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 Civil Service

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-43-13-00005-A
Filing No. 895
Filing Date: 2014-10-22
Effective Date: 2014-11-12

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

Action taken: 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 subheadings and positions in the exempt class.

Text of final rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in Westchester County under the subheading "Department of Public Works," by deleting therefrom the positions of First Deputy Commissioner of Public Works and Deputy Commissioner (Public Works); *and, by adding thereto the subheading "Department of Public Works and Transportation,"* and the position of First Deputy Commissioner of Public Works and Transportation; and, by adding thereto the subheading "Human Rights Commission," and the position of Executive Director – Human Rights Commission.

*adding the subheading above in italics was previously omitted.

Final rule as compared with last published rule: Nonsubstantive changes were made in Appendix 1.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov

Revised Regulatory Impact Statement, 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 RIS, RFA, RAFA and JIS.

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-45-13-00010-A
Filing No. 894
Filing Date: 2014-10-22
Effective Date: 2014-11-12

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

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

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

Subject: Jurisdictional Classification.

Purpose: To add subheadings and classify positions in the non-competitive class.

Text or summary was published in the November 6, 2013 issue of the Register, I.D. No. CVS-45-13-00010-P.

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

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov

Assessment of Public Comment
The agency received no public comment.

Department of Environmental Conservation

NOTICE OF ADOPTION

American Ginseng in New York

I.D. No. ENV-26-14-00003-A
Filing No. 903
Filing Date: 2014-10-24
Effective Date: 2014-11-12

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

Action taken: Amendment of sections 193.5 and 193.7 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 3-0301(2)(m), 9-0105(1), 9-1503(1), (2), (3) and (4)

Subject: American Ginseng in New York.

Purpose: To require written landowner permission to harvest ginseng, change method to determine maturity of plants, streamline reporting.

Text or summary was published in the July 2, 2014 issue of the Register, I.D. No. ENV-26-14-00003-P.

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

Text of rule and any required statements and analyses may be obtained from: Jason Denham, Division of Lands and Forests, 625 Broadway, Albany, NY 12233, (518) 402-9425, email: jason.denham@dec.ny.gov

Assessment of Public Comment

The agency received no public comment.

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Liquefied Natural Gas (LNG)

I.D. No. ENV-37-13-00005-RP

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

Proposed Action: Addition of Part 570 to Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, art. 23, title 17 and section 3-0301(2)(a), (m)

Subject: Liquefied Natural Gas (LNG).

Purpose: To establish criteria for the siting of and to require DEC permits for LNG facilities per ECL article 23, title 17.

Substance of revised rule: This rulemaking is proposed by the New York State Department of Environmental Conservation (DEC) to adopt 6 NYCRR Part 570, the statewide regulations that would implement safe siting, operating, and transportation requirements in New York State (the State) for Liquefied Natural Gas (LNG) facilities under Article 23, Title 17 of the Environmental Conservation Law (ECL). Adoption of Part 570 would allow DEC to permit the siting, construction, and operation of LNG facilities in response to the renewed interest in locating LNG facilities (particularly heavy-duty truck fueling facilities) in the State. Part 570 also addresses the transportation of LNG and the statutory requirement that intrastate transportation only occur along approved routes. The following summarizes proposed 6 NYCRR Part 570.

Section 570.1: INTRODUCTION

Section 570.1 sets out the general purpose, applicability, definitions, exemptions, severability, and enforcement provisions of Part 570. The purpose of this section is to ensure the orderly and efficient administration of ECL Article 23, Title 17 at LNG facilities throughout the State. Consistent with Title 17, this Part does not regulate compressed natural gas or liquefied petroleum gas. These regulations do not require permits for vehicles or vessels that are fueled by LNG but do regulate dispensing facilities (fueling stations) that store LNG.

Section 570.2: PERMIT REQUIREMENTS and APPLICATION PROCEDURES

Section 570.2 applies to the permit requirements and application procedures for LNG facilities, including an explanation of the permit application process; contents of an application; criteria for siting; permit issuance, duration and renewal; public participation guidelines; modification of permit and change of ownership; permit suspension or revocation; and permit application fees and costs. This section also outlines the required procedures to obtain a permit. This section includes an upper limit of 70,000 gallons on the total amount of LNG that will be allowed to be stored at a permitted facility.

Section 570.3: SITE INSPECTIONS, RECORDKEEPING, and TRAINING of LOCAL FIRE DEPARTMENT PERSONNEL

Section 570.3 applies to site inspections, recordkeeping, and training of local fire department personnel. Applicants for permits shall offer emergency training for local fire department staff, and such equipment and personnel as may be required. Compliance with training and inspection requirements can either be determined by DEC's personnel or third parties who are qualified to monitor compliance. This section also specifies which records must be maintained at all LNG facilities, and which must be either maintained at the facility or provided to DEC within three business days of DEC's request.

Section 570.4: TRANSPORTATION of LNG

Section 570.4 explains the intrastate and interstate transportation requirements of LNG within the State. The regulations prohibit the intrastate transportation of LNG unless the intrastate transportation route has been certified as set forth in subdivision 570.4(a). In reviewing the requirement within the ECL for certified routes (ECL section 23-1713), the State Department of Transportation has determined that since certified routes are not established for other hazardous materials, it would be impracticable to establish certified routes for LNG from sources within the State. For that reason, intrastate transportation of LNG would not be allowed under Part 570. Consistent with ECL Article 23 Title 17, the proposed regulations do not require certification of routes from out-of-state sources of LNG.

Section 570.5: PRE-EXISTING FACILITIES

Section 570.5 sets forth the requirement for pre-existing facilities to comply with the rules and regulations of this Part and the procedures outlined in the LNG Statute. There are three facilities which fit this situation: National Grid's Holtsville and Greenpoint facilities, and Con-Edison's Astoria plant. These facilities operate pursuant to DEC Orders issued in 1979.

Section 570.6: PERMANENT CLOSURE of OUT-OF-SERVICE LNG STORAGE TANKS

Section 570.6 establishes the requirements for the permanent closure of out-of-service LNG storage tanks, referring to engineering guidelines and procedures that must be complied with to ensure proper closure.

Section 570.7: FINANCIAL ASSURANCE

Section 570.7 states that financial assurance, the form and amount of which will be established by DEC, may be required to ensure proper closure of LNG facilities.

Section 570.8: REPORTING OF LNG SPILLS

Section 570.8 explains the requirements for reporting a spill of LNG at a permitted facility. Spills of one gallon or more, or lesser amounts that result in a fire or explosion, must be reported.

Section 570.9: EFFECT ON MORATORIUM

Section 570.9 pertains to the existence of a moratorium on the siting of LNG facilities in cities with populations of one million or more. It emphasizes that the LNG regulations will not affect any statutory moratorium. In May 2013, the moratorium was extended to April 1, 2015.

Section 570.10: REFERENCES

Section 570.10 provides a listing of reference materials that are cited in 6 NYCRR Part 570, including those that are incorporated by reference, and explains how they can be obtained for inspection and/or purchasing.

Revised rule compared with proposed rule: Substantial revisions were made in section 570.2(a), (b)(5), (k)(4). Non-substantive revisions were made in sections 570.1(a)-(d), 570.2(a)-(e), (i)-(k), 570.3(a)-(e), 570.4(a)-(b), 570.5, 570.6, 570.8-570.10.

Text of revised proposed rule and any required statements and analyses may be obtained from Andrew English, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7020, (518) 402-9553, email: derweb@dec.ny.gov

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

Public comment will be received until: 30 days after publication of this notice.

Additional matter required by statute: Negative Declaration, Coastal Assessment Form, and Short Environmental Assessment Form have been completed for the proposed rule making.

Summary of Revised Regulatory Impact Statement

This revised rulemaking is proposed by the New York State Department of Environmental Conservation (DEC) to adopt 6 NYCRR Part 570, to implement requirements for the safe siting and operation of Liquefied Natural Gas (LNG) facilities and transportation of LNG under Environmental Conservation Law (ECL) Article 23, Title 17 (the LNG statute). Adoption of Part 570 would allow DEC to permit the siting, construction, and operation of LNG facilities in response to the renewed interest in locating LNG facilities (particularly heavy-duty truck fueling facilities) in New York State (the State). Part 570 also addresses the transportation of LNG and the statutory requirement that intrastate transportation only occur along approved routes.

Use of LNG in heavy-duty trucks has environmental advantages over the use of diesel fuel because of reduced greenhouse gas and other emissions. Other states allow LNG storage, conversion and transportation. As a result, LNG refueling stations may be operated in such other states. New York has not permitted the construction of any LNG facilities since the LNG statute was adopted. There are three "grandfathered" peak shaving facilities in New York City and on Long Island operating under DEC Orders in accordance with ECL section 23-1719. Adoption of Part 570 would allow DEC to consider applications for environmental safety permits for new facilities and address renewed interest in siting LNG facilities.

1. Statutory Authority

The statutory authority for Part 570, and guidance as to its contents, is found in ECL sections 1-0101, 3-0301, and the LNG statute. The full Regulatory Impact Statement (RIS) discusses each of these statutory sections. Key provisions are summarized below.

ECL section 1-0101 declares a policy of the State to conserve, improve and protect its natural resources and environment and to prevent, abate and control water, land and air pollution in order to enhance the health, safety and welfare of the people and their overall economic and social wellbeing. ECL section 3-0301 empowers DEC to adopt regulations as may be necessary to effectuate that environmental policy. ECL section 23-1709 requires DEC to adopt regulations for the safe siting and operation of LNG facilities. Various sections of the LNG statute specify the requirements for implementation of an LNG program in the State.

2. Legislative Objectives

ECL section 23-1703 sets forth the legislative findings and purpose of the LNG statute to control and regulate the siting of LNG facilities for the protection of public health, the environment, and economic welfare of the people of the State. ECL section 23-1703 emphasizes the need to minimize the siting of LNG storage, transportation and conversion facilities in residential areas or in proximity to contiguous populations and to protect such areas from potential hazards associated with transportation of LNG.

A regulatory program for LNG facilities would further the objectives of the LNG statute and ECL section 23-1709 specifically by establishing a permitting program to appropriately site LNG facilities in locations that encourage the best usage of land and minimize the risk of potential environmental and safety impacts. As required by the LNG statute, the proposed rules prohibit intrastate transportation of LNG until routes are approved. Part 570 dovetails with federal standards applicable to LNG storage and transportation, as detailed in the full RIS. Like the underlying LNG statute, the proposed rules would not impede interstate commerce.

Section 570.1 contains general provisions, including purpose, applicability, definitions, and exemptions. These regulations, consistent with the LNG statute, would not regulate compressed natural gas or liquefied petroleum gas, or require permits for vehicles or vessels fueled by LNG.

Section 570.2 implements objectives of ECL 23-1707, 23-1709 and 23-1711. It sets forth permit application procedures; public participation guidelines; permit modification and change of facility ownership; permit suspension or revocation; permit application fees; and costs. In a substantial change from the proposed regulations, this section has been revised to limit the capacity of permitted LNG facilities to 70,000 gallons. This change addresses concerns embodied in public comments regarding safety of larger facilities.

Section 570.3 implements provisions of ECL 23-1715 that authorize DEC, or qualified third parties, to inspect permitted facilities, and requires that LNG facilities offer, at the applicant's cost, emergency training for local fire department staff. The revised rule also clarifies that permitted facilities must maintain certain records.

Section 570.4 implements objectives of ECL 23-1713. It prohibits the intrastate transportation of LNG unless the intrastate transportation route has been certified. Because no routes are currently approved, intrastate transportation of LNG is prohibited. Consistent with the LNG statute, the proposed regulations do not affect interstate LNG transport.

Section 570.5 implements ECL 23-1719 and addresses "grandfathered" LNG facilities. No permits are required for these facilities, three of which currently operate in New York, unless capacity is increased. In the proposed rule noticed on September 11, 2013, these facilities were called "non-conforming" consistent with language used in ECL 23-1719. In response to public comments, in the revised proposed rule these facilities are referred to as "pre-existing" facilities.

