected to result in rates that are consistent with efficiency and economy and that lead to quality outcomes for individuals receiving services. The purpose of the methodology change is to provide a clear and transparent method of reimbursement; to move toward consistency in rates across the system, and to provide a more stable system of reimbursement.

4. Costs:

a. Costs to the Agency and to the State and its local governments: The proposed regulations will be cost neutral to the state as the monies appropriated for such services will remain constant and only the distribution of such monies will be subject to change.

The new methodologies do not apply to the state as a provider of services.

There will be no savings or costs to local governments as a result of these regulations because pursuant to Social Services Law sections 365 and 368-a, either local governments incur no costs for these services or the State reimburses local governments for their share of the cost of Medicaid funded programs and services.

b. Costs to private regulated parties: The proposed regulations will implement a new reimbursement methodology for ICFs/DD. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. However, overall reimbursement to providers will not be changed.

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

6. Paperwork: The proposed amendments are not expected to increase paperwork to be completed by providers.

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

8. Alternatives: OPWDD developed the methodology in collaboration with DOH and discussed the methodology with representatives of provider associations and with CMS. A variety of factors, including alternate transition plans, were considered; however, the proposed regulations represent the results of decisions made from those discussions and collaboration with DOH.

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

10. Compliance schedule: OPWDD expects to finalize the proposed regulations effective July 1, 2014. All necessary information, training, and guidance regarding the new service documentation requirements and billing procedures will be provided to agencies in advance of the effective date of regulations. The planned provider training will explain all components, calculations, and provisions of these regulations.

Regulatory Flexibility Analysis

1. Effect on small business: OPWDD has determined, through a review of the certified cost reports, that ICFs/DD are operated by agencies that employ more than 100 people overall. However, some smaller agencies that employ fewer than 100 employees overall would be classified as small businesses. Currently, there are 108 providers of ICFs/DD. OPWDD is unable to estimate the portion of these providers that may be considered to be small businesses.

The proposed regulations concern changes in the methodology for reimbursement of ICFs/DD. The methodology, which combines regional average cost components, provider specific cost experiences, and other factors, including the needs of individuals served, is expected to result in rates that are consistent with efficiency and economy and that lead to quality outcomes for individuals receiving services. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. The overall reimbursement to providers will not change.

2. Compliance requirements: There are no new compliance activities imposed by these amendments.

3. Professional services: No additional professional services will be required as a result of these regulations and the regulations will not add to the professional service needs of local governments.

4. Compliance costs: There are no compliance costs since there are no new compliance activities imposed by these amendments.

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

6. Minimizing adverse economic impact: The proposed regulations minimize adverse economic impact in several ways. First, there is a three year phase-in period for transition to the new methodology. For providers that will experience a decrease in reimbursement, this will help to smooth the effects of the reduction in revenue. OPWDD has also been working with providers to develop strategies to assist providers in achieving efficiencies in service provision. This will help providers accommodate a reduction in revenue without compromising the quality of services provided.

OPWDD has also reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. OPWDD determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

7. Small business participation: The proposed regulations were discussed with representatives of providers at meetings held between August 2013 and January 2014, including the New York State Association of Community and Residential Agencies (NYSACRA) (which represents some providers that have fewer than 100 employees). OPWDD also included information on its plans to change the methodology in information about the Transformation Agreement posted on its website.

OPWDD will be mailing these proposed regulations to all providers, including providers that are small businesses.

Rural Area Flexibility Analysis

1. Description of the types and estimation of the number of rural areas in which the rule will apply: OPWDD services are provided in every county in New York State. 43 counties have a population of less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. Additionally, certain townships in 10 other counties have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga, Orange, and Saratoga.

The proposed regulations concern changes in the methodology for reimbursement of services delivered in ICFs/DD. The methodology, which combines regional average cost components, provider specific cost experiences, and other factors, including the needs of individuals served, is expected to result in rates that are consistent with efficiency and economy and that lead to quality outcomes for individuals receiving services. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. The overall reimbursement to providers will not change.

2. Compliance requirements: There are no new compliance activities imposed by these amendments.

The amendments will have no effect on local governments.

