RULE MAKING ACTIVITIES

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

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

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

Department of Agriculture and Markets

NOTICE OF ADOPTION

Requirements for Identifying, Washing, Packing and Labeling of Food Represented As Kosher

I.D. No. AAM-08-14-00022-A
Filing No. 354
Filing Date: 2014-04-30
Effective Date: 2014-05-21

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

Action taken: Repeal of Part 255 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 16, 18 and 214-b

Subject: Requirements for identifying, washing, packing and labeling of food represented as kosher.

Purpose: To repeal requirements for identifying, washing, packing and labeling of food represented as kosher.

Text or summary was published in the February 26, 2014 issue of the Register, I.D. No. AAM-08-14-00022-P.

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

Text of rule and any required statements and analyses may be obtained from: Stephen Stich, Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235, (518) 457-4492, email: Stephen.Stich@agriculture.ny.gov

Assessment of Public Comment
The agency received no public comment.

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-20-14-00002-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 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 Executive Department under the subheading "Office of General Services," by adding thereto the position of Director Service-Disabled Veterans' Business Development.

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-20-14-00003-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 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in 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 Executive Department under the subheading "Office of General Services," by adding thereto the positions of Empire Fellow (230).

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-20-14-00004-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 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in 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 Westchester County Service under the subheading "Department of Public Works and Transportation," by adding thereto the position of Road Maintenance Supervisor.

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-20-14-00005-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in 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 Transportation, by adding thereto the position of øDirector Republic Airport (1).

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-20-14-00006-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 delete positions from and classify positions in 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 State Department Service under the subheading "All State Departments and Agencies," by deleting therefrom the positions of Artist Designer 3, Artist Designer 4 and Artist Designer 5 and by adding thereto the positions of Graphic Designer 1 and Graphic Designer 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.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-20-14-00007-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 Department of Agriculture and Markets, by deleting therefrom the positions of Agricultural Promotion Specialist (4), by adding thereto the position of Legislative Liaison and by increasing the number of positions of Special Assistant from 8 to 12.

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.

Delaware River Basin Commission

INFORMATION NOTICE

NOTICE OF FINAL RULEMAKING

Delaware River Basin Commission Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Update Water Quality Criteria for pH

AGENCY: Delaware River Basin Commission.

I.D. No. Not applicable.

Filing Date: May 1, 2014

Effective Date: Thirty (30) days from publication of the corresponding notice of final rulemaking in the Federal Register.

The Delaware River Basin Commission is a federal-state regional agency charged with managing the water resources of the Delaware River Basin without regard to political boundaries. Its members are the governors of the four basin states – Delaware, New Jersey, New York and Pennsylvania – and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government.

Action Taken: By Resolution No. 2013-9 on December 4, 2013, the Delaware River Basin Commission ("DRBC" or "Commission") approved amendments to the Commission's Comprehensive Plan, Water Quality Regulations and Water Code, relevant portions of which are included in New York State's Codes, Rules and Regulations.

Statutory Authority: Delaware River Basin Compact, New York Laws of 1961, Chapter 148, Approved March 17, 1961.

Purpose: To update the Commission's stream quality objectives for pH in interstate tidal and non-tidal reaches of the main stem Delaware River.

For Further Information Contact: Pamela M. Bush, Commission Secretary and Assistant General Counsel by phoning 609-883-9500 Ext. 203, or by email to pamela.bush@drbc.state.nj.us.

Supplementary Information: Notice of the proposed amendments appeared in the New York State Register (page 13) on October 9, 2013, as well as the Federal Register (78 FR 58985) on September 25, 2013, the Delaware Register of Regulations (17 DE Reg. 365) on October 1, 2013, the New Jersey Register (45 N.J.R. 2201) on October 7, 2013, and the Pennsylvania Bulletin (43 Pa.B. 5995) on October 12, 2013. Notice of the proposed changes also was published on the Commission's web site on September 20, 2013. A public hearing was held on October 24, 2013 and written comments were accepted through November 21, 2013. No written or oral comments were received.

Supplementary Information: The Commission's current criteria for pH in interstate streams were adopted in 1967. Today, these criteria are inconsistent with scientists' increased understanding of natural fluctuations in freshwater and saltwater pH levels and with modern applications of pH criteria. The amendments approved by the Commission on December 4, 2013 will minimize regulatory inconsistencies and better address natural pH cycles in the main stem Delaware River. First, they will increase from 6.0 to 6.5 the lower threshold of the range of acceptable pH conditions in non-tidal zones of the main stem – DRBC Water Quality Zones 1A through 1E. Second, they will add a clause to the pH criteria for all interstate tidal and non-tidal water quality zones, recognizing natural deviations outside the 6.5 to 8.5 pH range. In accordance with these changes, the pH criteria for Water Quality Zones 1A through IE (the non-tidal main stem) and 2 through 6 (the tidal main stem and tidal portions of tributaries) will read, "Between 6.5 and 8.5 inclusive, unless outside this range due to natural conditions.''

The affected sections of the Commission's Water Code and Water Quality Regulations (and the NYCRR) consist of subsection C.3 of each of

sections 3.20.2 through 3.20.6, respectively (subsection (c)(3) of each of 21 NYCRR § § 860.8 through 860.12), for Water Quality Zones 1A through 1E (non-tidal main stem); and sections 3.30.2 through 3.30.6, respectively (21 NYCRR § § 860.27 through 860.31), for Water Quality Zones 2 through 6 (tidal main stem and tidal portions of tributaries). (Note that the affected sections relating to Water Quality Zones 1A through 1E were incorrectly identified in the Notice of Proposed Rulemaking as sections 2.20.2 through 2.20.6 of the Water Code and Water Quality Regulations. Sections 2.20.2 through 2.20.6 of the Water Code are part of an unrelated article; no sections numbered 2.20.2 through 2.20.6 exist in the Water Quality Regulations.) The exact rule text, showing insertions and deletions, appears below.

The complete text of Resolution No. 2013-9, the Water Code, the Administrative Manual Part III - Water Quality Regulations, a basis and background document setting forth the technical basis for the amendments, and additional documents concerning pH criteria for interstate non-tidal and tidal reaches of the main stem Delaware River are available on the Commission's website, DRBC.net. Copies also may be obtained from the Commission's Secretary and Assistant General Counsel at the telephone number and email address listed above. A charge for printing and mailing may apply.

Dated: May 1, 2014

PAMELA M. BUSH, ESQ.

Commission Secretary and Assistant General Counsel

PART 860

WATER QUALITY STANDARDS FOR THE DELAWARE RIVER BASIN (ARTICLE 3)

(Statutory authority: Delaware River Basin Compact, art. 5; § 14.2)

* * * * *

INTERSTATE STREAMS – NONTIDAL

§ 860.8 Zone 1A.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between [6.0]*6.5* and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

§ 860.9 Zone 1B.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between [6.0]*6.5* and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

§ 860.10 Zone 1C.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between [6.0]*6.5* and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

§ 860.11 Zone 1D.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between [6.0]*6.5* and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

§ 860.12 Zone 1E.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between [6.0]*6.5* and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

INTERSTATE STREAMS – TIDAL

* * * * *

§ 860.27 Zone 2.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between 6.5 and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

§ 860.28 Zone 3.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between 6.5 and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

§ 860.29 Zone 4.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between 6.5 and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

§ 860.30 Zone 5.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between 6.5 and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

§ 860.31 Zone 6.

* * * * *

(c) Stream Quality Objectives.

* * * * *

(3) pH. Between 6.5 and 8.5 *inclusive, unless outside this range due to natural conditions*.

* * * * *

INFORMATION NOTICE

NOTICE OF FINAL RULEMAKING

Amendments to the Water Quality Regulations, Water Code and Comprehensive Plan to Revise the Human Health Water Quality Criteria for PCBs in Zones 2 through 6 of the Delaware Estuary and Bay

AGENCY: Delaware River Basin Commission.

I.D. No. Not applicable.

Filing Date: May 1, 2014

Effective Date: Thirty (30) days from publication of the corresponding notice of final rulemaking in the Federal Register.

The Delaware River Basin Commission is a federal-state regional agency charged with managing the water resources of the Delaware River Basin without regard to political boundaries. Its members are the governors of the four basin states – Delaware, New Jersey, New York and Pennsylvania – and the North Atlantic Division Commander of the U.S. Army Corps of Engineers, representing the federal government.

Action Taken: By Resolution No. 2013-8 on December 4, 2013, the Delaware River Basin Commission ("DRBC" or "Commission") approved amendments to the Commission's Comprehensive Plan, Water Quality Regulations and Water Code, relevant portions of which are included in Title 21 of New York State's Codes, Rules and Regulations.

Statutory Authority: Delaware River Basin Compact, New York Laws of 1961, Chapter 148, Approved March 17, 1961.

Subject: Human health water quality criteria for PCBs.

Purpose: To establish a uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware River Estuary and Bay, DRBC Water Quality Management Zones 2 through 6, for the protection of human health from carcinogenic effects.

For Further Information Contact: Pamela M. Bush, Commission Secretary and Assistant General Counsel, by phoning 609-883-9500 Ext. 203, or by email to pamela.bush@drbc.state.nj.us.

Supplementary Information: Notice of the proposed amendments appeared in the New York State Register (page 3) on August 14, 2013 as well as in the Federal Register (78 FR 47241) on August 5, 2013, the Delaware Register of Regulations (17 DE Reg. 143) on August 1, 2013, the New Jersey Register (45 N.J.R. 1907) on August 5, 2013, and the Pennsylvania Bulletin (43 Pa.B. 4740) on August 17, 2013. Notice of the proposed changes also was published on the Commission's web site on August 2, 2013. A public hearing was held on September 10, 2013 and written comments were accepted through September 20, 2013.

The uniform water quality criterion of 16 picograms per liter for polychlorinated biphenyls (PCBs) in the Delaware Estuary and Bay for the protection of human health from carcinogenic effects is the product of more than a decade of data-gathering, assessment, debate and consensus-building involving dischargers, regulators, scientists, policy-makers and

other stakeholders from across the region. The criterion is the product of a rigorous application of the most current available data and methodology, including site-specific data on fish consumption, site-specific bioaccumulation factors, and the current U.S. Environmental Protection Agency (EPA) methodology for the development of human health criteria for toxic pollutants (see EPA-822-B-00-004, October 2000). The criterion replaces the Commission's current PCB criteria for the Estuary, which date from 1996. It supersedes less stringent state criteria in effect for Delaware Bay and eliminates the undue complexity associated with the application in tidal waters of criteria that vary by water quality zone.

In addition to proposing the new criterion, the Commission's notice of proposed rulemaking in August 2013 invited comment on a draft strategy for implementing the criterion for both point and non-point sources. Developed by the DRBC in partnership with the environmental agencies of the states of Delaware, New Jersey and Pennsylvania, EPA Regions II and III and EPA Headquarters (collectively, "the co-regulators"), the draft strategy sets forth detailed approaches for reducing PCB loadings from point and non-point sources over the coming decades. A key objective of the strategy is to provide uniformity and a degree of certainty to National Pollutant Discharge Elimination System (NPDES) permits that will be issued by the states bordering the Estuary and Bay. Notably, no Commission action on the draft implementation strategy was or is proposed. As DRBC's Notice of Proposed Rulemaking indicated, new total maximum daily loads ("Stage 2 TMDLs") for PCBs in the Delaware Estuary and Bay are expected to be established by EPA on behalf of the Estuary states following publication of this Final Rule. The strategy document will be included as an Appendix to the Stage 2 TMDL report when issued. Until Stage 2 TMDLs based upon the new criterion are established, the NPDES permitting authorities have indicated they intend to apply the existing permit approach, which was published as an appendix to the Stage 1 TMDLs for PCBs established by EPA Regions II and III for the Delaware Estuary in 2003 and for the Delaware Bay in 2006.

The affected section of the Commission's Water Code and Water Quality Regulations is Section 3.30 (21 NYCRR § 860.30), Table 6: Stream Quality Objectives for Carcinogens for the Delaware River Estuary and Bay. Specifically, in accordance with this Final Rule, for the parameter ''PCBs (Total)'', in the column headed ''Freshwater Objectives (ug/l): Fish & Water Ingestion,'' the number ''0.0000444'' is replaced by ''0.000016''; in the column headed ''Freshwater Objectives (ug/l): Fish Ingestion Only,'' the number ''0.0000448'' is replaced by ''0.000016''; and in the column headed ''Marine Objectives (ug/l): Fish Ingestion Only,'' the number ''0.0000079'' is replaced by ''0.000016''. The exact rule text, showing insertions and deletions, appears below.