Section 570.6 requires out-of-service LNG tanks to be permanently closed pursuant to certain engineering guidelines and procedures. This section includes procedures similar to those required for out-of-service petroleum bulk storage tanks to ensure protection of public safety and the environment.

Section 570.7 states that financial assurance, the form and amount of which will be established by DEC, may be required to ensure proper closure of LNG facilities.

Section 570.8 requires LNG spills to be reported to ensure protection of public safety and the environment.

Section 570.9 states that Part 570 will not affect any statutory moratoria.

Section 570.10 provides a listing of reference materials that are cited in 6 NYCRR Part 570.

3. Needs and Benefits

Without Part 570, new LNG facilities cannot be constructed or operated in the State. In recent years, several companies have proposed LNG operations in the State. Commercial vehicle manufacturers and operators have expressed interest in replacing diesel engines with those that run on LNG.

A 1998 New York State Energy Research and Development Authority (NYSERDA) report found that New York was the only state in the nation with a moratorium on LNG facilities, even though LNG facilities have been operated safely elsewhere. The report recommended the moratorium be lifted, which occurred on April 1, 1999, except for New York City. The report also recommended the repeal of the LNG statute.

A second NYSERDA LNG report (2011) analyzed the "state-of-the-art" of LNG activities in the U.S., and provided facility, job and cost projections in the event LNG regulations were promulgated. The report confirmed that the recent lower price of LNG compared with other fuels has increased its demand in the transportation sector, and that most states use NFPA Standards 52 and 59A, which are comprehensive standards for the construction and operation of LNG facilities. The report also documented the environmental benefits of LNG.

The 2011 study also estimated the type and number of LNG permits expected to be issued in the State if the regulations were promulgated. These included: (1) LNG import/export terminals, which would require federal approval; (2) peak shaving plants that produce/store/vaporize LNG; (3) regional LNG production facilities (relatively large quantities); (4) LNG production at natural gas wells; (5) LNG production at facilities with access to a natural gas pipeline; and (6) LNG fueling facilities without on-site production of LNG. Using various methods, the report estimates that between 10 and 25 facilities (best estimate 21) would be permitted in the first five years after adoption of regulations. The most common LNG facilities in this first five years are expected to be fueling facilities. This report also indicates that the great majority of, if not all, facilities that would be permitted in the first five years of the program would have storage capacities less than 70,000 gallons. The 70,000 gallon limit on facility capacity for a permitted LNG facility, which is proposed in this revised rulemaking, would greatly curtail, if not eliminate, the possibility of new peak shaving facilities and regional LNG production facilities. As noted above, LNG import or export facilities would be primarily under federal jurisdiction.

4. Costs

a. Costs to regulated community

Applicants for LNG permits will have to submit application fees for each new permit, renewal, or transfer, based on the facility's LNG storage capacity. If the capacity is less than 1,100 gallons, the fee for a five-year permit is $100; 1,100 gallons to 10,000 gallons: $500; 10,001 to 70,000 gallons: $1,000. In addition, DEC is authorized to recover costs incurred in implementing the program.

Applicants must provide any additional training, equipment, or personnel determined by DEC to be necessary. Costs for training would range from $1,000 to $5,000 per firefighter, depending on their numbers and experience levels. Subsequent annual refreshers would range from $200 to $500.

b. Costs to DEC, State, and Local Government

Promulgation of these regulations is required by the LNG statute. DEC expects the State to recoup its costs for implementing the program through permit application fees and recovery of SEQRA and administrative costs from the facility.

Costs to other state agencies are to: 1) Office of Fire Prevention and Control (OFPC) for the Fire Administrator's review of applications to determine capabilities of local fire departments; and 2) New York State Department of Public Service (NYSDPS) for inspection of facilities covered by the Public Service Law. These responsibilities can be fulfilled with those agencies' current staff.

Costs to local governments will be paid for by applicants. Thus, there will be no, or de minimis, costs to local governments.

c. Basis of Cost Estimates

The cost estimates contained herein are from the 2011 NYSERDA LNG report and DEC staff's best professional judgments based on years of experience with many environmental regulatory programs. Both the 1998 and 2011 NYSERDA reports are incorporated herein by reference and available on DEC's website.

5. Local Government Mandates

No recordkeeping, reporting, or other requirements beyond what is required by the LNG statute would be imposed on local governments by this rulemaking.

6. Paperwork

Applicants must submit completed applications to DEC for a permit. In addition, there are record-keeping requirements and reporting obligations for spills of LNG of one gallon or more, or lesser amounts that result in a fire or explosion. These obligations are consistent with the legislative intent and would not cause any undue costs or burdens.

7. Duplication

Three federal agencies, the Federal Energy Regulatory Commission (FERC), Department of Transportation (USDOT), and Coast Guard (USCG), have jurisdiction over LNG safety issues. Under the Natural Gas Act, FERC issues certificates authorizing the siting and construction of onshore and near-shore LNG import or export facilities, and has jurisdiction over LNG peak shaving facilities used in interstate commerce. FERC also issues certificates of public convenience and necessity for LNG facilities engaged in interstate natural gas transportation by pipeline. In addition, NFPA standards have been adopted by numerous state and federal agencies.

Finally, USCG has authority over the design, construction, manning, and operation of ships and barges that transport LNG, and marine transfer areas of import/export facilities. Currently, no import and/or export terminal facilities are operating in the State.

At the State level, NYSDOT, NYSDPS, NYSERDA and OFPC have regulatory jurisdiction over, and/or input into, certain aspects of the production, storage, transportation, and use of LNG. In drafting Part 570, DEC worked with all affected state agencies to minimize the impact of any duplication, overlap or conflict on the regulated community.

8. Alternatives

If Part 570 is not promulgated, DEC cannot issue permits for LNG facilities. DEC has rejected this alternative because the LNG statute requires that DEC promulgate regulations to permit LNG facilities, and under a "no action" alternative, the economic, environmental, and energy benefits of these projects would be lost.

9. Federal Standards

No federal standards will be exceeded by promulgating the proposed rule.

10. Compliance Schedule

The regulated community would be required to comply upon adoption of the proposed regulations.

Revised Regulatory Flexibility Analysis

1. Effect of Rule

The LNG regulations will apply statewide except where new facilities are prohibited by law (currently in New York City). They provide opportunities for small businesses and local governments to construct and operate LNG facilities. The result will be to allow LNG to be stored and used across New York State (the State) at a time when economic conditions are creating significant demand for this alternative fuel. The primary anticipated uses of LNG are in the transportation sector (long-haul trucks) and as a source of heating fuel (space heating, steam production, and industrial uses). Construction and operation of new LNG facilities, without a permit provided by the revised proposed regulations, is prohibited under Environmental Conservation Law, Article 23, Title 17 (the LNG statute).

2. Compliance Requirements

The implementation of these regulations will not adversely affect small businesses or local governments since there are no substantive reporting or record keeping requirements for small businesses or local governments as a result of the proposed rule making. The reporting obligations contained in the regulations are derived from the LNG statute.

3. Professional Services

Professional services will be required by applicants to prepare applications for facility permits, design facility structures, ensure that all aspects of the facility are in compliance with applicable building, fire, and safety requirements, maintain the facility, and eventually close the facility. Through outreach efforts, the New York State Department of Environmental Conservation (DEC) will make information available on DEC's web site, including answers to questions about the new regulations. Future public workshops (meetings) are anticipated to be scheduled as needed.

4. Compliance Costs

Small businesses and local governments should not incur any additional costs, either initial capital costs or annual compliance costs to comply with the proposed rulemaking beyond what are required for obtaining a permit to construct/operate and normal business costs. It is estimated that the cost to obtain a permit under these regulations would be approximately $10,000 in addition to the cost to provide specialized training to local fire departments, if needed. Permit application fees would range between $100 and $1,000. In addition DEC is authorized to recover costs from the facility to implement the program. Facilities with more than 70,000 gallons capacity would not be allowed under the revised proposed regulations.

5. Economic and Technological Feasibility

The proposed rulemaking enacts into regulation State statutory requirements. It is expected to increase economic growth throughout the State. The proposed rulemaking causes no added economic burdens and requires no additional sophisticated environmental control technology, other than that which may be required by statute and for the facility to be in compliance with existing building and fire safety standards. Accordingly, implementation of these rules will be economically and technologically feasible for small businesses and local governments.

6. Minimizing Adverse Impact

It is DEC's belief that the proposed regulations will not cause a significant economic burden to the small business community or local governments. Promulgating regulations that will establish criteria for the siting and storage of LNG facilities will enhance the State's ability to attract the LNG industry and corporations to provide the public and business communities with an alternative (clean) fueling source. This will provide an economic growth opportunity for the State. In addition, LNG is a cleaner burning fuel, providing significant environmental benefits, and is less expensive than other fuels for uses such as space heating and steam production.

The revised proposed rulemaking does not place any additional burdens on the small business community or local governments or increase the universe of regulatory requirements applicable to the small business community or local governments beyond that which is required by the LNG statute.

Safe production, storage, utilization and transportation of LNG throughout the State will very likely produce substantial economic, environmental, and energy benefits for the entire State with the implementation of statutory requirements of the LNG statute via the promulgation of 6 NYCRR Part 570.

7. Small Business and Local Government Participation

DEC will continue to provide a statewide outreach program to regulated communities and interested parties, including small businesses and local governments. An invitation only Stakeholders Meeting was held on Wednesday, February 27, 2013 at the DEC office in Albany, New York. Persons invited to this meeting represented a broad cross section of industry representatives, public/environmental advocacy groups, utilities, and government personnel. Comments received were considered as the rulemaking documents were revised. DEC also made a presentation regarding the draft regulations at the May 22, 2013 "LNG-CNG-NGV Technical Conference," sponsored by the New York State Department of Public Service. The conference was attended by a variety of business representatives from large and small companies.

During the proposed rule making, outreach efforts included electronic mailings to environmental groups, statewide organizations, regulated community, and other interested parties, including small businesses and local governments. In October 2013, DEC held public meetings at two locations in the State and a public hearing in Albany. DEC also posted and will continue to post relevant information about the proposed rulemaking on its website. Future DEC outreach will include contacting fire emergency response personnel regarding their time associated with training for LNG facilities, and DEC will receive public comments on the revisions to the rule for a minimum of 30 days after publication of the Notice of Revised Rule Making.

Subdivision 570.2(h), Public Participation, states: "Any hearings, comments, or participation by federal, State or local government bodies or members of the public, relative to any permit proceedings, will be conducted in accordance with procedures established in Parts 621 and 624 of this Title." This subdivision ensures that any hearings in connection with LNG permit applications will be conducted close to locations where proposed LNG facilities will be sited in the State.

Revised Rural Area Flexibility Analysis

1. Types and Estimated Number of Rural Areas:

This rule will apply statewide to all 44 rural counties and 71 additional rural towns.

2. Reporting, Recordkeeping, Other Compliance Requirements, and Need for Professional Services:

Professional services will be required by applicants to prepare applications for facility permits, design facility structures, ensure that all aspects of the facility are in compliance with applicable building, fire, and safety requirements, maintain the facility, and eventually close the facility. Reporting and recordkeeping requirements of the regulations are minimal, and include reporting spills at the facility and maintaining documents produced in the normal course of business.

3. Costs:

The applicant for a permit is required to offer an emergency response training program for appropriate municipal response personnel. As needed, this training will be held annually and the program must be approved by the New York State Fire Administrator within the Office of Fire Prevention and Control of the New York State Division of Homeland Security and Emergency Services. Costs of the initial training of firefighters will range from $1,000 to $5,000 per firefighter, depending on the number and the level of experience of the firefighters. Subsequent yearly refresher classes or training costs will range from $200 to $500, depending on the number of participants. These costs include a trainer, room, supplies, etc. Releases (i.e., vapor clouds) are addressed with fire fighting techniques. Shorter training courses use simulations to illustrate the behaviors of LNG and explain how to respond to such releases.