3. Professional services: No additional professional services will be required as a result of these regulations and the regulations will not add to the professional service needs of local governments.

4. Compliance costs: There are no costs associated with compliance activities, as no new compliance activities are imposed by these amendments.

5. Minimizing adverse economic impact: The proposed regulations minimize adverse economic impact in several ways. First, there is a three year phase-in period for transition to the new methodology. For providers that will experience a decrease in reimbursement, this will help to smooth the effects of the reduction in revenue. OPWDD has also been working with providers to develop strategies to assist providers in achieving efficiencies

in service provision. This will help providers accommodate a reduction in revenue without compromising the quality of services provided.

OPWDD has also reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-bb(2)(b) of the State Administrative Procedure Act. OPWDD determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

These amendments do not impose any new compliance activities.

6. Participation of public and private interests in rural areas: The proposed regulations were discussed at meetings with representatives of providers held between August 2013 and January 2014, including providers in rural areas, such as NYSARC, the NYS Association of Community and Residential Agencies, NYS Catholic Conference, and CP Association of NYS. OPWDD also included information on its plans to change the methodology in information about the Transformation Agreement posted on its website.

OPWDD will be mailing these proposed regulations to all providers, including providers from rural areas.

Job Impact Statement

A job impact statement is not being submitted for these proposed amendments because OPWDD determined that they will not cause a loss of more than 100 full time annual jobs State wide. The proposed regulations will implement a new reimbursement methodology for ICFs/DD. Application of the new methodology is expected to result in increased rates for some non-state operated providers and decreased rates for others. However, overall reimbursement to providers will not be changed.

Some providers will experience a decrease in reimbursement as a result of these amendments. OPWDD expects that most providers in this situation will be able to accommodate the reduction in revenue by making programs more efficient without compromising the quality of services. However, some providers may effectuate a modest reduction in employment opportunities as a result of the decrease in revenue. At the same time, other providers that experience an increase in reimbursement may commensurately increase employment opportunities. Therefore, OPWDD expects that there will be no overall effect on jobs and employment opportunities as a result of these amendments.

Public Service Commission

NOTICE OF ADOPTION

Authorizing Antlers of Raquette Lake, Inc. to Abandon Its Water System and Discontinue Its Provision of Service

I.D. No. PSC-19-04-00010-A

Filing Date: 2014-03-31

Effective Date: 2014-03-31

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

Action taken: On 3/27/14, the PSC adopted an order approving the petition of Antlers of Raquette Lake, Inc. to abandon its water system.

Statutory authority: Public Service Law, section 89-h

Subject: Authorizing Antlers of Raquette Lake, Inc. to abandon its water system and discontinue its provision of service.

Purpose: To authorize Antlers of Raquette Lake, Inc. to abandon its water system and discontinue its provision of service.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving a petition of Antlers of Raquette Lake, Inc. to abandon its water system and discontinue its provision of service, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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.

(04-W-0502SA1)

NOTICE OF ADOPTION

Authorizing Antlers of Raquette Lake, Inc. to Abandon Its Water System and Discontinue Its Provision of Service

I.D. No. PSC-51-11-00017-A

Filing Date: 2014-03-31

Effective Date: 2014-03-31

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

Action taken: On 3/27/14, the PSC adopted an order approving the petition of Antlers of Raquette Lake, Inc. to abandon its water system.

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

Subject: Authorizing Antlers of Raquette Lake, Inc. to abandon its water system and discontinue its provision of service.

Purpose: To authorize Antlers of Raquette Lake, Inc. to abandon its water system and discontinue its provision of service.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving a petition of Antlers of Raquette Lake, Inc. to abandon its water system and discontinue its provision of service, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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.

(11-W-0600SA1)

NOTICE OF ADOPTION

Approving, in Part, AET's and Seneca's Petition for Rehearing

I.D. No. PSC-15-13-00012-A

Filing Date: 2014-03-31

Effective Date: 2014-03-31

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

Action taken: On 3/27/14, the PSC adopted an order approving, in part, Alliance Energy Transmission, LLC's (AET) and Seneca Power Partners, L.P.'s (Seneca) petition for rehearing.

