

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.

Office of Children and Family Services

NOTICE OF ADOPTION

Child Protective Services Including Family Assessment Response

I.D. No. CFS-49-13-00001-A

Filing No. 864

Filing Date: 2014-10-07

Effective Date: 2014-10-22

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

Action taken: Addition of section 432.13; and amendment of sections 404.1, 428.5, 428.10, 432.1, 432.2, 432.3, 432.6, 432.9 and 432.12 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 427-a(1), (2), 421(4) and (5)

Subject: Child protective services including family assessment response.

Purpose: To implement family assessment response and requirements for CPS training and qualifications and to update CPS regulations.

Substance of final rule: These regulations implement Chapter 452 of the Laws of 2007, Chapter 45 of the Laws of 2011, and Chapter 377 of the Laws of 2011 by adding a new section 432.13 that: authorizes social services districts to establish Family Assessment Response programs in which they are able to provide a differential response for reports of alleged child abuse and maltreatment; establishes rules for the provision of this differential response, and establishes rules regarding access to records for family assessment response cases. These regulations also amend 18 NYCRR, where necessary, to bring existing regulations into compliance with the Social Services Law authorizing family assessment response. In

addition, these regulations amend or repeal existing regulations to bring them into compliance with current law and practice, including repealing regulations because of expired legislation, amending language to reflect the use of an electronic database - CONNECTIONS - as the primary means of record-keeping and transferring information between local districts to the Statewide Central Register of Child Abuse and Maltreatment (SCR), changing the nomenclature for identifying State agencies whose names have changed, and changing references regarding the sharing of confidential child protective services information to conform with Chapter 501 of the Laws of 2012. The regulations also implement Chapter 525 of the Laws of 2006, which amends the qualifications for child protective service supervisors, requires such supervisors to satisfactorily complete a course in the fundamentals of child protection developed by the Office of Children and Family Services (OCFS), and requires annual in-service training for all child protective workers.

The following is a summary of specific changes made to subchapter C of Chapter II of Title 18:

Section 404.1 is amended to permit providing services in a family assessment response without an application.

Part 428 is amended to require entering progress notes into the case record for cases addressed with family assessment response, paralleling the requirement to enter progress notes for child protective service investigations.

Section 432.1 is amended to update agency names, change terminology from “day services program” to “school-age child care program,” exclude family assessment response as a category of rehabilitative service, and to add family assessment response as one of the activities considered to be protective services for children. Also, some existing definitions are amended, both to comply with the implementation of family assessment response and to update definitions where needed and new definitions are added regarding family assessment response. Amended definitions are:

- Caseload
- Legally sealed unfounded report (changed to legally sealed report, to include all family assessment response reports.

New definitions are:

- Family assessment response
- Family assessment response track
- Investigative track
- Family Led Assessment Guide (FLAG)
- Wraparound funding
- OCFS (changes terminology of “the department” and “the Office” to OCFS throughout the section)
- State Central Register (changes several forms of reference to the Statewide Central Register of Child Abuse and Maltreatment to this terminology throughout the section)
- CONNECTIONS (establishes the use of this name for the electronic data base used for several child welfare services.)

Subdivisions 432.2(b)-(d) are amended to:

- assign sole responsibility for family assessment response to the child protective service;
- require that a family assessment response be initiated within 24 hours of receipt of a report, as is required for an investigation;
- require that, when searching a family’s prior history of abuse or maltreatment, searches of legally sealed reports also include reports for family assessment response;
- delete references to a “local register”;
- limit certain requirements regarding the performance of risk assessments to cases assigned to the investigative track;
- delete a list of specific elements that must be considered in performing risk assessments, substituting a statement that risk assessments must be performed as specified by OCFS;
- include family assessment response in a paragraph regarding intra- and inter-agency agreements.

Subparagraph 432.2(e)(5)(ii) is amended to implement Chapter 525 of the Laws of 2006 regarding training and qualifications of child protective

service staff. To comply with sections 421(4) and (5) of the Social Services Law, the amended regulations require that all child protective services workers complete at least six hours of OCFS-approved in-service training every year, starting in the second year of their employment. They require supervisors of protective services, within three months of employment as a supervisor, to complete an OCFS-approved course in the fundamentals of supervising and managing child protective practice, to complete child protective services core training if they have not already done so, and to participate in annual in-service training specifically focused on child protective supervisors. Social services districts must document the training. The regulations additionally establish minimum qualifications for child protective supervisory staff, requiring a baccalaureate or equivalent degree and a minimum of two years of experience in child welfare services.

Subparagraphs 432.2(e)(5)(iv-vii) are repealed, removing regulations regarding enhanced reimbursement pursuant to section 153-g(1)(b) of the Social Services Law, reflecting that there is no longer enhanced reimbursement.

Paragraph 432.2(e)(6) is amended to remove language specifying the amount and manner of payment of the fee when an applicant for employment requests a search of the records of the Statewide Central register of Child Abuse and Maltreatment, replacing it with language establishing that the fee is as established by law and allowing OCFS to specify the manner of payment.

Subparagraph 432.2(f)(2)(vii) is amended to limit the provision of records to law enforcement and the district attorney to those records associated with cases assigned to the investigative track, to comply with section 427-a of the Social Services Law.

Subparagraph 432.2(f)(3)(ii), requiring that an up-to-date local register be maintained, is repealed, in order to address this matter through policy and procedure documents.

Subparagraph 432.2(f)(3)(xxviii) is amended by removing from the list of agencies that can receive information from legally sealed unfounded reports references to the Commission on Quality of Care and the Department of Mental Hygiene and adding the Justice Center for the Protection of People with Special Needs.

Subdivision 432.2(f) is further amended to exclude reports assigned to the family assessment response track from existing requirements to provide notifications of the existence of a report and of the determination of an investigation.

A new subparagraph 432.2(f)(3)(xxx) is added, stipulating that records for cases assigned to family assessment response are legally sealed and specifying the circumstances in which information from those records can be made available and to whom they can be made available.

Section 432.3 is amended to reflect that entering information into CONNECTIONS is the primary method of communications between the child protective service and the SCR. The requirement for child protective services to provide requested records to the SCR within 20 working days is changed to 20 calendar days. A new requirement, reflecting current practice, is added to submit 24 hour and 30 day fatality reports following a child fatality.

Section 432.12 is amended to exclude family assessment response reports from existing requirements regarding the information to be provided to a mandated reporter who requests the findings of an investigation of a report made by the mandated reporter and establishes standards for the provision of information when requested by a mandated reporter for reports that have been assigned to the family assessment report track.

A new section 432.13 is added to Part 432 to provide standards for the implementation of a family assessment response program in a manner that, to the extent possible, is guided by the values of the family assessment response approach. The major provisions of the implementing regulations are as follows:

Subdivision 432.13(a) provides a general description of family assessment response. It describes the responsibilities involved in conducting a family assessment response and stipulates that reports assigned to family assessment response are not subject to the requirements of a child protective service described elsewhere in the regulations, except as specified in those regulations and in sections 422, 426, and 427-a of the Social Services Law.

Subdivision 432.13(b) requires that OCFS approve the application of any social services district wishing to implement family assessment response before it can implement the program. OCFS may revoke its approval if the district does not comply with requirements established by law, these regulations or by OCFS, but only after having consulted with the district to assist them resolve compliance issues. Such district may submit a new application, after resolving the compliance issues. The decision to apply to implement family assessment response is voluntary and optional; a district with a family assessment response program may terminate its program at any time. Such a district may re-apply at any time.

This subdivision requires a district to determine the scope and size of its family assessment response program, to determine the criteria it will use to screen which reports are eligible for the family assessment track, and to develop a written protocol that will guide its practices for determining the most appropriate assignment of reports.