The 2011 New York State Energy Research and Development Authority LNG report (available on New York State Department of Environmental Conservation's (DEC) web site) estimates that the applicant's cost to complete the application process to apply for and receive a facility permit would be approximately $10,000. Permit application fees would range between $100 and $1,000. In addition DEC is authorized to recover costs from the facility to implement the program. Facilities with more than 70,000 gallons capacity would not be allowed under the revised proposed regulations.

4. Minimizing Adverse Impact:

It is DEC's belief that the revised proposed regulations will not cause a significant economic burden, place any additional burdens on rural areas, or increase the universe of regulatory requirements applicable to such rural areas beyond those required by the LNG statute, Environmental Conservation Law Article 23 Title 17. In fact, safe transportation, storage and utilization of LNG throughout the State will most likely result in substantial economic, environmental, and energy benefits for the entire New York State.

5. Rural Area Participation:

DEC will continue to provide a statewide outreach program to regulated communities and interested parties, including public and private interests in rural areas. An invitation only Stakeholders Meeting was held on

Wednesday, February 27, 2013 at the DEC office in Albany, New York. Persons invited to this meeting represented a broad cross section of industry representatives, public/environmental advocacy groups, utilities, and government personnel. Comments received were considered as the rulemaking documents were revised. DEC also made a presentation regarding the draft regulations at the May 22, 2013 "LNG-CNG-NGV Technical Conference," which was sponsored by the New York State Department of Public Service. The conference was attended by a variety of business representatives from large and small companies.

During the proposed rule making, outreach efforts included electronic mailings to environmental groups, statewide organizations, regulated community, and other interested parties, including those located in rural areas. In October 2013, DEC held public meetings at two locations in the State and a public hearing in Albany. DEC also posted and will continue to post relevant information about the proposed rule making on its website, and DEC will receive public comments on the revisions to the rule for a minimum of 30 days after publication of the Notice of Revised Rule Making.

Subdivision 570.2(h), Public Participation, states: "Any hearings, comments, or participation by federal, State or local government bodies or members of the public, relative to any permit proceedings, will be conducted in accordance with procedures established in Parts 621 and 624 of this Title." This subdivision ensures that any hearings in connection with LNG permit applications will be conducted close to locations where proposed LNG facilities will be sited in the State, including any sited in rural areas.

Revised Job Impact Statement

In accordance with Section 201-a(2)(a) of the State Administrative Procedure Act, a Job Impact Statement has not been prepared for this rule making, as it is not expected to create a substantial adverse impact on jobs and employment opportunities in New York State (the State). To the contrary, 6 NYCRR Part 570 is expected to create, as set forth below, a positive impact on employment opportunities.

The New York State Department of Environmental Conservation (DEC) has determined that the proposed Liquefied Natural Gas (LNG) regulations will have a positive impact on jobs and employment opportunities throughout the State. There would be a creation of an essentially new industry with this rulemaking and it will not replace any existing petroleum or chemical facilities in the State. There are several types of LNG facilities that could be developed in connection with this new industry. Under the regulations proposed in September, 2013, these included: LNG import/export terminals (which would require federal approvals); peak-shaving plants that produce/store/vaporize LNG; regional LNG production facilities (relatively large quantities). But under the revised proposal, these three types of LNG facilities will not be permitted, as the capacity limit of 70,000 in effect excludes them from the Part 570 permitting program. However, LNG production at natural gas wells; LNG production at facilities with access to a natural gas pipeline; and, most immediately, LNG fueling facilities without on-site production of LNG are still likely. Types of employees needed for the LNG industry include, but are not limited to, truckers (employed by either the LNG facility or an independent transportation company); fire and safety, and security personnel; and operators for various locations in the process at LNG facilities. In many cases, facilities can be expected to be operating 24 hours per day, 7 days per week.

An LNG study was conducted in 2011 by the New York State Energy Research and Development Authority, with DEC staff providing input on the scope of work and review of the resulting report. This study indicated that there would be several permanent jobs at each new LNG facility, as well as temporary jobs during the initial construction, installation and start-up of these facilities. It also estimated that between 10 and 25 facilities (best estimate 21) will be permitted in the first 5 years after Part 570 is promulgated. For additional information, please refer to the report, "NYS Liquefied Natural Gas, 6 NYCRR Part 570, Promulgation Support Study," dated September 20, 2011, which is available on DEC's web site. After this report was issued, DEC received several inquiries from industry and utilities indicating their interest in LNG facilities.

The following outline provides information about each section of the proposed regulations and the impact on potential employment opportunities in this new LNG industry.

Section 570.1 contains a description of the general purpose, applicability, definitions, exemptions, severability, and enforcement provisions of Part 570. The purpose of this section is to ensure the orderly and efficient administration of Article 23, Title 17 of the Environmental Conservation Law (ECL) at LNG facilities throughout the State. There is no negative effect on the generation of employment opportunities under this section.

Section 570.2 applies to the permit requirements and application procedures for LNG facilities, including explanation of the permit application process; criteria for siting; permit issuance, duration and renewal; public participation guidelines; modification of permit and change of ownership; permit suspension or revocation; an upper limit of 70,000 gallons on the total amount of LNG that will be allowed to be stored at a permitted facility; and program fees and costs. This new limit on facility capacity at a permitted LNG facility will eliminate or greatly curtail the possibility of new peak shaving facilities and regional LNG production facilities. As noted above, LNG import or export facilities would be primarily under federal jurisdiction. This section also outlines the required procedures to obtain a permit for constructing and operating LNG facilities, which will result in increased economic growth and job creation in the State.

Section 570.3 applies to site inspections, recordkeeping, and training of local fire department personnel. Applicants for permits shall offer emergency training for local fire department staff required for local code enforcement. Compliance with training and inspection requirements can either be determined by DEC's personnel, or by third parties who are qualified to monitor compliance, thereby creating additional potential for employment. New York State Department of Public Service (NYSDPS) has inspection responsibilities for those LNG facilities under the jurisdiction of the Public Service Commission. It is expected that existing NYSDPS staff will handle the limited number of additional inspections that the LNG regulations will require for facilities under their jurisdiction.

Section 570.4 delineates the intrastate and interstate transportation requirements of LNG within the State, and thus does not result in job creation, reduction, or elimination.

Section 570.5 applies to the requirement that pre-existing facilities comply with the rules and regulations of this Part and the procedures outlined in the LNG statute, ECL Article 23 Title 17. This section does not affect job creation, reduction, or elimination; these facilities are expected to continue to operate substantially as before promulgation of Part 570. The term referring to these facilities has been changed from that used in the proposed documents noticed on September 11, 2013, from "non-conforming" to pre-existing" facilities.

Section 570.6 applies to the permanent closure of out-of-service LNG storage tanks, referring to engineering guidelines and procedures that must be complied with to ensure proper closure. Closure activities performed at these LNG facilities will most likely result in increased temporary employment.

Section 570.7 pertains to financial assurance that may be required by DEC to ensure proper closure of LNG facilities, the form and amount of which will be established by DEC. This section does not affect job creation, reduction, or elimination.

Section 570.8 states the requirements for reporting a spill of LNG at a permitted facility. This section does not result in job creation, reduction, or elimination.

Section 570.9 recognizes the existence of a moratorium on the siting of LNG facilities in New York City and specifies that the LNG regulations will not affect any moratorium. This section does not result in job creation, reduction, or elimination.

Section 570.10 provides a listing of reference materials that are cited in 6 NYCRR Part 570, including those that are incorporated by reference, and explains how they can be obtained for inspection or purchasing, which does not impact job creation, reduction, or elimination.

In consideration of the foregoing, DEC concludes that adoption of this regulatory proposal for new LNG facilities will not have substantial adverse impacts on jobs within the State. Rather, with the construction and operation of new LNG facilities, a relatively small number of various employment opportunities will be created at different types of LNG facilities based on growth of this new alternative fuel and its availability throughout the State.

Summary of Assessment of Public Comment

6 NYCRR Part 570 - Liquefied Natural Gas - On September 11, 2013, the New York State Department of Environmental Conservation (DEC) proposed the adoption of 6 NYCRR Part 570 to implement requirements for siting and operation of Liquefied Natural Gas (LNG) facilities and transportation of LNG under Environmental Conservation Law (ECL) Article 23, Title 17 ("LNG statute"). A public hearing was held on October 30, 2013 in Albany, NY. In response to public requests, the comment period was extended 30 days to December 4, 2013. DEC received approximately 57,000 submittals, representing approximately 131,000 individual comments. All comments were reviewed, categorized, and counted (195 unique comments were identified). Below is a summary of the comments and DEC's responses. All 195 comments, and DEC's complete responses, are in the "Assessment of Public Comment" found on DEC's website.

1. General Comments in Support

These comments encouraged DEC to promulgate Part 570, noting it provides environmental benefits such as reduced emissions from substituting natural gas for petroleum. They also noted that LNG fire hazards are similar to those associated with other flammable fuels, and found Part 570 is otherwise protective of public health and the environment. These commenters pointed out that LNG is already transported safely across the

country and State, and has been stored safely in three grandfathered facilities in the State. Others suggested other benefits from adoption of the regulation (e.g., greater consistency among states, reduction in transportation costs).

DEC generally concurs with these comments, and notes the similar fire hazards between LNG and other volatile fuels. The State of California and Argonne National Laboratory have found that the life-cycle carbon footprint of producing and using LNG is less than that of petroleum or coal. Specific reductions in emissions were noted for hydrocarbons, carbon monoxide, oxides of nitrogen, and greenhouse gases.

2. General Comments in Opposition

A large number of these comments raised general concerns about safety issues. Many claimed that adoption of Part 570 would create an "infrastructure" of LNG facilities, increasing the likelihood that the State would approve high-volume hydraulic fracturing (HVHF) as a drilling technique. Some commenters opined that Part 570 falls short of the statutory requirement to provide "maximum safeguards" for permitting LNG facilities.

The production of natural gas is outside the scope of this rulemaking. Part 570 contains no provisions regarding the production of natural gas and focuses on the mandate in the LNG statute to promulgate an LNG regulation. Part 570 would result in less than a one percent increase in natural gas usage in the State. In addition, the safety record for LNG is similar to, or better than, that of other fuels. The consensus among other states is that it is appropriate to rely upon the established standards of the National Fire Protection Association (NFPA) for handling LNG. These requirements have been part of the State Building and Fire Code for many years. DEC noted the environmental benefits of using LNG over petroleum and coal, as discussed above. Further, natural gas is already the largest single source of energy in the State and is used in millions of residences, and commercial and industrial applications, demonstrating that natural gas (liquid and gaseous) is already managed safely in the State. Examples include three multi-million gallon "grandfathered" LNG production and storage facilities that have been operating in New York City and Suffolk County for over 40 years without incident. The explosion at an LNG storage tank in 1973 was a maintenance accident at a tank that had been emptied of LNG for a year.

3. General Comments on Part 570

Many commenters expressed concern that Part 570 is not adequately protective because it does not limit emissions of methane, a potent greenhouse gas and a contributor to climate change. Others suggested that Part 570 should include requirements to prevent impacts to a wide variety of public and environmental concerns (e.g., water quality, noise, wetlands, bird migration, etc.). Many felt that the NFPA standards are inadequate to protect the public. Some expressed the opinion that Part 570 is not clear about the types of LNG facilities to be permitted. Some of these commenters felt that DEC documents hid the fact that facilities other than truck refueling facilities could be permitted under the regulation.

DEC's responses explain that most LNG facilities, including the grandfathered facilities, do not normally emit large volumes of methane. Other emissions are controlled under other regulations. If an LNG facility emitted significant quantities of pollutants, it would be subject to those regulations. DEC concludes that other impacts (e.g., water quality, wetlands, etc.) would be positive, insignificant, and/or covered by other state regulations. DEC points out that there would be environmental benefits from switching to LNG from petroleum, such as a lower threat of surface water and groundwater contamination compared to storing petroleum, because any LNG spilled would quickly vaporize, and not impact water. As noted, the NFPA standards have been included in fire codes in New York and other states for years. DEC will coordinate with the State Office of Fire Prevention and Control (OFPC), the state agency with fire safety expertise, on fire safety issues.

