

# 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.

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## Department of Civil Service

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

#### Jurisdictional Classification

**I.D. No.** CVS-03-14-00001-P

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

**Proposed Action:** Amendment of Appendix 1 of Title 4 NYCRR.

**Statutory authority:** Civil Service Law, section 6(1)

**Subject:** Jurisdictional Classification.

**Purpose:** To delete a position from and classify a position in the exempt class.

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Mental Hygiene under the subheading “Office of Alcoholism and Substance Abuse Services,” by deleting therefrom the position of Director of Internal Audit and by adding thereto the position of Director Audit Services.

**Text of proposed rule and any required statements and analyses may be obtained from:** Shirley LaPlante, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: shirley.laplante@cs.state.ny.us

**Data, views or arguments may be submitted to:** Ilene Lees, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: ilene.lees@cs.state.ny.us

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

#### Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was

previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

#### Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

#### Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

#### Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2013.

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

#### Jurisdictional Classification

**I.D. No.** CVS-03-14-00002-P

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

**Proposed Action:** Amendment of Appendix 1 of Title 4 NYCRR.

**Statutory authority:** Civil Service Law, section 6(1)

**Subject:** Jurisdictional Classification.

**Purpose:** To delete subheadings and positions from and classify positions in the exempt class.

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department, by deleting therefrom the subheading “Racing and Wagering Board,” and the positions of Assistant Counsel (3); Assistant Manager, Gaming Operations; Chief of Racing Operations; Confidential Aide; Confidential Aide to the Chairman; Confidential Racing Aide; Counsel; Deputy Director for Audits, Investigations and Licensing; Director of Racing Officials; Director of Wagering Systems; Executive Assistant; Executive Director; Manager, Gaming Operations; Manager, Licensing; Racing Investigator (7); Secretary (2); Secretary to NYS Racing and Wagering Board and Special Assistant; in the Executive Department, by deleting therefrom the subheading “Harness Racing,” and the positions of Assistant Paddock Judge (7), Assistant to Presiding Judge (16), Assistant to Supervising Racing Veterinarian (8), Associate Judge (24), Investigator (16), Paddock Judge (16), Patrol Judge (28), Presiding Judge (16), Recording Judge (16), Starter (16) and Supervising Racing Veterinarian (16); in the Executive Department, by deleting therefrom the subheading “Quarter Horse Racing,” and the positions of Assistant Paddock Judge (2), Assistant to Presiding Judge (2), Associate Judge (4), Investigator (2), Paddock Judge (2), Presiding Judge (2), Racing Inspector (18), Recording Judge (2), Starter (2), Supervising Inspector (2) and Supervising Racing Veterinarian (2); in the Executive Department, by deleting therefrom the subheading “Thoroughbred Racing,” and the positions of Assistant to the Racing Veterinarian (5), Assistant to Supervising Racing Veterinarian (4), Investigator (4), Racing License Investigator (2), Racing Veterinarian, Steward (2) and Supervising Racing Veterinarian (4); in the Department of Taxation and Finance, by deleting therefrom the subheading “Division of the Lottery,” and the positions of Confidential Assistant, Counsel, Director of Internal Audit, Director of State Lottery, Executive Deputy

Director, Secretary (3) and Special Assistant (4); and, in the Executive Department under the subheading "Gaming Commission," by adding thereto the positions of Assistant Counsel (3), Assistant Manager Gaming Operations, Assistant Presiding Judge (18), Assistant to Supervising Racing Veterinarian (12), Associate Judge (28), Chief Racing Operations, Confidential Aide, Confidential Assistant, Confidential Racing Aide, Counsel (2), Deputy Director Audits Investigations and Licensing, Director Division Lottery, Director Internal Audit, Director Racing Officials, Executive Assistant, Executive Deputy Director, Executive Director, Investigator (22), Manager Gaming Operations, Manager Licensing, Paddock Judge (18), Patrol Judge (28), Presiding Judge (18), Racing Investigator (7), Racing License Investigator (2), Recording Judge (18), Secretary (5), Secretary NYS Racing and Wagering Board, Special Assistant (4), Starter (18), Steward (2) and Supervising Racing Veterinarian (22).

**Text of proposed rule and any required statements and analyses may be obtained from:** Shirley LaPlante, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: shirley.laplante@cs.state.ny.us

**Data, views or arguments may be submitted to:** Ilene Lees, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: ilene.lees@cs.state.ny.us

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

#### **Regulatory Impact Statement**

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

#### **Regulatory Flexibility Analysis**

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

#### **Rural Area Flexibility Analysis**

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

#### **Job Impact Statement**

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

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

#### **Jurisdictional Classification**

**I.D. No.** CVS-03-14-00003-P

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

**Proposed Action:** Amendment of Appendix 1 of Title 4 NYCRR.

**Statutory authority:** Civil Service Law, section 6(1)

**Subject:** Jurisdictional Classification.

**Purpose:** To add a subheading and to classify positions in the exempt class.

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department, by adding thereto the subheading "Office of the Welfare Inspector General," and the positions of Investigative Assistant (2), Investigative Counsel (5) and Investigator (5).

**Text of proposed rule and any required statements and analyses may be obtained from:** Shirley LaPlante, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: shirley.laplante@cs.state.ny.us

**Data, views or arguments may be submitted to:** Ilene Lees, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: ilene.lees@cs.state.ny.us

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

#### **Consolidated Regulatory Impact Statement**

1. Statutory authority: The New York State Civil Service Commission is authorized to promulgate rules for the jurisdictional classification of of-

fices within the classified service of the State by Section 6 of the Civil Service Law. In so doing, it is guided by the requirements of Sections 41, 42 and 43 of this same law.

2. Legislative objectives: These rule changes are in accord with the statutory authority delegated to the Civil Service Commission to prescribe rules for the jurisdictional classification of the offices and positions in the classified service of the State.

3. Needs and benefits: Article V, Section 6, of the New York State Constitution requires that, wherever practicable, appointments and promotions in the civil service of the State, including all its civil divisions, are to be made according to merit and fitness. It also requires that competitive examinations be used, as far as practicable, as a basis for establishing this eligibility. This requirement is intended to provide protection for those individuals appointed or seeking appointment to civil service positions while, at the same time, protecting the public by securing for it the services of employees with greater merit and ability. However, as the language suggests, the framers of the Constitution realized it would not always be possible, nor indeed feasible, to fill every position through the competitive process. This point was also recognized by the Legislature for, when it enacted the Civil Service Law to implement this constitutional mandate, it provided basic guidelines for determining which positions were to be outside of the competitive class. These guidelines are contained in Section 41, which provides for the exempt class; 42, the non-competitive class and 43, the labor class. Thus, there are four jurisdictional classes within the classified service of the civil service and any movement between them is termed a jurisdictional reclassification.

The Legislature further established a Civil Service Department to administer this Law and a Civil Service Commission to serve primarily as an appellant body. The Commission has also been given rulemaking responsibility in such areas as the jurisdictional classification of offices within the classified service of the State (Civil Service Law Section 6). In exercising this rule-making responsibility, the Commission has chosen to provide appendices to its rules, known as Rules for the Classified Service, to list those positions in the classified service which are in the exempt class (Appendix 1), non-competitive class (Appendix 2), and labor class (Appendix 3).

In effect, all positions, upon creation at least, are, by constitutional mandate, a part of the competitive class and remain so until removed by the Civil Service Commission, through an amendment of its rules upon showing of impracticability in accordance with the guidelines provided by the Legislature. The guidelines are as follows. The exempt class is to include those positions specifically placed there by the Legislature, together with all other subordinate positions for which there is no requirement that the person appointed pass a civil service examination. Instead, appointments rest in the discretion of the person who, by law, has determined the position's qualifications and whether the persons to be appointed possess those qualifications. The non-competitive class is to be comprised of those positions which are not in the exempt or labor classes and for which the Civil Service Commission has found it impracticable to determine an applicant's merit and fitness through a competitive examination. The qualifications of those candidates selected are to be determined by an examination which is sufficient to insure selection of proper and competent employees. The labor class is to be made up of all unskilled laborers in the service of the State and its civil divisions, except those which can be examined for competitively.