The complete text of Resolution No. 2013-8, the Water Code, the Administrative Manual Part III - Water Quality Regulations, a basis and background document setting forth the technical basis for the new criterion, the response-to-comment document addressing comments received by DRBC on the proposed criterion and the draft implementation strategy, and additional documents concerning the control of PCBs in the Delaware Estuary all are available on the Commission's website, DRBC.net. Copies also may be obtained from the Commission's Secretary and Assistant General Counsel at the telephone number and email address listed above. A charge for printing and mailing may apply.

Dated: May 1, 2014

PAMELA M. BUSH, ESQ.

Commission Secretary and Assistant General Counsel

PART 860

WATER QUALITY STANDARDS FOR THE DELAWARE RIVER BASIN (ARTICLE 3)

(Statutory authority: Delaware River Basin Compact, art. 5; § 14.2)

* * * * *

INTERSTATE STREAMS – TIDAL

* * * * *

TABLE 6: STREAM QUALITY OBJECTIVES FOR CARCINOGENS FOR THE DELAWARE RIVER ESTUARY AND BAY.

Parameter	Freshwater Objectives (µg/l)		Marine Objectives (µg/l)
	Fish & Water Ingestion	Fish Ingestion Only	Fish Ingestion Only
* * * * *			
Pesticides/PCBs			
* * * * *			
PCBs (Total)	[0.0000444] *0.000016*	[0.0000448] *0.000016*	[0.0000079] *0.000016*
* * * * *			

State Board of Elections

NOTICE OF ADOPTION

Demonstration Models, Precinct Based Voting Equipment Systems

I.D. No. SBE-06-14-00002-A

Filing No. 359

Filing Date: 2014-05-05

Effective Date: 2014-05-21

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

Action taken: Repeal of Part 6211; and amendment of Part 6210 of Title 9 NYCRR.

Statutory authority: Election Law, sections 3-102(1), 7-200, 7-201, 7-206, 4-104(1-a), (1-b), (1-c), (6) and (6-a)

Subject: Demonstration Models, Precinct Based Voting Equipment Systems.

Purpose: Established Precinct Based Voting Equipment Model Demonstration Requirements.

Text or summary was published in the February 12, 2014 issue of the Register, I.D. No. SBE-06-14-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Paul M. Collins, Esq., Deputy Special Counsel, State Board of Elections, 40 N. Pearls Street-STE 5, Albany, NY 12207-2729, (518) 474-6367, email: paul.collins@elections.ny.gov

Assessment of Public Comment

The agency received no public comment.

Department of Environmental Conservation

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Black Bear Hunting

I.D. No. ENV-20-14-00001-P

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

Proposed Action: Amendment of section 1.31 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303, 11-0903 and 11-0907

Subject: Black Bear hunting.

Purpose: Expand bear hunting opportunities and increase harvests to help stabilize or reduce populations.

Text of proposed rule: Amend subdivision 6 NYCRR 1.31 (b) as follows:

(b) "Bear hunting seasons." Bears may be taken only during the open seasons and areas listed below:

(1) Regular bear seasons:

Bear range	Season Dates	Wildlife Management Unit (WMU)

Northern	44 consecutive days beginning on the 2nd Saturday after Columbus Day	5A, 5C, 5F, 5G, 5H, 5J, *6A,* 6C, 6F, *6G,* 6H, 6J, [and that part of WMU 6K east of Route 26] 6K, and 6N
Southern	23 days beginning on the 3rd Saturday in November	3A, 3C, 3F, 3G, 3H, 3J, 3K, 3M, 3N, 3P, 3R, *4A, 4B,* 4C, 4F, 4G, 4H, *4J,* 4K, 4L, 4O, 4P, 4R, 4S, 4T, 4U, 4W, 4Y, 4Z, *5R,* 5S, 5T, *6P, 6R, 6S, 7A, 7F, 7H, 7J,* 7M, 7P, 7R, 7S, *8A, 8C, 8F, 8G,* 8H, 8J, 8M, 8N, 8P, 8R, 8S, 8T, 8W, 8X, 8Y, *9A, 9F,* 9G, 9H, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X, and 9Y
	October 1 to December 31	3S

(i) Legal implements for regular bear season are the same as for regular deer season.

(ii) Black bear may only be taken by longbow in Westchester County (WMU 3S)*, and in WMUs 4J and 8C*.

(2) Early bear season:

Bear range	Season Dates	Wildlife Management Unit (WMU)
Northern	First Saturday after the second Monday in September through the Friday immediately preceding the Northern muzzleloading bear season	5A, 5C, 5F, 5G, 5H, 5J, 6C, 6F, 6H, *and* 6J [, and that part of WMU 6K east of Route 26]
Southern	*First Saturday after Labor Day for 16 days*	*3A, 3C, 3H, 3J, 3K, 3M, 3P, 3R, 4P, and 4R*

(i) Legal implements for early bear season are the same as for regular bear season.

(3) Bowhunting bear seasons:

Bear range	Season Dates	Wildlife Management Unit (WMU)
Northern	[September 27] *First Saturday after the second Monday in September* through the Friday immediately preceding the regular season	5A, 5C, 5F, 5G, 5H, 5J, *6A,* 6C, 6F, *6G,* 6H, 6J, [and that part of WMU 6K east of Route 26] 6K, and 6N
Southern	Early Season: October 1 through the Friday immediately preceding regular season; Late Season: nine days immediately following the regular season	3A, 3C, 3F, 3G, 3H, 3J, 3K, 3M, 3N, 3P, 3R, *4A, 4B,* 4C, 4F, 4G, 4H, *4J,* 4K, 4L, 4O, 4P, 4R, 4S, 4T, 4U, 4W, 4Y, 4Z, *5R,* 5S, 5T, *6P, 6R, 6S, 7A, 7F, 7H, 7J,* 7M, 7P, 7R, 7S, *8A, 8C, 8F, 8G,* 8H, 8J, 8M, 8N, 8P, 8R, 8S, 8T, 8W, 8X, 8Y, *9A, 9F,* 9G, 9H, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X, and 9Y

(i) Any person who hunts or takes bear during bowhunting season must possess a license and carcass tag valid to hunt big game granting special bowhunting season privileges.

(ii) Any person participating in the bowhunting bear hunting season may not have in his or her possession, or be accompanied by a person who has in his or her possession, any hunting implement other than a legal longbow.

(4) Muzzleloading bear seasons:

Bear range	Season Dates	Wildlife Management Unit (WMU)
Northern	Seven consecutive days beginning on the 1st Saturday after Columbus Day	5A, 5C, 5F, 5G, 5H, 5J, *6A,* 6C, 6F, *6G,* 6H, 6J, [and that part of WMU 6K east of Route 26] 6K, and 6N
Southern	Nine consecutive days immediately following the regular season	3A, 3C, 3F, 3G, 3H, 3J, 3K, 3M, 3N, 3P, 3R, *4A, 4B,* 4C, 4F, 4G, 4H, 4K, 4L, 4O, 4P, 4R, 4S, 4T, 4U, 4W, 4Y, 4Z, *5R,* 5S, 5T, *6P, 6R, 6S, 7A, 7F, 7H, 7J,* 7M, 7P, 7R, 7S, *8A, 8F, 8G,* 8H, 8J, 8M, 8N, 8P, 8R, 8S, 8T, 8W, 8X, 8Y, *9A, 9F,* 9G, 9H, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X, and 9Y

(i) Any person who hunts or takes bear during muzzleloading season must possess a license and carcass tag valid to hunt big game granting special muzzleloading season privileges.

(ii) Any person participating in the muzzleloading bear hunting season may not have in his or her possession, or be accompanied by a person who has in his or her possession, a firearm other than a muzzleloading firearm which is lawful for taking big game.

Text of proposed rule and any required statements and analyses may be obtained from: Jeremy Hurst, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754, (518) 402-8883, email: jehurst@gw.dec.state.ny.us

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

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

Regulatory Impact Statement

1. Statutory authority:

Section 11-0303 of the Environmental Conservation Law directs the Department of Environmental Conservation (DEC or department) to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met having regard to ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, public safety, and protection of private premises. Section 11-0903(8) provides DEC the authority to set open seasons, open areas, bag limit, manner of taking, possession and disposition of bear and parts of bears, and the intentional and incidental feeding of bears. Section 11-0907 governs open seasons and bag limits for deer and bear.

2. Legislative objectives:

The legislative objective behind the statutory provisions listed above is to establish, or authorize the department to establish by regulation, certain basic wildlife management tools, including the setting of open areas, and restrictions on methods of take and possession. These tools are used by the department to maintain desirable wildlife species in ecological balance, while observing sound management practices.

3. Needs and benefits:

Black bears have been thriving in New York in recent years and have expanded their range considerably. In response to apparent and expected trends in bear populations throughout the state, we are proposing changes to allow harvest in all areas where bears may occur, to prevent bear population growth and reduce the potential for human-bear conflicts. We are also proposing new hunting opportunities in southeastern New York to reduce bear populations, consistent with the interests of local stakeholders.

Bear hunting remains the only viable and cost effective tool for controlling bear numbers on a landscape scale. This rulemaking is a proactive measure to help stabilize or reduce bear populations across the state. This is intended to help maintain a favorable balance between the positive and negative impacts that have been identified in these areas.

The Department recently adopted a new Black Bear Management Plan for New York State, 2014-2024, and the plan includes the regulation changes proposed here. Rationale for each of the proposed changes is as follows:

1. Establish bear hunting seasons in all portions of upstate New York.

Portions of the Southern Zone not previously open to bear hunting include parts of the Mohawk Valley, Capital District, northern Finger Lakes region, and Lake Ontario Plains (WMUs 4A, 4B, 4J, 5R, 6P, 6R, 6S, 7A, 7F, 7H, 7J, 8A, 8C, 8F, 8G, 9A, and 9F). These areas are largely incompatible for bears and present great potential for human-bear conflicts because of widespread agriculture and human densities. Bears are relatively infrequent in these areas, and the management objective is to prevent bear populations from becoming established by allowing hunters to opportunistically remove adult bears that disperse into these areas.

WMU 9C would remain closed due to a statutory prohibition on big game hunting in this area.

Portions of the Northern Zone not previously open to bear hunting include parts of the St. Lawrence Valley, eastern Lake Ontario Plains, and Tug Hill (WMUs 6A, 6G, 6K and 6N). Bear populations have expanded into these areas.The Tug Hill provides substantial forest cover and low human density capable of supporting bears with minimal human-bear conflicts. The remainder of these areas includes a greater proportion of agriculture and is less suitable for bears due to the higher likelihood of human-bear conflicts. Management through hunting will prevent further population growth in this region and stabilize the bear population on the Tug Hill, allowing for sustainable use of the bear resource that is already established there.

Current regulations allow bear hunting in the small portion of WMU 6K east of State Route 26. This is an unusual carryover of past regulations; in all other cases, bear hunting boundaries encompass only full WMUs. As part of the proposed expansion of bear hunting into all of WMU 6K, DEC proposes to realign the season structure to be consistent with appropriate management for the entire unit. This involves including WMU 6K in the early bowhunting season but excluding it from the early firearms season, both of which begin in mid-September. In past years, bear harvest during the early firearms season in the open portion of 6K has been highly variable and generally resulted in fewer than 5 bears taken. While this change would reduce the firearms hunting opportunity slightly in 6K during the early part of the fall, the muzzleloader and regular firearms hunting opportunity would remain unchanged.

2. Create a supplemental early firearms season for bears in the Central and Southern Catskill Region of the Southern Zone.

Consistent with public input of former Stakeholder Information Groups ("SIGs"), the management objective for this area is to reduce the bear population from the current level and reduce human-bear conflicts. Recent changes in season structure (i.e., shifting opening day of the regular firearms season earlier to coincide with regular deer season [2005 and 2008], and starting bow season October 1 [2012]) appear to have slowed population growth but not reduced the population. An early firearms season in September would increase bear harvest to achieve the desired population reduction. Additionally, by timing the additional harvest during a period when agricultural damage commonly occurs, the early season may yield increased take of nuisance bears. Once desired population reduction is achieved, the early firearms season may be removed and population stability maintained with the traditional season structure.