As indicated in the 2011 New York State Energy Research and Development Authority (NYSERDA) report, there is consensus among regulatory agencies that the NFPA standards establish appropriate requirements for the safe management of LNG. DEC notes that Part 570 would provide the most comprehensive LNG management system in the nation, because beyond the NFPA standards, DEC will require permits, tailored for each facility. Proposed Part 570 and the revised rule making documents clearly indicate that other types of LNG facilities may be permitted, although truck fueling facilities are likely to predominate among early applications. Large LNG import or export facilities are expected to be outside DEC's jurisdiction and would require permits from federal agencies, potentially including the Federal Energy Regulatory Commission, Coast Guard, United States Department of Transportation, and/or others. The inclusion of a maximum facility capacity of 70,000 gallons in the revised proposal addresses the concern that Part 570 would make the construction of large LNG facilities more likely.

4. Specific Comments on Part 570

The most frequent of these comments is that there should be an upper limit on the volume of LNG that may be stored at facilities.

Many factors influence the fire safety risks presented by a specific LNG facility such as individual tank capacities and layout, location, overall capacity, surrounding land uses, capabilities of local fire departments, availability of firefighting water for cooling, etc. Although DEC could not find any study or data that shows that higher capacity facilities have greater risk for fire or explosion than lower capacity facilities, an accident involving a facility with large capacities would have the potential for greater damage than a smaller facility. After careful consideration of the issue, DEC has revised the proposed regulation to include an upper limit of 70,000 gallons of facility capacity based upon reasons provided in the full assessment of comments.

Some commenters would prefer more specific siting requirements. But the regulation requires applicants to provide all information DEC will need to determine whether or not to issue a permit for a facility. The revised proposed Part 570 includes additional detail on the information that must be included in a complete application; however, it would be impracticable, to attempt to list all factors and criteria that may be for every potential scenario. DEC needs flexibility to evaluate each case separately.

Several commenters asked for clarifications of the text of Part 570. Clarifying changes proposed in the revised rulemaking include:

- changed "non-conforming" LNG facility to "pre-existing" LNG facility
- clarified that LNG fuel tanks exempt from Part 570 are those used to power a vehicle, not tank trailers used to transport LNG to be used later as fuel
- clarified the criteria for evaluating alternative locations for siting an LNG facility
- clarified recordkeeping and production requirements
- expressly stated that transportation of LNG must comply with all applicable State and federal requirements
- clarified when out-of-service storage tanks must be permanently closed
- clarified spill reporting requirements
- clarified DEC's cost recovery authority.

For some comments, DEC does not propose rule revisions because they are not authorized under the law. For example, the LNG statute specifically makes applicants responsible for training local fire fighters. In some cases, suggested changes are impracticable or unnecessary. For example, it was suggested that DEC announce all inspections beforehand but unannounced inspections are an important compliance tool.

Many commenters wanted assurances that local emergency responders will be prepared and equipped for LNG incidents.

The law and proposed Part 570 require evaluations of every fire company that would respond to an LNG incident before a permit is issued. Any deficiencies in staffing, training or equipment must be rectified (and paid for) by the applicant. DEC will provide guidance on the training and numbers of firefighters, and equipment that should be available for responding to an LNG incident, including how these capabilities would increase as facility/tank capacities increase. Some comments contended that the LNG routing requirements were inadequate, while others suggested they were unnecessary.

The LNG statute requires that the New York State Department of Transportation (NYSDOT) certify any intrastate route for supplying a facility with LNG. The Regulatory Impact Statement explains that NYSDOT has determined that it is impracticable to certify LNG intrastate routes, since it does not certify routes for any other hazardous materials. The LNG statute requires certification of transportation routes; therefore, intrastate routing of LNG is effectively prohibited at this time. Therefore, facilities that do not generate their own supply of LNG must import it from out of State.

Some commenters suggested that financial assurance be required in every case, or be expanded to require insurance to reimburse any third parties that suffer LNG-related losses.

Due to the physical properties of LNG, and the nature of storage facilities, financial assurance would not often be necessary. It is unlikely there would be any LNG left when a facility closes permanently (due to the value of natural gas as a product). Tanks and equipment would be empty and be easily disposed due to their salvage value. The statute itself specifies that strict liability applies to damages resulting from LNG facility operations. DEC will also require proof of liability insurance for facility operations. DEC has authority to recover all state costs.

Some commenters believe that the requirements for reporting spills are inadequate or vague.

The revised rulemaking clarifies that the threshold for reporting spills is one gallon or more, or lesser amounts that result in a fire or explosion. In addition, it is proposed to allow more time in most situations, i.e., ten days rather than two, to submit written evaluations of spills, so the reports would be more complete and well-considered. DEC reserved the right to shorten or lengthen this period as needed.

5. General Comments on Rulemaking Documents and Process

Many commenters felt that DEC should have issued a positive declaration under the State Environmental Quality Review Act (SEQRA) regarding the promulgation of Part 570. They claimed this would have entailed the evaluation of many factors they felt should be considered more closely (e.g., climate change, energy policies, wildlife impacts, noise, light, bird migration, water quality, terrorism, health care).

DEC took the requisite "hard look" at environmental impacts, and carefully considered whether promulgation of Part 570 may have significant adverse environmental impacts. DEC convened a working group of six state agencies and, with NYSERDA, completed a study of how LNG is regulated in other states. The study also developed projections of facilities, jobs, and costs required under the State Administrative Procedure Act. DEC concluded that promulgation of Part 570 would not have significant adverse environmental impacts, making the negative declaration under SEQRA proper. This rule making would result in environmental benefits, in terms of lower air emissions and avoidance of greater impacts associated with the storage and handling of petroleum. All individual permit applications will undergo full SEQRA review, which would include, if appropriate, positive declarations.

Department of Financial Services

NOTICE OF ADOPTION

Holding Companies

I.D. No. DFS-19-14-00012-A

Filing No. 916

Filing Date: 2014-10-28

Effective Date: 2014-11-12

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

Action taken: Amendment of Subpart 80-1 (Regulation 52) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202 and 302; Insurance Law, sections 301, 1504 and 1506

Subject: Holding Companies.

Purpose: To help ensure that acquisitions do not financially harm domestic insurers and are not likely to be hazardous to policyholders.

Substance of final rule: Section 80-1.6, "Item 1. Insurer and method of acquisition," is amended to require the applicant to provide the insurer's National Association of Insurance Commissioners company code and to delete the word "brief" before "description of how control is to be acquired."

Section 80-1.6, "Item 2. Identity and background of applicant," "Item 3. Financial Statements," and "Item 6. Interest in the securities of the insurer" are amended to clarify that an applicant must provide certain information with respect to individuals identified pursuant to this section's "Note B".

Section 80-1.6, "Note B" is amended to explicitly add limited partnerships, limited liability partnerships, and limited liability companies to the list of applicants that must provide information to the Superintendent of Financial Services ("Superintendent").

Section 80-1.6, "Item 3. Financial statements" is amended to require an applicant to furnish a consolidated balance sheet for each person identified in "Note B."

Section 80-1.6, "Item 4. Nature, source and amount of consideration" is amended to provide that if any part of the funds or other consideration used or to be used in effecting the acquisition of control is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading securities, or otherwise effecting the acquisition of control, then the applicant must furnish a description of the transaction, the names of the parties thereto, and copies of all agreements relating thereto, including any offering memoranda, private placement memoranda, any investor disclosure statements, or any other investor solicitation materials.

Section 80-1.6, "Item 5. Objectives in acquisition of control" ("Item 5") is amended to require an applicant to describe any plans or proposals that the applicant or any person identified pursuant to "Note B" of this section may have for the next five years to liquidate the insurer, to sell its assets to or merge it with any other persons, to declare any dividends, to change the insurer's investment portfolio, or to make any other material change in its business operations or corporate structure. The plans or proposals cannot be modified or amended within five years of the date of the acquisition of control without the Superintendent's prior written approval.

Item 5 is amended to require an applicant to submit a detailed plan of operations, including five-year financial projections, relating to the insurer, and to require the insurer to notify the Superintendent, and upon the Superintendent's request, submit new five-year projections under the plan of operations if, within five years of the date of acquisition of control, the insurer seeks to enter into any reinsurance treaty or agreement with, or any transaction investing with, lending to, or for the purchase of assets from, or any transaction encumbering its assets to, or for the benefit of the applicant or any person controlling, controlled by or under common control with the applicant. If the Superintendent determines that the new projections show that the insurer will not have adequate capital, then the insurer must obtain additional capital in an amount and of a quality sufficient to remedy the deficiency as determined by the Superintendent.

Item 5 is amended to provide that, with respect to a life insurer, the Superintendent may require that the applicant, or any holding company within the insurer's holding company system, establish a trust account that substantially conforms to the requirements of 11 NYCRR 126 (Insurance Regulation 114) in an amount and for a duration to be determined by the Superintendent, if the Superintendent determines that, absent such action, the acquisition is likely to be hazardous or prejudicial to the insurer's policyholders or shareholders. In making such determination, the Superintendent may consider certain delineated factors.

Section 80-1.6, "Item 6. Interest in securities of the insurer" is amended to refer to any person identified pursuant to "Note B."

Section 80-1.6, "Item 9. Material to be filed as exhibits" is amended to require an applicant to file copies of all investor solicitation materials and any operating, management, partnership, or limited partnership agreements with the Superintendent.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 80-1.6.

Text of rule and any required statements and analyses may be obtained from: Eugene Benger, NYS Department of Financial Services, One State Street, 20th Floor, New York, NY 10004, (212) 480-2317, email: Eugene.Benger@dfs.ny.gov

Revised Regulatory Impact Statement

1. Statutory authority: Financial Services Law Sections 202 and 302 and Insurance Law Sections 301, 1504, and 1506.

Financial Services Law Section 202 establishes the office of the Superintendent of Financial Services ("Superintendent").

Financial Services Law Section 302 and Insurance Law Section 301, in material part, authorize the Superintendent to effectuate any power accorded to the Superintendent by the Financial Services Law, Insurance Law, or any other applicable law, and to prescribe regulations interpreting the Insurance Law, the Financial Services Law, or any other applicable law.

Insurance Law Section 1504, among other things, authorizes the Superintendent to obtain information concerning the operations of persons within the holding company system that may materially affect the operations, management or financial condition of the insurer.

Insurance Law Section 1506 prohibits any person, other than an authorized insurer, from acquiring control of any New York domestic insurer unless the person gives notice to the domestic insurer and receives the Superintendent's prior approval.

2. Legislative objectives: Insurance Law Article 15 generally sets forth standards for the regulation of holding company systems, and Insurance Law Section 1506 specifically sets forth standards for the acquisition or retention of control of New York domestic insurers. The Legislature enacted Article 15 in its current form in 1969 as the result of an extensive study conducted by the Superintendent of Insurance. The study found that "[w]hen a non-insurance holding company system includes an insurance company within it, its potential for specific harm becomes greater since tempting reservoirs of liquid assets become accessible to persons without any appreciation of the security needs of the insurance enterprise, and the interests of the policyholders thus become vulnerable." The study also found that that "the interests of the controlling persons are potentially in conflict not only with those of the policyholders and the public but with those of any other shareholders of the insurance company."

This amendment accords with the public policy objectives that the Legislature sought to advance by enacting Article 15, including Section 1506, by reducing the possibility that any person seeking to acquire control of a New York domestic insurer has interests that conflict with the interests of policyholders, shareholders, or the public, and by minimizing the potential for harm to a domestic insurer.

3. Needs and benefits: In recent years, private equity firms have acquired insurers, particularly life insurers writing fixed and indexed annuity contracts. Private equity-controlled insurers now account for nearly

30 percent of the indexed annuity market (up from seven percent one year ago) and 15 percent of the total fixed annuity market (up from four percent one year ago). These large numbers indicate a rapid growth in market share.