4. Costs: The removal of a position from one jurisdictional class and placement in another is descriptive of the proper placement of the position in question in the classified service, and has no appreciable economic impact for the State or local governments.

5. Local government mandates: These amendments have no impact on local governments. They pertain only to the jurisdictional classification of positions in the State service.

6. Paperwork: There are no new reporting requirements imposed on applicants by these rules.

7. Duplication: These rules are not duplicative of State or Federal requirements.

8. Alternatives: Within the statutory constraints of the New York State Civil Service Commission, it is not believed there is a viable alternative to the jurisdictional classification chosen.

9. Federal standards: There are no parallel Federal standards and, therefore, this is not applicable.

10. Compliance schedule: No action is required by the subject State agencies and, therefore, no estimated time period is required.

#### **Consolidated Regulatory Flexibility Analysis**

The proposal does not affect or impact upon small businesses or local governments, as defined by Section 102(8) of the State Administrative Procedure Act, and, therefore, a regulatory flexibility analysis for small businesses is not required by Section 202-b of such act. In light of the fact that this proposal only affects jurisdictional classifications of State em-

ployees, it will not have any adverse impact on small businesses or local governments.

**Consolidated Rural Area Flexibility Analysis**

The proposal does not affect or impact upon rural areas as defined by Section 102(13) of the State Administrative Procedure Act and Section 481(7) of the Executive Law, and, therefore, a rural area flexibility analysis is not required by Section 202-bb of such act. In light of the fact that this proposal only affects jurisdictional classifications of State employees, it will not have any adverse impact on rural areas.

**Consolidated Job Impact Statement**

The proposal has no impact on jobs and employment opportunities. This proposal only affects the jurisdictional classification of positions in the Classified Civil Service.

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

**Jurisdictional Classification**

**I.D. No.** CVS-03-14-00004-P

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

**Proposed Action:** Amendment of Appendix 1 of Title 4 NYCRR.

**Statutory authority:** Civil Service Law, section 6(1)

**Subject:** Jurisdictional Classification.

**Purpose:** To delete positions from and classify positions in the exempt class.

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Gaming Commission," by deleting therefrom the positions of Director Division of Charitable Games, Director Division of Gaming and Director Division of Horse Racing and Pari-Mutuel Wagering and by adding thereto the positions of Director Division Charitable Gaming, Director Division Gaming and Director Racing and Pari-Mutuel Wagering.

**Text of proposed rule and any required statements and analyses may be obtained from:** Shirley LaPlante, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: shirley.laplante@cs.state.ny.us

**Data, views or arguments may be submitted to:** Ilene Lees, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: ilene.lees@cs.state.ny.us

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

**Regulatory Impact Statement**

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Regulatory Flexibility Analysis**

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Rural Area Flexibility Analysis**

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Job Impact Statement**

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

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

**Jurisdictional Classification**

**I.D. No.** CVS-03-14-00005-P

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

**Proposed Action:** Amendment of Appendixes 1 and 2 of Title 4 NYCRR.

**Statutory authority:** Civil Service Law, section 6(1)

**Subject:** Jurisdictional Classification.

**Purpose:** To classify positions in the exempt class and to delete positions from the non-competitive class.

**Text of proposed rule:** Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Health, by increasing the number of positions of Assistant Public Information Officer from 2 to 3 and Research Associate from 10 to 11; and

Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Health, by decreasing the number of positions of Assistant Counsel from 5 to 4 and Associate Counsel from 9 to 8.

**Text of proposed rule and any required statements and analyses may be obtained from:** Shirley LaPlante, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: shirley.laplante@cs.state.ny.us

**Data, views or arguments may be submitted to:** Ilene Lees, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: ilene.lees@cs.state.ny.us

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

**Regulatory Impact Statement**

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Regulatory Flexibility Analysis**

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Rural Area Flexibility Analysis**

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Job Impact Statement**

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

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

**Jurisdictional Classification**

**I.D. No.** CVS-03-14-00006-P

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

**Proposed Action:** Amendment of Appendix 2 of Title 4 NYCRR.

**Statutory authority:** Civil Service Law, section 6(1)

**Subject:** Jurisdictional Classification.

**Purpose:** To deleting positions from the non-competitive class.

**Text of proposed rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Corrections and Community Supervision, by decreasing the number of positions of Correctional Facility Nursing Director from 4 to 2.

**Text of proposed rule and any required statements and analyses may be obtained from:** Shirley LaPlante, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: shirley.laplante@cs.state.ny.us

**Data, views or arguments may be submitted to:** Ilene Lees, Counsel, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: ilene.lees@cs.state.ny.us

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

**Regulatory Impact Statement**

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Regulatory Flexibility Analysis**

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Rural Area Flexibility Analysis**

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

**Job Impact Statement**

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-03-14-00003-P, Issue of January 22, 2014.

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## Education Department

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**NOTICE OF EXPIRATION**

The following notice has expired and cannot be reconsidered unless the Education Department publishes a new notice of proposed rule making in the *NYS Register*.

**Reciprocity Requirements for Classroom Teachers**

I.D. No.	Proposed	Expiration Date
EDU-01-13-00012-P	January 2, 2013	January 2, 2014

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## Department of Financial Services

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### EMERGENCY RULE MAKING

**Mandatory Reporting of ATM Safety Act Compliance by Banking Institutions**

**I.D. No.** DFS-03-14-00007-E

**Filing No.** 1

**Filing Date:** 2014-01-02

**Effective Date:** 2014-01-02

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

**Action taken:** Amendment of section 301.6 of Title 3 NYCRR.

**Statutory authority:** Banking Law, Article II-AA (ATM Safety Act)

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

**Specific reasons underlying the finding of necessity:** Changes reporting requirements in section 301.6 of the Superintendent's Regulations to be consistent with changes in the ATM Safety Act (Article II-AA of the Banking Law) made by Chapter 227 of the Laws of 2013. Emergency adoption is necessary in order to implement the changed reporting requirements prior to the first report under the amended statute, which is due January, 2014.

**Subject:** Mandatory reporting of ATM Safety Act Compliance by banking institutions.

**Purpose:** To be consistent with changes in the ATM Safety Act (Article II-A of the Banking Law) made by chapter 227 of the Laws of 2013.

**Text of emergency rule:** TITLE 3. BANKING

CHAPTER III. SUPERINTENDENT'S REGULATIONS

SUBCHAPTER A. BANKING ORGANIZATIONS

PART 301. SECURITY AT AUTOMATED TELLER FACILITIES

Section 301.6. Report of compliance.

(a) (1) The *semi-annual* report of compliance required to be filed pursuant to the provisions of section 75-g of the Banking Law shall be filed [within 75 days after the close of each calendar year covering the preceding calendar year] with the *Department of Financial Services no later than*

*the fifteenth day of January and July of each year or the following business day if that day is not a business day.* This report shall be certified, under the penalties of perjury, and shall contain language substantially similar to the following:

I, \_\_\_\_\_, (person at the institution charged with enforcing compliance with article II-AA of the Banking Law) hereby certify, *under the penalties of perjury*, that all answers contained herein are true, accurate and complete.