Subdivision 432.13(c) specifies procedures and activities that must be conducted or are recommended before confirming the assignment of a report to the family assessment response track. These include intake procedures and initial track assignment, followed by notification to and provision of information about family assessment response to the family, completion of an initial safety assessment, in which children must be found to be safe in their homes, review of records, and the agreement by the family to assign the report to family assessment response and to cooperate in the response. It describes the procedures for changing from family assessment response to an investigation once the assignment has been confirmed.

Subdivision 432.13(d) establishes procedures for the completion of the initial safety assessment, including the requirement that it be initiated within 24 hours and completed within seven days. Ongoing assessment of safety is required throughout the family assessment response.

Subdivision 432.13(e) specifies how to conduct a family assessment response. It describes activities to be performed as part of a family assessment response, including providing specific information to families eligible to participate in a family assessment response, practicing family engagement, completing a Family Led Assessment Guide, providing ongoing risk assessment, focusing on solutions to the family's needs, offering needed services, providing wraparound goods and services, and notifying the family when its case is closed. These rules also establish standards for when a family assessment response case should be closed, and require bi-weekly casework contacts and specific documentation when a case remains open longer than 90 days.

This subdivision establishes minimum standards for documenting reports assigned to the family assessment response track. It also specifies circumstances that would require a child protective service to end the provision of a family assessment response and initiate an investigation, and establish the procedures for doing that.

Subdivision 432.13(f) establishes rules for the administration and organization of family assessment response programs. It establishes minimum staffing requirements, including minimum education and training requirements. Staff must be trained in child protective services. They must complete training in family assessment response, as determined by OCFS.

This subdivision requires local districts applying to commence or expand implementation of family assessment response to plan for their organization, staffing, and case assignment process and, where any workers may be assigned to both family assessment responses and investigations, plan measures to maintain the integrity of both approaches. Upon the request of OCFS, districts must provide these plans in written format.

This subdivision requires local districts to comply with any requirements for quality assurance that are established by OCFS.

This subdivision establishes that a local district may, with the approval of OCFS, contract with community-based organizations for the provision of certain activities conducted as part of a family assessment response, and specifies certain features that must be part of any such contract.

Subdivision 432.13(g) specifies that family assessment response records are legally sealed and describes the circumstances under which information from those records can be accessed and by whom as well as the restrictions on re-disclosure of such information, in order to comply with Chapter 377 of the Laws of 2011.

Final rule as compared with last published rule: Nonsubstantive changes were made in Parts 404, 428 and 432.

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

Revised Regulatory Impact Statement

Changes made to the last published rule do not necessitate revision to the previously published regulatory impact statement (RIS), because the changes that were made to the rule did not affect or require alteration of the information provided in the previously published RIS. Therefore, the previously published RIS was not revised.

Revised Regulatory Flexibility Analysis

1. Effect of rule:

The 58 social services districts (districts) of New York State will be affected by the proposed regulations. Only those social services districts that choose to implement family assessment response will be affected by the new section 432.13 of the proposed regulations, which promulgates rules and guidelines for family assessment response. The decision about whether to implement family assessment response is voluntary on the part of each social services district, and a district that has opted to implement family assessment response may at any time decide to cease implementing that approach. The regulations, in accordance with Section 427-a of the

Social Services Law, offer social services districts that choose to implement family assessment response the option of contracting with community based businesses to conduct some, but not all, of their family assessment response activities, with the approval of the Office of Children and Family Services (OCFS). A few social services districts currently contract with small businesses to perform some of their family assessment response activities; others may choose to do so in the future.

The new Section 432.13 of the proposed regulations, which provides rules and guidelines to assist districts to effectively implement family assessment response, requires districts that choose to implement this alternative response to reorganize their child protective service units, develop written protocols, provide time for formal and informal training in family assessment response, and meet with community stakeholders to inform them about family assessment response. The regulations require those districts, when receiving a report alleging child abuse or maltreatment that they assign to a family assessment response, to engage in actions that parallel those of traditional child protective investigations but, in some aspects, differ from the procedures for investigations. The regulations require initial safety assessments and ongoing assessments of safety and risk, documentation of work, intensive contact with client families, assisting families to obtain, to the extent practicable, goods and services they believe will stabilize the family thereby reducing future risk for children, and ongoing assessment of the effectiveness of their procedures.

The amended regulations in section 432.2(e)(5) bring current rules into compliance with Chapter 525 of the Laws of 2006. The proposed rules increase the minimum qualifications for all newly hired child protective services supervisors. Any potential impact that this could have on the future ability of districts to hire child protective services supervisors is addressed by allowing a district encountering difficulty filling a position because of the new standard to request a waiver from OCFS. However, most jurisdictions currently have locally-imposed minimum qualifications for child protective supervisors that are equal to or more rigorous than those in the proposed regulations.

Other proposed rule changes will have no effect on current practices or requirements for local governments.

The proposed regulations will have no impact on small businesses other than those community-based businesses that voluntarily contract to perform any of the family assessment response activities that social services districts are permitted to contract out; such businesses must adhere to these regulations. Staff in such organizations who will work in family assessment response and do not have training in child protective services must obtain such training as well as training in family assessment response. All such training is provided by and paid for by OCFS.

2. Compliance requirements:

Social services districts that choose to implement family assessment response programs will be required to adhere to the requirements found in the new section 432.13 of the proposed regulations, which implements SSL Sections 422, 426, and 427-a. The proposed family assessment response regulations generally parallel the requirements that apply to traditional child protective services investigations of reports alleging abuse and maltreatment, but differ from existing requirements, as necessary, in order to provide an alternative response to reports of alleged child abuse and maltreatment. The proposed regulations require those districts using the family assessment response to develop criteria for assigning reports to family assessment response and a protocol for applying the criteria. The regulations require them to submit an application/plan to OCFS for its approval; districts that submit such an application will have to devote time and staff to planning and writing. Participating social services districts may need to reorganize their child protective service units to accommodate one or more units that will provide family assessment response. Staff who will be engaged in family assessment response must obtain a few days of additional training. Similar to the procedures that occur when a child protective service addresses a report alleging child abuse or maltreatment with an investigation, participating districts must ensure that their child protective service conducts an initial safety assessment, provides information to the family about the report of child abuse or maltreatment in which they are named and about family assessment response, and complies with reporting procedures, which are slightly different for family assessment response than they are for traditional child protective investigations.

To comply with Chapter 525 of the Laws of 2006, the proposed regulations contain new requirements regarding training and qualifications that apply to all child protective services. The new rules require all child protective services staff, including supervisors and caseworkers, to attend six hours of in-service training annually. Current child protective services supervisors who have not already done so and all newly hired child protective services supervisors will be required to attend a one-time training of one to two weeks specifically tailored for such supervisors. Newly hired child protective services supervisors will be required to have a baccalaureate degree and a minimum of two years of relevant work experience in child welfare services, but a district that has difficulty meeting this standard will be able to request a waiver.

3. Professional services:

The proposed regulations do not create the need for any additional professional services to be provided by small business or local governments. No additional staff will be required.

4. Compliance costs:

All changes included in these proposed regulations are already fully implemented in existing practice by OCFS and local social services districts. These practices are currently supported by existing funding levels. As a result, it is anticipated that these proposed regulations will carry no additional state or local fiscal impact.

5. Economic and technological feasibility:

The proposed regulations will not impose any additional economic or technological burdens on local governments or small businesses.

6. Minimizing adverse impact:

OCFS provides ongoing technical assistance and all training required to implement family assessment response. OCFS conducts regular agency-wide monthly telephone conference meetings with social services district family assessment response staff, designates regional office staff who are available to provide technical assistance to each participating local district, and ensures that central and regional office staff are accessible to answer any questions or address any issues about family assessment response that may arise. OCFS provides numerous resource materials to assist districts in implementing family assessment response and provides periodic coaching and quality review sessions to support the family assessment response work of social services districts. In order to reduce the local districts' costs for time and travel, all required family assessment response training is paid for by OCFS and is provided online, on-site, or to the extent practicable, in close proximity to wherever the staff receiving the training is located. OCFS is implementing a major restructuring of CONNECTIONS, its electronic record-keeping system for child welfare, which will facilitate record keeping for family assessment response, and will provide all necessary associated training when those changes are put into effect. OCFS maintains internal and external family assessment response web pages that are easily accessible to child welfare staff to provide information about family assessment response; they allow child protective staff to access sample documents, tools, and a variety of information to assist in the implementation of family assessment response. OCFS periodically organizes statewide symposiums on family assessment response that social services districts are invited to participate in.