Statutory authority: Public Service Law, sections 66(1), (2), (3), (5), (8), (9), (10), (12) and 72

Subject: Approving, in part, AET's and Seneca's petition for rehearing.

Purpose: To approve, in part, AET's and Seneca's petition for rehearing.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving, in part, Alliance Energy Transmission, LLC's and Seneca Power Partners, L.P.'s petition for rehearing, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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-G-0256SA2)

NOTICE OF ADOPTION

Approving Snow Lake's Transfer of Stocks to a New Owner

I.D. No. PSC-47-13-00011-A
Filing Date: 2014-03-31
Effective Date: 2014-03-31

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

Action taken: On 3/27/14, the PSC adopted an order approving a petition of the Snow Lake Utilities Corporation (Snow Lake) to transfer its stock to a new owner.

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

Subject: Approving Snow Lake's transfer of stocks to a new owner.

Purpose: To approve Snow Lake's transfer of stocks to a new owner.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the transfer of Snow Lake Utilities Corporation from Richard B. Purdue to Nathan E. Kullman, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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.
(13-W-0485SA1)

NOTICE OF ADOPTION

Approval of the Emergency Action on a Permanent Basis

I.D. No. PSC-50-13-00002-A
Filing Date: 2014-03-28
Effective Date: 2014-03-28

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

Action taken: On 3/27/14, the PSC adopted an order approving on a permanent basis, an emergency action allowing Helios Power Capital LLC to assume from Dynegy Danskammer LLC, the responsibility of notification of the retirement of the 530 MW Danskammer Generation Station.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (3), (5), (8), (10) and 70

Subject: Approval of the emergency action on a permanent basis.

Purpose: To approve the emergency action on a permanent basis.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the emergency action on a permanent basis to substitute Dynegy Danskammer, LLC with Helios Power Capital, LLC as the entity responsible for filing notice that the retirement of the 530 MW Danskammer Generation Station, and established further procedures, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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.
(13-E-0012EA1)

NOTICE OF ADOPTION

Authorizing Surcharge for Costs for Infrastructure Maintenance and Access

I.D. No. PSC-53-13-00008-A
Filing Date: 2014-03-27
Effective Date: 2014-03-27

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

Action taken: On 3/27/14, the PSC adopted an order approving a petition of the City of New Rochelle to have costs for infrastructure maintenance and access be included in the rates charged to all customer classes within the City of New Rochelle.

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

Subject: Authorizing surcharge for costs for infrastructure maintenance and access.

Purpose: To authorize surcharge for costs for infrastructure maintenance and access.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the petition of the City of New Rochelle authorizing United Water New Rochelle, Inc. to recover a surcharge for infrastructure maintenance and access from each class of customers within the City of New Rochelle, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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.
(13-W-0548SA1)

NOTICE OF ADOPTION

Approval of the Amended Electric Emergency Response Plans for NYSEG, RG&E, Con Ed, O&R, Central Hudson and National Grid

I.D. No. PSC-53-13-00009-A
Filing Date: 2014-03-28
Effective Date: 2014-03-28

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

Action taken: On 3/27/14, the PSC adopted an order approving the amended Electric Emergency Response Plans as filed by the electric utilities' (NYSEG, RG&E, Con Ed, Orange and Rockland, National Grid and Central Hudson).

Statutory authority: Public Service Law, sections 5 and 66(21)

Subject: Approval of the amended electric emergency response plans for NYSEG, RG&E, Con Ed, O&R, Central Hudson and National Grid.