3. Provide a uniform start date for bowhunting and early bear season in the Northern Zone.

The bowhunting season for bear in the Northern Zone has typically begun on September 27, whereas early bear season, which also allows hunting with bowhunting equipment, has routinely begun on the 1st Saturday after the 2nd Monday in September (2nd Saturday after Labor Day). By starting bowhunting season for bear throughout the Northern Zone on the same date as the early season, season structures in the Northern Zone would be simplified and bowhunters in the expanding hunting areas (WMUs 6A, 6G, 6K and 6N) would have additional opportunity.

4. Costs:

Implementation of this regulation has no additional costs, other than normal administrative expenses of the department associated with game management.

5. Local government mandates:

There are no local governmental mandates associated with this proposal.

6. Paperwork:

This amendment does not require any additional paperwork by any regulated entity.

7. Duplication:

None.

8. Alternatives:

1) No change. No change in the areas open to hunting or season dates would allow continued growth of bear populations and expansion of bear range in closed areas. This would result in a higher likelihood of negative human-bear interactions with increased risks of property damage and increased costs for department interventions.

2) Reduce the size of the area to be opened. Opening a smaller area would likely lead to a more rapid increase in bear populations and negative human-bear interactions in WMUs that were not opened. This would result in the department needing to open hunting in those areas at some later date under more critical circumstances, and would be counter to the department's efforts to prevent population growth and limit negative bear-human conflicts in these areas in the interim.

3) Allow bowhunting only in new harvest areas. This would be a more cautious approach to address any concerns that opening a season might eliminate bears from this region. However, opening bear hunting only during bowhunting season would likely reduce the potential bear harvest by more than 50%. Given the patterns of bear population growth experienced in other portions of New York, such limited harvest may be insufficient to stem bear population growth in those areas. And ultimately, the goal in our management plan for many of the units that would be opened is to prevent establishment of bear populations in proximity to urban centers from Buffalo to Syracuse. Once a population is established, it is unlikely that regular hunting seasons would be able to eliminate this potential source of frequent human-bear conflicts in those areas.

4) Drop or modify the proposed September season in the Catskills. Current harvest levels have been unable to reduce the bear population as desired, despite several hunting rule changes over the past decade that increased the areas open to hunting and lengthened the regular firearms season. Additional harvest is necessary to reduce the population in the Catskills and western Hudson Valley, and a supplemental early firearms season is an appropriate method to achieve this objective. Additionally, the current level of human-bear conflicts in this area is unacceptable, and harvest of bears in September may have additional benefit of removing some problem bears, particularly in areas with agricultural damage. We considered a variety of options for season length and timing and concluded that a 16-day season beginning the weekend after Labor Day was preferred because it avoided potential conflicts over the holiday weekend, while providing considerable opportunity for hunters to go afield. It also provides opportunity for people experiencing agriculture or property damage to remove an offending bear as soon as possible. Opening this season on the same formula as the Northern Zone was also considered, but would result in a shorter season (less than 16 days) in some years if it would close when bowhunting season for deer begins (October 1). Also, using a longer regular firearms season rather than an early supplemental season would either require shortening the bowhunting season, an option which would be dissatisfactory for many hunters, or extending the firearms season through late December, a time when most bears have already gone to den.

5) Increase bag limits during existing seasons. We also considered increasing the number of bears that a hunter is allowed to take in the areas where the early season is proposed. However, increasing the bag limit (i.e., the number of bear tags issued with a hunting license) would result in minimal additional harvest. Most bears are taken opportunistically by people out hunting for deer, and less than 0.5% of all hunters take a bear each year. The opportunities for a hunter to take more than one bear are even less, and many hunters may not choose to take a second bear. The annual harvest of bears (and most other game species) is related primarily to time spent in the field by hunters (as it affects the chance of an encounter), rather than daily or seasonal limits. The September season is specifically designed to increase the available time that potential bear hunters can spend in the field, and create a unique bear hunting opportunity separate from deer hunting seasons. Increasing the bag limit for bears would also require modifications to bear tag issuance procedures associated with hunting license sales, which would not be possible (or very costly) to implement in the foreseeable future, as we are already far along with implementing a new license-issuing system across the state.

9. Federal standards:

There are no federal government standards associated with the management of black bears.

10. Compliance schedule:

Hunters would be required to comply with the new regulations beginning with the start of the archery deer and bear hunting seasons in the 2014-15 license year, which begins on September 1, 2014.

Regulatory Flexibility Analysis

The proposed regulation would amend the Department of Environmental Conservation's (department) black bear hunting regulations to allow hunting of black bears throughout upstate New York (north of New York City), create an early firearms season for bears in the Central and Southern Catskill Region of the Southern Zone, and provide a uniform start date for bowhunting and early bear season in the Northern Zone. The department has historically made regular revisions to its hunting regulations in New York. Based on the department's experience in promulgating those revisions and the familiarity of the department's regional personnel with the affected areas, the department has determined that the proposed rule would not have an adverse economic effect on small businesses or local governments.

Few, if any, small businesses directly participate in hunting activities. Such a business (e.g., professional hunting guides) will not suffer any substantial adverse impact as a result of this proposed rule making because it increases the number of wildlife management units open to bear hunting and could increase the number of participants or the frequency of participation in the bear hunting season.

All reporting, recordkeeping, and compliance requirements associated with black bear hunting are administered by the department. Therefore, the department has determined that the proposed rule would not impose any reporting, recordkeeping, or other compliance requirements on small businesses or local governments.

Therefore, the department has determined that a Regulatory Flexibility Analysis for Small Businesses and Local Governments is not required.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

Black bears live in most areas of New York, but their populations are particularly numerous in the Adirondacks, southeastern New York, eastern New York, and portions of Central and Western New York, especially along the Pennsylvania border. Consequently, the proposed regulation impacts rural areas throughout New York State.

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

All reporting, recordkeeping and other compliance requirements; and professional services associated with black bears are the responsibility of the Department of Environmental Conservation (department).

3. Costs:

All costs associated with the implementation and enforcement of the proposed regulation would be the responsibility of the department.

4. Minimizing adverse impact:

The proposed rule would increase the number of wildlife management units open to bear hunting and could increase the number of participants or the frequency of participation in the bear hunting season. The proposed rule is expected to reduce negative human-bear interactions and to reduce the levels of bear nuisance activity, thereby reducing property damage in the Southern Zone and throughout the state. The proposed changes would continue management actions recommended by the public and enhance bear hunter satisfaction, thereby having a positive effect on rural areas.

5. Rural area participation:

A key component of the New York State Black Bear Management Program is the creation and use of Stakeholder Input Groups (SIGs) that are tasked to identify and prioritize bear impacts and to help department staff articulate black bear management objectives that would enhance positive impacts and lessen negative impacts. Since 2003, six SIGs have been convened throughout the Southern Zone. In each case, stakeholders recognized the value of having bears in their area and have encouraged education efforts to boost understanding and tolerance of bears. Stakeholders also identified concern for bear-related property damage and interest in reducing bear-human conflicts. The department has promoted education efforts through seminars, web and print information, and development and distribution of the DVD, "Living with Black Bears in New York." The department now proposes that population management through additional regulated hunting is a necessary and appropriate mechanism to continue to address stakeholder concerns.

Job Impact Statement

The proposed regulation would amend the Department of Environmental Conservation's (department) black bear hunting regulations to allow hunting of black bears throughout upstate New York (north of New York City), create an early firearms season for bears in the Central and Southern Catskill Region of the Southern Zone, and provide a uniform start date for bowhunting and early bear season in the Northern Zone. Few, if any, persons actually hunt as a means of employment. Such a person, for whom hunting is an income source (e.g., professional guides), would not suffer any substantial adverse impact as a result of this proposed rule because it would increase the number of wildlife management units open to bear hunting and could increase the number of participants or the frequency of participation in the bear hunting season. For this reason, the department anticipates that this rule would have no impact on jobs and employment opportunities.

Therefore, the department has concluded that a job impact statement is not required.

Department of Financial Services

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contract and Other Deposit Reserves

I.D. No. DFS-20-14-00009-P

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

Proposed Action: Amendment of Part 99 (Regulation 151) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202 and 302; and Insurance Law, sections 301, 1304, 4217 and 4517

Subject: Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contract and Other Deposit Reserves.

Purpose: To adopt NAIC Individual Annuity Reserving Table.

Text of proposed rule: Subdivisions (k)-(r) of section 99.3 are re-lettered as subdivisions (l)-(s).

A new subdivision (k) is added to section 99.3 to read as follows:

(k) Cohort mortality table means a mortality table containing a set of mortality rates that decrease for a given age from one year to the next and is based on a combination of a period table and a projection scale that contains rates of mortality improvement.

Current subdivision (s) is re-lettered as subdivision (u), and subdivisions (t)-(w) are re-lettered as subdivisions (w)-(z).

A new subdivision (t) is added to section 99.3 to read as follows:

(t) Period table means a table of mortality rates applicable to a given calendar year (the period).

A new subdivision (v) is added to section 99.3 to read as follows:

(v) Projection scale means a table of annual rates of mortality improvement by age, to be used for projecting future mortality rates.

Current subdivisions (x) – (y) of section 99.3 are re-lettered as subdivisions (aa) – (ab).

Current subdivision (z) of section 99.3 is re-lettered as subdivision (ac) and is amended to read as follows:

(ac) 1983 GAM Table means the mortality table shown in section [99.10(i)(3)] *99.10(i)(4)* of this Part.

Current subdivision (aa) of section 99.3 is re-lettered as subdivision (ad) and is amended to read as follows:

(ad) 1994 GAR Table means that mortality table shown in section [99.10(i)(4)] *99.10(i)(5)* of this Part.

A new subdivision (ae) is added to section 99.3 to read as follows:

(ae) 2012 IAR Table means the cohort mortality table containing rates, q_x^{2012+n}, derived from a combination of rates from the 2012 IAM Period Table and Projection Scale G2, using the methodology specified in section 99.10(i)(3)(iii) of this Part.

A new subdivision (af) is added to section 99.3 to read as follows:

(af) 2012 Individual Annuity Mortality Period Life ('2012 IAM Period') Table means the period table containing mortality rates for calendar year 2012 containing rates, q_x^{2012}, as specified in section 99.10(i)(3)(i) of this Part.

Subdivision (b) of section 99.10 is amended to read as follows:

(b)*(1)* Individual annuities and pure endowments issued or purchased on or after January 1, 2000 *and prior to January 1, 2015*. The Annuity 2000 Mortality Table shall be used in determining the minimum standard of valuation for individual annuities and pure endowment contracts issued or purchased (under individual deferred annuity contracts or under individual or group life insurance policies) on or after January 1, 2000 *and prior to January 1, 2015*.

(2) Individual annuities and pure endowments issued or purchased on or after January 1, 2015. The 2012 IAR Table shall be used to determine the minimum standard of valuation for individual annuities or pure endowment contracts issued or purchased (under individual deferred annuity contracts or under individual or group life insurance policies) on or after January 1, 2015.

Paragraphs (3) – (5) of subdivision (i) of section 99.10 are re-numbered as paragraphs (4) – (6).