OCFS provides the training that meets the statutory and regulatory requirements for the training that all child protective supervisors must successfully complete, and also provides many training classes that can be used to fulfill the requirement for all child protective services workers and supervisors to complete six hours of annual in-service training. OCFS pays for travel costs associated with its training whenever local district staff must travel significant distances to obtain the training. OCFS has also increased the availability of online training in order to make training accessible to districts while minimizing the time and transportation costs necessary for training employees.

OCFS will be able to provide a waiver to the regulatory standard established for the minimum qualifications for newly hired CPS supervisors in any instance in which the new regulatory standard creates an obstacle to a district in hiring suitable staff.

7. Small business and local government participation:

OCFS has consulted extensively with local social services districts about the proposed regulations. OCFS staff meets regularly with the staff of social services districts that are implementing or considering implementing family assessment response to discuss all aspects of their practice, and the agency maintains an ongoing dialogue with local districts to discuss any issues, questions or concerns that may arise regarding this alternative approach. In the past several months, OCFS has provided all counties with drafts of the proposed regulations and provided each district with an opportunity to submit questions and comments and participate in an in-depth discussion of the proposed regulations. As a result of those discussions, OCFS has taken the local districts concerns into consideration and made several revisions to the proposed regulations.

Following the enactment of Chapter 525 in 2006, OCFS consulted with all local district child protective services in the state regarding the section of the proposed regulations describing the minimum qualifications for supervisors in child protective services. The proposed regulations reflect the consensus of opinion of those local districts that expressed an opinion.

Revised Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The proposed regulations will apply to all social services districts (districts) in the state, including those that are in rural areas. Regarding the new section 18 NYCRR 432.13 in the proposed regulations, the decision about whether to implement a family assessment response program is voluntary on the part of each county; therefore, the total number of rural counties that will be affected by those sections of the proposed regulations providing rules for family assessment response is unknown.

Section 432.13 of the proposed regulations promulgates rules and guidelines to assist districts to effectively implement family assessment response. These regulations require districts that choose to implement this alternative response to reorganize their child protective service units, develop written protocols, provide time for formal and informal training, and meet with community stakeholders. The regulations also require actions that parallel those of traditional child protective investigations but, in some aspects, differ from the investigation procedures. The proposed regulations require initial safety assessments and ongoing assessments of safety and risk, documentation of work, intensive contact with client families, as needed, and ongoing assessment of the effectiveness of family assessment response procedures.

The amended regulations in section 432.2(e)(5), which raise the qualifications for all newly hired child protective services supervisors, may have a minimal impact on the future ability of districts, including those in rural areas, to hire child protective services supervisors; however, most jurisdictions, including in rural areas, have locally-imposed minimum qualifications for child protective supervisors that are equal to or more rigorous than those in the proposed regulations and a provision for requesting a waiver exempting a district from the qualifications standards is included in the regulations. Other changes in this section bring current rules regarding training requirements for child protective service workers into compliance with existing statutory requirements and will not affect rural areas.

Other proposed rule changes that update child protective services regulations will have no effect on current practices or requirements in rural areas.

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

Only those social services districts that voluntarily choose to implement family assessment response programs will be required to comply with the procedures in the regulations found in the new Section 432.13. The proposed requirements for family assessment response generally parallel the requirements that apply to traditional child protective services investigations of reports alleging abuse and maltreatment, but differ from existing requirements in several respects so as to provide for an alternative response to reports of alleged abuse and maltreatment, as describe in sections 422, 426, and 427-a of the Social Services Law. The proposed regulations require districts that choose to use family assessment response to develop criteria for assigning reports to family assessment response and a protocol for applying the criteria. These districts must submit an application/plan to the Office of Children and Family Services (OCFS) for its approval, which requires them to devote staff and time for planning. Participating social services districts must reorganize their child protective service units to accommodate one or more units that will provide family assessment response. These districts must also provide staff time for formal and informal training in family assessment response. When a local district offers family assessment response, it will be required to provide information to the family about the report of child abuse or maltreatment in which they are named, paralleling information currently provided to families in child protective services (CPS) investigations, and also about family assessment response. The proposed regulations do not contain additional reporting requirements for family assessment response, but the reporting procedures are slightly different than those used in traditional child protective investigations.

To comply with an amendment to Section 421(5) of the Social Services Law enacted in Chapter 525 of the Laws of 2006, the proposed regulations require all child protective services staff, including supervisors and caseworkers, to attend six hours of in-service training annually. As also required by Chapter 525, current child protective services supervisors who have not already done so and all newly hired supervisors are required to attend a one-time training, of one to two weeks, designed for these supervisors. OCFS provides training that fulfills these requirements, but the local district is responsible for any travel expenses incurred. In addition, the proposed regulations establish new qualification standards, as per Chapter 525 of the Laws of 2006, for newly hired child protective services supervisors. They will be required to have a baccalaureate degree and a minimum of two years of relevant work experience in child welfare services.

Other proposed changes in the regulations are technical in nature and require no new requirements or changes in current practices.

These regulations add no requirements for additional professional services in rural areas.

3. Costs:

All changes included in these proposed regulations are already fully implemented in existing practice by OCFS and local social services districts. These practices are currently supported by existing funding levels. As a result, it is anticipated that these proposed regulations will carry no additional state or local fiscal impact.

4. Minimizing adverse impact:

The proposed regulations are not expected to result in any adverse impacts on rural areas. The implementation of family assessment response by any rural county is optional and voluntary. Rural social services districts that implement family assessment response will have increased flexibility in how they address reports alleging child maltreatment; districts will be able to tailor their response to the individual circumstances of each family, providing the response that is most likely to help the family, provide safety for their children, and minimize the likelihood of future reports of alleged abuse or maltreatment for those families.

It is possible, but not likely, that the increase in qualifications for child protective services supervisors promulgated in these regulations could make it slightly more difficult to find qualified individuals for these positions in rural areas, although most rural areas already use standards equal to or more rigorous than those in the proposed regulations. The regulations allow a district that encounters difficulty in filling a CPS supervisor position because of the new standard to request a waiver from OCFS exempting it from the standards, which will mitigate any possible adverse consequences from this new rule for rural counties. Children in rural areas will benefit from the new qualifications requirements. The provisions in the proposed regulations requiring increased training for child protective services workers and supervisors are consistent with and reflect existing law; they should improve the overall quality of casework practice and increase the support that caseworkers receive from their supervisors.

All training required by these regulations is paid for by OCFS and is provided online, on-site, or as close as possible to the agency whose staff is receiving the training, in an effort to reduce travel by staff in rural counties.

5. Rural area participation:

All county departments of social services, including those in all rural areas, were consulted regarding the proposed rules for implementing family assessment response, the changes in qualifications for child protective supervisors, and all other changes proposed. OCFS twice provided drafts of the proposed regulations to all social services districts for their review, and revised the proposed regulations after each review in response to comments received. OCFS also surveyed every social services district regarding their own minimum qualifications for persons hired as child protective services supervisors and what they believed should be the new minimum qualifications statewide.

Revised Job Impact Statement

Changes made to the last published rule do not necessitate revision to the previously published job impact statement (JIS), because the changes do not affect the information in 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

The New York State Office of Children and Family Services (OCFS) received comments from seven persons, each addressing several issues. The following are the consolidated comments and the OCFS response to each issue raised.