The Department of Financial Services ("Department") is concerned that certain investors with limited investment horizons may focus on maximizing their short term financial returns at the expense of long-term policyholders. These investors typically manage their investments with a much shorter time horizon (e.g., three to five years) than is typically required for prudent insurer management. They may not be committed participants in the insurance industry, and their short-term focus may result in an incentive to increase investment risk and leverage in order to boost short-term returns.

For example, private equity firms, which are generally organized as limited liability companies, limited partnerships, or limited liability partnerships, often create acquisition vehicles (also in the form of limited liability companies or partnerships) for particular transactions within a short time prior to the proposed acquisition (typically, within three years). Because such corporate forms were not as common or were not statutorily authorized when the Department first promulgated Insurance Regulation 52, they were not explicitly referenced in the rule. However, the Department considers them to be included in the term "other similar entity" as that term is used in the current rule.

This amended rule advises applicants that the Superintendent may require, among other things, that the applicant or any holding company within the insurer's holding company system establish a trust account that substantially conforms to the requirements of 11 NYCRR 126 (Insurance Regulation 114), in an amount and for a duration to be determined by the Superintendent, if the Superintendent determines that, absent such action, the acquisition is likely to be hazardous or prejudicial to the insurer's policyholders or shareholders. Although the amended rule references the establishment of a trust only in connection with an acquisition of a life insurer, the reference to a life insurer is merely to highlight the Department's recent findings and concerns relating to acquisitions of life insurers. The Superintendent always had, and retains, the discretion to condition an acquisition, in appropriate circumstances as needed, on the fulfillment of additional requirements, including the use of a trust or other financial backstop where a non-life insurer is being acquired. In determining whether to require the establishment of a trust account, the Superintendent may consider, among other things, whether the applicant or any person controlling, controlled by or under common control with the applicant is: (1) registered or required to register with, or required to report to, the United States Securities and Exchange Commission pursuant to the Investment Advisers Act of 1940, 15 U.S.C. Section 80b-3, and the regulations promulgated thereunder, 17 C.F.R. Sections 275.204(b) 1, 279.9, or would be required to register or report pursuant to such provisions if it had $150 million or more in assets under management; (2) an investment company, pursuant to the Investment Company Act of 1940, 15 U.S.C. Section 80a-3, but without giving effect to the exemptions set forth in 15 U.S.C. Sections 80a-3(c)(1) and (7), for companies with fewer than 100 owners, or where all owners are qualified purchasers as defined in 15 U.S.C. Section 80a-2(a)(51); (3) an entity that was formed within 36 months prior to the date of the application; (4) a company primarily engaging in investing or investment management activities; or (5) an entity that holds for investment purposes a portfolio where non-publicly registered securities or holdings represent 50% or more of the assets of that entity.

The amendment adds new requirements and advises applicants that, in determining whether an acquisition may be harmful to the people of this state, the Superintendent may require additional information or impose certain additional conditions to help ensure that an acquisition does not financially harm a New York domestic insurer and is not likely to be hazardous or prejudicial to the insurer's policyholders or shareholders.

In addition, the amendment clarifies that the submission to the Superintendent of a detailed plan of operations, including five-year financial projections, is mandatory because in practice, the Superintendent always has required, and applicants always have submitted, a detailed plan of operations, together with financial projections.

The amendment further provides that an insurer must notify the Superintendent, and upon the Superintendent's request, must submit new five-year projections under the plan of operations if, within five years of the date of acquisition of control, the insurer seeks to enter into any reinsurance treaty or agreement with, or any transaction for the purchase of assets from, or encumbering its assets to or for the benefit of, the applicant or any person controlling, controlled by or under common control with the applicant. If the Superintendent determines that the new projections show that the insurer will not have adequate capital, then the insurer must obtain additional capital in an amount and of a quality sufficient to remedy the deficiency as determined by the Superintendent.

4. Costs: This amendment may impose compliance costs on a person, such as a private equity firm, seeking to acquire control of a New York domestic insurer, because it requires the person to file additional information with the Superintendent. Also, compliance costs may increase because the Superintendent may require the person to submit updated financial projections if the domestic insurer seeks to enter into certain transactions with the applicant or any person controlling, controlled by or under common control with the applicant, and may require the establishment of a trust account if the Superintendent determines that, absent such action, the acquisition is likely to be hazardous or prejudicial to the insurer's policyholders or shareholders. Such costs are difficult to estimate and will vary depending upon a number of factors, including the specific actions required by the Superintendent to be taken, the complexity of the applicant's organizational structure, and the number of individuals or entities that control other entities within the applicant's organizational structure for whom the applicant must file certain additional information.

The Department may incur additional costs in connection with the implementation of this amendment, because Department staff will need to review the additional material submitted with applications for acquisition of control. However, because the Department typically does not receive more than twenty applications per year, any additional costs incurred should be minimal.

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

5. Local government mandates: This amendment does not impose any requirement upon a county, city, town, village, school district, fire district, or other special district.

6. Paperwork: The amendment requires a person, such as a private equity firm, seeking to acquire control of a New York domestic insurer to file certain additional information with the Superintendent as part of its application, such as copies of operating, management, or partnership agreements, and investor solicitation materials. In addition, the Superintendent may require, among other things, updated financial projections if the domestic insurer seeks to enter into certain transactions with the applicant or any person controlling, controlled by or under common control with the applicant.

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

8. Alternatives: In 2009, the Federal Deposit Insurance Corporation ("FDIC") issued a "Final Statement of Policy on Qualifications for Failed Bank Acquisitions" (the "Statement"), which provides guidance to private capital investors interested in acquiring or investing in failed insured depository institutions. Although this amendment does not address acquisitions of "failed" insurers, the Department believes that the Statement is an appropriate analog, because the Statement and this amendment seek to address the same concern, namely, acquisitions by persons who may not be long-term participants in the industry and whose focus may result in an incentive to boost short-term returns at the expense of the institution's or insurer's long-term obligations.

The Department reviewed the Statement and incorporated, with modifications, certain aspects of the Statement into this amendment. For example, the Statement provides that the resulting depository institution must maintain a ratio of Tier 1 common equity to total assets of at least ten percent for a period of three years from the time of acquisition, after which the depository institution must maintain no lower level of capital adequacy than "well capitalized" during the remaining period of ownership by the investors.

This amendment similarly advises an applicant seeking to acquire a domestic insurer that the Superintendent may require that the applicant establish (either directly or through any holding company within the insurer's holding company system) a financial backstop, in the form of a trust account, to provide financial support for the benefit of the insurer in an amount and for a duration to be determined by the Superintendent. In light of the growth in private equity-controlled insurers, particularly life insurers writing fixed and indexed annuities, and the Department's concern that private equity firms and other investors with a short-term investment horizon are focused on maximizing short term financial returns, this amendment advises applicants of the criteria that the Superintendent may consider in determining whether the establishment of a trust account is required to ensure that the acquisition is not likely to be hazardous or prejudicial to the insurer's policyholders or shareholders.

However, certain aspects of the Statement were too restrictive and were not incorporated. For instance, the Statement prohibits an insured depository institution acquired by an investor from extending credit to the investor, its investment funds if any, and any affiliates of the investor or investment funds. This limitation was not incorporated into the amendment, because, under current law, extensions of credit above certain thresholds by the insurer to any person in the insurer's holding company system are subject to the Superintendent's prior approval, which provides sufficient protection.

The amendment also does not incorporate the Statement's requirement that an institution maintain a specific capital level for a period of three

years from the time of acquisition by investors. The Department believes that providing flexibility in determining the amount and duration of the trust account will enable the Superintendent to better tailor the trust requirements based on discussions with the applicants and the insurer.

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

10. Compliance schedule: The amendment would be effective upon publication in the State Register and apply to any person seeking to acquire control on or after such date.

Revised Regulatory Flexibility Analysis

The minor revisions made to the adopted rule from the proposed version were made for the purpose of clarification and to correct typographical errors. Therefore, the changes made to the last published proposed rulemaking do not necessitate revision to the previously published RFA.

Revised Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Insurers and persons seeking to acquire control of insurers affected by this amendment operate in every county in this state, including rural areas as defined in State Administrative Procedure Act ("SAPA") § 102(10).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The amendment imposes additional reporting, recordkeeping, and other compliance requirements by requiring a person, including a person in a rural area, who is seeking to acquire control of a New York domestic insurer to file certain additional information with the Superintendent of Financial Services ("Superintendent") as part of its application, such as copies of operating, management or partnership agreements and investor solicitation materials. In addition, an insurer must notify the Superintendent, and upon the Superintendent's request, submit updated financial projections if the domestic insurer seeks to enter into certain transactions with the applicant or any person controlling, controlled by or under common control with the applicant.

It is unlikely that a person in a rural area seeking to acquire control of an insurer would need professional services to comply with this amendment beyond the professional services the person already would be using.

3. Costs: The amendment may result in additional costs to any person, including a person in a rural area, seeking to acquire control of a New York domestic insurer, because it requires the person to file additional information with the Superintendent. Also, compliance costs may increase because this amendment advises applicants that the Superintendent may require persons who control New York domestic insurers to provide updated financial projections and/or establish a trust account. Such costs are difficult to estimate and will vary depending upon a number of factors, including the complexity of an applicant's organizational structure and the number of individuals or entities that control other entities within the applicant's organizational structure for whom the applicant must file certain additional information. However, any additional costs to applicants or insurers in rural areas should be the same as for applicants or insurers in non-rural areas, and the costs should not differ between public and private entities in rural areas.

4. Minimizing adverse impact: The amendment should not have an adverse impact on rural areas. The amendment affects uniformly applicants and insurers who are located in both rural and non-rural areas of New York State and seeks to protect the interests of policyholders, shareholders and the public, including those located in rural areas.

5. Rural area participation: Public and private interests in rural areas had an opportunity to participate in the rule making process when the proposed rule was published in the State Register on May 14, 2014 and posted on the website of the Department of Financial Services.

Revised Job Impact Statement

The minor revisions made to the adopted rule from the proposed version were made for the purpose of clarification and to correct typographical errors. Therefore, the changes made to the last published proposed rulemaking do not necessitate revision to the previously published JIS.

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

In response to the publication of the proposed rule in the New York State Register, the New York State Department of Financial Services ("Department") received comments from an organization that represents New York life insurers, an organization that represents New York property/casualty insurers, an insurance holding company, and a bar association insurance law committee.

The comments request the Department to clarify the intent of the language requiring approval by the Superintendent of Financial Services ("Superintendent") of plans or proposals. Other comments discuss the Superintendent's approval of plans or proposals to change an insurer's investment portfolio or declare dividends, the submission of new five-year projections, the factors that the Superintendent may consider when determining the amount and duration of a trust account, and typographical errors. The Department amended the rule to fix typographical errors, address some of these comments, and make the proposed rule less burdensome for businesses. The Department does not consider these amendments to be substantive revisions. The Department has posted on its website a complete assessment of the public comments that the Department received regarding the proposed rule.

New York State Gaming Commission

EMERGENCY RULE MAKING

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

I.D. No. SGC-28-14-00006-E
Filing No. 897
Filing Date: 2014-10-23
Effective Date: 2014-10-23

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

Action taken: Addition of Part 5300 to Title 9 NYCRR.

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

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

Specific reasons underlying the finding of necessity: The Gaming Commission ("Commission") has determined that immediate adoption of these rules is necessary for the preservation of the general welfare. On March 31, 2014, the Gaming Facility Location Board, which the Commission established pursuant to section 109-a of the Racing, Pari-Mutuel Wagering and Breeding Law, issued a Request for Applications ("RFA") for applicants seeking a license to develop and operate a gaming facility in New York State pursuant to the Upstate New York Gaming Economic Development Act of 2013, as amended by Chapter 175 of the Laws of 2013 (the "Act"). The Act authorizes four upstate destination gaming resorts to enhance economic development in upstate New York, completed applications were due to the Gaming Facility Location Board by June 30, 2014. The immediate re-adoption of these rules is necessary to prescribe the form of the RFA and the information required to be submitted in response to the RFA. Standard rule making procedures would prevent the Commission from commencing the fulfillment of its statutory duties.