A new paragraph (3) of subdivision (i) of section 99.10 is added to read as follows:

(3) *The 2012 IAR Table*

(i) The rates of mortality per 1,000 lives based on age nearest birthday for the 2012 IAR Table are as follows:

THE 2012 INDIVIDUAL ANNUITY RESERVING TABLE

	MALE		*FEMALE*	
Age ($_x$)	q_x^{2012}	$G2_x$	qx^{2012}	$G2_x$
0	*1.605*	*0.010*	*1.621*	*0.010*
1	*0.401*	*0.010*	*0.405*	*0.010*
2	*0.275*	*0.010*	*0.259*	*0.010*
3	*0.229*	*0.010*	*0.179*	*0.010*
4	*0.174*	*0.010*	*0.137*	*0.010*
5	*0.168*	*0.010*	*0.125*	*0.010*
6	*0.165*	*0.010*	*0.117*	*0.010*
7	*0.159*	*0.010*	*0.110*	*0.010*
8	*0.143*	*0.010*	*0.095*	*0.010*
9	*0.129*	*0.010*	*0.088*	*0.010*
10	*0.113*	*0.010*	*0.085*	*0.010*

11	0.111	0.010	0.086	0.010
12	0.132	0.010	0.094	0.010
13	0.169	0.010	0.108	0.010
14	0.213	0.010	0.131	0.010
15	0.254	0.010	0.156	0.010
16	0.293	0.010	0.179	0.010
17	0.328	0.010	0.198	0.010
18	0.359	0.010	0.211	0.010
19	0.387	0.010	0.221	0.010
20	0.414	0.010	0.228	0.010
21	0.443	0.010	0.234	0.010
22	0.473	0.010	0.240	0.010
23	0.513	0.010	0.245	0.010
24	0.554	0.010	0.247	0.010
25	0.602	0.010	0.250	0.010
26	0.655	0.010	0.256	0.010
27	0.688	0.010	0.261	0.010
28	0.710	0.010	0.270	0.010
29	0.727	0.010	0.281	0.010
30	0.741	0.010	0.300	0.010
31	0.751	0.010	0.321	0.010
32	0.754	0.010	0.338	0.010
33	0.756	0.010	0.351	0.010
34	0.756	0.010	0.365	0.010
35	0.756	0.010	0.381	0.010
36	0.756	0.010	0.402	0.010
37	0.756	0.010	0.429	0.010
38	0.756	0.010	0.463	0.010
39	0.800	0.010	0.504	0.010
40	0.859	0.010	0.552	0.010
41	0.926	0.010	0.600	0.010
42	0.999	0.010	0.650	0.010
43	1.069	0.010	0.697	0.010
44	1.142	0.010	0.740	0.010
45	1.219	0.010	0.780	0.010
46	1.318	0.010	0.825	0.010
47	1.454	0.010	0.885	0.010
48	1.627	0.010	0.964	0.010
49	1.829	0.010	1.051	0.010
50	2.057	0.010	1.161	0.010
51	2.302	0.011	1.308	0.010
52	2.545	0.011	1.460	0.011
53	2.779	0.012	1.613	0.011
54	3.011	0.012	1.774	0.011
55	3.254	0.013	1.950	0.012
56	3.529	0.013	2.154	0.012
57	3.845	0.014	2.399	0.012
58	4.213	0.014	2.700	0.012
59	4.631	0.015	3.054	0.013
60	5.096	0.015	3.460	0.013
61	5.614	0.015	3.916	0.013
62	6.169	0.015	4.409	0.013
63	6.759	0.015	4.933	0.013
64	7.398	0.015	5.507	0.013
65	8.106	0.015	6.146	0.013
66	8.548	0.015	6.551	0.013
67	9.076	0.015	7.039	0.013
68	9.708	0.015	7.628	0.013
69	10.463	0.015	8.311	0.013
70	11.357	0.015	9.074	0.013
71	12.418	0.015	9.910	0.013
72	13.675	0.015	10.827	0.013
73	15.150	0.015	11.839	0.013
74	16.860	0.015	12.974	0.013
75	18.815	0.015	14.282	0.013
76	21.031	0.015	15.799	0.013
77	23.540	0.015	17.550	0.013
78	26.375	0.015	19.582	0.013
79	29.572	0.015	21.970	0.013
80	33.234	0.015	24.821	0.013
81	37.533	0.014	28.351	0.012
82	42.261	0.013	32.509	0.012
83	47.441	0.013	37.329	0.011
84	53.233	0.012	42.830	0.010
85	59.855	0.011	48.997	0.010
86	67.514	0.010	55.774	0.009
87	76.340	0.009	63.140	0.008
88	86.388	0.009	71.066	0.007
89	97.634	0.008	79.502	0.007
90	109.993	0.007	88.377	0.006
91	123.119	0.007	97.491	0.006
92	137.168	0.006	107.269	0.005
93	152.171	0.005	118.201	0.005
94	168.194	0.005	130.969	0.004
95	185.260	0.004	146.449	0.004
96	197.322	0.004	163.908	0.004
97	214.751	0.003	179.695	0.003
98	232.507	0.003	196.151	0.003
99	250.397	0.002	213.150	0.002
100	268.607	0.002	230.722	0.002
101	290.016	0.002	251.505	0.002
102	311.849	0.001	273.007	0.001
103	333.962	0.001	295.086	0.001
104	356.207	0.000	317.591	0.000
105	380.000	0.000	340.362	0.000
106	400.000	0.000	362.371	0.000
107	400.000	0.000	384.113	0.000
108	400.000	0.000	400.000	0.000
109	400.000	0.000	400.000	0.000
110	400.000	0.000	400.000	0.000
111	400.000	0.000	400.000	0.000
112	400.000	0.000	400.000	0.000
113	400.000	0.000	400.000	0.000
114	400.000	0.000	400.000	0.000
115	400.000	0.000	400.000	0.000
116	400.000	0.000	400.000	0.000
117	400.000	0.000	400.000	0.000
118	400.000	0.000	400.000	0.000
119	400.000	0.000	400.000	0.000
120	1000.000	0.000	1000.000	0.000

(ii) The values in the 2012 IAR Table are as follows: q_x^{2012}= the mortality rate for a person age x in year 2012 (i.e., the period table rate), and G2x = the annual improvement factor in the mortality rate for age x.

(iii) In using the 2012 IAR Table, the mortality rate for a person age x in year (2012 + n) is calculated as follows: $q_x^{2012+n} = q_x^{2012}(1 - G2x)^n$

(iv) The resulting q_x^{2012+n} *shall be rounded to three decimal places per 1,000 (e.g., 0.741 deaths per 1,000) in accordance with the formula in subparagraph (iii) of this paragraph, starting at the 2012 period table rate. For example: For a male, age 30,* $q_x^{2012} = 0.741$, $q_x^{2013} = 0.741 * (1 - 0.010)^1 = 0.73359$, *which is rounded to 0.734, and* $q_x^{2014} = 0.741 * (1 - 0.010)^2 = 0.7262541$, *which is rounded to 0.726.*

(v) Rounding shall be performed only at the end of the calculation, not at intermediate steps. For example, a method leading to incorrect rounding would be to calculate q_x^{2014} *as* $q_x^{2013} * (1 - 0.010)$, *or 0.734 * 0.99 = 0.727. The already-rounded* q_x^{2013} *may not be used to calculate* q_x^{2014}.

Text of proposed rule and any required statements and analyses may be obtained from: Frederick Andersen, New York State Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 474-7929, email: frederick.andersen@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: The Superintendent's authority to promulgate the Third Amendment to Insurance Regulation 151 (11 NYCRR 99) derives from Financial Services Law ("FSL") sections 202 and 302, and Insurance Law sections 301, 1304, 4217, and 4517.

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

FSL section 302 and Insurance Law section 301 authorize the Superintendent to effectuate any power accorded to him by the Insurance Law, the Banking Law, the Financial Services Law, or any other law of this state, and to prescribe regulations interpreting the Insurance Law, among other things.

Insurance Law section 1304 requires every authorized insurer to transact the kinds of insurance specified in Insurance Law section 1113(a)(1), (2) or (3) to maintain reserves necessary on account of such insurer's policies, certificates and contracts.

Insurance Law section 4217 requires the Superintendent to annually value, or cause to be valued, the reserve liabilities ("reserves") for all outstanding policies and contracts of every life insurer doing business in New York. Insurance Law section 4217(a)(1) specifies that the Superintendent may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest, and methods used in the calculation of the reserves.

Insurance Law section 4217(c)(6)(D) permits the Superintendent to issue, by regulation, guidelines for the application of the reserve valuation provisions of section 4217 to such policies and contracts as the Superintendent deems appropriate.

Section 4517(c)(2) of the Insurance Law requires fraternal benefit societies to comply with the minimum valuation standards of Insurance Law section 4217 for life insurance and annuities issued on or after January 1, 1980.

2. Legislative objectives: Maintaining solvency of insurers doing business in New York is a principle focus of the Insurance Law. One fundamental way the Insurance Law seeks to ensure solvency is by requiring all insurers and fraternal benefit societies authorized to do business in New York State to hold reserve funds sufficient in relation to the obligations made to policyholders. The Insurance Law prescribes the mortality tables and interest rates to be used for calculating such reserves.

3. Needs and benefits: This amendment incorporates a new individual annuity mortality table, which was recently adopted by the National Association of Insurance Commissioners ("NAIC"), that must be used to calculate reserves on individual annuities and pure endowments issued or purchased on or after January 1, 2015. The table includes projection scales to reflect mortality improvement. The resulting mortality rates, which are lower than those previously prescribed, will be used by insurers to calculate reserves, and are those required by new section 99.10(i)(3) of the regulation. The use of this type of generational table for valuing individual annuity reserves is a departure from the use of static tables, which can become outdated more quickly. Use of the mortality rates and projection scales, which were developed by the Society of Actuaries' Committee on Life Insurance Research and based on testing conducted by the NAIC during development of the table, are expected to result in increased reserves because mortality rates will be lower due to the expectation that lifetime annuitants will receive their income for longer periods of time. The longer annuity incomes are received, the greater the expectation of future cash flows. Because the cash flows are expected to be greater, insurers need to hold higher reserves.

4. Costs: Costs to insurers and fraternal benefit societies authorized to do business in New York State that are impacted by this amendment are expected to be minimal. Minor additional costs may arise from the need to modify existing computer software to incorporate the new individual mortality table prescribed by this rule to calculate reserves for individual annuities and pure endowments that were issued or purchased on or after January 1, 2015. The Department does not contemplate incurring any costs arising from this amendment. There are no costs to other government agencies or local governments.

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

6. Paperwork: The amendment imposes no new reporting requirements.

7. Duplication: The regulation does not duplicate any existing law or regulation.

8. Alternatives: During the course of developing the new individual annuity table, the drafting committee considered developing multiple tables by gender and annuity income level. However, the drafting committee determined that breaking out the valuation mortality rate by annuity income would result in some undesirable outcomes, including the ability to break up a high-income annuity into smaller annuities for the purpose of lowering the reserve held on the policy. The new table that was adopted by the NAIC has the same structure as the current Annuity 2000 Individual Annuity Mortality Table, in which the same table is used regardless of annuity income level.

9. Federal standards: There are no federal standards in this subject area.

10. Compliance schedule: This amendment to the regulation applies to financial statements filed on or after January 1, 2015. This amendment provides a new mortality table to be used to calculate reserves for individual annuities and pure endowments. Since this table has already been adopted by the NAIC and will not impact reserves until 2015, insurers should have adequate time to incorporate this new mortality table into their valuation systems.

Regulatory Flexibility Analysis

1. Small businesses: The Department finds that this amendment 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 all insurers and fraternal benefit societies that are authorized to do business in New York State, none of which comes within the definition of "small business" as defined in section 102(8) of the State Administrative Procedure Act. The Department reviewed filed Reports on Examination and Annual Statements of authorized insurers and fraternal benefit societies and concludes that none of these entities comes within the definition of "small business," because there are none that are both independently owned and have fewer than one hundred employees.

2. Local governments: The amendment does not impose any impacts, including any adverse impacts, or reporting, recordkeeping, or other compliance requirements on any local governments.

Rural Area Flexibility Analysis

1. Types and estimated number of rural areas: Insurers and fraternal benefit societies covered by the amendment do business in every county in this state, including rural areas as defined in State Administrative Procedure Act ("SAPA") section 102(10).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The amendment does not impose any new reporting, recordkeeping, or other compliance requirements and does not require the use of professional services.

3. Costs: Costs to insurers and fraternal benefit societies authorized to do business in New York State that are impacted by this amendment are expected to be minimal. Minor additional costs may arise from the need to modify existing computer software to incorporate the new individual mortality table prescribed by this rule to calculate reserves for individual annuities and pure endowments that were issued or purchased on or after January 1, 2015. The Department does not contemplate incurring any costs arising from this amendment. There are no costs to other government agencies or local governments.