COMMENTS ON RULES FOR FAMILY ASSESSMENT RESPONSE (New 18 NYCRR § 432.13)

1. Issue: Description of family assessment response. OCFS should change the general description of Family Assessment Response (FAR) in paragraph 432.13(a)(1), substituting alternative language. The first sentence of the description - "In family assessment response, there is no investigation of whether abuse or maltreatment has occurred and no determination of whether the report of abuse or maltreatment should be indicated or unfounded" - could be construed to infer that safety is not central in the FAR approach. Specific suggestions for substitute language include stating that FAR provides ongoing safety assessments and that FAR practice includes determining whether past actions met the definition of abuse or maltreatment.

Response: OCFS agrees that emphasizing child safety will provide a more accurate description of the FAR approach. We reject the suggestion that FAR practice includes determining whether past actions met the definition of abuse or maltreatment, but agree with removing the phrase "no investigation." The sentence noted above will be changed to, "In family assessment response, there is ongoing assessment of the safety of children without a determination of whether the report of alleged abuse or maltreatment should be indicated or unfounded."

2. Issue: Costs of FAR / FAR as an unfunded mandate. Implementation of FAR increases costs for local social services districts (districts), with no additional funds provided to meet those costs. FAR may require more staff time and resources than traditional investigations, and provides no additional benefit. The additional costs of FAR stem from information dissemination, family engagement, assessment of family strengths and challenges, documentation, and the provision of wraparound goods and services "that may affect the safety of children."

Response: No changes will be made in response to these comments. The cost of FAR is not appropriately addressed in regulations, which only implement law. Nevertheless, we have the following responses regarding these concerns:

First, implementation of FAR is not a mandate; it is completely voluntary for districts.

Second, we have no evidence, from FAR districts or elsewhere, that FAR costs districts more than providing an investigative response. Additional training for FAR is paid for by OCFS. Furthermore, we believe that all good CPS and child welfare practice, not just FAR, includes the elements cited above – information dissemination, family engagement, etc.

Third, there is evidence, in New York and elsewhere, that FAR may reduce long-term costs by reducing the number of out-of-home placements of children and possibly reducing the number of repeated reports. For some families, the FAR approach - engaging the family to identify problems and develop solutions - is more effective than an investigation in reducing future risk.

Fourth, FAR positively affects the well-being of both clients and caseworkers. FAR families are generally happier with their CPS interactions than families receiving investigations and there is a reduction in the trauma that adults and children experience compared to investigations. Research has also documented that FAR caseworkers are generally more satisfied with their work than other CPS caseworkers, potentially improving staff retention.

3. Issue: Wraparound goods and services. OCFS should remove the following sentence in subparagraph 432.13(e)(2)(viii): "Districts must offer to provide wraparound goods and services to families, as appropriate, to meet those needs of the family that may affect the safety and well-being of children." There are three concerns: first, the sentence is confusing because it contains both an imperative (must provide) and a subjective measure (as appropriate); second, this requirement might result in liability or public disparagement if goods or services were not provided and there was a later safety concern, and third, it creates another unfunded mandate.

Response: OCFS is deleting the above sentence. The requirement to provide goods and services needed to address safety concerns is adequately addressed in subparagraph 432.13(e)(2)(vii). Other information regarding wraparound expenditures will be moved to subparagraph 432.13(e)(2)(vii).

Note – OCFS disagrees that requiring an action "only where appropriate" creates a contradiction. All CPS workers must consider each case's unique circumstances to determine what actions are needed, desirable, possible, and acceptable to the family. The solution-focused nature of FAR especially requires addressing needs on a case-by-case basis.

4. Issue: Requirement that OCFS approve modifications to the scope of FAR. OCFS should remove the requirement in paragraph 432.13(b)(4) for districts to obtain OCFS prior approval to modify the scope of FAR. This would provide districts flexibility to adjust their programs to meet the needs of their individual communities.

Response: SSL § 427-a requires prior OCFS approval of each district's FAR application/plan and specifies information it must contain, including the factors used to determine which cases are FAR-eligible, and a description of staff resources to be used. It follows that a district wishing to change its plan would need OCFS approval. Operationally, OCFS provides the caseworker training necessary for FAR implementation and must manage expansions to plan for needed training.

5. Issue: There is no option for limited participation in FAR. Clause 432.13(b)(4)(ii)(a) requires that FAR "...include a broad spectrum of cases representing a significant percentage of its child protective services reports," leaving districts no option for limited participation in FAR.

Response: OCFS believes that the regulation leaves room for flexibility; it uses the word "should" and does not preclude the option of limiting the types of cases assigned to FAR. That said, in reviewing FAR applications, OCFS considers the categories of allegations as well as the number and percentage of reports projected to be addressed with FAR, and discusses the district's choices with them. Because FAR implementation requires the investment of both state and local resources, OCFS wants each new program to have the best chance of succeeding. Assigning a significant proportion of all reports to FAR has proved to contribute to a successful program.

6. Issue: Requirement to screen all reports for possible FAR assignment. The requirement in paragraph 432.13(c)(2) that FAR districts screen all SCR reports for FAR eligibility is overly bureaucratic; it would require screening even if the district has reached its FAR capacity.

Response: OCFS believes that this requirement is neither burdensome nor unreasonable. There is no regulatory requirement to check all items on a FAR eligibility checklist when it is clear that an SCR report cannot be assigned to FAR. A district's protocol could reflect this. However, a district providing FAR must choose a track assignment for every report, even if the thought process is as elemental as "we currently have no FAR caseworkers available so the report will be assigned to investigation." A

CONNECTIONS FAR build that recently went into effect requires districts providing FAR to assign every report to either FAR or investigation.

7. Issue: Lack of clarity about changing from FAR track upon receipt of a new report. Subparagraphs 432.13(c)(5)(ii) and (iii) lack clarity about when an open FAR case must be changed to the investigation track. Specifically, there is confusion about whether receiving a subsequent report from the SCR requires converting a FAR case to an investigation case in every instance.

Response: The regulations do not permit re-tracking of a FAR case after seven days except in two circumstances, which are described in the cited section. In order to make the cited regulation as clear as possible, OCFS has made some minor language and formatting changes to paragraph 432.13(c)(5).

8. Issue: FAR assignment when parents disagree about using it. Outside the public comment process, OCFS was asked to clarify whether a report can be assigned to FAR where one parent chooses it and another parent does not.

Response: OCFS provided clarification for this circumstance in sub-clause 432.13(c)(4)(iii)(d)(1). This rule permits the use of FAR in instances in which one parent who is a subject of a CPS report wants to accept the offer to address the report through FAR while another parent does not want to participate in FAR, but only when the CPS believes that the family will benefit from FAR despite the refusal of a parent to cooperate.

9. Issue: Provision of public information about FAR. The regulations should assign OCFS the responsibility of conducting a FAR public information campaign, either entirely or as a partner, because lack of understanding about the program by the public impacts its effectiveness.

Response: Again, while this is an interesting topic, OCFS does not believe it is an appropriate subject for regulations.

COMMENTS ON AMENDMENTS TO CHILD PROTECTIVE SERVICES RULES

10. Issue: CPS Supervisor Qualifications. New qualification standards for CPS supervisors established in subparagraph 432.2(e)(5)(iii), requiring a baccalaureate or equivalent degree and two years of work in child welfare services, should be changed. Small districts that do not have a large pool of candidates to choose from may face obstacles in promoting candidates, with possible negative impacts especially on rural counties. The regulations create different standards for supervisors in CPS than in other child welfare areas.

Response: Legislation enacted in 2006 aimed to increase the level of expertise in CPS. It required OCFS to consult with districts in determining new qualifications for CPS supervisors, but mandated that the standards require, at a minimum, a baccalaureate or equivalent degree or three years of relevant experience in a human services field. OCFS surveyed all districts in an effort to determine their local standards and their preferred regulatory standards, and based the new qualifications on the 31 responses received:

- 28 districts already required a bachelor's degree; the remaining 3 required up to 7 years of experience.
- 28 districts required 3 or more years of experience.
- 1 district preferred the minimum standard allowed by the new legislation.
- 21 districts preferred requiring a bachelor's degree plus 3 years of relevant experience.
- 9 districts preferred requiring a BSW (or other related degree) or master's degree plus 3 years relevant experience.