[(2)] (i) All of the automated teller machine facilities operated by \_\_\_\_\_ (name of institution) which are subject to the provisions of article II-AA of the Banking Law (choose one or more of the following, as applicable):

[(i)] (a) \_\_\_\_\_ are in full compliance with the provisions of that article; and/or

[(ii)] (b) \_\_\_\_\_ are in full compliance with the variance or exemption (as the case may be) granted by the superintendent for the automated teller machine facility (or facilities) located at \_\_\_\_\_ (specific address); and/or

[(iii)] (c) \_\_\_\_\_ are not in compliance with the provisions of article II-AA.

[(3)] (ii) \_\_\_\_\_ (name of institution) uses and maintains only T-120 (commercial/industrial) grade video tapes, or better, in accordance with the provisions of section 301.5 of this Part.

[(i)] (2) In cases in which some or all of a banking institution's automated teller machine facilities are not in compliance with the provisions of article II-AA, the *semi-annual* report shall indicate the following additional information:

[(a)] (i) the specific address of each such facility;

[(b)] (ii) the manner in which each such facility fails to meet the requirements of that article and the reasons for such non-compliance; and

[(c)] (iii) a plan to remedy such non-compliance at each such facility, *including the expected correction date.*

(b) [Upon notification] *After notice of any violation of the provisions of section 75-c of the Banking Law is provided to the Department in any semi-annual report or such banking institution is notified of any violation of section 75-c of the Banking Law, such banking institution shall file a report of corrective action [required] pursuant to section 75-[j]g(2) of the Banking Law [shall be filed within] no later than 10 business days [from] following the filing of the semi-annual report or receipt of such notification of violation.* That report shall be certified, under the penalties of perjury, and shall contain language substantially similar to the following:

I, \_\_\_\_\_, (person at the institution charged with enforcing compliance with article II-AA of the Banking Law) hereby certify, under the penalties of perjury, that all answers contained herein are true, accurate and complete. The automated teller machine facility operated by \_\_\_\_\_ (name of institution) located at \_\_\_\_\_ (specific address) which is the subject of one or more violations of the provisions of section 75-c of the Banking Law, is (choose one of the following):

(1) \_\_\_\_\_ in full compliance with the provisions of section 75-c as of \_\_\_\_\_ (date); or

(2) \_\_\_\_\_ not presently in compliance with the provisions of section 75-c and the annexed remedial plan has been implemented and shall be completed by \_\_\_\_\_ [(date no later than 30 days after initial notification of violation from the Department of Financial Services)]; upon the date of completion of the remedial plan, \_\_\_\_\_ (name of institution) shall file a certified report of compliance with the Department of Financial Services stating that the location meets the requirements of section 75-c. Annexed hereto is a description of *the* remedial plan.

**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 April 2, 2014.

**Text of rule and any required statements and analyses may be obtained from:** Sam L. Abram, Assistant Counsel, New York State Department of Financial Services, One State Street, New York, NY 10004-1417, (212) 709-1658, email: sam.abram@dfs.ny.gov

**Regulatory Impact Statement**

1. Statutory authority.

Chapter 227 of the laws of 2013 became effective on July 31, 2013. It made amendments to Banking Law Sections 75-g and 75-j. The changes to Subsection 301(6) of Part 301 made herein are intended to make the regulation consistent with the changes made to Section 75-g.

The ATM Safety Act (the "Act"), Article II-A of the Banking Law, is intended to protect members of the public by imposing lighting, security

camera and other requirements on bank controlled ATM facilities operating in New York State. Section 75-n of the Banking Law grants the Superintendent with authority to adopt implementing regulations. Part 301 of the Superintendent's Regulations implements the Act.

Subsection 301(6) of Part 301 relates to periodic reporting obligations by banking institutions with respect to the compliance of their ATM facilities with the requirements of the Act. The changes made herein are intended to make the reporting process for banking institutions more efficient and less expensive. Changes are also made to make the regulation consistent with the newly amended law.

Chapter 227 made amendments to Subdivision 1 of Section 75-g of the Banking Law. It also added a new Subdivision 2 to the statute. The amendments to Subdivision 1 make clear that the reporting is to be on a semi-annual basis. It also made clear that all such reporting is to be done on an electronic basis. New Section 75-g(2) provides that any institution filing a semi-annual compliance report that shows noncompliance shall thereafter submit an additional report to the Department indicating whether the failure has been corrected, the reason for any failure that has not been corrected and the expected date of correction. Finally, for any violation not corrected within ten business days after the filing of the applicable compliance report, the institution also must report the date of completion of the corrective action.

#### 2. Legislative objectives.

As noted, the Act is intended to protect members of the public by imposing lighting, security camera and other requirements on bank controlled ATM facilities operating in New York State. The recent amendments are intended to automate the reporting of violations, thus enhancing the efficiency of the reporting process.

Part 301 implements the Act. The following is a summary of the major changes to Section 301(6) to implement Chapter 227:

1. The numbering of the section is changed to make the regulation consistent with the intent of the statute. Individuals who originate loans on manufactured homes will be subject to the regulation for the first time.

2. Paragraph (a) has been changed to make clear that compliance reporting is to be done on a semi-annual basis.

3. Clause (C) of subparagraph (2) of paragraph (a) has been changed to add a requirement that the banking institution indicate the expected date of completion of the corrective action.

4. Paragraph (b) has been modified to clarify that any banking institution that submitted a notice of violation in any semi-annual report or has otherwise been notified of any violation must file a report of corrective action no later than 10 business days following the filing of the semi-annual report or receipt of notice of a violation. This report must state whether the violation has been corrected or, if not, the expected date of completion. When the corrective action has been completed, Paragraph (b) also requires the banking institution to report the date of completion.

5. All reports must be certified.

3. Needs and benefits.

Prior to the amendments described above, the Act required banking institutions to make annual reports to the Department regarding their ATM compliance with the Act. This reporting was supported by on-site examinations by employees of the Department. This reporting obligation has been changed to a semi-annual reporting process. The statute also was amended to allow the reporting to be done electronically. In effect, while the Department retains its examination authority, the compliance emphasis has been changed from a primarily examination-based system handled by the Department to a more comprehensive self-reporting system. Since banking institutions will have primary responsibility for monitoring and reporting, it is anticipated that the costs of compliance for both banks with ATMs and for the Department will be reduced.

The changes described herein are expected to simplify reporting and the cost of reporting for banking institutions. In addition, it is expected that the changes to the regulation will facilitate reporting by making the process somewhat more straight forward. They will also conform the regulation to the statute.

4. Costs.

As under the existing Part 301, banking institutions remain primarily responsible for ensuring that their ATMs are in compliance with the Act. Nevertheless, the cost of demonstrating their compliance with Act in writing will be significantly simplified as all such reporting will now be done electronically. The Department is developing an online system to provide for such reporting. This system is expected to be in place for the first scheduled semi-annual reporting now set for January of 2014.

5. Local government mandates.

None.

6. Paperwork.

Going forward, reporting will be done electronically.

7. Duplication.

The revised regulation does not duplicate, overlap or conflict with any other regulations.

8. Alternatives.

The purpose of the regulation is to conform the regulation to changes in the statute and to carry out the statutory mandate to regulate bank controlled ATM facilities pursuant to the Act. Failure to act would result in regulations that are inconsistent with the statute.

9. Federal standards.

None applicable.

10. Compliance schedule.

Chapter 227 became effective on July 31, 2013. The first semi-annual report is due in January. The proposed emergency regulation would be effective immediately.

#### **Regulatory Flexibility Analysis**

1. Effect of the Rule:

The revised regulation will not have any impact on local governments. However, a number of the banking institutions that maintain automatic teller facilities ("ATMs") and will be affected by revised regulation are considered small businesses. Overall, there are in excess of 5000ATMs regulated by the Department of Financial Services (the "Department") (formerly, the Banking Department).