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

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

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

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

This notice is intended to serve only as 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. SGC-28-14-00006-EP, Issue of July 16, 2014. The emergency rule will expire December 21, 2014.

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1305(2) grants rule making authority to the Commission to implement, administer and enforce the provisions of Racing Law Article 13.

Racing Law section 1306(1) and section 1312(1) prescribe that the Gaming Facility Location Board ("Board"), which is established by the Commission, shall issue a request for applications ("RFA") for applicants seeking a license to develop and operate gaming facilities in New York State. On March 31, 2014, the Gaming Facility Location Board issued the RFA.

Racing Law section 1307(2) prescribes that the Commission regulate, among other things, the method and form of the application; the methods, procedures and form for delivery of information concerning an applicant's family, habits, character, associates, criminal record, business activities, and financial affairs; and the procedures for the fingerprinting of an applicant.

2. LEGISLATIVE OBJECTIVES: This emergency rule making carries out the legislative objectives of the above-referenced statutes by implementing the requirements of Racing Law section 1307(2).

3. NEEDS AND BENEFITS: This emergency rule making is necessary to enable the Board to carry out its statutory duty of issuing the RFA for applicants seeking a license to develop and operate a gaming facility in New York State.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with the rule: Those parties who choose to seek a gaming facility license will bear some costs. There is an application fee of $1 million that is prescribed by Racing Law section 1316(8) to defray the costs of processing the application and investigating the applicant. The extent of other costs incurred by applicants will depend upon the efforts that they put into completing and submitting the application.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The rules will impose some costs on the Commission in reviewing gaming facility applications and in issuing licenses, but it is anticipated that the $1 million application fee paid by each applicant will offset such costs. The rules will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. PAPERWORK: The rules set forth the content of the application for a gaming facility license. The requirements apply only to those parties that choose to seek a gaming facility license.

6. LOCAL GOVERNMENT: The rules do not impose any mandatory program, service, duty, or responsibility upon local government because the licensing of gaming facilities is strictly a matter of State law.

7. DUPLICATION: The rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The Commission is required to create these rules under Racing Law section 1307(2). Therefore, no alternatives were considered.

9. FEDERAL STANDARDS: There are no federal standards applicable to the licensing of gaming facilities in New York because such licensing is solely in accordance with New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that affected parties will be able to achieve compliance with the rules upon the adoption of the rules, which will occur upon filing.

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

This emergency rule making will not have any adverse impact on small businesses, local governments, jobs or rural areas. The rules prescribe the method and form of the application for a gaming facility license; the methods, procedures and form for delivery of information concerning an applicant's family, habits, character, associates, criminal record, business activities, and financial affairs; and the procedures for fingerprinting an applicant. It is not expected that any small business or local government will apply for a gaming facility license.

The rules impose no adverse economic impact or reporting, recordkeeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. It is anticipated that the opening of up to four gaming facilities in upstate New York will create new job opportunities. The rules apply uniformly throughout the State to any applicant seeking a license to develop and operate a gaming facility in the State.

The proposal will not adversely impact small businesses, local governments, jobs, or rural areas. It does not require a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, or Job Impact Statement.

Assessment of Public Comment

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

Department of Health

NOTICE OF EXPIRATION

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

Hospice Operational Rules

I.D. No.	Proposed	Expiration Date
HLT-43-13-00020-P	October 23, 2013	October 23, 2014

Higher Education Services Corporation

EMERGENCY RULE MAKING

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

I.D. No. ESC-45-14-00001-E

Filing No. 896

Filing Date: 2014-10-23

Effective Date: 2014-10-23

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: Education 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 January 20, 2015.

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.

Office of Mental Health

NOTICE OF ADOPTION

Personalized Recovery Oriented Services (PROS)

I.D. No. OMH-33-14-00006-A
Filing No. 900
Filing Date: 2014-10-23
Effective Date: 2014-11-12

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

Action taken: Amendment of Part 512 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.09, 31.04 and 43.02; Social Services Law, sections 364(3) and 364-a(1)

Subject: Personalized Recovery Oriented Services (PROS).

Purpose: Provide enhancements to individuals transitioning to more independent community living; reimburse providers for enhanced services.

Text of final rule: 1. A new subdivision (an) is added to Section 512.4 of Title 14 NYCRR to read as follows:

(an) Target population member means an individual who has received long-term supports and services for at least six (6) months while living in an adult home, nursing home as defined in Section 2801 of the Public Health Law, State-operated community residence, or as an inpatient in a State psychiatric center, and is currently living in a more independent, integrated community setting, provided, however, that an individual shall be a considered a target population member for no longer than 12 consecutive calendar months following discharge from one of the aforementioned settings.

2. A new Section 512.20 is added to Title 14 NYCRR to read as follows:

§ 512.20 Target population services.

(a) Individuals who are target population members as defined in Section 512.4 of this Part must meet the standard eligibility criteria for enrollment in PROS in accordance with Section 512.7 of this Part.

(b) Effective April 1, 2014, the following additional provisions shall apply to PROS providers that are providing services to target population members.

(1) Reimbursement for services to target population members who are in continuous pre-admission status is limited to four consecutive months, whether or not the individual is ultimately admitted to the program. Programs will be reimbursed for pre-admission services for target population members at the existing pre-admission rate plus 25 percent.

(2) Medicaid may reimburse the Intensive Rehabilitation (IR) component add-on for up to 50 percent of a provider's total number of monthly base rate bills submitted annually. IR services provided to target population members shall not count toward the 50 percent limitation for Medicaid reimbursement.

(3) The following Community Rehabilitation and Support (CRS) services will offer an enhanced reimbursement when delivered off site, on separate days, to target population members:

(i) Basic skills living training;
(ii) Benefits and financial management;
(iii) Community living exploration;
(iv) Information and education regarding self help; and
(v) Wellness self management.

(4) If two or three of the identified CRS services are delivered off site to target population members in a calendar month, programs will be reimbursed at the base rate plus $135 (upstate) or $150 (downstate). If four or more of the identified CRS services are delivered off site to target population members in a calendar month, programs will be reimbursed at the base rate plus $270 (upstate) or $300 (downstate).

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 512.4(an) and 512.20.

Text of rule and any required statements and analyses may be obtained from: Sue Watson, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: Sue.Watson@omh.ny.gov

Revised Regulatory Impact Statement

A revised Regulatory Impact Statement (RIS) is not included with this notice as the changes made to the final adopted rule do not necessitate a change to the RIS. The revisions are non-substantive and are intended to clarify OMH's intent and improve readability. The definition of target population member has been modified to clarify that individuals who had received long-term supports and services for at least six (6) months while living in a State-operated community residence and who are currently living in a more independent, integrated community setting, are considered to be members of the target population. This is in addition to those individuals who had received long-term supports and services for at least six (6) months while living in an adult home, nursing home as defined in Section 2801 of the Public Health Law, or as an inpatient in a State psychiatric center, and who are currently living in a more independent, integrated community setting. The wordsmithing changes made in Section 512.20, "Target Population Services", are merely intended to improve readability.

Revised Regulatory Flexibility Analysis

A revised Regulatory Flexibility Analysis for Small Businesses and Local Governments is not included with this notice as the changes made to the final adopted rule are non-substantive and are intended to clarify OMH's intent and improve readability. The definition of target population member has been modified to clarify that individuals who had received long-term supports and services for at least six (6) months while living in a State-operated community residence and who are currently living in a more independent, integrated community setting, are considered to be members of the target population. This is in addition to those individuals who had received long-term supports and services for at least six (6) months while living in an adult home, nursing home as defined in Section 2801 of the Public Health Law, or as an inpatient in a State psychiatric center, and who are currently living in a more independent, integrated community setting. The wordsmithing changes made in Section 512.20, "Target Population Services", are merely intended to improve readability. The amendments will not have an adverse economic impact upon small businesses or local governments.

Revised Rural Area Flexibility Analysis

A revised Rural Area Flexibility Analysis is not included with this notice as the changes made to the final adopted rule are non-substantive and are intended to clarify OMH's intent and improve readability. The definition of target population member has been modified to clarify that individuals who had received long-term supports and services for at least six (6) months while living in a State-operated community residence and who are currently living in a more independent, integrated community setting, are considered to be members of the target population. This is in addition to those individuals who had received long-term supports and services for at least six (6) months while living in an adult home, nursing home as defined in Section 2801 of the Public Health Law, or as an inpatient in a State psychiatric center, and who are currently living in a more independent, integrated community setting. The wordsmithing changes made in Section 512.20, "Target Population Services", are merely intended to improve readability. The amendments will not impose any adverse economic impact on rural areas.

Revised Job Impact Statement

A revised Job Impact Statement is not included with this notice as the changes made to the final adopted rule are non-substantive and are intended to clarify OMH's intent and improve readability. The definition of target population member has been modified to clarify that individuals who had received long-term supports and services for at least six (6) months while living in a State-operated community residence and who are currently living in a more independent, integrated community setting, are considered to be members of the target population. This is in addition to those individuals who had received long-term supports and services for at least six (6) months while living in an adult home, nursing home as defined in Section 2801 of the Public Health Law, or as an inpatient in a State psychiatric center, and who are currently living in a more independent, integrated community setting. The wordsmithing changes made in Section 512.20, "Target Population Services", are merely intended to improve readability. As is evident from the subject matter, the amendments to 14 NYCRR Part 512 will not have any impact on jobs and employment opportunities.

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

Assessment of Public Comment
The agency received no public comment.

Office of Parks, Recreation and Historic Preservation

NOTICE OF ADOPTION

Aquatic Invasive Species Control at OPRHP Facilities

I.D. No. PKR-27-14-00002-A
Filing No. 904
Filing Date: 2014-10-28
Effective Date: 2014-11-12

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

Action taken: Addition of section 377.1(i)(8), (9) and (10) to Title 9 NYCRR.

Statutory authority: Parks, Recreation and Historic Preservation Law, sections 3.09(2), (5), (8), (15), (18) and 13.13; Environmental Conservation Law, section 9-1701

Subject: Aquatic invasive species control at OPRHP facilities.

Purpose: To control the introduction and spread of aquatic invasive species at facilities under OPRHP jurisdiction.

Text of final rule: Subdivision (i) of § 377.1 of Title 9 NYCRR is amended by adding new paragraphs 8, 9 and 10 to read as follows:

(8) Prior to launching, or attempting to launch a boat or watercraft from a boat launch site, a fishing access site, or any other site from which a boat or watercraft can be launched, or leaving such site, the operator shall:

(i) inspect the boat or watercraft for plants, aquatic life, animals, or parts thereof, which are visible, in, on, or attached to any part, including livewells and bilges; the motor, rudder, anchor or other appurtenants; any equipment or gear; or the trailer or any other device used to transport or launch the boat or watercraft that may come into contact with the waterbody; and

(ii) remove any plant, aquatic life or animal, or parts thereof, observed during inspection prior to launching or leaving the site and dispose of it in designated receptacles provided at the site, or if no such receptacle is provided dispose of it in such a manner to avoid contact of the material with the waterbody.

(9)(i) An operator of a boat or watercraft shall not arrive at a boat launch site, a fishing access site, or any other site from which a boat or watercraft can be launched, or leave such a site after exiting a waterbody, without having drained the boat or watercraft, including bilge areas, livewells, bait wells and ballast tanks.

(ii) An operator of a boat or watercraft shall drain the watercraft, including bilge areas, livewells, bait wells and ballast tanks at a distance from the waterbody and in such a manner to avoid contact of the drainage with the waterbody.