Having well-qualified supervisory staff is important for maintaining high standards in CPS work. However, understanding the importance of flexibility if instances arise where the new standards create obstacles for small districts, OCFS has added a waiver provision to the regulations, which will enable OCFS to grant exceptions if the regulatory standard creates a barrier to hiring or promoting valued qualified staff.

11. Issue: New training requirements. New training requirements established in subparagraph 432.2(e)(5)(ii) are too specific regarding training topics. Adhering to these requirements will limit districts in providing the training that is needed by their staffs. It will be difficult to develop the training needed to fulfill these requirements; OCFS should design training to meet the new requirements.

Response: The new training regulations reflect legislative changes enacted in 2006. OCFS developed commensurate training shortly thereafter, and has provided that training since 2007. OCFS policy 07-OCFS-LCM-09, Guidelines for Compliance with CPS Training Requirements, lists OCFS-provided training that fulfills the requirements. Categories of required topics for in-service training are specified in the 2006 statute, but are sufficiently broad that a variety of training relevant to CPS will fulfill the requirements. OCFS will continue to be flexible regarding these requirements. The required subjects for the mandated CPS supervisory training to be completed within three months of hire are already incorporated into this OCFS-provided training. It is unlikely that districts will

have to change current training practices because of these training regulations.

12. Issue: Additional concerns about OCFS responsibility for training. OCFS should provide online training. The regulations should require regularly scheduled performance assessments of OCFS training courses.

Response: While these are interesting ideas, OCFS does not believe that they are appropriate subjects for regulations.

Department of Civil Service

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-25-14-00007-A

Filing No. 865

Filing Date: 2014-10-07

Effective Date: 2014-10-22

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

Action taken: Amendment of Appendix 3 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text or summary was published in the June 25, 2014 issue of the Register, I.D. No. CVS-25-14-00007-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

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Deer Hunting in Suffolk County

I.D. No. ENV-42-14-00005-P

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

Proposed Action: Amendment of sections 1.11 and 1.24 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303, 11-0903, 11-0907, 11-0911 and 11-0913

Subject: Deer hunting in Suffolk County.

Purpose: Expand and simplify deer hunting seasons and regulations in Suffolk County.

Text of proposed rule: Amend existing paragraph 6 NYCRR 1.11 (a) (3) and adopt a new paragraph (4) to read as follows:

(3) Westchester County [and Suffolk County].

Season	Season Dates
Regular	October 1 through December 31

(4) Suffolk County.

Season	Season Dates
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Regular

October 1 through January 31

Repeal existing section 6 NYCRR 1.24 and adopt a new section 1.24 to read as follows:

§ 1.24 Special Firearms Deer Season in Suffolk County.

(a) Season Dates: The first Sunday in January through January 31.

(b) Hunting Hours: Sunrise to sunset.

(c) Legal Implements: During the special firearms season, deer may be taken only by: shotgun, using a single ball or slug; or muzzleloading rifle or pistol, shooting a single projectile, having a minimum bore of 0.44 inches. Shotgun barrels may be rifled, and telescopic sights may be used.

(d) Valid Tags: Regular Season Deer tag, Deer Management Permit (DMP) and Bonus DMPs for Unit 1C, Bow/Mz either-sex tag, and Bow/Mz antlerless-only tag. Deer of either sex may be taken with Regular season tag.

(e) Town Permit: No person shall hunt deer with a shotgun or muzzleloader during the special firearms season in Suffolk County unless such person possesses a special town hunting permit; provided, however, that a hunter is not required to possess a town hunting permit in any town which by local law has waived the requirement for the special permit in accordance with the requirements of Environmental Conservation Law § 11-0903. Special town hunting permits shall be issued as follows:

(1) Permits, furnished by the Department of Environmental Conservation, shall be issued by the town clerks or their designees for their respective towns only and only until the quota for each town is exhausted. The annual quotas are as follows:

Babylon	200
Brookhaven	5,000
East Hampton	3,000
Huntington	500
Islip	200
Riverhead	3,000
Shelter Island	1,000
Smithtown	1,000
Southampton	2,500
Southold	1,000

(2) In order to obtain a town permit, a hunter must complete the Application for a Town Permit and present it to the town clerk or his or her designee, along with a completed Landowner's Endorsement form and a valid hunting license, complete with big game carcass tags.

(3) A town permit may be issued only to a holder of a properly completed permit application. Each permit authorizes the holder to hunt deer only in the town specified on it, and only on the property for which the permit holder has a properly completed and endorsed Landowner's Endorsement form. Permits are not transferable.

(f) Landowner's Endorsement: The Landowner's Endorsement constitutes the landowner's or lessee's written consent for a person to hunt on his or her lands with a shotgun or muzzleloader in accordance with the conditions of the special firearms season. The Landowner's Endorsement form must be signed by a person who owns or leases ten or more acres of land in the town where application is to be made, certifying that such owner or lessee gives consent to the applicant to hunt deer with a shotgun or muzzleloader on the owner's or lessee's premises in accordance with the conditions of the special season.

(g) Town permit applications and Landowner's Endorsement forms may be obtained from the New York State Department of Environmental Conservation, Region 1 Bureau of Wildlife Office in Stony Brook or the Department's website, and may be available at Department-approved outlets.

(h) While hunting during the special season, an individual must carry his or her hunting license and big game tag. If hunting with a shotgun or muzzleloader, the individual must also carry a valid Town Permit and signed Landowner's Endorsement, unless the town has waived the special permit requirement. Successful hunters must follow all deer reporting, tagging, and check station procedures, as specified in Environmental Conservation Law § 11-0911 or as otherwise directed by the Department.

(i) Any holder of a special town hunting permit who the Department has reason to believe has violated any provisions of the Environmental Conservation Law, or of regulations promulgated thereunder, while hunting pursuant to such permit, shall surrender the permit to the Department,

and upon conviction or settlement for such violation such permit may be revoked. Any permit obtained by fraud, or by a person not entitled to be issued it or who makes a false statement in applying for it, shall be void. No special town hunting permit shall be replaced if it is lost, stolen, or destroyed.

Text of proposed rule and any required statements and analyses may be obtained from: Vicky Wagenbaugh, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754, (518) 402-8883, email: vicky.wagenbaugh@dec.ny.gov

Data, views or arguments may be submitted to: Bryan L. Swift, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754, (518) 402-8883, email: dec.sm.WildlifeRegs@dec.ny.gov

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

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

Regulatory Impact Statement

1. Statutory authority:

Section 11-0303 of the Environmental Conservation Law (ECL) directs the Department of Environmental Conservation (Department) to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met with regard to ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, public safety, and protection of private premises. Sections 11-0903, 11-0907, and 11-0911 govern and provide the Department's regulatory authority to set open seasons, open areas, bag limits, manner of taking (including legal implements), possession, transportation and disposition of white-tailed deer. ECL Section 11-0903(7) provides the Department with express authority to adopt regulations to set open seasons and conditions for taking deer in Suffolk County, subject to certain specified restrictions.

2. Legislative objectives:

The legislative objectives of the statutory provisions listed above are to establish, or authorize the department to establish by regulation certain basic wildlife management tools, including the setting of open areas, seasons, bag limits, and restrictions on methods of take and possession, for deer. These tools are used by the Department to maintain deer populations in ecological balance, while observing sound management practices. Section 11-0903(7) was amended in August 2014 by Chapter 266 of the Laws of 2014 for the purpose of expanding and simplifying deer hunting seasons and regulations in Suffolk County to help control deer populations on eastern Long Island. These proposed regulations would expand hunting opportunities in accord with the statutory changes enacted in Chapter 266 in an effort to increase hunter harvest of deer and control increasing deer populations in Suffolk County.