2. Compliance Requirements:

As noted, the Department regulates over 5000ATMs in the state. Chapter 227 of the laws of 2013 became effective on July 31, 2013. It made amendments to Section 75-g and 75-j of the Banking Law. The changes to Subsection 301(6) of Part 301 made herein are intended to make the regulation more consistent with the statute and also make compliance easier.

The ATM Safety Act (the "Act") is intended to protect members of the public by imposing lighting, security camera and other requirements on bank controlled ATMs operating in New York State. Subsection 301(6) of Part 301 relates to periodic reporting obligations by banking institutions with respect to the compliance of their ATMs with the requirements of the Act. The changes made herein are intended to make the filing process for banking institutions more efficient and less expensive. Changes are also made to make the regulation more consistent with law and easier to follow.

3. Professional Services:

None.

4. Compliance Costs:

As under the existing Part 301, banking institutions remain primarily responsible for ensuring that their ATMs are in compliance with the Act. Nevertheless, the cost of demonstrating their compliance with Act will be significantly simplified as all such reporting will now be done electronically. The Department is developing an online system to provide for such reporting. This system is expected to be in place for the first scheduled semi-annual reporting now required for January of 2014.

5. Economic and Technological Feasibility:

The rule-making should impose no adverse economic or technological burden on small businesses. Indeed, banking institutions should benefit from new electronic systems for reporting.

6. Minimizing Adverse Impacts:

It is expected that electronic reporting will significantly reduce overall compliance costs for industry. Also, the cost to the Department of its supervision of compliance with the Act should similarly be reduced. Since the Department assesses industry for these costs, the changes contemplated by these regulations should assist in further reducing industry costs.

7. Small Business and Local Government Participation:

The Department is in regular contact with banking institutions, including those that are small businesses, and industry associations regarding compliance with the Act. Banking institutions are interested in both improving their compliance and reducing the costs of compliance. The proposed adoption should facilitate banking institutions in attaining both goals. This regulation does not impact local governments.

#### **Rural Area Flexibility Analysis**

Types and Estimated Numbers: The New York State Department of Financial Services (the "Department") (formerly the Banking Department) regulates over xyzmn automatic teller machines ("ATMs") in the state, including numerous ATMs in rural area. The changes to Subsection 301(6) of Part 301 made herein are intended to make the regulation consistent with the changes made to Section 75-g.

The ATM Safety Act (the "Act"), Article II-A of the Banking Law, is intended to protect members of the public by imposing lighting, security camera and other requirements on ATMs operating in New York State. Section 75-n of the Banking Law grants the Superintendent with authority to adopt implementing regulations. Part 301 of the Superintendent's Regulations implements the Act.

Subsection 301(6) of Part 301 relates to periodic reporting obligations by banking institutions with respect to the compliance of their ATMs with the requirements of the Act. The changes made herein are intended to make the filing process for banking institutions more efficient and less expensive. Changes are also made to make the regulation more consistent with law and easier to follow.

Chapter 227 made amendments to Subdivision 1 of Section 75-g of the Banking law. It also added a new Subdivision 2 to the statute. The amendments to Subdivision 1 make clear that the reporting was to be on a semi-annual basis. It also made clear that all such reporting was to be done on an electronic basis. New Section 75-g(2) provides that any institution filing a semi-annual compliance report that shows noncompliance shall thereafter submit an additional report to the Department indicating whether the failure has been corrected, the reason for any failure that has not been corrected and the expected date of correction. Finally, for any violation not corrected within ten business days after the filing of the applicable compliance report, the institution also must report the date of completion of the corrective action.

**Compliance Requirements:** Prior to the amendments described above, the Act required banking institutions to make annual reports to the Department regarding their ATM compliance with the Act. This reporting was supported by on-site examinations by employees of the Department. In effect, while the Department retains its examination authority, the compliance emphasis is has been changed from a primarily examination-based system handled by the Department to a more comprehensive self-reporting system. This reporting obligation has been changed to a semi-annual reporting process. The statute also was amended to allow the reporting to be done electronically. Since banking institutions will have primary responsibility for monitoring and reporting, it is anticipated that the costs of compliance for both banks with ATMs and for the Department will be reduced.

**Costs:** Banking institutions in rural areas should experience a more efficient compliance reporting system going forward. Indeed, expenses for compliance will remain the same as banking institutions will continue to have the primary responsibility for ensuring that their ATMs comply with law. However, ongoing reporting costs should be reduced as banks will have both a more streamlined reporting system and the ability to report electronically.

**Minimizing Adverse Impacts:** It is expected that electronic reporting will significantly reduce overall compliance costs for industry. Also, the cost to the Department of its supervision of compliance with the Act should similarly be reduced. Since the Department assesses industry for these costs, the changes contemplated by these regulations should assist in further reducing industry costs.

**Rural Area Participation:** The Department is in regular contact with banking institutions, including those that are small businesses, and industry associations regarding compliance with the Act. Banking institutions are interested in both improving their compliance and reducing the costs of compliance. The proposed adoption should facilitate banking institutions in attaining both goals. This regulation does not impact local governments.

#### **Job Impact Statement**

The requirement to comply with this regulation is not expected to have a significant adverse effect on jobs or employment. Chapter 227 of the laws of 2013 became effective on July 31, 2013. It made amendments to Banking Law Sections 75-g and 75-j. The changes to Subsection 301(6) of Part 301 made herein are intended to make the regulation consistent with the changes made to Section 75-g.

The ATM Safety Act (the "Act"), Article II-A of the Banking Law, is intended to protect members of the public by imposing lighting, security camera and other requirements on ATMs operating in New York State. Section 75-n of the Banking Law grants the Superintendent with authority to adopt implementing regulations. Part 301 of the Superintendent's Regulations implements the Act.

Subsection 301(6) of Part 301 relates to periodic reporting obligations by banking institutions with respect to the compliance of their ATMs with the requirements of the Act. The changes made herein are intended to make the filing process for banking institutions more efficient and less expensive. Changes are also made to make the regulation more consistent with law and easier to follow.

Chapter 227 made amendments to Subdivision 1 of Section 75-g of the Banking law. It also added a new Subdivision 2 to the statute. The amendments to Subdivision 1 make clear that the reporting was to be on a semi-annual basis. It also made clear that all such reporting was to be done on an electronic basis. New Section 75-g(2) provides that any institution filing a semi-annual compliance report that shows noncompliance shall thereafter submit an additional report to the Department indicating whether the failure has been corrected, the reason for any failure that has not been corrected and the expected date of correction. Finally, for any violation not corrected within ten business days after the filing of the applicable compliance report, the institution also must report the date of completion of the corrective action.

Banking institutions have and will continue to have primary responsibility for ensuring compliance with the Act. Indeed, the associated costs of reporting should be reduced as all reporting going forward is to be completed electronically. This compliance with the amended regulation is not expected to have an adverse effect on employment.

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Enterprise Risk Management and Own Risk and Solvency Assessment

I.D. No. DFS-03-14-00014-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 82 (Regulation 203) to Title 11 NYCRR.

**Statutory authority:** Financial Services Law, sections 202 and 302; and Insurance Law, sections 110, 301, 309, 1109, 1115, 1501, 1503, 1504(c), 1604, 1702, 1717; and arts. 15, 16 and 17

**Subject:** Enterprise Risk Management and Own Risk and Solvency Assessment.

**Purpose:** To require ERM functions and ORSAs, and the filing of reports related thereto with the Superintendent.

**Substance of proposed rule (Full text is posted at the following State website: [dfs.ny.gov](http://dfs.ny.gov)):** Section 82.1 sets forth definitions.