4. Minimizing adverse impact: The regulation does not impose any adverse impact on rural areas.

5. Rural area participation: The mortality table being adopted through this amendment is the same as the table that was recently adopted by the National Association of Insurance Commissioners. Affected insurers and their trade associations, including the American Council of Life Insurance, had the opportunity to comment on the use of this table through that process.

Job Impact Statement

The Department finds that this amendment should have no impact on jobs and employment opportunities. This amendment prescribes a new individual annuity mortality table to be used when setting reserves that are held

for individual annuities and pure endowments issued or purchased on or after January 1, 2015. Insurers should not need to hire additional employees or independent contractors to comply with these new standards.

New York State Gaming Commission

NOTICE OF ADOPTION

Shock Wave Therapy Regulations

I.D. No. SGC-47-13-00016-A
Filing No. 355
Filing Date: 2014-05-02
Effective Date: 2014-05-21

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

Action taken: Addition of section 4043.14 to Title 9 NYCRR.

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

Subject: Shock wave therapy regulations.

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

Text of final rule: A new section 4043.14 is added to 9 NYCRR, as follows:

§ 4043.14. Restrictions on shock or pulse wave therapy.

The use of extracorporeal shock wave therapy, radial pulse wave therapy or similar treatments shall not be permitted unless the following conditions are met:

(a) The use of extracorporeal shock wave therapy, radial pulse wave therapy or similar treatments within the State:

(1) is limited to veterinarians licensed to practice by the commission; and

(2) may only be performed with machines that are:

(i) registered with and approved for use by the commission; and

(ii) used at a pre-disclosed location that is approved by the commission.

(b) Any extracorporeal shock wave therapy, radial pulse wave therapy or similar machine, whether in operating condition or not, must be registered with and approved by the commission before such machine is brought to or possessed on the grounds of a licensed race track.

(c) Trainers shall report all extracorporeal shock wave therapy, radial pulse wave therapy or similar treatments that are administered to horses trained by them, in a form and manner approved by the commission, no later than the day after the treatment. The trainer may delegate this responsibility to the treating veterinarian, who shall make these reports when so designated. A horse that is so treated shall be added to a list of ineligible horses. Such list shall be kept in the race office and be made accessible to jockeys and their agents during normal business hours. The commission may share information from such list with other racing jurisdictions.

(d) A horse that receives any such treatment is not permitted to race or breeze for a minimum of 10 days following treatment.

(e) A horse that receives any such treatment without full compliance with this section and any similar rules in any other jurisdiction in which the horse was treated shall be placed on the stewards' list.

(f) Any person who violates this section may be subjected to a fine, exclusion from all New York racetracks, and the suspension or revocation of any occupational license held by such person.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 4043.14(b).

Text of rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, Suite 600, Schenectady, NY 12305-2553, (518) 388-3332, email: info@gaming.ny.gov

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

A Revised Regulatory Impact Statement, Regulatory Flexibility Analysis (RFA) for small business and local governments, Rural Area Flexibility Analysis (RAFA), and Job Impact Statement (JIS) are not required because the only change to the proposed text that was last published before this rule was adopted was a stylistic edit. The rule was changed to say that a person should not bring certain equipment "to" rather than "onto" a racetrack.

Initial Review of Rule

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

Assessment of Public Comment

No public comments were received in response to the publication of the proposed rule-making in the November 29, 2013 State Register. One public comment was received, however, before such publication but after the Commission had voted to propose this rule. A racetrack official wrote in support and suggested that the proposed rule should be implemented in a manner that would not interfere with the racetrack's current program, implemented through house rules, to collect some of the same information about shock wave and related therapy treatments. The new rule specifies that the Commission will provide such information to the New York thoroughbred racetrack operators. The Commission will collect such information using its online reporting system, currently available for horsepersons to report equine corticosteroid joint injections, that includes an automatic email transmission of each entry to the appropriate racetrack officials.

Department of Health

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Opioid Overdose Prevention Programs

I.D. No. HLT-20-14-00010-P

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

Proposed Action: Amendment of section 80.138 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 3309

Subject: Opioid Overdose Prevention Programs.

Purpose: To establish standards for approval of any opioid overdose prevention programs.

Text of proposed rule: Section 80.138. Opioid Overdose Prevention Programs.

(a) Definitions.

(1) [Clinical director means a physician, physician assistant or nurse practitioner who provides oversight of the clinical aspects of the Opioid Overdose Prevention Program. This oversight includes serving as a clinical advisor and liaison concerning medical issues related to the Opioid Overdose Prevention Program, providing consultation on training and reviewing reports of all administrations of an opioid antagonist.

(2)] Opioid means an opiate as defined in section 3302 of the Public Health Law.

[(3)] *(2)* Opioid antagonist means an FDA-approved drug that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body. The opioid antagonist is limited to naloxone or other medications approved by the department for this purpose.

[(4)] *(3)* Opioid [O]*o*verdose [P]*p*revention [P]*p*rogram means a program the purpose of which is to train individuals to prevent a fatal opioid overdose in accordance with these regulations.

[(5)] *(4)* Opioid [Overdose Prevention Training Program] *overdose prevention training curriculum* [means a training program offered by an authorized Opioid Overdose Prevention Program which instructs a person to prevent opioid overdoses,] *refers to any set of instructions, consistent with guidance from the department, which provides a person encountering a suspected opioid overdose with the steps to take for preventing a fatality,* including by providing resuscitation, contacting emergency medical services and administering an opioid antagonist.

[(6) Person means an individual other than a licensed health care professional, law enforcement personnel, and first responders otherwise permitted by law to administer an opioid antagonist.

(7) Program director means an individual who is identified to manage and have overall responsibility for the Opioid Overdose Prevention Program.

(8)] *(5)* Registered provider for the purposes of this section shall mean any of the following *that have the services of both a program direc-*

tor and a clinical director and that have registered with the department pursuant to subdivision (b) of this section:

(i) a health care facility licensed under the Public Health Law;

(ii) a physician, physician assistant, or nurse practitioner who is authorized to prescribe the use of an opioid antagonist;

(iii) a drug treatment program licensed under the Mental Hygiene Law;

(iv) a not-for-profit community-based organization incorporated under the Not-for-profit Corporation Law [and having the services of a clinical director];

(v) a local health department *or other local government agency*;

(vi) an institution of higher education, recognized and approved by the regents of the university of the state of New York, which provides a course of study leading to the granting of a post-secondary degree or diploma; and

(vii) a business, trade, technical or other occupational school approved as such by the regents of the university of the state of New York or accredited by a nationally recognized accrediting agency or association accepted as such by the regents of the State of New York.

(6) Program director means an individual who is identified to manage and have overall responsibility for the opioid overdose prevention program.

(7) Clinical director means a physician, physician assistant or nurse practitioner who is designated in an opioid overdose prevention program's registration for prescribing an opioid antagonist to trained overdose responders and who provides oversight of the clinical aspects of the opioid overdose prevention program. This oversight includes serving as a clinical advisor and liaison concerning medical issues related to the opioid overdose prevention program, providing consultation on training and reviewing reports of all administrations of an opioid antagonist.

(8) Affiliated prescriber means a physician, physician assistant or nurse practitioner, who, in addition to the clinical director, is designated in an opioid overdose prevention program's registration for prescribing an opioid antagonist to trained overdose responders.

(9) Trained overdose responder means [a person] *any individual* who has successfully completed an [authorized Opioid Overdose Prevention Training Program] *opioid overdose prevention training curriculum* offered by an authorized [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram within the past two years and has been authorized by a registered provider to possess the opioid antagonist.

(b) Registration.

(1) Registered providers may operate an [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram if they obtain a certificate of approval from the department authorizing them to operate an [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram and otherwise comply with the provisions of this section.

(2) Providers eligible to register to operate an[d] [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram that are in good standing may apply to the department to operate an [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram on forms prescribed by the department which must include, at a minimum, the following information:

(i) the provider name, address[,] *and* operating certificate or license number where appropriate[, telephone number, fax number, e-mail address, program director and clinical director];

(ii) the name, address, telephone number, fax number, e-mail address and signature of the program director;

(iii) the name, address, telephone number, fax number, e-mail address, license type, license number and signature of the clinical director;

[(ii)] *(iv)* the name, license type and license number of the affiliated [prescriber(s)] *prescribers, if any;*

[(iii)] *(v)* the name and [location] *address* of the [site(s)] *sites* at which the [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram will be conducted; *and*

[(iv)] *(vi)* a description of the targeted population to be served and recruitment strategies to be employed by the [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram[; and].

[(v) the addresses, telephone numbers, fax numbers, e-mail addresses and signatures of the program director and clinical director.]

(c) Program operation.

(1) Each [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram shall have a program director who is responsible for managing the [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram and shall*, either directly or through a designee,* at a minimum:

(i) identify a clinical director to oversee the clinical aspects of the [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram;

(ii) establish the content of [the training program,] *the program's opioid overdose prevention training curriculum*[, which meets the approval of the department];

(iii) identify and train other program staff;

(iv) select and identify persons as trained overdose responders;

(v) issue certificates of completion to trained overdose responders who have *successfully* completed the [prescribed program] *program's opioid overdose prevention training curriculum*;

(vi) *establish and* maintain *the* [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram's *mandated* [records] *recordkeeping system* [including trained overdose responder training records, Opioid Overdose Prevention Program usage records and inventories of Opioid Overdose Prevention Program supplies and materials];

(vii) ensure that all trained overdose responders successfully complete [all components of Opioid Overdose Prevention Training Program] *the program's opioid overdose prevention training curriculum*;

(viii) provide liaison with local emergency medical services and emergency dispatch agencies, where appropriate;

(ix) assist the clinical director with review of reports of all overdose responses, particularly those [including opioid antagonist administration] *involving administration of an opioid antagonist*; and

(x) report all administrations of an opioid antagonist on forms prescribed by the department.

(2) Each [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram shall have a clinical director who is responsible for clinical oversight and liaison concerning medical issues related to the [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram and, at a minimum, shall:

(i) provide clinical consultation, expertise, and oversight;

(ii) serve as a clinical advisor and liaison concerning medical issues related to the [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram;

(iii) provide consultation to ensure that all trained overdose responders are properly trained;

(iv) adapt and approve [training program] *opioid overdose prevention training curriculum* content and protocols; and

(v) review reports of all administrations of an opioid antagonist.

(3) The trained overdose responders shall:

(i) complete an initial [Opioid Overdose Prevention Training Program] *training consistent with the program's opioid overdose prevention training curriculum*;

(ii) complete a refresher [Opioid Overdose Prevention Training Program] *training consistent with the opioid overdose prevention training curriculum* at least every two years;

(iii) contact [the] *an* emergency medical [system] *service* [during any response to] *when encountering* a victim of *a* suspected drug overdose and advise *responding emergency medical services personnel* if an opioid antagonist [is being] *has been* used;

(iv) comply with protocols for response to victims of suspected drug overdose *consistent with the program's opioid overdose prevention training curriculum*; and

(v) report all responses to victims of suspected drug overdose to the [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram director *or designated staff*.

(4) The opioid antagonist shall be [dispensed] *provided* to the trained overdose responder in accordance with all applicable laws, rules and regulations.

(5) The [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram will maintain and provide response supplies including: latex gloves, mask or other barrier for use during rescue breathing, and*, in those programs which furnish an injectable formulation of naloxone, an* agent to prepare skin before injection.

(6) The [O]*o*pioid [O]*o*verdose [P]*p*revention [Program will establish and maintain a] *program's* recordkeeping system [that will] *must* include, at a minimum, the following [information] *elements*:

(i) [list] *the names* of trained overdose responders, [including dates of completion of training] *the dates they were trained, and the dates they were furnished naloxone*;

[(ii) a log of opioid overdose prevention trainings which have been conducted;]

[(iii)] *(ii)* [copies of] program policies and procedures;

[(iv)] *(iii)* copy of the contract/agreement with the clinical director, if appropriate;

[(v)] *(iv)* opioid antagonist administration usage reports and forms; [and]

[(vi)] *(v)* documentation of review of administration of an opioid antagonist[.]*; and*

(vi) an inventory of overdose response supplies.

(7) The [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram will establish a procedure by which any administration of opioid antagonist to another individual by a trained overdose responder affiliated with an [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram, shall be reported on forms prescribed by the department.