3. Needs and benefits:

The purpose of this rule making is to amend the regulations pertaining to deer hunting seasons in Suffolk County. The proposed changes would expand and simplify deer hunting seasons and regulations for Suffolk County in accordance with the recent amendments to ECL Section 11-0903(7) and consistent with the Department's recently adopted "Management Plan for White-tailed Deer in New York State, 2012-2016". Chapter 266 authorized the Department to allow hunting on Saturdays and Sundays during the special January firearms season and permit bowhunting during January. It also authorized towns in Suffolk County to waive the requirement for special town hunting permits if they so desired. The proposed regulations are necessary to implement these provisions in time for the January 2015 hunting season.

Specifically, the proposed regulations would amend Sections 1.11 and 1.24 of 6 NYCRR Part 1 to:

1. extend the regular (bowhunting) season for deer in Suffolk County through January 31 (the season currently closes on December 31);

2. expand the special firearms season for deer in Suffolk County to run from the first Sunday in January through January 31 including weekends (the season currently is open weekdays only, from the Monday after the first Saturday in January through the last weekday in January);

3. clarify the landowner permission and town permit requirements (including that a town can waive the permit requirements) and legal implements for the special firearms season; and

4. increase permit quotas for each town to reflect current deer management needs.

These changes are necessary as one way to increase hunter harvest of deer in Suffolk County, where local landowners and municipal officials are desperately seeking ways to reduce the impacts of overabundant white-tailed deer. As stated in the justification for the legislation amending ECL Section 11-0903, "[t]he recent population explosion of white-tailed deer (*Odocoileus virginianus*) on Eastern Long Island threatens public health,

public safety, personal property, and the environment. Local municipal deer management plans describe the uncontrolled increase in population as an emergency, crisis situation, requiring immediate action."

In addition to the benefits of reducing the local deer population, the proposed regulation changes would simplify the administrative requirements for hunters, the Department and town governments in any towns that waive the permit requirement to hunt deer in Suffolk County during January.

4. Costs:

Adoption of these regulations would reduce administrative costs for local governments (towns) that opt to waive the hunting permit requirement. It would also reduce some administrative costs to the Department, which must provide permit application and landowner endorsement forms and related information in support of the Town permit system. However, the Department would incur some additional staff costs to manage hunting activities on State-owned properties on weekends during January, when our hunter check station would normally be closed. The benefits of additional deer hunting opportunity throughout Suffolk County, including on State lands, would outweigh these additional costs to the Department.

5. Local government mandates:

These proposed amendments would reduce a local government mandate for any town that chooses to waive the requirement for hunters to obtain a special Town hunting requirement to take deer during the special season.

6. Paperwork:

The proposed amendments would reduce paperwork for any town that chooses to waive the requirement for hunters to obtain a special Town hunting requirement to take deer during the special season.

7. Duplication:

None.

8. Alternatives:

The Department considered allowing the use of longbows in January only as a legal implement for the special "firearms" season, instead of extending the regular bowhunting season through that period. However, that would have imposed all of the requirements for hunting with firearms in January (limited to properties of 10 acres or more with written landowner permission and a Town hunting permit, unless the town has waived the permit requirement) that do not apply to the regular bowhunting season in Suffolk County, which currently runs from October 1 through December 31. By extending the regular bowhunting season through January 31, the requirements for bowhunters would be consistent and continuous from October 1 through January 31. If longbows were only allowed as a legal implement for the special season, there would also be a period of up to 6 days in early January when bowhunting would not be allowed, since the special season begins on the first Sunday in January.

9. Federal standards:

There are no Federal government standards associated with the management of white-tailed deer in New York State.

10. Compliance schedule:

Hunters would be able to comply with the new regulations immediately beginning on January 1, 2015.

Regulatory Flexibility Analysis

The purpose of this rule making is to amend the Department of Environmental Conservation's (Department) regulations pertaining to deer hunting seasons in Suffolk County. The proposed changes would expand and simplify deer hunting seasons and regulations in Suffolk County in accordance with recent legislative amendments to Environmental Conservation Law (ECL) Section 11-0903 and consistent with the Department's "Management Plan for White-tailed Deer in New York State, 2012-2016". Specifically, the Department proposes to: 1) extend the regular (bowhunting) season for deer in Suffolk County through January 31 (the season currently closes on December 31); 2) expand the special firearms season for deer in Suffolk County to run from the first Sunday in January through January 31 including weekends (the season currently is open weekdays only, from the Monday after the first Saturday in January through the last weekday in January); 3) clarify the landowner permission and Town permit requirements (including that a town can waive the permit requirements) and legal implements for the special firearms season; and 4) increase permit quotas for each town to reflect current deer management needs.

The Department has made revisions to its deer hunting regulations on many occasions in the past. Based on the Department's experience in promulgating those revisions and the familiarity of the Department's regional personnel with the affected areas, the Department has determined that this rule making would not have an adverse economic effect on small businesses or local governments.

Few, if any, small businesses directly participate in deer hunting activities. Such a business (e.g., professional hunting guides) would not suffer any adverse impact as a result of this proposed rule making because it would increase the number of days that are open to deer hunting in Suffolk County and could increase the number of participants or the frequency of participation in deer hunting activities.

Town governments in Suffolk County are currently required to issue permits to authorize hunters to take deer during the special firearms hunting season in January. Legislation enacted in August 2014 (Chapter 266) amended ECL Section 11-0903(7) to allow towns to waive the permit requirement to relieve an administrative burden on the town clerks and participating hunters. The proposed regulations include this waiver provision, to minimize the permit-issuing, record-keeping, and compliance requirements associated with deer hunting in Suffolk County to the extent allowed by law.

In summary, this rule making will not impose any reporting, record-keeping, or other compliance requirements on small businesses or local governments. Therefore, the Department has determined that a Regulatory Flexibility Analysis for Small Businesses and Local Governments is not required.

Rural Area Flexibility Analysis

Executive Law Section 481.7 defines "rural areas" as any counties within the state having a population of less than 200,000, and the municipalities, individuals, institutions, communities, programs, and such other entities or resources as are found therein. In counties with a population of 200,000 or greater, "rural areas" means towns with population densities of 150 persons or less per square mile, and the villages, individuals, institutions, communities, programs, and such other entities or resources as are found therein. The proposed rulemaking would apply only to Suffolk County, and the municipalities therein, none of which are defined as a "rural area" pursuant to this law. Therefore, the proposed rule would have no impact on any rural area in New York State.

Job Impact Statement

The purpose of this rule making is to amend the Department of Environmental Conservation's (Department) regulations pertaining to deer hunting seasons in Suffolk County. The proposed changes would expand and simplify deer hunting seasons and regulations in Suffolk County in accordance with recent legislative amendments to Environmental Conservation Law (ECL) Section 11-0903 and consistent with the Department's "Management Plan for White-tailed Deer in New York State, 2012-2016". Specifically, the Department proposes to: 1) extend the regular (bowhunting) season for deer in Suffolk County through January 31 (the season currently closes on December 31); 2) expand the special firearms season for deer in Suffolk County to run from the first Sunday in January through January 31 including weekends (the season currently is open weekdays only, from the Monday after the first Saturday in January through the last weekday in January); 3) clarify the landowner permission and Town permit requirements (including that a town can waive the permit requirements) and legal implements for the special firearms season; and 4) increase permit quotas for each town to reflect current deer management needs.

Few, if any, persons actually hunt as a means of employment. Such a person, for whom hunting is an income source (e.g., professional guides), would not suffer any substantial adverse impact as a result of this proposed rule making because it would increase the number of days that are open to deer hunting in Suffolk County and could increase the number of participants or the frequency of participation in deer hunting activities. For this reason, the Department anticipates that this rule making would have no impact on jobs or employment opportunities.