Purpose: To approve the amended electric emergency response plans for NYSEG, RG&E, Con Ed, O&R, Central Hudson and National Grid.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the amended Electric Emergency Response Plans filed by Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange & Rockland Utilities, Inc., and Rochester Gas and Electric Corporation, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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.
(13-E-0550SA1)

NOTICE OF ADOPTION

Authorizing Surcharge for Costs for Infrastructure Maintenance and Access

I.D. No. PSC-01-14-00022-A
Filing Date: 2014-03-27
Effective Date: 2014-03-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: On 3/27/14, the PSC adopted an order approving a petition of the Village of Hastings-on-Hudson to have costs for infrastructure maintenance and access be included in the rates charged to all customer classes within the Village of Hastings-on-Hudson.
Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1) and (10)
Subject: Authorizing surcharge for costs for infrastructure maintenance and access.
Purpose: To authorize surcharge for costs for infrastructure maintenance and access.
Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the petition of the Village of Hastings-on-Hudson authorizing United Water New Rochelle, Inc. to recover a surcharge for infrastructure maintenance and access from each class of customers within the Village of Hastings-on-Hudson, subject to the terms and conditions set forth in the order.
Final rule as compared with last published rule: No changes.
Text of rule may be obtained from: 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.
(13-W-0553SA1)

NOTICE OF ADOPTION

Authorizing Surcharge for Costs for Infrastructure Maintenance and Access

I.D. No. PSC-03-14-00010-A
Filing Date: 2014-03-27
Effective Date: 2014-03-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: On 3/27/14, the PSC adopted an order approving a petition of the Village of Ardsley to have costs for infrastructure maintenance and access be included in the rates charged to all customer classes within the Village of Ardsley.
Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1) and (10)
Subject: Authorizing surcharge for costs for infrastructure maintenance and access.
Purpose: To authorize surcharge for costs for infrastructure maintenance and access.
Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the petition of the Village of Ardsley authorizing United Water New Rochelle, Inc. to recover a surcharge for infrastructure maintenance and access from each class of customers within the Village of Ardsley, subject to the terms and conditions set forth in the order.
Final rule as compared with last published rule: No changes.
Text of rule may be obtained from: 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.
(13-W-0581SA1)

NOTICE OF ADOPTION

Authorizing Surcharge for Costs for Infrastructure Maintenance and Access

I.D. No. PSC-03-14-00011-A
Filing Date: 2014-03-27
Effective Date: 2014-03-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: On 3/27/14, the PSC adopted an order approving a petition of the Village of Dobbs Ferry to have costs for infrastructure maintenance and access be included in the rates charged to all customer classes within the Village of Dobbs Ferry.
Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1) and (10)
Subject: Authorizing surcharge for costs for infrastructure maintenance and access.
Purpose: To authorize surcharge for costs for infrastructure maintenance and access.
Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the petition of the Village of Dobbs Ferry authorizing United Water New Rochelle, Inc. to recover a surcharge for infrastructure maintenance and access from each class of customers within the Village of Dobbs Ferry, subject to the terms and conditions set forth in the order.
Final rule as compared with last published rule: No changes.
Text of rule may be obtained from: 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.
(13-W-0577SA1)

NOTICE OF ADOPTION

Authorizing Surcharge for Costs for Infrastructure Maintenance and Access

I.D. No. PSC-03-14-00012-A
Filing Date: 2014-03-27
Effective Date: 2014-03-27

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: On 3/27/14, the PSC adopted an order approving a petition of the Village of Port Chester to have costs for infrastructure maintenance and access be included in the rates charged to all customer classes within the Village of Port Chester.
Statutory authority: Public Service Law, sections 4(1), 5(1)(f), 89-c(1) and (10)
Subject: Authorizing surcharge for costs for infrastructure maintenance and access.
Purpose: To authorize surcharge for costs for infrastructure maintenance and access.
Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the petition of the Village of Port Chester authorizing United Water Westchester, Inc. to recover a surcharge for infrastructure

maintenance and access from each class of customers within the Village of Port Chester, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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.

(13-W-0578SA1)

NOTICE OF ADOPTION

Authorizing Surcharge for Costs for Infrastructure Maintenance and Access

I.D. No. PSC-03-14-00013-A

Filing Date: 2014-03-27

Effective Date: 2014-03-27

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

Action taken: On 3/27/14, the PSC adopted an order approving a petition of the Village of Pelham Manor to have costs for infrastructure maintenance and access be included in the rates charged to all customer classes within the Village of Pelham Manor.

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

Subject: Authorizing surcharge for costs for infrastructure maintenance and access.