(8) Approval obtained pursuant to this section shall consist of a certificate of approval provided by the department that shall remain in effect for two years or until receipt by the authorized provider of a written notice of termination of the program from the department, whichever shall first

occur. The department may renew a certificate of approval for a subsequent two-year period if the registered provider is in good standing with all applicable State and Federal licensing agencies and such provider is found to have complied with the requirements of this section [and has submitted a request for renewal].

(9) Pursuant to Public Health Law, section 3309(2) the purchase, acquisition, possession or use of an opioid antagonist by an [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram or a trained overdose responder in accordance with this section and the training provided by an authorized [O]*o*pioid [O]*o*verdose [P]*p*revention [P]*p*rogram shall not constitute the unlawful practice of a profession[al] or other violation under title 8 of the Education Law or article 33 of the Public Health Law.

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

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

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

Regulatory Impact Statement

Statutory Authority:

Chapter 413 of the Laws of 2005, effective April 1, 2006, added Section 3309 of the Public Health Law to provide for opioid overdose prevention programs in New York State (NYS). Pursuant to PHL Section 3309(1), the Commissioner of Health is authorized to establish standards for approval of opioid overdose prevention programs.

Legislative Objectives:

This legislation was enacted in order to reduce the incidence of fatal opioid overdoses by making possible the timely, appropriate and safe administration of life-saving medication on an emergency basis to individuals who experience accidental opioid drug overdoses. To further this objective, the regulations must support a broad range of qualified organizations in becoming registered opioid overdose prevention programs and do so in a way that is not needlessly burdensome or confusing. The revised regulations achieve this by expanding the eligible provider base to include local government agencies, other than local health departments which were already eligible; institutions of higher education recognized and approved by the Regents of the University of the State of New York which provide a course of study leading to the granting of a post-secondary degree or diploma; and business, trade, technical or other occupation schools approved as such by the regents of the university of the State of New York or accredited by a nationally recognized accrediting agency or association accepted as such by the regents of the State of New York.

The revised regulations also eliminate an unnecessary recordkeeping requirement and add clarity to entities considering registering as opioid overdose prevention programs by defining the role of affiliated prescribers and by eliminating potentially confusing language regarding the provision of overdose prevention training by the registered programs.

Needs and Benefits:

Overdose is a preventable cause of death in the majority of cases involving opioids. Opioids include heroin as well as prescribed analgesics such as morphine, codeine, methadone, oxycodone (Oxycontin, Percodan, Percocet) and hydrocodone (Vicodin). In an opioid overdose, the user becomes sedated and gradually loses the urge to breathe, leading to death from respiratory depression. Naloxone is an opioid receptor antagonist that can be used to reverse an opioid overdose, generally within 1-2 minutes of administration. An untreated opioid overdose may result in death over the course of 1-3 hours. Approximately half of all injection drug users (IDUs) experience at least one nonfatal overdose during their lifetime.

According to the Centers for Disease Control and Prevention (CDC) drug overdose deaths are now the leading cause of accidental death in the United States for people aged 25-64, Of the 22,134 deaths relating to prescription drug overdose nationally in 2010, 16,651 (75%) involved opioid analgesics (also called opioid pain relievers or prescription painkillers). In 2011, drug misuse and abuse caused about 2.5 million emergency department (ED) visits. Of these, more than 1.4 million ED visits were related to pharmaceuticals.

In New York State we are seeing substantial mortality associated with opioids. In 2012, there were 875 deaths where the toxicology reports indicated opioid analgesics. In addition, there were 478 overdose deaths that year associated with heroin and 150 deaths for which the toxicology report indicated an unspecified opioid.

The New York State Office of Alcoholism and Substance Abuse Services (OASAS) estimates that there are approximately 200,000 heroin users in New York State. In 2009, there were 14,010 admissions for primary diagnosis pertaining to a prescription opioid pain reliever and 27,496 for any diagnosis (primary, secondary or tertiary) pertaining to a prescription opioid pain reliever.

Most overdoses are not instantaneous and the majority of them are witnessed by others. Therefore, many overdose fatalities are preventable. Prevention measures include education on risk factors (such as polydrug use and recent abstinence), recognition of the overdose and an appropriate response. Response includes contacting emergency medical services (EMS) and providing resuscitation while awaiting the arrival of EMS. Resuscitation consists of rescue breathing, and, when available, administration of naloxone which immediately reverses the effects of heroin overdose. Naloxone is an opioid antagonist with no abuse potential and no effect on a recipient who has not taken opioids. Provision of naloxone has been suggested for many years and is being offered in a variety of settings in jurisdictions outside of NYS. Complications of naloxone in the medical setting are rare.

Opioid overdose prevention programs, including those regulated by the current regulation, have proven effective in preventing unnecessary deaths. As of March 31 2014, over 130 programs have registered as Overdose Prevention Providers and over 60,000 naloxone kits have been distributed by NYSDOH. As of that same date, there were 850 reports of overdose reversals with the naloxone kits. Seventy-one percent of the people who received naloxone because of a drug overdose were between the ages of 18-45 and the vast majority had injected heroin and frequently opioids were used in combination with alcohol and other drugs. The largest number of reversals have been reported from New York (Manhattan) (203, 23.9%) and Erie (165, 19.422%) counties.

The proposed amendment to the rule achieves the following: 1) expanded provider eligibility so as to include institutions of higher education; business, trade, technical and occupational schools; and a wider range of local government agencies than was previously permitted; 2) elimination of an unnecessary recordkeeping requirement; 3) a clear definition of "affiliated prescribers"; and 4) an improved framing of training within the context of the regulated programs. The anticipated benefits under the proposed rule change are: reduced incidence of fatal opioid overdoses, increased contact of opioid users with medical personnel, greater awareness of risk factors for overdose, increased knowledge of safer injection practices and an increased number of persons trained in rescue breathing. The minor changes in opioid overdose prevention program regulations—just like the initial implementation of the opioid overdose prevention program under the original regulations—will not lead to increased drug use. Naloxone is not addictive and does not cause a "high." It has no potential for abuse or street value.

Costs:

There are no new mandates. This regulation continues to allow, not require, creation of opioid overdose prevention programs. Costs for the implementation of and continuing compliance to those parties that elect to establish such programs will continue to be minimal. As was past practice, no registration fee is being collected and the reporting requirements are minimal. A one-time, application process remains in effect in order for an opioid overdose prevention program to receive a certificate of approval. Existing staff can serve as the Program Director. Internal operational policies and procedures, as well as the training of staff, remain as requirements. Costs of necessary supplies and materials are minimal. Record keeping under the amended regulations has been simplified, and the reporting requirements are minimal and consistent with Public Health Law.

Local Government Mandates:

For purposes of implementing amendments to Article 3309 of the Public Health Law, local county health departments will continue to be made aware of the option to voluntarily offer opioid overdose prevention programs. Other local government agencies will also be informed of this option. Local EMS will continue to receive information concerning opioid overdose prevention.

Paperwork:

The NYSDOH anticipates a continued simple and streamlined process for eligible organizations to obtain a certificate of approval to establish an opioid overdose prevention program. The record keeping and reporting requirements imposed on the program are minimal, and some recordkeeping will actually be reduced under the amended regulation. Only those providers voluntarily participating will be required to provide information to the department.

Duplication:

The proposed amendments to the regulation do not duplicate any existing state or federal law or regulation regarding opioid overdose prevention.

Alternatives:

The proposed amendments to the regulation do not exceed the specific requirements of the legislation. Because offering an opioid overdose prevention program is voluntary, the regulation was designed to encourage eligible individuals and organizations to provide opioid overdose prevention services allowed under law and regulation. The approval process continues to be simple; and the reporting and financial impact of establishing a voluntary opioid overdose prevention program remains minimal. Any other alternatives would require a more complex and more

costly approach for both the NYSDOH and volunteer operators of opioid overdose prevention programs.

Federal Standards:

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

Compliance Schedule:

Each individual or organization that chooses to establish an opioid overdose prevention program must submit an initial application to the Department. Information on approved programs is then used to develop a listing of opioid overdose prevention programs, which is shared with the public. Applications for approval to establish opioid overdose prevention programs will continue to be accepted on an ongoing basis, with review and renewal happening at two-year intervals.

Regulatory Flexibility Analysis

Effect of Rule:

The proposed rule will have minimal impact on small businesses and local governments. There are new potential opioid overdose prevention providers under the amended regulations: local government agencies, other than local health departments which were already eligible; institutions of higher education recognized and approved by the Regents of the University of the State of New York which provide a course of study leading to the granting of a post-secondary degree or diploma; and business, trade, technical or other occupation schools approved as such by the Regents of the University of the State of New York or accredited by a nationally recognized accrediting agency or association accepted as such by the regents of the State of New York. None of those entities would be required to maintain an overdose prevention program; rather they may voluntarily choose to have such program. The minimal impact on small businesses and local governments is underscored by the modest nature of opioid overdose prevention programs; no fee is required for approval, ongoing technical assistance is provided at no cost by the Department of Health to these programs, and recordkeeping and reporting are minimal.

Compliance Requirements:

Under the proposed rule, eligible providers that elect to establish opioid overdose prevention programs will report overdose reversal on forms provided by the NYSDOH. Record keeping mandated of programs is minimal. The proposed amendments eliminate one previously required element: the logging of specific trainings. The proposed regulations also eliminate the requirement that registered programs request a renewal of their active status every two years; the Department will commence the renewal process absent a specific request from the programs. No new requirements have been mandated. Offering of opioid overdose prevention programs is entirely voluntary.

Professional Services:

No additional professional services will be required since providers and others will be able to utilize existing staff or can utilize the services of others with whom they have a relationship.

Compliance Costs:

The additional organizations under the revised regulations that are eligible to operate opioid overdose prevention programs and that seek NYSDOH approval to establish these programs will be provided with application guidelines and technical assistance. The additional organizations are local government agencies, other than local health departments which were already eligible; institutions of higher education recognized and approved by the Regents of the University of the State of New York which provide a course of study leading to the granting of a post-secondary degree or diploma; and business, trade, technical or other occupation schools approved as such by the Regents of the University of the State of New York or accredited by a nationally recognized accrediting agency or association accepted as such by the Regents of the State of New York. Reporting requirements pertaining to opioid overdose prevention programs will be minimal for those providers that voluntarily elect to establish such opioid overdose prevention programs. The estimated cost of reporting is, at most, $150 per year.

Economic and Technological Feasibility:

Most health care facilities, health care practitioners, drug treatment programs, community-based organizations, educational institutions and local government agencies that are, or would be, eligible to offer opioid overdose prevention programs have the capacity and expertise to carry out the necessary activities. Small businesses that opt to voluntarily offer opioid overdose prevention programs will be provided with necessary forms and instructions to comply with the approval process and reporting requirements. In large part, these forms and instructions are developed with specific input from regulated parties and NYSDOH resources are being made available to provide instructions and technical assistance.

Minimizing Adverse Impact:

There are no alternatives to the proposed recordkeeping and reporting requirements due to the need for the NYSDOH to assure that approved opioid overdose prevention programs conduct activities in a manner to maximize impact and for purposes of providing information to the Governor and the Legislature in accordance with Section 3309(4) of the Public Health Law.

Small Business and Local Government Participation:

Small businesses (including small business hospitals, clinics, health care practitioners, drug treatment programs, individual practitioners, and community-based organizations) as well as local health departments had an opportunity to review and comment on the original regulations and a similar opportunity is being provided with respect to the changes in the regulations. The NYSDOH has already begun to have conversations with local government agencies and educational institutions interested in having opioid overdose prevention programs.

Rural Area Flexibility Analysis

Types and Estimated Number of Rural Areas:

Rural areas are defined as counties with a population less than 200,000 and, for counties with a population greater than 200,000, includes towns with population densities of 150 persons or less per square mile. There are 43 counties in NYS with a population less than 200,000. Eleven counties have certain townships with population densities of 150 persons or less per square mile. The proposed rule will have minimal impact on hospitals, clinics, health care practitioners, drug treatment programs and local governments in these rural areas.