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

Department of Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Audited Financial Statements for Managed Care Organizations

I.D. No. HLT-42-14-00001-P

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

Proposed Action: Amendment of section 98-1.16(c); and addition of Subpart 98-3 to Title 10 NYCRR.

Statutory authority: Public Health Law, sections 4403(2) and (f)(7)

Subject: Audited Financial Statements for Managed Care Organizations.

Purpose: To extend audit and reporting standards to all managed care organizations (MCOs), including PHSPs, HIV SNPs and MLTCPs.

Substance of proposed rule (Full text is posted at the following State website: www.health.ny.gov): The purpose of the amendments is to extend audit and reporting standards to all managed care organizations (MCOs) certified under Article 44 of the Public Health Law. The amendments will apply to MCOs (Prepaid Health Services Plans, HIV Special Needs Plans and Managed Long Term Care Plans) (PHSPs, HIV SNPs and MLTCPs) that were not included under the Department of Financial Services Regulation 118. This will ensure that all MCOs authorized to operate under Article 44 must adhere to the same financial reporting requirements and standards in the filing of audited financial statements.

The proposed regulation is closely patterned upon 11 NYCRR 89 (Regulation 118) adopted by the Department of Financial Services and the National Association of Insurance Commissioners model audit rule ("NAIC model") that reflects a consensus of the insurance regulators of all states and territories of the United States as to scope, detail, needs and benefits. The NAIC model imposes additional rules patterned on the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7201 et seq. ("SOX"), and is similar to Regulation 118 and the proposed amendments to Part 98.

The proposal adds provisions to Part 98 regarding the following:

- Designation of CPA.
- Qualifications of CPA.
- Consolidated or combined audits.
- Scope of audit and report of CPA.
- Notification of adverse financial condition.
- Communication of internal control related matters noted in an audit.
- CPA's letter of qualifications.
- Availability and maintenance of CPA work papers.
- Requirements for audit committees.
- Conduct of MCO in connection with the preparation of required reports and documents.
- Management's report of internal control over financial reporting.
- Effective date and special rules.

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

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

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

Regulatory Impact Statement

Statutory Authority:

Sections 4403(2), 4403-f(7) of the Public Health Law. These sections establish the Commissioner's authority to promulgate regulations governing the operations of managed care organizations (MCOs), including the preparation and filing of audited financial statements.

Public Health Law section 4403(2) states the Commissioner may adopt and amend rules and regulations pursuant to the state administrative procedures act to effectuate the purposes and provisions of Article 44.

Public Health Law section 4403-f(7) states the Commissioner shall promulgate regulations to implement this section and to ensure the quality, appropriateness and cost-effectiveness of the services provided by managed long term care plans.

Legislative Objectives:

10 NYCRR 98 was extensively amended in 2005 to further implement the provisions of Article 44 of the Public Health Law. The proposed amendment to section 98-1.16(c) and the promulgation of the new section 98-3 adds new provisions consistent with the provisions of the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7201 et seq. ("SOX") and 11 NYCRR 89.

Needs and Benefits:

SOX imposes a comprehensive regime of audits and internal management controls and reports designed to ensure greater transparency and accountability.

The proposed regulation is closely patterned upon 11 NYCRR 89 (Regulation 118) adopted by the Department of Financial Services (DFS), formerly the NYS Department of Insurance, and the National Association of Insurance Commissioners model regulation ("NAIC model") that reflects a consensus of the insurance regulators of all states and territories of the United States as to scope, detail, needs and benefits. The NAIC model imposes additional rules patterned on SOX and is similar to Regulation 118 and the proposed amendments to Part 98. For example, the NAIC model, Regulation 118 and the proposed amendments to Part 98 all require the regulated insurer to forbid its certified independent public accountant (CPA) from entering into an agreement of indemnity or release from liability.

The proposed amendments will apply to managed care organizations (MCOs), such as PHSPs, HIV SNPs and MLTCPs, that were not included under Regulation 118. This will ensure that all MCOs authorized to operate under Article 44 must adhere to the same financial reporting requirements and standards.

The proposed amendments, once adopted, will ensure that regulated companies engage in best practices related to auditor independence, corporate governance and internal controls over financial reporting.

Costs:

This regulation imposes no compliance costs on state or local governments. There will be no additional costs incurred by the Health Department. Costs to be incurred by the parties affected differ depending upon the size of the company and whether that company is publicly held and thus already required to comply with SOX. Companies regulated by SOX will incur few additional costs. Compliance cost estimates received by DFS from a cross-section of affected companies that are not subject to SOX are most often estimated to be minimal or negligible. Of those companies that stated compliance would require additional expenditures, the cost is estimated to be about \$25,000.

Local Government Mandates:

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

Paperwork:

Paperwork associated with filings to the commissioner should be minimal. The paperwork associated with the audit and controls regime required by the proposed regulation should also be minimal.

Duplication:

The proposal does not duplicate any existing federal, state, or local regulations.

Alternatives:

In developing Regulation 118, the DFS obtained industry input and hued to the model regulation developed by the National Association of Insurance Commissioners (the "NAIC model") to implement SOX to the extent possible. However, the model has been modified as necessary to comply with New York statutes and regulations. The proposed regulation also restricts its application only to those entities over which the Health Department has jurisdiction unlike the NAIC model, which also contains rules that apply to CPAs.

Several comments received by DFS noted the compliance difficulties faced by foreign companies and United States branches of alien insurers, specifically with respect to the roles to be performed by persons not residing in the United States and for the reporting requirements to be imposed upon an integrated enterprise containing insurers in New York as well as entities with no nexus to New York. In response, the DFS modified Regulation 118, as reflected in the proposed amendments to part 98, to provide detailed rules as to whether members of management may attest to filings, and to establish limited exceptions available only to these entities, in addition to the provision that permits a waiver of any provision of the regulation upon evidence of financial or organizational hardship.

Another commenter objected to restrictions on using the same CPA for SOX audit work and tax return preparation for more than a five-year period for small companies. The exemption from any provision of the proposed regulation available upon proof of financial or organization hardship now addresses this comment.

Several comments noted that a company may be required to file both SOX reports and the reports required by the NAIC model as adopted by the various states. Companies want to avoid making duplicative filings to those required by the state of domicile. The proposed regulation contemplates accepting the domiciliary state filings as New York filings to the extent that they are substantially similar to those required by the proposed regulation.

Several comments noted differences between the NAIC model and the proposed regulation on filing deadlines, exceptions and the rules governing confidentiality of work papers. Different dates or deadlines are due to restrictions in New York law that require modification to the NAIC model. Certain automatic exclusions from the NAIC model could not be included in the proposed regulation to the extent that they conflict with New York law. Finally, the confidentiality of commercial information, including work papers, obtained by state and local government is already subject in New York to a comprehensive regime of rules, exceptions and requirements, and thus did not need to be addressed in the proposed regulation.

Federal Standards:

The federal rules under SOX are extensive. The provisions in the proposed regulation are similar to the comparable federal provisions. The regulation does not conflict with any federal rules.

Compliance Schedule:

The regulation would apply beginning with the reporting period ending December 31, 2014. The initial audited financial statements completed under this regulation would be the 2014 annual statements due April 1, 2015.

Regulatory Flexibility Analysis

The Health Department finds that this regulation would not impose reporting, recordkeeping or other requirements on small businesses since the provisions contained therein apply only to regulated MCOs authorized

to do business in New York State. Inasmuch as most of these companies are not independently owned and operated and employ more than 100 individuals, they do not fall within the definition of "small business" as found in section 102(8) of the State Administrative Procedure Act. MCOs that qualify as a small business will need to document that the processes and rules established by the regulation have been followed, consistent with current recordkeeping requirements. The Health Department has determined that such recordkeeping will be routine and will not have an adverse economic impact on the MCO.