Purpose: To authorize surcharge for costs for infrastructure maintenance and access.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving the petition of the Village of Pelham Manor authorizing United Water New Rochelle, Inc. to recover a surcharge for infrastructure maintenance and access from each class of customers within the Village of Pelham Manor, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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.

(13-W-0579SA1)

NOTICE OF ADOPTION

Approving, with Modifications, National Grid's Revisions to Its Electric Economic Development Program

I.D. No. PSC-04-14-00007-A

Filing Date: 2014-03-28

Effective Date: 2014-03-28

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

Action taken: On 3/27/14, the PSC adopted an order approving, with modifications, the petition of Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to modify its electric Economic Development Programs.

Statutory authority: Public Service Law, sections 4, 5 and 66

Subject: Approving, with modifications, National Grid's revisions to its electric Economic Development Program.

Purpose: To approve, with modifications, National Grid's revisions to its electric Economic Development Program.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving, with modifications, a petition of Niagara Mohawk Power Corporation d/b/a National Grid, to modify its electric Economic Development Programs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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-E-0201SA5)

NOTICE OF ADOPTION

Approving, with Modifications, National Grid's Revisions to Its Gas Economic Development Program

I.D. No. PSC-04-14-00009-A

Filing Date: 2014-03-28

Effective Date: 2014-03-28

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

Action taken: On 3/27/14, the PSC adopted an order approving, with modifications, the petition of Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to modify its gas Economic Development Programs.

Statutory authority: Public Service Law, sections 4, 5 and 66

Subject: Approving, with modifications, National Grid's revisions to its gas Economic Development Program.

Purpose: To approve, with modifications, National Grid's revisions to its gas Economic Development Program.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving, with modifications, a petition of Niagara Mohawk Power Corporation d/b/a National Grid, to modify its gas Economic Development Programs, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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-G-0202SA3)

NOTICE OF ADOPTION

Modifying National Grid's PSC 220—Electricity to Implement the Agricultural Consumer Electricity Cost Discount Program

I.D. No. PSC-05-14-00007-A

Filing Date: 2014-03-27

Effective Date: 2014-03-27

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

Action taken: On 3/27/14, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) tariff revisions to its PSC No. 220—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

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

Subject: Modifying National Grid's PSC 220—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

Purpose: To modify National Grid's PSC 220—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's tariff revisions to PSC No. 220—Electricity, regarding ReCharge New York Power Program Act, to implement the Agricultural Consumer Electricity Cost Discount Program.

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.

(11-E-0176SA13)

NOTICE OF ADOPTION

Modifying RG&E's PSC 19—Electricity to Implement the Agricultural Consumer Electricity Cost Discount Program

I.D. No. PSC-05-14-00008-A

Filing Date: 2014-03-27

Effective Date: 2014-03-27

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

Action taken: On 3/27/14, the PSC adopted an order approving Rochester Gas and Electric Corporation (RG&E) tariff revisions to its PSC No. 19—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

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

Subject: Modifying RG&E's PSC 19—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

Purpose: To modify RG&E's PSC 19—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving Rochester Gas and Electric Corporation's tariff revisions to PSC No. 19—Electricity, regarding ReCharge New York Power Program Act, to implement the Agricultural Consumer Electricity Cost Discount Program.

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.

(11-E-0176SA14)

NOTICE OF ADOPTION

Modifying NYSEG's PSC 120-Electricity to Implement the Agricultural Consumer Electricity Cost Discount Program

I.D. No. PSC-05-14-00012-A

Filing Date: 2014-03-27

Effective Date: 2014-03-27

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

Action taken: On 3/27/14, the PSC adopted an order approving New York State Electric & Gas Corporation's (NYSEG) tariff revisions to its PSC No. 120—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

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

Subject: Modifying NYSEG's PSC 120—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

Purpose: To modify NYSEG's PSC 120—Electricity to implement the Agricultural Consumer Electricity Cost Discount Program.