Section 82.2 provides that, pursuant to Insurance Law §§ 1503(b), 1604(b), and 1717(b), an entity (meaning a holding company that directly or indirectly controls an insurer or a domestic insurer registered or required to register under Insurance Law Article 16 or 17) must adopt a formal enterprise risk management ("ERM") function. An insurer that is not a member of an Insurance Law Article 15, 16, or 17 system also must adopt an ERM function. An entity must file annually with the Superintendent of Financial Services ("Superintendent") an electronic copy of the enterprise risk report and one hard copy. However, a domestic insurer that is not a member of an Article 15, 16, or 17 system need only file an enterprise risk report if its premiums are equal to or greater than a certain amount. Section 82.2 also sets forth the minimum requirements for an ERM function and specifies the items that must be included in an enterprise risk report.

Section 82.3 requires a domestic insurer to conduct an own risk and solvency assessment ("ORSA"), and permits a domestic insurer to satisfy this requirement if the holding company system, Article 16 system, or Article 17 system of which the domestic insurer is a member conducts an ORSA. Section 82.3 also requires such a domestic insurer to submit to the Superintendent an ORSA summary report, both electronically and in hard copy, starting in 2015. Section 82.3 also describes which domestic insurers are exempt from the requirements of this section.

Section 82.4 permits an entity or insurer to apply to the Superintendent for an exemption from the electronic filing requirement by submitting a written request to the Superintendent at least 30 days before the due date of the particular filing or submission that is the subject of the request.

**Text of proposed rule and any required statements and analyses may be obtained from:** Joana Lucashuk, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 480-2125, email: [joana.lucashuk@dfs.ny.gov](mailto:joana.lucashuk@dfs.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: Financial Services Law §§ 202 and 302 and Insurance Law §§ 110, 301, 309, 1109, 1115, 1501, 1503, 1504(c), 1604, 1702, 1717 and Articles 15, 16, and 17.

Financial Services Law § 202 establishes the office of the Superintendent of Financial Services ("Superintendent"). Financial Services Law § 302 and Insurance Law § 301, in material part, authorize the Superintendent to effectuate any power accorded to the Superintendent by the Financial Services Law, Insurance Law, or any other law, and to prescribe regulations interpreting the Insurance Law.

Insurance Law § 110 permits the Superintendent to share with and receive documents from the National Association of Insurance Commissioners ("NAIC") and state, federal, and international law enforcement authorities.

Insurance Law § 309 authorizes the Superintendent to examine the affairs of any insurer doing an insurance business in New York State.

Insurance Law § 1109 provides health maintenance organizations ("HMOs") with limited exemptions from Insurance Law requirements.

Insurance Law § 1115 limits the amount of loss on any one risk to which an insurer may expose itself.

Insurance Law § 1501 sets forth definitions relating to holding companies, including the definition of "enterprise risk," while Insurance Law § 1503 requires a holding company that directly or indirectly controls an insurer to adopt a formal enterprise risk management ("ERM") function

and to file an enterprise risk report with the Superintendent annually. Insurance Law § 1504(c) requires the Superintendent to keep confidential the contents of each report made pursuant to Insurance Law Article 15 and any information obtained in connection therewith.

Insurance Law §§ 1604 and 1702 define “enterprise risk.” Insurance Law §§ 1604 and 1717 require an authorized domestic insurer or a parent corporation to register with the Superintendent, adopt a formal ERM function, and file an enterprise risk report with the Superintendent annually.

2. Legislative objectives: Insurance Law Article 15 sets forth standards for the regulation of holding company systems, while Insurance Law Articles 16 and 17 set forth standards for the regulation of domestic insurers that have subsidiaries. The Legislature enacted the three articles in 1969 as the result of an extensive study conducted by the Superintendent of Insurance. The study found that “[w]hen a non-insurance holding company system includes an insurance company within it, its potential for specific harm becomes greater since tempting reservoirs of liquid assets become accessible to persons without any appreciation of the security needs of the insurance enterprise, and the interests of the policyholders thus become vulnerable.”

On July 31, 2013, Governor Andrew M. Cuomo signed into law Chapter 238 of the Laws of 2013, which amended Insurance Law Articles 15, 16, and 17 to require an Article 15 holding company, authorized domestic insurer subject to Insurance Law Article 16, and a parent corporation subject to Insurance Law Article 17, to adopt a formal ERM function and file an enterprise risk report with the Superintendent annually.

This rule accords with the public policy objectives that the Legislature sought to advance in Insurance Law Articles 15, 16, and 17 by setting forth specific requirements for an ERM function and enterprise risk report, and requiring a domestic insurer to conduct an own risk and solvency assessment (“ORSA”), to minimize the potential for specific harm to an insurer and its policyholders.

3. Needs and benefits: By enacting Insurance Law Articles 15, 16, and 17, New York has recognized the need for group supervision in order to protect insurers and their policyholders. During the 2008 financial crisis, group supervision was tested when a holding company system that included insurers and financial service entities nearly collapsed because of risky investments made by one of its financial service entities. This experience has caused state regulators and the NAIC to reevaluate the current group supervision framework. In 2010, the NAIC amended its model Insurance Holding Company System Regulatory Act (“model Holding Company Act”) and Insurance Holding Company System Model Regulation to require a holding company to adopt a formal ERM function and file an enterprise risk report. The NAIC also adopted a new Risk Management and Own Risk and Solvency Assessment Model Act (“model ORSA Act”) and an accompanying ORSA guidance manual, which requires a domestic insurer (or its holding company system) to complete a self-assessment of its risk management, stress tests, and capital adequacy annually. Chapter 238 of the Laws of 2013 incorporated the model Holding Company Act’s requirement that a holding company or domestic insurer with subsidiaries adopt a formal ERM function and file an enterprise risk report.

This rule sets forth specific requirements for an ERM function and enterprise risk report, and requires certain domestic insurers to conduct an ORSA and file an ORSA summary report to minimize the potential for specific harm to the insurer and its policyholders.

4. Costs: This rule imposes compliance costs on insurers that are not part of an Article 15, 16, or 17 system and are required by this rule to adopt a formal ERM function and on certain domestic insurers that are required by this rule to file an ERM report with the Superintendent annually. The costs are difficult to estimate and will vary from insurer to insurer because of several factors, such as an insurer’s organizational structure, its size, and whether it already has an ERM function in place.

In addition, Chapter 238 amended the Insurance Law to require an Article 15 holding company or a domestic insurer that has subsidiaries, to adopt a formal ERM function and file an enterprise risk report annually. With respect to such companies, this rule merely implements Chapter 238 by setting forth the minimum requirements for an ERM function, and specifying the information that should be included in the enterprise risk report. Therefore, the rule itself should not impose compliance costs on these holding companies and domestic insurers.

Also, because this rule requires most domestic insurers to conduct an ORSA and file an ORSA summary report with the Superintendent annually, compliance costs may increase. Those costs are difficult to estimate and will vary depending upon numerous factors, such as the complexity of a domestic insurer’s organizational structure.

The Department may incur costs for the implementation and continuation of this rule, because Department staff will need to review the enterprise risk reports and ORSA summary reports that will be submitted to the Superintendent annually. However, the Department anticipates that each holding company will file the report on behalf of the insurers in its holding company system, which should reduce the total number of reports

filed with the Superintendent. Therefore, any additional costs incurred should be minimal and the Department should be able to absorb such costs in its ordinary budget.

This rule does not impose compliance costs on state or local governments.

5. Local government mandates: This rule does not impose any program, service, duty, or responsibility upon a county, city, town, village, school district, fire district, or other special district.

6. Paperwork: This rule requires most domestic insurers or holding companies to file enterprise risk reports and ORSA summary reports with the Superintendent annually.

7. Duplication: This rule does not duplicate, overlap, or conflict with any existing state or federal rules or other legal requirements.