(10) The provisions of paragraphs 8 and 9 of this subdivision shall not apply to:

(i) plants not otherwise defined in law or regulation as invasive species affixed to or transported in watercraft for use as camouflage for hunting or wildlife viewing purposes;

(ii) bait, including baitfish, legally used on a waterbody and possessed consistent with all applicable laws and regulations;

(iii) the use of plants or animals for habitat restoration, weed control, scientific research, or other activity approved by the office, consistent with all applicable laws and regulations;

(iv) a dog or other companion animal as defined in section 350 of the Agriculture and Markets Law; or

(v) legally taken game as defined in section 11-0103(2) of the Environmental Conservation Law or fish as defined in section 11-0103(1)(a).

Final rule as compared with last published rule: Nonsubstantive changes were made in section 377.1(i)(10).

Text of rule and any required statements and analyses may be obtained from: Kathleen L. Martens, Associate Attorney, OPRHP, Albany, NY 12238 (USPS mail), 625 Broadway, Albany, NY 12207 (courier delivery), (518) 486-2921, email: rule.making@parks.ny.gov

Revised Regulatory Impact Statement

1. Statutory Authority

The amendment to 9 NYCRR Part 377.1 seeks to control the introduction and spread of invasive species by prohibiting the launching or attempt to launch of a boat or watercraft from boat launch facilities, fishing access sites and other sites from which a boat or watercraft can be launched under the jurisdiction of the Office of Parks, Recreation and Historic Preservation (Parks or Office), unless the boat or watercraft is drained and visible plant or animal life attached to it or to its trailer or associated equipment have been removed. It also requires that the boat or watercraft be drained and visible plant or animal life attached be removed prior to leaving the site.

Parks, Recreation and Historic Preservation Law (PRHPL) Section 3.09(2) vest Parks with the duty to operate and maintain the sites, parks, and recreational facilities under its jurisdiction. PRHPL Section 3.09(5) requires that Parks provide for the health, safety and welfare of the public using facilities under its jurisdiction. PRHPL Section 3.09(8) empowers Parks to adopt, amend, or rescind such regulations as are necessary for the performance of its duties. PRHPL Section 3.09(15) provides that Parks shall enhance the natural resources on lands under its jurisdiction and Section 3.09(18) provides that Parks shall identify, protect, manage, and conserve important ecological and natural resources located on lands under its jurisdiction. PRHPL Section 13.13 provides that the Commissioner of Parks may regulate water sports and the operation, speed, or mooring of boats in or upon the waters or waterways under its jurisdiction.

2. Legislative Objectives

PRHPL Section 3.01 declares that the natural, ecological, historical, cultural, and recreational resources within the State park, recreation and historic site system are integral components of the State's environment and contribute substantially to the quality of that environment and to the quality of our lives. This section further declares that stewardship of the natural, ecological, historic, cultural and recreational resources within this system is a primary responsibility of the State. PRHPL Section 3.09 provides that the Office shall operate and maintain the State park, recreation and historic site system to conserve, protect and enhance these resources in a manner which will protect them for future generations.

Environmental Conservation Law (ECL) Section 9-1701 states the findings of the New York State Legislature concerning the threat that invasive species represent to the environment and economy of New York State. Specifically, the Legislature found that invasive species detrimentally affect the State's fresh and tidal wetlands, water bodies and waterways, forests, agricultural lands, meadows and grasslands, and other natural communities and systems by out-competing native species, diminishing biological diversity, altering community structure and, in some cases, changing ecosystem processes. Further, ECL Section 9-1701 states that the Legislature recognizes that the ecological integrity of an increasing number of publicly and privately owned parks and preserves is being adversely affected by invasive plants and animals, challenging the ability of land management agencies to effectively manage these sites.

The amendment to 9 NYCRR Part 377.1 would provide a means for Parks to protect the natural and ecological resources of State Parks. By controlling the transport of aquatic invasive species by a boat or watercraft, trailer and associated equipment used at Parks' boat launches, fishing sites and other sites because this rule would address one of the primary pathways by which aquatic invasive species can be introduced from waterbody to waterbody.

Parks previously initiated new signage and outreach programs that advise boaters and anglers to follow clean, drain, dry voluntary protocols for controlling invasive species. Now, however, under the proposed rule the cleaning of watercraft would be mandated. The launching or removal of a boat or watercraft from State lands with visible plant or animal parts on the watercraft would be prohibited. Prior to launching or leaving the boat or watercraft would be drained at a sufficient distance from the waterbody. Preferably, the boat or watercraft would be drained prior to arrival at a Parks site; however, Parks staff or signs would indicate the appropriate location at the site for draining if an operator forgets to do it. The proposed rule would help Parks prevent further introduction and spread of aquatic invasive species transported between waterbodies.

Notably, the rule would not apply to plants not otherwise defined as invasive, which are affixed or transported in watercraft for use as camouflage for hunting or wildlife viewing purposes; to legally used bait and baitfish; to plants or animals used for habitat restoration, weed control, scientific research, or any other activity approved by Parks; to any dog or other companion animal as defined in section 350 of the Agriculture and Markets Law; and to legally taken game as defined in ECL section 11-0103(2) and fish as defined in ECL section 11-0103(1)(a). This last excep-

tion was inadvertently left out of the proposed rule and has been inserted in the text of the final rule.

The rule complements the Department of Environmental Conservation's (DEC) regulatory efforts to control the introduction and spread of invasive species at its facilities. See, http://www.dec.ny.gov/regulations/34113.html#Part59Sect594Part190Sect19024p.

3. Needs and Benefits

Boats, watercraft, trailers and associated equipment are primary transport mechanisms for aquatic invasive species. Unless they are properly cleaned, drained and dried before used in a new waterbody, there is a high risk that aquatic invasive species could be introduced into that waterbody. Once introduced, aquatic invasive species such as zebra mussel and Eurasian water milfoil are extremely difficult or impossible to control or eliminate. Additionally, efforts to control or eliminate invasive species once established are costly and may not achieve the intended results. Populations of aquatic invasive species can grow to the point that they have a severe impact on recreational and commercial use of a waterbody. Excessive growth of aquatic invasive species can also substantially impact the tourism-based economies associated with these waterbodies.

The regulation would strengthen the State's ability to control the spread of aquatic invasive species. Newly developed educational signage placed at these sites includes recommended measures on preventing the spread of aquatic invasive species. These signs were developed for the voluntary compliance and will continue in place for the regulatory program.

The New York State Park Police could issue a ticket to any user for failing to drain a boat or watercraft or failing to remove any visible plants and animals attached to it, the trailer or associated equipment prior to launching, or for failing to drain a boat or watercraft or remove visible plants and animals attached to it prior to departing a launch site. If ticketed, existing law establishes the penalty for non-compliance as a violation and payment of a fine up to $250 and a mandatory local surcharge. PRHPL Section 27.11 (b). Alternatively, non-compliance could result in imposition of imprisonment up to 15 days or imposition of both a fine and imprisonment. See, Parks, Recreation and Historic Preservation Law Sections 27.11 and 27.12; Penal Law Sections 10.00(3) and 80.05(4); see also, Criminal Procedure Law Section 1.20(39) definition of a "petty offense."

4. Costs

DEC estimates costs associated with the spread of aquatic invasive species amount to more than nine billion dollars annually in the U.S. There would be minimal cost to Parks for additional signage, and no costs to regulated boaters or local governments from this regulation.

5. Local Government Mandates

This regulation would not impose any programs, services, duties or responsibilities upon any county, city, town, village, school district or fire district.

6. Paperwork

No additional paperwork or record keeping would result from the proposed rule.

7. Duplication

No other State or federal regulations govern the transportation of aquatic invasive species associated with boats or watercraft, and trailers and associated equipment used at lands under Parks' jurisdiction. The Governor recently signed a law adding a new ECL section 9-1710 on invasive species control and DEC proposed similar invasive species regulations amending 6 NYCRR Parts 59 and 190 that would be implemented at boat launch sites and fishing access sites under DEC jurisdiction.

8. Alternatives

Continuing to rely on voluntary compliance with outreach to reduce the spread of aquatic invasive species would likely result in the continual expansion of aquatic invasive species introduction in New York State. The Parks Commissioner is a member of the New York Invasive Species Council (Council) created by the Legislature (ECL Section 9-1705). The proposed mandatory regulatory alternative was recommended by the Council's Advisory Committee in 2010 in its final report titled ''New York State Invasive Species Advisory Committee Recommendations of the Aquatic Invasive Species Transport Law Ad-Hoc Workgroup.''

9. Federal Standards

There are no federal standards that apply to the transport of aquatic invasive species in New York State.

10. Compliance Schedule

This regulation, if adopted, would become effective immediately upon publication of the Notice of Adoption in the State Register. No time would be needed to enable regulated persons to achieve compliance with this rule.

Revised Regulatory Flexibility Analysis

This rule would help control the introduction and spread of invasive species by requiring an operator to drain a boat or watercraft and remove visible plant or animal life attached to it, and the trailer or associated equipment before launching the boat or watercraft from boating facilities under the jurisdiction of the Office of Parks, Recreation and Historic Preservation (Parks) and prior to leaving such facilities.

Parks has determined that the proposed rule would not impose any adverse economic impact or reporting, record keeping or compliance requirements on small businesses or local governments. The proposed rule would help reduce the spread of aquatic invasive species by boats, watercraft and trailers in New York State. Prolific growth of aquatic invasive species can seriously impact tourism-based economies associated with waters throughout New York State. This rule, by helping to reduce the spread of invasive species, would have a positive impact on water-based tourism, and the small businesses and local economies which rely on such tourism.

Boat owners and operators regulated by the proposed rule would have the ability to immediately satisfy the requirements of the rule and thereby prevent the imposition of penalties as soon as the rule takes effect. No cure period or opportunity for ameliorative action beyond the language already contained in the rule is necessary to provide boaters with the ability to immediately comply with the rule.

Since this rule would not impose an adverse impact on small businesses or local governments, a regulatory flexibility analysis is not required.

Revised Rural Area Flexibility Analysis

This rule would help control the introduction and spread of invasive species by requiring an operator to drain a boat or watercraft and remove visible plant or animal life attached to it, and the trailer or associated equipment before launching the boat or watercraft from boating facilities under the jurisdiction of the Office of Parks, Recreation and Historic Preservation (Parks), and prior to leaving such facilities.

Parks has determined that the rule would not impose any adverse impact on rural areas or any reporting or recordkeeping requirements on public or private entities in rural areas. Compliance with the rule would only be required at Parks' facilities, many of which are located in rural areas. Compliance with the rule, however, is only required of persons using a watercraft at a Parks facility and, therefore, would not impose significant compliance requirements on public or private entities in rural areas.

Prolific growth of aquatic invasive species can seriously impact tourism-based economies in rural areas. The proposed rule would help reduce the spread of aquatic invasive species by boat, watercraft and trailers in New York State which would have a positive impact on rural water-based tourism.

Since the proposed rule would not impose an adverse impact on public or private entities in rural areas, a rural area flexibility analysis is not required for this regulatory proposal.

Revised Job Impact Statement

This rule would help control the introduction and spread of invasive species by requiring an operator to drain a boat or watercraft and remove visible plant or animal life attached to it, and the trailer or associated equipment before launching the boat or watercraft from boating facilities under the jurisdiction of the Office of Parks, Recreation and Historic Preservation (Parks), and prior to leaving such facilities.

The rule would not have an adverse impact on jobs or employment in New York State. Reducing the spread of aquatic invasive species and maintaining quality aquatic recreation opportunities in New York could have a positive impact on jobs associated with water-based tourism. Parks, therefore, concludes that a job impact statement is not required.

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.

Office for People with Developmental Disabilities

NOTICE OF ADOPTION

HCBS Community Transition Services

I.D. No. PDD-35-14-00003-A
Filing No. 915
Filing Date: 2014-10-28
Effective Date: 2014-11-15

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

Action taken: Amendment of sections 635-10.4 and 635-10.5 of Title 14 NYCRR.

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

Subject: HCBS Community Transition Services.

Purpose: To implement a new HCBS waiver service.