Substance of final rule: The Commission, on March 27, 2014, adopted an order approving New York State Electric & Gas Corporation's tariff revisions to PSC No. 120—Electricity, regarding ReCharge New York Power Program Act, to implement the Agricultural Consumer Electricity Cost Discount Program.

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.

(11-E-0176SA12)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Whether to Grant, Deny or Modify, in Whole or in Part, the Petition for Rehearing by Comverge, Inc., et al

I.D. No. PSC-15-14-00006-P

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

Proposed Action: The Commission is considering whether to grant, deny or modify, in whole or in part, the petition for rehearing by Comverge, Inc., et al., seeking modification of the Demand Response programs established by the Commission in an Order dated March 13, 2014.

Statutory authority: Public Service Law, sections 22, 65(1), 66(1) and (12)(a)

Subject: Whether to grant, deny or modify, in whole or in part, the petition for rehearing by Comverge, Inc., et al.

Purpose: Whether to grant, deny or modify, in whole or in part, the petition for rehearing by Comverge, Inc., et al.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or in part, a petition for rehearing dated March 25, 2014 by Comverge, Inc., EnergyConnect, EnerNOC, Inc., and Innoventive Power, LLC (Petitioners) seeking rehearing of the Commission's Order Adopting Tariff Revisions With Modifications dated March 13, 2014. According to the Petitioners, the Commission should modify its Order and adopt the Demand Response pricing proposed by Consolidated Edison Company of New York, Inc. (Con Edison) in its original tariff filing. In addition, the Petitioners also request that the Commission restructure the incentive payment as follows:

1. Make the three-year incentive payment contingent upon the customer performing on average of 80% or higher across all hours in each season.
2. Instead of completely resetting the clock in any season where the customer dropped below 80% on average, simply throw that year out and don't allow it to count toward the three years.
3. Clarify that the same customer can receive a three-year incentive payment more than once as long as they meet the Commission requirements.
4. Eliminate the requirement to pledge an amount of load reduction in years two and three of the three-year incentive period that is equal to or higher than the first year amount.

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: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, 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-0573SP2)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Petition for Submetering of Electricity

I.D. No. PSC-15-14-00007-P

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

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by Durst Development LLC to submeter electricity at 625 West 57th Street, New York, New York.

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

Subject: Petition for submetering of electricity.

Purpose: To consider the request of Durst Development LLC to submeter electricity at 625 West 57th Street, New York, New York.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by Durst Development LLC to submeter electricity at 625 West 57th Street, New York, New York, located in the territory of Consolidated Edison Company of New York, Inc.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.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: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, 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.

(14-E-0104SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Methodology of Bill Proration in Conformance with the New Customer Information System

I.D. No. PSC-15-14-00008-P

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

Proposed Action: The Commission is considering a tariff filing by National Fuel Gas Distribution Corporation to revise the current methodology of bill proration in conformance with its proposed Customer Information System in P.S.C. No. 8 — Gas to become eff. 8/18/2014.

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

Subject: Methodology of bill proration in conformance with the new Customer Information System.

Purpose: To approve the current methodology of bill proration in conformance with the new Customer Information System.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a P.S.C. No. 8 - Gas tariff filing submitted by National Fuel Gas Distribution Corporation to revise the current methodology of bill proration in conformance with its proposed Customer Information System. The proposed filing has an effective date of August 18, 2014.

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: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, 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.

(14-G-0107SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Revision to Service Classification No. 1 — Street Lighting Service

I.D. No. PSC-15-14-00009-P

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

Proposed Action: The Public Service Commission is considering a tariff filing by Rochester Gas and Electric Corporation proposing revisions to Service Classification No. 1, Street Lighting Service, in P.S.C. No. 18 — Electricity, to become effective July 1, 2014.

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

Subject: Revision to Service Classification No. 1 — Street Lighting Service.

Purpose: Street Lighting - addition of metal halide arc lighting to Service Classification No. 1.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a tariff filing by Rochester Gas and Electric Corporation to add Metal Halide Arc Lighting under Service Classification No. 1, Street Lighting Service, to P.S.C. No. 18. — Electricity. The proposed filing has an effective date of July 1, 2014.

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: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, 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.

(14-E-0106SP1)