8. Alternatives: The Department considered requiring all insurers that are not part of an Article 15, 16, or 17 system to file an enterprise risk report with the Superintendent. However, because the Superintendent could always request a report, small domestic insurers and all foreign insurers that are not part of an Article 15, 16, or 17 system are exempted from mandatory filing. Instead, only larger domestic insurers that are not part of an Article 15, 16, or 17 system and that have premiums that are equal to or greater than a certain amount must file an enterprise risk report annually. The Department also considered requiring all domestic insurers to conduct an ORSA and file an ORSA summary report with the Superintendent annually. However, the Department decided not to deviate from the model ORSA Act in this respect. As a result, the rule exempts smaller domestic insurers from having to comply if the premium of the domestic insurer, and if the domestic insurer is a member of a holding company system, Article 16 system, or Article 17 system, the premium of its system, is no greater than a certain amount.

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

10. Compliance schedule: A holding company and an insurer must comply with the rule upon publication in the State Register.

#### **Regulatory Flexibility Analysis**

Small businesses: The Department of Financial Services finds that this rule will not impose any adverse economic impact on small businesses and will not impose any reporting, recordkeeping, or other compliance requirements on small businesses. The basis for this finding is that this rule is directed at holding companies and insurers, which do not fall within the definition of a “small business” as defined by State Administrative Procedure Act § 102(8), because in general they are not independently owned and do not have fewer than 100 employees.

Local governments: The rule does not impose any impact, including any adverse impact, or reporting, recordkeeping, or other compliance requirements on any local governments. The basis for this finding is that this rule is directed at holding companies and insurers.

#### **Rural Area Flexibility Analysis**

1. Types and estimated numbers of rural areas: Holding companies and insurers affected by this rule operate in every county in this state, including rural areas as defined by State Administrative Procedure Act § 102(10).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule imposes additional reporting, recordkeeping, and other compliance requirements by requiring insurers that are not part of Insurance Law Article 15, 16, or 17 systems, including insurers located in rural areas, to adopt a formal enterprise risk management (“ERM”) function. The rule also requires certain domestic insurers, including insurers located in rural areas, to file enterprise risk reports with the Superintendent annually.

With respect to an Article 15 holding company or a domestic insurer that has subsidiaries, this rule merely implements Chapter 238 of the Laws of 2013, which requires an Article 15 holding company or a domestic insurer that has subsidiaries to adopt a formal ERM function and file an enterprise risk report with the Superintendent annually, by setting forth the minimum requirements for an ERM function and specifying the information that should be included in an enterprise risk report.

In addition, this rule requires most domestic insurers, including insurers located in rural areas, to conduct an own risk and solvency assessment (“ORSA”) and to file an ORSA summary report with the Superintendent annually.

It is unlikely that an insurer or holding company in a rural area would need professional services to comply with this rule beyond the professional services the insurer or holding company already would be using.

3. Costs: The rule may result in additional costs to insurers, including insurers located in rural areas, because it requires insurers that are not part of Article 15, 16, or 17 systems to adopt a formal ERM function, and requires certain domestic insurers to file an enterprise risk report with the Superintendent annually. This rule also requires most domestic insurers, including insurers located in rural areas, to conduct an ORSA and file an ORSA summary report with the Superintendent annually. Such costs are

difficult to estimate because of several factors, such as the insurer's organizational structure, its size, and whether the insurer already has an ERM function in place.

However, any additional costs to insurers should be the same for such insurers in non-rural areas, and the costs should not differ between public and private entities in rural areas.

With respect to an Article 15 holding company or a domestic insurer that has subsidiaries, this rule merely implements Chapter 238 of the Laws of 2013 by setting forth the minimum requirements for an ERM function and specifying the information that should be included in an enterprise risk report. Therefore, the rule itself should not result in additional costs to holding companies or domestic insurers.

4. Minimizing adverse impact: This rule uniformly affects holding companies and insurers that are located in both rural and non-rural areas of New York State. The rule should not have an adverse impact on rural areas.

5. Rural area participation: Public and private interests in rural areas will have an opportunity to participate in the rule making process once the proposed rule is published in the State Register and posted on the Department's website.

#### **Job Impact Statement**

This rule should not adversely impact jobs or employment opportunities in New York State. With regard to Insurance Law Article 15 holding companies and domestic insurers that have subsidiaries, the rule merely implements Chapter 238 of the Laws of 2013 by expanding upon the statutory requirements for adopting an enterprise risk management ("ERM") function and filing an enterprise risk report. These prudent requirements ensure the solvency and continued operation of insurers. For this reason, the rule also imposes ERM requirements on insurers that are not part of an Article 15, 16, or 17 system and own risk and solvency assessment ("ORSA") requirements on domestic insurers.

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## New York State Joint Commission on Public Ethics

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### EMERGENCY RULE MAKING

#### **Source of Funding Reporting**

**I.D. No.** JPE-43-13-00021-E

**Filing No.** 20

**Filing Date:** 2014-01-07

**Effective Date:** 2014-01-07

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

**Action taken:** Amendment of Part 938 of Title 19 NYCRR.

**Statutory authority:** Legislative Law, art. 1-A, sections 1-j(c)(4) and 1-h(c)(4); and Executive Law, section 94(9)(c)

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

**Specific reasons underlying the finding of necessity:** The Public Integrity Reform Act of 2011 ("PIRA") was enacted in August 2011. PIRA established the new "source of funding" disclosure requirement, which became effective on June 1, 2012. The purpose of source of funding disclosure requirements is to promote transparency so that the public can appreciate the actual parties in interest who are substantially influencing the governmental decision making process.

The Source of Funding disclosure requirement was created by amending the Legislative Law to include a requirement that Client Filers, which are lobbyists and clients of lobbyists who spend at least \$50,000 in reportable compensation and expenses and 3% of total expenditures on lobbying activities in New York State in a calendar year or twelve-month period (the "\$50,000/3% expenditure threshold"), disclose the sources of funding over \$5,000 from each source used for such lobbying activities in New York State. PIRA mandates that JCOPE promulgate regulations implementing this new disclosure requirement. PIRA also provides that JCOPE shall specify a procedure for filers to seek an exemption if disclosure of a particular source—or, in the case of certain organizations with tax-exempt status under I.R.C. § 501(c)(4), a class of sources—would cause harm, threats, harassment, or reprisals to the source(s) or to individuals or property affiliated with the source(s), as well as an appeal procedure from denials of requests for such exemptions.

This emergency adoption is necessary because applications for an exemption from the source of funding disclosure requirements are pending with JCOPE. Until such time as JCOPE determines how to treat the materials submitted in support of a request for an exemption and the substantive standard to be applied in determining if the request is to be granted, the requesting entities are not required to disclose their sources of funding. Consequently, the timely and relevant disclosure of statutorily required information may be forestalled until the regulations are in effect.

**Subject:** Source of Funding reporting.

**Purpose:** To implement reporting that will inform the public of efforts to influence government decision making by lobbying entities.

**Substance of emergency rule:** The Public Integrity Reform Act of 2011 ("PIRA") authorizes JCOPE to exercise the powers and duties set forth in Executive Law Section 94 with respect to lobbyists and clients of lobbyists as such terms are defined in article one-A of the Legislative Law. PIRA also amended the Legislative Law to include a requirement that lobbyists and clients of lobbyists who spend at least \$50,000 in reportable compensation and expenses and 3% of total expenditures on lobbying activities in New York State in a calendar year or twelve-month period (the "expenditure threshold"), disclose the sources of funding over \$5,000 from each source used for such lobbying activities in New York State. PIRA mandates that JCOPE promulgate regulations implementing this new disclosure requirement. PIRA also provides that JCOPE shall specify a procedure in these regulations for filers to seek an exemption if the filer can establish that there is a substantial likelihood that disclosure of a particular source - or, in the case of certain organizations with tax-exempt status under I.R.C. § 501(c)(4), a class of sources - would cause harm, threats, harassment, or reprisals to the source(s) or to individuals or property affiliated with the source(s), as well as an appeal procedure from denials of requests for such exemptions. Thus, these regulations provide comprehensive reporting requirements that set forth when and how sources of funding must be disclosed by lobbyists and clients who meet the expenditure threshold, articulate narrow standards for exempting sources from disclosure and establish an appeal process for denials from such exemptions.