Text or summary was published in the September 3, 2014 issue of the Register, I.D. No. PDD-35-14-00003-P.

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

Text of rule and any required statements and analyses may be obtained from: Regulatory Affairs Unit, OPWDD, 44 Holland Ave., Albany, NY 12229, (518) 474-1830, email: RAU.unit@opwdd.ny.gov

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

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

NOTICE OF ADOPTION

Allowing Central Hudson to Allocate $2.71 Million Total Property Tax Refunds

I.D. No. PSC-52-13-00013-A

Filing Date: 2014-10-24

Effective Date: 2014-10-24

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

Action taken: On 10/23/14, the PSC adopted an order approving the terms of a joint proposal to allocate approximately $2.71 million of property tax refunds received by Central Hudson Gas & Electric Corporation (Central Hudson).

Statutory authority: Public Service Law, section 113(2)

Subject: Allowing Central Hudson to allocate $2.71 million total property tax refunds.

Purpose: To allow Central Hudson to allocate $2.71 million total property tax refunds.

Substance of final rule: The Commission, on October 23, 2014, adopted an order approving the terms of a joint proposal to allocate approximately $2.71 million in property tax refunds, received by Central Hudson Gas and Electric Corporation (the Company), between ratepayers and the Company, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(13-M-0505SA1)

NOTICE OF ADOPTION

Approving the Recommendations of the Report Filed by KEDNY and KEDLI

I.D. No. PSC-10-14-00005-A

Filing Date: 2014-10-23

Effective Date: 2014-10-23

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

Action taken: On 10/23/14, the PSC adopted an order approving the recommendations from the Retail Access Program Collaborative Report (Report) filed by the Brooklyn Union Gas Company (KEDNY) and KeySpan Gas East Corporation (KEDLI).

Statutory authority: Public Service Law, section 66

Subject: Approving the recommendations of the Report filed by KEDNY and KEDLI.

Purpose: To approve the recommendations of the Report filed by KEDNY and KEDLI.

Substance of final rule: The Commission, on October 23, 2014, adopted an order approving the recommendations in the Retail Access Program Collaborative Report filed by the Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid LI, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(06-G-1185SA14)

NOTICE OF ADOPTION

Requiring National Grid to Retain All SC No. 2 Billing

I.D. No. PSC-14-14-00017-A

Filing Date: 2014-10-27

Effective Date: 2014-10-27

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

Action taken: On 10/23/14, the PSC adopted an order requiring Brooklyn Union Gas Company d/b/a National Grid NY (National Grid) and KeySpan Gas East Corporation d/b/a National Grid (National Grid) to retain all SC No. 2 customers billing records.

Statutory authority: Public Service Law, sections 65, 66 and 113

Subject: Requiring National Grid to retain all SC No. 2 billing.

Purpose: To require National Grid to retain all SC No. 2 billing.

Substance of final rule: The Commission, on October 23, 2014, adopted an order requiring The Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid are required to retain all SC No. 2 computerized billing and microfiche records now existing in that same format until the current case is closed, regardless of normal record retention schedules, and to file a plan with the Secretary, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(14-G-0091SA1)

NOTICE OF ADOPTION

Allowing Bath to Increase Total Annual Electric Revenues by $300,000 or 7.0%

I.D. No. PSC-18-14-00008-A

Filing Date: 2014-10-24

Effective Date: 2014-10-24

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

Action taken: On 10/23/14, the PSC adopted an order allowing Bath Electric, Gas and Water Systems' (Bath) filing to increase its annual electric revenues by $300,000 or about 7.0% contained in PSC No. 1—Electricity, to become effective.

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

Subject: Allowing Bath to increase total annual electric revenues by $300,000 or 7.0%.

Purpose: To allow Bath to increase total annual electric revenues by $300,000 or 7.0%.

Substance of final rule: The Commission, on October 23, 2014, adopted an order allowing Bath Electric, Gas and Water Systems to increase its annual electric revenues by $300,000 or 7.0% contained in PSC No. 1–Electricity, to become effective, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(14-E-0140SA1)

NOTICE OF ADOPTION

Approving Corning's CSPI Targets

I.D. No. PSC-22-14-00010-A

Filing Date: 2014-10-24

Effective Date: 2014-10-24

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

Action taken: On 10/23/14, the PSC adopted an order approving the petition of Corning Natural Gas Corporation's (Corning) proposed Customer Service Performance Incentive (CSPI) targets.

Statutory authority: Public Service Law, section 65

Subject: Approving Corning's CSPI targets.

Purpose: To approve Corning's CSPI targets.

Substance of final rule: The Commission, on October 23, 2014, adopted an order approving a petition filed by Corning Natural Gas Corporation to establish proposed Customer Service Performance Incentive targets, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(11-G-0280SA6)

NOTICE OF ADOPTION

Allowing National Grid to Modify Several Components of Rule 46—Supply Service Charges

I.D. No. PSC-23-14-00011-A

Filing Date: 2014-10-23

Effective Date: 2014-10-23

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

Action taken: On 10/23/14, the PSC adopted an order allowing Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) filing to modify Rule 46—Supply Service Charges to allow flexibility to manage commodity volatility, to become effective.

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

Subject: Allowing National Grid to modify several components of Rule 46—Supply Service Charges.

Purpose: To allow National Grid to modify several components of Rule 46—Supply Service Charges.

Substance of final rule: The Commission, on October 23, 2014, adopted an order allowing Niagara Mohawk Power Corporation d/b/a National Grid to modify several components of its Rule 46 – Supply Service Charges to allow a measure of flexibility to manage significant volatility resulting from the reconciliation of commodity costs of its full service mass market customers, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(14-E-0180SA1)

NOTICE OF ADOPTION

Allowing Fairport to Increase Total Annual Electric Revenues by $254,276 or 1.2%

I.D. No. PSC-30-14-00027-A

Filing Date: 2014-10-24

Effective Date: 2014-10-24

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

Action taken: On 10/23/14, the PSC adopted an order allowing the Village of Fairport's (Fairport) filing to increase its annual electric revenues by $254,276 or 1.2% contained in PSC No. 1—Electricity, to become effective.

Statutory authority: Public Service Law, sections 5, 65 and 66

Subject: Allowing Fairport to increase total annual electric revenues by $254,276 or 1.2%.

Purpose: To allow Allowing Fairport to increase total annual electric revenues by $254,276 or 1.2%.

Substance of final rule: The Commission, on October 23, 2014, adopted an order allowing the Village of Fairport to increase its annual electric revenues by $254,276 or 1.2% contained in PSC No. 1–Electricity, to become effective, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(14-E-0267SA1)

NOTICE OF ADOPTION

Allowing KEDNY to Modify the Retail Access Program Under SC No. 19—Seller Transportation Aggregation Service

I.D. No. PSC-33-14-00008-A

Filing Date: 2014-10-23

Effective Date: 2014-10-23

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

Action taken: On 10/23/14, the PSC adopted an order allowing The Brooklyn Union Gas Company d/b/a National Grid NY's (KEDNY) filing to modify the retail access program under Service Classification (SC) No. 19 contained in PSC No. 12—Gas, to become effective.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Allowing KEDNY to modify the retail access program under SC No. 19—Seller Transportation Aggregation Service.

Purpose: To allow KEDNY to modify the retail access program under SC No. 19—Seller Transportation Aggregation Service.

Substance of final rule: The Commission, on October 23, 2014, adopted an order allowing The Brooklyn Union Gas Company d/b/a National Grid NY's filing to modify the retail access program under Service Classification No. 19 – Seller Transportation Aggregation Service, contained in PSC No. 12—Gas, to become effective, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(14-G-0331SA1)

NOTICE OF ADOPTION

Allowing KEDLI to Modify the Retail Access Program Under SC No. 8—Seller Service

I.D. No. PSC-33-14-00009-A

Filing Date: 2014-10-23

Effective Date: 2014-10-23

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

Action taken: On 10/23/14, the PSC adopted an order allowing KeySpan Gas East Corp's d/b/a Brooklyn Union of L.I's (KEDLI) filing to modify the retail access program under Service Classification (SC) No. 8 contained in PSC No. 1—Gas, to become effective.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Allowing KEDLI to modify the retail access program under SC No. 8—Seller Service.

Purpose: To allow KEDLI to modify the retail access program under SC No. 8—Seller Service.

Substance of final rule: The Commission, on October 23, 2014, adopted an order allowing KeySpan Gas East Corp. d/b/a Brooklyn Union of L.I.'s filing to modify the retail access program under Service Classification No. 8—Sales Service, contained in PSC No. 1—Gas, to become effective, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: Deborah Swatling, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2659, email: deborah.swatling@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(14-G-0330SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Proposed Public Policy Transmission Needs/Public Policy Requirements, as Defined Under the NYISO Tariff

I.D. No. PSC-45-14-00002-P

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

Proposed Action: The Commission is considering whether to adopt, modify, or reject, in whole or in part, the proposed Public Policy Transmission Needs/Public Policy Requirements submitted by the New York Independent System Operator, Inc. (NYISO) on October 3, 2014.

Statutory authority: Public Service Law, sections 4(1), 5(1)(b), (2), 65(1), 66(1), (2) and (5)

Subject: Proposed Public Policy Transmission Needs/Public Policy Requirements, as defined under the NYISO tariff.

Purpose: To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.

Substance of proposed rule: The Public Service Commission (Commission) is considering proposed Public Policy Transmission Needs/Public Policy Requirements, as defined in the New York Independent System Operator, Inc.'s (NYISO) Open Access Transmission Tariff (Attachment Y), which were submitted by the NYISO on October 3, 2014. The NYISO submitted eight documents, which were provided by: (i) H.Q. Energy Service (U.S.), Inc.; (ii) Iberdrola, USA, Inc.; (iii) National Grid; (iv) New York Power Authority; (v) New York Transmission Owners (not including Long Island Power Authority); (vi) NextEra Energy Transmission New York, Inc.; (vii) North America Transmission, LLC; and, (viii) New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation. In accordance with its Policy Statement issued in Case 14-E-0068 on August 15, 2014, the Commission seeks comments on whether any of the 18 proposals contained in the eight documents, which have been posted on the Commission's website in Case 14-E-0454, should be identified as Public Policy Transmission Needs/Public Policy Requirements that may drive the need for transmission and should be referred to the NYISO to solicit and evaluate potential solutions.

The Commission may address other related matters, including but limited to, whether the Commission should provide evaluation criteria to the NYISO or require the NYISO to perform specific analyses as part of its project review process, or whether any proposed Public Policy Transmission Needs/Public Policy Requirements should be addressed by transmission or non-transmission solutions. The Commission may also prescribe a cost allocation methodology associated with any identified Public Policy Transmission Needs/Public Policy Requirements. The Commission may approve, modify, or reject, in whole or in part, the relief proposed.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.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-0454SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-45-14-00003-P

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

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent to Submeter electricity filed by Bedford-Stuyvesant South One LLC for the premises located at 27 Albany Avenue, Brooklyn, NY.

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

Subject: Notice of Intent to Submeter electricity.

Purpose: To consider the request of Bedford-Stuyvesant South One LLC to submeter electricity at 27 Albany Avenue, Brooklyn, NY.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent to Submeter electricity, filed by Bedford-Stuyvesant South One LLC, for

the premises located at 27 Albany Avenue, Brooklyn, New York, located in the territory of Consolidated Edison Company, Inc., and to take other actions necessary to address 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-0457SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Petition for Submetering of Electricity

I.D. No. PSC-45-14-00004-P

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

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by C B Frontier LLC, to submeter electricity at 200 East 39th Street, New York, New York.

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

Subject: Petition for submetering of electricity.

Purpose: To consider the request of C B Frontier LLC, to submeter electricity at 200 East 39th Street, New York, New York.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the petition filed by C B Frontier LLC, to submeter electricity at 200 East 39th Street, New York, New York, located in the territory of Consolidated Edison Company, Inc., and to take other actions necessary to address 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-0452SP1)