The additional organizations under the revised regulations that are eligible to operate opioid overdose prevention programs are local government agencies, other than local health departments which were already eligible; institutions of higher education recognized and approved by the Regents of the University of the State of New York which provide a course of study leading to the granting of a post-secondary degree or diploma; and business, trade, technical or other occupation schools approved as such by the Regents of the University of the State of New York or accredited by a nationally recognized accrediting agency or association accepted as such by the Regents of the State of New York. Registration as an opioid overdose prevention program is entirely voluntary. Potential providers are most likely to be located in urban or suburban, not rural, areas. For example, NYSDOH SPARCS data show 21,202 hospital discharges for admissions related to opioid overdose in 2008. Of these, 10,073 (48%) were in NYC. Most of the admissions outside of NYC were in the urban regions of Syracuse, Rochester, Buffalo, Albany and Long Island. Similarly, OASAS county-level estimates of treatment need show that the greatest need for opioid overdose prevention programs is in urban and suburban areas (OASAS, 2004 County Resource Book, Volume I. Service Need and Utilization Data, Table 2).

Reporting, Recordkeeping and Other Compliance Requirements; and Professional Services:

Under the proposed rule, reporting, record keeping and other compliance requirements applicable to providers that seek NYSDOH approval to offer opioid overdose prevention programs will be minimal. They will be limited to providing aggregate reports on forms and in formats provided by the NYSDOH. Providers may, on a voluntary basis, agree to collect and provide more detailed information for evaluation purposes.

Costs:

No new capital or annual costs of compliance are imposed by the rule. The costs incurred to implement opioid overdose prevention programs are anticipated to be minimal. In addition, the Department of Health will provide technical and other assistance.

Minimizing Adverse Impact:

The program is designed to minimize impact on those who will participate: participation is voluntary, the approval process will be minimal, no fee will be charged, and record-keeping requirements will be minimal.

The new opioid overdose prevention programs will build upon already-existing programs and services for drug injectors, through hospitals, clinics, health care practitioners, drug treatment programs, community-based organizations and local health departments and human services agencies. The NYSDOH will maintain and make available a list of approved programs.

Rural Area Participation:

The department has actively sought to engender increased opportunities for opioid overdose prevention, including in rural parts of the state. That has entailed one-on-one dialog with—and technical assistance provided to—eligible providers in the state's rural counties. That focus will not change with the amended regulation; however there will be increased opportunities for implementation of the regulated programs in rural areas because new classes of organizations will be eligible: local government agencies, other than local health departments, which were already eligible; institutions of higher education recognized and approved by the Regents of the University of the State of New York which provide a course of study leading to the granting of a post-secondary degree or diploma; and business, trade, technical or other occupation schools approved as such by the Regents of the University of the State of New York or accredited by a nationally recognized accrediting agency or association accepted as such by the Regents of the State of New York.

The mechanisms for engaging rural participation include outreach by department staff, by the Harm Reduction Coalition, and by NYSDOH-approved syringe exchange programs.

The NYSDOH, since the implementation of the current regulations, has considered input on how they could be improved. The most significant changes in the proposed regulation, including expanded eligibility and reduced recordkeeping, were the product of this input.

Job Impact Statement

A Job Impact Statement is not required. The proposed rule will not have a substantial adverse impact on jobs and employment opportunities based upon its nature, purpose and subject matter.

Higher Education Services Corporation

EMERGENCY RULE MAKING

New York State Science, Technology, Engineering and Mathematics Incentive Program

I.D. No. ESC-20-14-00008-E

Filing No. 358

Filing Date: 2014-05-05

Effective Date: 2014-05-05

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

Action taken: Addition of section 2201.13 to Title 8 NYCRR.

Statutory authority: Eduction Law, sections 653, 655 and 669-e

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

Specific reasons underlying the finding of necessity: This statement is being submitted pursuant to subdivision (6) of section 202 of the State Administrative Procedure Act and in support of New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making seeking to add a new section 2201.13 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This regulation implements a statutory student financial aid program providing for awards to be made to students beginning with the fall 2014 term. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible scholarship applicants. The statute provides for tuition benefits to college-going students who, beginning August 2014, pursue an undergraduate program of study in science, technology, engineering, or mathematics at a New York State public institution of higher education. High school students entering college in August must inform the institution of their intent to enroll no later than May 1. Therefore, it is critical that the terms of the program as provided in the regulation be available immediately in order for HESC to process scholarship applications so that students can make informed choices. To accomplish this mandate, the statute further provides for HESC to promulgate emergency regulations to implement the program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: New York State Science, Technology, Engineering and Mathematics Incentive Program.

Purpose: To implement the New York State Science, Technology, Engineering and Mathematics Incentive Program.

Text of emergency rule: New section 2201.13 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.13 New York State Science, Technology, Engineering and Mathematics Incentive Program.

(a) Definitions. The following definitions apply to this section:

(1) "Award" shall mean a New York State Science, Technology, Engineering and Mathematics Incentive Program award pursuant to section 669-e of the New York State education law.

(2) "Employment" shall mean continuous employment for at least thirty-five hours per week in the science, technology, engineering or mathematics field, as published on the corporation's web site, for a public or private entity located in New York State for five years after the completion of the undergraduate degree program and, if applicable, a higher degree program or professional licensure degree program and a grace period as authorized by section 669-e(4) of the education law.

(3) "Grace period" shall mean a six month period following a recipient's date of graduation from a public institution of higher education and, if applicable, a higher degree program or professional licensure degree program as authorized by section 669-e(4) of the education law.

(4) "High school class" shall mean the total number of students eligible to graduate from a high school in the applicable school year.

(5) "Interruption in undergraduate study or employment" shall mean a temporary period of leave for a definitive length of time due to circumstances as determined by the corporation, including, but not limited to, maternity/paternity leave, death of a family member, or military duty.

(6) "Program" shall mean the New York State Science, Technology, Engineering and Mathematics Incentive Program codified in section 669-e of the education law.

(7) "Public institution of higher education" shall mean the state university of New York, as defined in subdivision 3 of section 352 of the education law, a community college as defined in subdivision 2 of section 6301 of the education law, or the city university of New York as defined in subdivision 2 of section 6202 of the education law.

(8) "School year" shall mean the period commencing on the first day of July in each year and ending on the thirtieth day of June next following.

(9) "Science, technology, engineering and mathematics" programs shall mean those undergraduate degree programs designated by the corporation on an annual basis and published on the corporation's web site.

(10) "Successful completion of a term" shall mean that at the end of any academic term, the recipient: (i) met the eligibility requirements for the award pursuant to sections 661 and 669-e of the education law; (ii) completed at least 12 credit hours or its equivalent in a course of study leading to an approved undergraduate degree in the field of science, technology, engineering, or mathematics; and (iii) possessed a cumulative grade point average (GPA) of 2.5 as of the date of the certification by the institution. Notwithstanding, the GPA requirement is preliminarily waived for the first academic term for programs whose terms are organized in semesters, and for the first two academic terms for programs whose terms are organized on a trimester basis. In the event the recipient's cumulative GPA is less than a 2.5 at the end of his or her first academic year, the recipient will not be eligible for an award for the second academic term for programs whose terms are organized in semesters or for the third academic term for programs whose terms are organized on a trimester basis. In such case, the award received for the first academic term for programs whose terms are organized in semesters and for the first two academic terms for programs whose terms are organized on a trimester basis must be returned to the corporation and the institution may reconcile the student's account, making allowances for any other federal, state, or institutional aid the student is eligible to receive for such terms unless: (A) the recipient's GPA in his or her first academic term for programs whose terms are organized in semesters was a 2.5 or above, or (B) the recipient's GPA in his or her first two academic terms for programs whose terms are organized on a trimester basis was a 2.5 or above, in which case the institution may retain the award received and only reconcile the student's account for the second academic term for programs whose terms are organized in semesters or for the third academic term for programs whose terms are organized on a trimester basis. The corporation shall issue a guidance document, which will be published on its web site.

(b) Eligibility. An applicant for an award under this program pursuant to section 669-e of the education law must also satisfy the general eligibility requirements provided in section 661 of the education law.

(c) Class rank or placement. As a condition of an applicant's eligibility, the applicant's high school shall provide the corporation:

(1) official documentation from the high school either (i) showing the applicant's class rank together with the total number of students in such applicant's high school class or (ii) certifying that the applicant is in the top 10 percent of such applicant's high school class; and

(2) the applicant's most current high school transcript; and

(3) an explanation of how the size of the high school class, as defined in subdivision (a), was determined and the total number of students in such class using such methodology. If the high school does not rank the students in such high school class, the high school shall also provide the corporation with an explanation of the method used to calculate the top 10 percent of students in the high school class, and the number of students in the top 10 percent, as calculated. Each methodology must comply with the terms of this program as well as be rational and reasonable. In the event the corporation determines that the methodology used by the high school fails to comply with the term of the program, or is irrational or unreasonable, the applicant will be denied the award for failure to satisfy the eligibility requirements; and

(4) any additional information the corporation deems necessary to determine that the applicant has graduated within the top 10 percent of his or her high school class.

(d) Administration.

(1) Applicants for an award shall:

(i) apply for program eligibility on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility; and

(ii) postmark or electronically transmit applications for program eligibility to the corporation on or before the date prescribed by the corporation for the applicable academic year. Notwithstanding any other rule or regulation to the contrary, such applications shall be received by the corporation no later than August 15th of the applicant's year of graduation from high school.

(2) Recipients of an award shall:

(i) execute a service contract prescribed by the corporation;

(ii) apply for payment annually on forms specified by the corporation;

(iii) confirm annually their enrollment in an approved undergraduate program in science, technology, engineering, or mathematics;

(iv) receive such awards for not more than four academic years of full-time undergraduate study or five academic years if the program of study normally requires five years, as defined by the commissioner pursuant to article thirteen of the education law, excluding any allowable interruption of study; and

(v) respond to the corporation's requests for a letter from their employer attesting to the employee's job title, the employee's number of hours per work week, and any other information necessary for the corporation to determine compliance with the program's employment requirements.

(e) Amounts.

(1) The amount of the award shall be determined in accordance with section 669-e of the education law.

(2) Disbursements shall be made each term to institutions, on behalf of recipients, within a reasonable time upon successful completion of the term subject to the verification and certification by the institution of the recipient's GPA and other eligibility requirements.

(3) Awards shall be reduced by the value of other educational grants and scholarships limited to tuition, as authorized by section 669-e of the education law.

(f) Failure to comply.

(1) All award monies received shall be converted to a 10-year student loan plus interest for recipients who fail to meet the statutory, regulatory, contractual, administrative or other requirement of this program.

(2) The interest rate for the life of the loan shall be fixed and equal to that published annually by the U.S. Department of Education for undergraduate unsubsidized Stafford loans at the time the recipient signed the service contract with the corporation.

(3) Interest shall begin to accrue on the day each award payment is disbursed to the institution.

(4) Interest shall be capitalized on the day the award recipient violates any term of the service contract or the date the corporation deems the recipient was no longer able or willing to perform the terms of the service contract. Interest on this amount shall be calculated using simple interest.

(5) Where a recipient has demonstrated extreme hardship as a result of a total and permanent disability, labor market conditions, or other such circumstances, the corporation may, in its discretion, postpone converting the award to a student loan, temporarily suspend repayment of the amount owed, prorate the amount owed commensurate with service completed, discharge the amount owed, or such other appropriate action. Where a recipient has demonstrated in-school status, the corporation shall temporarily suspend repayment of the amount owed for the period of in-school status.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire August 2, 2014.

Text of rule and any required statements and analyses may be obtained from: Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1325, Albany, New York 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

Regulatory Impact Statement

Statutory authority:

The New York State Higher Education Services Corporation's ("HESC") statutory authority to promulgate regulations and administer the New York State Science, Technology, Engineering and Mathematics Incentive Program ("Program") is codified within Article 14 of the Education Law. In particular, Part G of Chapter 56 of the Laws of 2014 created the Program by adding a new section 669-e to the Education Law. Subdivision 5 of section 669-e of the Education Law authorizes HESC to promulgate emergency regulations for the purpose of administering this Program.

Pursuant to Education Law § 652(2), HESC was established for the purpose of improving the post-secondary educational opportunities of eligible students through the centralized administration of New York State financial aid programs and coordinating the State's administrative effort in student financial aid programs with those of other levels of government.

In addition, Education Law § 653(9) empowers HESC's Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation including the promulgation of rules and regulations.