**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. JPE-43-13-00021-EP, Issue of October 23, 2013. The emergency rule will expire March 7, 2014.

**Text of rule and any required statements and analyses may be obtained from:** Shari Calnero, Senior Counsel, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: scalnero@jcope.ny.gov

#### **Regulatory Impact Statement**

1. Statutory authority: Legislative Law Section 1-h(c)(4) requires certain registered lobbyists whose lobbying activity is performed on its own behalf and not pursuant to retention by a client, and who meet the "\$50,000-3% Expenditure Threshold" (referred to herein), to report the names of each source of funding over \$5,000 from a source used to fund lobbying activities in New York State. Similarly, Legislative Law Section 1-j(c)(4) requires certain clients who have retained, employed or designated a registered lobbyist, and who meet the "\$50,000-3% Expenditure Threshold," to report the names of each source of funding over \$5,000 from a source used to fund lobbying activities in New York State. These lobbyists and clients are referred to in the proposed revised regulation and herein as "Client Filers." The statute also provide that, in certain circumstances, Client Filers can seek an exemption from disclosing one or more of their sources provided certain criteria for exemption are met. Legislative Law Sections 1-h(c)(4) and 1-j(c)(4) direct the Joint Commission on Public Ethics ("JCOPE") to promulgate regulations to implement these requirements. More generally, Executive Law Section 94(9)(c) directs JCOPE to adopt, amend, and rescind rules and regulations to govern JCOPE procedures.

2. Legislative objectives: The Public Integrity Reform Act of 2011 ("PIRA") established JCOPE. PIRA authorizes JCOPE to exercise the powers and duties set forth in Executive Law Section 94 with respect to lobbyists and clients of lobbyists as such terms are defined in article one-A of the Legislative Law. PIRA also amended the Legislative Law to include a requirement that Client Filers who spend at least \$50,000 in reportable compensation and expenses and 3% of total expenditures on lobbying activities in New York State in a calendar year or twelve-month period (the "\$50,000/3% Expenditure Threshold"), disclose the sources of funding over \$5,000 from each source used for such lobbying activities in New York State. PIRA mandates that JCOPE promulgate regulations implementing this new disclosure requirement. PIRA also provides that JCOPE shall specify a procedure for filers to seek an exemption if the filer can establish that disclosure of a particular source—or, in the case of certain organizations with tax-exempt status under I.R.C. § 501(c)(4), a class of

sources—would cause harm, threats, harassment, or reprisals to the source or to individuals or property affiliated with the source, as well as an appeal procedure from denials of requests for such exemptions. By setting forth when and how sources of funding must be disclosed by lobbyists and clients who meet the statutory conditions, as well as the standards and procedures for exempting sources from disclosure, these rules strike an appropriate balance between disclosure and confidentiality.

3. Needs and benefits: The proposed rulemaking is limited in its scope as it applies solely to provisions related to exemptions to the source of funding disclosure requirement. The first proposed revision is to Part 938.4, which contains, among other provisions, the substantive standard JCOPE is to apply when considering whether to grant a request for an exemption from the disclosure requirements. Currently, a filer must demonstrate that disclosure will cause a “reasonable probability” of harm or reprisals to specified individuals or entities. The proposed rulemaking would, in order to comport with the statutory language in Legislative Law article 1-A sec. 1-h(c)(4)(ii), change the “reasonable probability” standard to a “substantial likelihood.”

The second proposed revision is to Part 938.8, which concerns the confidentiality of information submitted by filers in connection with a request for an exemption from the disclosure requirements. Under the current regulations, such materials are confidential and are not, therefore, publicly available. The proposed rulemaking provides for more transparency by significantly altering this provision to make all information submitted in connection with an application for an exemption or in support of an appeal from a denial of an exemption publicly available. The proposed rulemaking does allow for a filer to make a request to JCOPE to treat specified exemption-related information as confidential under circumstances where such treatment is merited. The decision to grant such a request would lie within the sole discretion of JCOPE.

4. Costs:

a. costs to regulated parties for implementation and compliance: Minimal.

b. costs to the agency, state and local government: No costs to state and local governments. Moderate administrative costs to the agency during the implementation phase.

c. cost information is based on the fact that there will be no costs to regulated parties and state and local government. The cost to the agency is based on the estimated increase in staff resources to implement the regulations.

5. Local government mandate: The proposed regulation does not impose new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

6. Paperwork: This proposed regulation may require the preparation of additional forms or paperwork. Such additional paperwork is expected to be minimal, and many filers will complete any additional forms online.

7. Duplication: This proposed regulation does not duplicate any existing federal, state or local regulations.

8. Alternatives: PIRA created an affirmative duty on JCOPE’s part to promulgate these regulations, therefore there is no alternative to conducting a formal rulemaking.

9. Federal standards: The proposed rulemaking pertains to lobbying disclosure requirement in New York State. These regulations do not exceed any federal minimum standard with regard to a similar subject area.

10. Compliance schedule: Compliance will take effect immediately.

#### Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Emergency Adoption and Proposed Rulemaking since the proposed rulemaking will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping or other affirmative acts on the part of these entities for compliance purposes. The New York State Joint Commission on Public Ethics Commission (“JCOPE”) notes that while it is authorized by the Public Integrity Reform Act of 2011 (“PIRA”) to enforce the reporting requirements of the Article 1-A of the Legislative Law, which requires those public corporations that conduct lobbying activity to register and report expenses in accordance with the law, these regulations do not impose any adverse economic impact on those public corporations for compliance purposes. JCOPE makes these findings based on the fact that the source of funding regulations affect certain lobbyists and clients that meet a high financial threshold. Small businesses and local governments are not affected in any way by these regulations.

#### Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this Notice of Emergency Adoption and Proposed Rule Making since the proposed rule making will not impose any adverse economic impact on rural areas, nor

will compliance require or impose any reporting, record-keeping or other affirmative acts on the part of rural areas. The Joint Commission on Public Ethics makes these findings based on the fact that the source of funding regulations affect only certain lobbyists and clients that meet a high financial threshold. Rural areas are not affected in any way.

#### Job Impact Statement

A Job Impact Statement is not submitted with this Notice of Emergency Adoption and Proposed Rule Making since the proposed rulemaking will have no impact on jobs or employment opportunities. The Joint Commission on Public Ethics makes this finding based on the fact that the proposed rule making applies only to certain lobbyists and clients that meet a high financial threshold. This regulation does not apply, nor relate to small businesses, economic development or employment opportunities.

#### Assessment of Public Comment

The Commission received public comments from two entities. One entity objected to the change in the regulation to make public the materials submitted in support of an application for an exemption from the source of funding disclosure obligations. The other entity provides comments on four aspects of the regulations. The first comment concerned the “clear and convincing” language in Sections 938.4(a) and (b). Specifically, the entity expressed the view that this evidentiary standard was too high and does not provide sufficient protection for donors. Second, the entity requested that the regulatory provisions concerning exemptions to the disclosure requirements specifically include the following language from the implementing statute: “the area of civil rights and civil liberties.” Third, the entity commented that Section 938.8 is problematic because it fails to contain explicit protection for any donor names that may be included within an application for exemption from donor disclosure. Finally, the entity commented that the regulations should include a deadline within which the Commission is obligated to act upon an exemption from the disclosure requirements.