HESC's President is authorized, under Education Law § 655(4), to propose rules and regulations, subject to approval by the Board of Trustees, governing, among other things, the application for and the granting and administration of student aid and loan programs, the repayment of loans or the guarantee of loans made by HESC; and administrative functions in support of state student aid programs. Also, consistent with Education Law § 655(9), HESC's President is authorized to receive assistance from any Division, Department or Agency of the State in order to properly carry out his or her powers, duties and functions. Finally, Education Law § 655(12) provides HESC's President with the authority to perform such other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of HESC.

Legislative objectives:

The Education Law was amended to add a new section 669-e to create the "New York State Science, Technology, Engineering and Mathematics Incentive Program" (Program). This Program is aimed at increasing the number of individuals working in the fields of science, technology, engineering and mathematics (STEM) in New York State to meet the increasingly critical need for those skills in the State's economy.

Needs and benefits:

According to a February 2012 report by President Obama's Council of Advisors on Science and Technology, there is a need to add to the American workforce over the next decade approximately one million more science, technology, engineering and mathematics (STEM) professionals than the United States will produce at current rates in order for the country to stay competitive. To meet this goal, the United States will need to increase the number of students who receive undergraduate STEM degrees by about 34% annually over current rates. The report also stated that fewer than 40% of students who enter college intending to major in a STEM field complete a STEM degree. Further, a recent Wall Street Journal article reported that New York state suffers from a shortage of graduates in STEM fields to fill the influx of high-tech jobs that occurred five years ago. At a plant in Malta, about half the jobs were filled by people brought in from outside New York and 11 percent were foreigners. According to the article, Bayer Corp. is due to release a report showing that half of the recruiters from large U.S. companies surveyed couldn't find enough job candidates with four-year STEM degrees in a timely manner; some said that had led to more recruitment of foreigners. About two-thirds of the recruiters surveyed said that their companies were creating more STEM positions than other types of jobs. There are also many jobs requiring a two-year degree. In an effort to deal with this shortage, companies are using more internships, grants and scholarships.

The Program is aimed at increasing the number New York graduates with two and four year degrees in STEM who will be working in STEM fields across New York state. Eligible recipients may receive annual awards for not more than four academic years of undergraduate full-time study (or five years if enrolled in a five-year program) while matriculated in an approved program leading to a career in STEM.

The maximum amount of the award is equal to the annual tuition charged to New York State resident students attending an undergraduate program at the State University of New York (SUNY), including state operated institutions, or City University of New York (CUNY). The current maximum annual award for the 2014-15 academic year is $6,170. Payments will be made directly to schools on behalf of students upon certification of their successful completion of the academic term.

Students receiving a New York State Science, Technology, Engineering and Mathematics Incentive Program award must sign a service agreement and agree to work in New York state for five years in a STEM field and reside in the State during those five years. Recipients who do not fulfill their service obligation will have the value of their awards converted to a student loan and be responsible for interest.

Costs:

a. It is anticipated that there will be no costs to the agency for the implementation of, or continuing compliance with this rule.

b. The maximum cost of the program to the State is $8 million in the first year based upon budget estimates.

c. It is anticipated that there will be no costs to Local Governments for the implementation of, or continuing compliance with, this rule.

d. The source of the cost data in (b) above is derived from the New York State Division of the Budget.

Local government mandates:

No program, service, duty or responsibility will be imposed by this rule upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

This proposal will require applicants to file an electronic application for each year they wish to receive an award up to and including five years of eligibility. Recipients are required to sign a contract for services in exchange for an award. Recipients must submit annual status reports until a final disposition is reached in accordance with the written contract.

Duplication:

No relevant rules or other relevant requirements duplicating, overlapping, or conflicting with this rule were identified.

Alternatives:

The proposed regulation is the result of HESC's outreach efforts to financial aid professionals with regard to this Program. Several alternatives were considered in the drafting of this regulation. For example, several alternatives were considered in defining terms/phrases used in the regulation as well as the academic progress requirement. Given the statutory language as set forth in section 669-e of the Education Law, a "no action" alternative was not an option.

Federal standards:

This proposal does not exceed any minimum standards of the Federal Government, and efforts were made to align it with similar federal subject areas as evidenced by the adoption of the federal unsubsidized Stafford loan rate in the event that the award is converted into a student loan.

Compliance schedule:

The agency will be able to comply with the regulation immediately upon its adoption.

Regulatory Flexibility Analysis

This statement is being submitted pursuant to subdivision (3) of section 202-b of the State Administrative Procedure Act and in support of New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making, seeking to add a new section 2201.13 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse economic impact on small businesses or local governments. HESC finds that this rule will not impose any compliance requirement or adverse economic impact on small businesses or local governments. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who pursue their undergraduate studies in the fields of science, technology, engineering, or mathematics at a New York State public institution of higher education. Students will be rewarded for remaining and working in New York, which will provide an economic benefit to the State's small businesses and local governments as well.

Rural Area Flexibility Analysis

This statement is being submitted pursuant to subdivision (4) of section 202-bb of the State Administrative Procedure Act and in support of New York State Higher Education Services Corporation's Emergency Rule Making, seeking to add a new section 2201.13 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse impact on rural areas. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who pursue their undergraduate studies in the fields of science, technology, engineering, or mathematics at a New York State public institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit rural areas around the State as well.

This agency finds that this rule will not impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

This statement is being submitted pursuant to subdivision (2) of section 201-a of the State Administrative Procedure Act and in support of New York State Higher Education Services Corporation's Emergency Rule Making seeking to add a new section 2201.13 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not have any negative impact on jobs or employment opportunities. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides tuition benefits to college students who pursue their undergraduate studies in the fields of science, technology, engineering, or mathematics at New York State public institution of higher education. Students will be rewarded for remaining and working in New York, which will benefit the State as well.

New York State Joint Commission on Public Ethics

EMERGENCY RULE MAKING

Source of Funding Reporting

I.D. No. JPE-43-13-00021-E
Filing No. 363
Filing Date: 2014-05-06
Effective Date: 2014-05-06

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 single 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 single 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 single source or to individuals or property affiliated with the single source, as well as an appeal procedure from denials of requests for such exemptions.

This emergency re-adoption is necessary because the source of funding reporting requirement is continuous and ongoing. The first filings under the new disclosure requirements occurred in January 2013. The next filing deadline is July 15, 2014, which covers the period January 1, 2014 through June 30, 2014. JCOPE seeks to amend this emergency rule and keep it in effect until it adopts as final a version of the regulations, which will be informed by the revised rulemaking process.

By setting forth when and how sources of funding must be disclosed by Client Filers, as well as the narrow standards for exemptions from the mandated disclosure, this emergency rule provides the clarity that is imminently needed by the public and regulated population to ensure compliance with PIRA's statutory provisions and effective dates.

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). Finally, with respect to filers who do have tax-exempt status under I.R.C. § 501(c)(4), PIRA provides an appeal from denials of a request for an exemption. 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 certain denials of requests for 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 May 21, 2014.

Text of rule and any required statements and analyses may be obtained from: Shari Calnero, Senior Counsel, JCOPE, 540 Broadway, Albany, NY 12207, (518) 409-3976, 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 single 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 single 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 single 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 single 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 single 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 single source or to individuals or property affiliated with the single 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 narrow standards for exempting single sources from disclosure, these rules provide comprehensive reporting requirements for lobbyists and clients.

3. Needs and benefits: The proposed revised rulemaking is limited in its scope. Under the current rule, Part 938.6(a) provides that any entity whose request for exemption is denied is entitled to an appeal before an independent hearing officer. The proposed revision tracks the statutory language in that it amends the rule to provides that the only entities entitled to an appeal are those requesting an exemption pursuant to Part 938.4(a). Entities that have tax exempt status under I.R.C. § 501(c)(4) and apply for an exemption pursuant to Part 938.4(b) will, under the proposed revision, not be entitled to an appeal before an independent hearing officer.

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 revised 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 revised 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 revised 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 revised rulemaking pertains to a new lobbying disclosure requirement that specifically relates to lobbying activity 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 upon adoption.

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

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Assessment of Public Comment

The agency received no public comment since publication of the last assessment of public comment.

NOTICE OF ADOPTION

Source of Funding Reporting

I.D. No. JPE-43-13-00021-A

Filing No. 360

Filing Date: 2014-05-05

Effective Date: 2014-05-21

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)

Subject: Source of Funding Reporting.

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

Text or summary was published in the October 23, 2013 issue of the Register, I.D. No. JPE-43-13-00021-ERP.

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

Revised rule making(s) were previously published in the State Register on March 26, 2014.

Text of rule and any required statements and analyses may be obtained from: Shari Calnero, JCOPE, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: scalnero@jcope.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2017, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Petitioners Request an Order Approving Enhanced Benefits Under the Renewable Portfolio Standard Program

I.D. No. PSC-20-14-00011-P

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

Proposed Action: The Commission is considering a petition filed by

Sterling Energy Group, Inc., and Niagara Generation, LLC, for enhanced Renewable Portfolio Standard Program benefits for a 51 MW biomass fueled electric generating facility in Niagara Falls, New York.

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

Subject: Petitioners request an order approving enhanced benefits under the Renewable Portfolio Standard Program.

Purpose: To enable continued operation of a 51 MW biomass fueled electric generating facility in Niagara Falls, New York.

Substance of proposed rule: The Commission is considering whether to adopt, modify, or reject, in whole or in part, the proposals set forth in a petition dated May 5, 2014, filed by Sterling Energy Group, Inc., and Niagara Generation, LLC. The petition seeks an order granting enhanced benefits under the Renewable Portfolio Standard (RPS) Program as necessary to allow the continued operation of a 51 MW biomass-fueled electric generating facility located in Niagara Falls, New York. Petitioners ask that the Commission take expedited action to supplement the benefits available under the current Main Tier RPS Program to provide the sound financial basis required for the continued operation of this facility as a biomass resource. Petitioners assert that continued operation of the facility will serve the public interest by providing needed renewable energy, jobs, and local investment in Western New York.

The Commission is considering the explicit relief requested within the petition and other related issues raised in the petition. The Commission could provide such enhanced RPS benefits either by restructuring an existing ten-year RPS Main Tier Agreement, or by establishing a new program of supplemental benefits for biomass facilities similar to the Maintenance Tier that the Commission established for renewable energy resources already in existence when the RPS program was first adopted. Petitioners are willing to open their books to review by Commission personnel, as is required for projects seeking to participate in the Maintenance Tier. In addition, Petitioners are willing to restructure or terminate the existing ten-year RPS Main Tier Agreement as part of any new program that would avoid the need to sell the Facility for scrap, including the conversion of the fixed payments for Renewable Energy Credits established in that agreement to a contract for differences formula. Petitioners are also willing to enter into reasonable commitments concerning employment, capital improvements to the Facility, and further increases in the use by the Facility of clean wood biomass fuel as a part of any such contract restructuring.

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.

(03-E-0188SP48)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Minimum Level of Net Metering Available to Central Hudson's Customer Generators Under Public Service Law 66-j

I.D. No. PSC-20-14-00012-P

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

Proposed Action: The Commission is considering a petition by Hudson Valley Clean Energy, Inc. d/b/a Hudson Solar to increase the minimum net metering limitation for Central Hudson Gas & Electric Corporation's service territory under Public Service Law section 66–j.

Statutory authority: Public Service Law, section 66-j(3)(b)

Subject: Minimum level of net metering available to Central Hudson's customer generators under Public Service Law 66-j.

Purpose: To modify the level of net metering available to Central Hudson's customer generators under Public Service Law 66-j.

Substance of proposed rule: The Commission is considering whether to adopt, modify, or reject, in whole, or in part, or to take any other action concerning Hudson Valley Clean Energy Inc.'s d/b/a Hudson Solar petition, filed on April 28, 2014, which requests that the Commission increase the minimum net metering limitation for the service territory of Central Hudson Gas & Electric Corporation from 3% of the utility's 2005 electric demand to 12%. The Commission may grant or reject the petition, modify the relief sought in whole or in part or take such other, further or different actions, including those which may affect the minimum net metering limitation in other utility service territories, as it deems necessary in deciding the petition.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: Deborah.Swatling@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

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

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

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

(14-E-0151SP1)