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## Public Service Commission

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### PROPOSED RULE MAKING HEARING(S) SCHEDULED

#### Disposition of Tax Refunds and Other Related Matters

I.D. No. PSC-03-14-00009-P

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

**Proposed Action:** The PSC is considering requests by KeySpan Gas East Corporation d/b/a/ National Grid regarding the disposition of a tax refund and deciding this matter on a common record with case 11-G-0601. The PSC may approve or reject the requests, in whole or part.

**Statutory authority:** Public Service Law, sections 2, 5, 65, 66 and 113(2)

**Subject:** Disposition of tax refunds and other related matters.

**Purpose:** To determine the disposition of tax refunds and other related matters.

**Public hearing(s) will be held at:** 10:30 a.m., Jan. 5, 2015 at Public Service Commission, Three Empire State Plaza, 3rd Fl., Albany, NY\*.

\*In addition, there may be requests to reschedule the January 5, 2015 hearing date, but notification of any subsequent changes will be available at [www.dps.ny.gov](http://www.dps.ny.gov) under Case 13-G-0498.

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

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

**Substance of proposed rule:** By filing dated November 4, 2013, KeySpan Gas East Corporation d/b/a National Grid (National Grid) notified the PSC of a judgment, entered July 29, 2013, authorizing it to recover a tax refund of approximately \$20.6 million for the tax years 1996 through 2011.<sup>1</sup> The judgment was obtained from the Nassau County Supreme Court against the Town of Oyster Bay and various garbage districts located in Oyster Bay, in a series of actions challenging the imposition of special ad valorem levies for garbage collection and disposal services on

National Grid's special franchise and public utility properties. National Grid reports that the judgment has been appealed and its enforcement is subject an automatic stay. Thus, says National Grid, it is uncertain when, or if, it will recover the refund authorized by the judgment.<sup>2</sup> Nonetheless, National Grid seeks PSC approval, pursuant to PSL § 113(2), to (1) retain a portion of the tax refund to reimburse its incremental costs to achieve the refund and (2) retain 25% of the remaining refund and return 75% to customers. National Grid also proposes accounting treatments for its share and for the customers' share of the refund. Finally, National Grid asks that future proceedings regarding this request be held upon a common record with PSC Case 11-G-0601.

The Commission may grant, deny or modify, in whole or part, National Grid's requests and it may consider other related matters.

\*In addition, there may be requests to reschedule the January 5, 2015 hearing date, but notification of any subsequent changes will be available at [www.dps.ny.gov](http://www.dps.ny.gov) under Case 13-G-0498.

<sup>1</sup> The refund consists of principal (roughly \$12.44 million) and pre-judgment interest (roughly \$8.14 million, calculated at a statutory rate of 9%).

<sup>2</sup> The Company proposes to supplement its filing when the refund is obtained and identify, at that time, its total costs to achieve.

**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](mailto: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](mailto:secretary@dps.ny.gov)

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

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

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

(13-G-0498SP1)

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

**Petition for Submetering of Electricity**

**I.D. No.** PSC-03-14-00008-P

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

**Proposed Action:** The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by Stratford Tower, LLC to submeter electricity at 1340 Stratford Avenue, Bronx, 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 Stratford Tower, LLC to submeter electricity at 1340 Stratford Avenue, Bronx, 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 Stratford Tower, LLC to submeter electricity at 1340 Stratford Avenue, Bronx, New York, located in the territory of Consolidated Edison 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](mailto: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](mailto: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-0466SP1)

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

**Water Rates and Charges**

**I.D. No.** PSC-03-14-00010-P

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

**Proposed Action:** The Public Service Commission is considering a petition by the Town of Ardsley, requesting approval to have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes within the Town of Ardsley.

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

**Subject:** Water rates and charges.

**Purpose:** To have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes.

**Substance of proposed rule:** The Commission is considering whether to approve, modify or reject, in whole or in part, a petition by the Town of Ardsley, requesting approval per the Laws of New York, Chapter 433, requiring the Commission to issue an order to United Water New Rochelle to have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes and apportioned among all customers located within the Town of Ardsley. Although this rate change will have a revenue neutral impact on the utility's annual revenues, it will result in an increase to all customers within the municipality of the Town of Ardsley.

**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](mailto: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](mailto:secretary@dps.ny.gov)

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

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

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

(13-W-0581SP1)

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

**Water Rates and Charges**

**I.D. No.** PSC-03-14-00011-P

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

**Proposed Action:** The Public Service Commission is considering a petition by the Town of Dobbs Ferry, requesting approval to have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes within the Town of Dobbs Ferry.

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

**Subject:** Water rates and charges.

**Purpose:** To have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes.

**Substance of proposed rule:** The Commission is considering whether to approve, modify or reject, in whole or in part, a petition by the Town of Dobbs Ferry, requesting approval per the Laws of New York, Chapter

433, requiring the Commission to issue an order to United Water New Rochelle to have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes and apportioned among all customers located within the Town of Dobbs Ferry. Although this rate change will have a revenue neutral impact on the utility's annual revenues, it will result in an increase to all customers within the municipality of the Town of Dobbs Ferry.

**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-W-0577SP1)

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

**Water Rates and Charges**

**I.D. No.** PSC-03-14-00012-P

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

**Proposed Action:** The Public Service Commission is considering a petition by the Town of Port Chester, requesting approval to have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes within the Town of Port Chester.

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

**Subject:** Water rates and charges.

**Purpose:** To have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes.

**Substance of proposed rule:** The Commission is considering whether to approve, modify or reject, in whole or in part, a petition by the Town of Port Chester, requesting approval per the Laws of New York, Chapter 433, requiring the Commission to issue an order to United Water Westchester to have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes and apportioned among all customers located within the Town of Port Chester. Although this rate change will have a revenue neutral impact on the utility's annual revenues, it will result in an increase to all customers within the municipality of the Town of Port Chester.

**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-W-0578SP1)

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

**Water Rates and Charges**

**I.D. No.** PSC-03-14-00013-P

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

**Proposed Action:** The Public Service Commission is considering a petition by the Town of Pelham Manor, requesting approval to have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes within the Town of Pelham Manor.

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

**Subject:** Water rates and charges.

**Purpose:** To have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes.

**Substance of proposed rule:** The Commission is considering whether to approve, modify or reject, in whole or in part, a petition by the Town of Pelham Manor, requesting approval per the Laws of New York, Chapter 433, requiring the Commission to issue an order to United Water New Rochelle to have costs for infrastructure maintenance and access to be included in the rates charged to all customer classes and apportioned among all customers located within the Town of Pelham Manor. Although this rate change will have a revenue neutral impact on the utility's annual revenues, it will result in an increase to all customers within the municipality of the Town of Pelham Manor.

**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-W-0579SP1)

**Department of State**

**NOTICE OF ADOPTION**

**Uniform Standards of Professional Appraisal Practice**

**I.D. No.** DOS-46-13-00001-A

**Filing No.** 21

**Filing Date:** 2014-01-07

**Effective Date:** 2014-01-22

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

**Action taken:** Amendment of section 1106.1 of Title 19 NYCRR.

**Statutory authority:** Executive Law, section 160-d(1)(d)

**Subject:** Uniform Standards of Professional Appraisal Practice.

**Purpose:** To adopt the 2014-2015 edition of the Uniform Standards of Professional Appraisal Practice.

**Text or summary was published** in the November 13, 2013 issue of the Register, I.D. No. DOS-46-13-00001-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Whitney Clark, NYS Department of State, Office of Counsel, 1 Commerce Plaza, 99 Washington Avenue, Albany NY 12231, (518) 473-2728, email: whitney.clark@dos.ny.gov

*Assessment of Public Comment*

The agency received no public comment.