Compliance costs estimates reported by the Department of Financial Services varies from \$25,000 a year to in excess of \$2 million (for one large mutual insurance company that is not a MCO covered by Part 98). However, the proposed amendments allow any company, including a small business, to request an exemption from any and all of its requirements upon written application to the commissioner based upon a financial or organizational hardship upon the company.

These amendments contain minimum requirements that must be included in the contract between a regulated company and the CPA retained by the company. Accordingly, CPAs, regardless of whether they are small businesses or not, could be considered affected parties under this regulation. However, the Health Department estimates the impact of the continuation of these rules to be minimal, especially since if a CPA agrees to audit a regulated company, the price of the engagement will compensate the CPA for costs incurred. Additionally, CPAs retained by insurers tend to be large limited liability corporations or partnerships that are not small businesses. In any event, a CPA may choose not to audit a company that will require execution of a contract subject to these amendments.

There are no technological impediments to compliance with the proposed rule. Comments about the proposed rule were requested from the MCOs and MCO plan associations, and all responses were reviewed. One commentator indicated that compliance with the regulation could be a financial hardship for some small MCOs. However, as noted above, MCOs may request an exemption from any and all of its requirements upon written application to the commissioner based upon a financial or organizational hardship upon the company.

The amendments do not impose any impact, including any adverse impact, or reporting, recordkeeping, or other compliance requirement on any local government.

Rural Area Flexibility Analysis

Types and Estimated Number of Rural Areas:

Companies affected by the proposed regulation include PHSPs, HIV SNPs and MLTCPs authorized to do business in New York State. The companies affected by this regulation do business in certain "rural areas" as defined under section 102(1) of the State Administrative Procedure Act. Some of the home offices of these companies may lie within rural areas. Further, companies may establish new office facilities and/or relocate in the future depending on their requirements and needs.

Reporting, Recordkeeping and Other Compliance Requirements:

Many of the compliance requirements (such as filing due date and record retention period) are consistent with the requirements presently contained in Part 98 and should not impose upon any regulated party, regardless of whether they are located in a rural area or not, any additional paperwork, recordkeeping or compliance requirements. The obligations imposed by the proposed regulation with regard to establishment and maintenance of audit controls and standards are consistent with those required by current Part 98 and a federal statute, the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7201 et seq. ("SOX"), that imposes similar rules. If there are failures in the audit and controls process, a company is required to notify the Commissioner. The regulation contains automatic exclusions from compliance for certain small companies. Further, any company that faces organizational or financial hardship can seek an exemption from any requirement imposed by the regulation.

The proposed regulation requires a regulated company to perform the audit of its operation and controls with the assistance of CPA. The terms of the employment of the CPA and the period for which work papers and communications are to be retained are both specified in the proposed regulation. Accordingly, CPAs, regardless of whether they are located in rural areas or not, could be considered affected parties under this regulation. However, the Health Department estimates the impact of these rules on CPAs, regardless of whether they are located in rural areas or not, should be negligible, if any at all. Indeed, if a CPA agrees to audit a regulated company, the price of the engagement will compensate the CPA for costs incurred. Additionally, CPAs retained by insurers tend to be large limited liability corporations or partnerships that are not small businesses. In any event, a CPA may choose not to audit a company that will require execution of a contract subject to this regulation.

Costs:

The proposed regulation implements requirements largely based on the rules imposed by SOX. The cost of complying with the new requirements will depend on the size of the company and whether the company is al-

ready subject to SOX because it is publicly held. Companies regulated by SOX will incur few additional costs beyond those imposed by current Regulation 118 and the federal statute. Compliance cost estimates with respect to the proposed regulation were received from a cross-section of companies that are not subject to SOX. If the company is already required to comply with similar regulations in other states, the additional expense of the New York proposed regulation is estimated to be minimal or negligible. Of those companies that stated compliance would require additional expenditures, the cost is estimated to be about \$25,000. However, the proposed regulation requires a regulated company to perform the audit of its operation and controls with the assistance of a CPA. The terms of the employment of a CPA is specified in the proposed regulation. Further, a CPA can obtain compensation for additional costs as part of the contract entered into with the regulated company. Accordingly, CPAs, regardless of whether they are located in rural areas or not, should not have to incur uncompensated additional costs to comply with the proposed regulation.

Minimizing Adverse Impact:

The proposed regulation applies PHSPs, HIV SNPs and MLTCPs authorized to do business throughout New York State, including rural areas. It does not impose any adverse impacts unique to rural areas.

Rural Area Participation:

In developing Regulation 118, the DFS conducted extensive outreach to regulated insurers, fraternal benefit societies and managed care organizations authorized to do business throughout New York State, including those located or domiciled in rural areas. Comments were also requested by the Department of Health from all PHSPs, HIV SNPs and MLTCPs affected by this regulation.

Job Impact Statement

The Health Department finds that these amendments will have no adverse impact on jobs and employment opportunities since, for publicly held companies, its requirements largely reflect obligations already imposed by the Sarbanes-Oxley Act of 2002, 15 U.S.C. § 7201 et seq. For MCOs, compliance may require the employment of additional personnel or outside contractors.

No region in New York should experience an adverse impact on jobs and employment opportunities. This regulation should not have a negative impact on self-employment opportunities.

munity rehabilitation services provided to individuals who were discharged directly from a State psychiatric center or nursing home to a congregate residence. The equivalent of a 15 percent rate add-on would be paid for up to three years for community rehabilitation services provided to individuals who were discharged directly from a State psychiatric center or nursing home to an apartment residence. This rate add-on serves to incentivize providers of community rehabilitation services who serve individuals in a restrictive setting to move toward a less restrictive, more community-based setting. Since this proposed regulation has significant impact upon public health, safety and general welfare, the proposed rule warrants emergency filing.

Subject: Medical Assistance Payments for Community Rehabilitation Services within Residential Programs for Adults, Children, Adolescents.

Purpose: Provide enhancements to individuals transitioning to more independent community living through use of BIP funding.

Text of emergency/proposed rule: A new subdivision (e) is added to Section 593.7 of Title 14 NYCRR to read as follows:

(e) In addition to the rates allowed in paragraph (1) of subdivision (c) of this section, for services provided on or after April 1, 2014, a provider shall receive the equivalent of an additional 30 percent rate add-on for up to two years for community rehabilitation services provided to individuals who were discharged directly from a State psychiatric center or nursing home to a congregate residence. A provider shall receive the equivalent of an additional 15 percent rate add-on for up to three years for community rehabilitation services provided to individuals who were discharged directly from a State psychiatric center or nursing home to an apartment residence.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire January 4, 2015.

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

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

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

Regulatory Impact Statement

1. Statutory authority: Subdivision (b) of Section 7.09 of the Mental Hygiene Law grants the Commissioner of the Office of Mental Health (OMH) the authority and responsibility to adopt regulations that are necessary and proper to implement matters under his or her jurisdiction.

Subdivision (a) of Section 31.04 of the Mental Hygiene Law empowers the Commissioner to issue regulations setting standards for licensed programs for the rendition of services for persons with mental illness.

Subdivision (a) of Section 43.02 of the Mental Hygiene Law provides that payments under the Medical Assistance Program for services approved by OMH shall be at rates certified by the Commissioner of Mental Health and approved by the Director of the Budget. Subdivision (b) of Section 43.02 of the Mental Hygiene Law gives the Commissioner authority to request from operators of facilities licensed by OMH such financial, statistical and program information as the Commissioner may determine to be necessary.

Sections 364(3) and 364-a(1) of the Social Services Law give OMH responsibility for establishing and maintaining standards for medical care and services in facilities under its jurisdiction, in accordance with cooperative arrangements with the Department of Health.

2. Legislative objectives: Articles 7, 31 and 43 of the Mental Hygiene Law reflect the Commissioner's authority to establish regulations regarding mental health programs and establish rates of payments for services under the Medical Assistance program. Sections 364 and 364-a of the Social Services Law reflect the role of OMH regarding Medicaid reimbursed programs. The rule making furthers the Legislative intent under Article 7 by ensuring that the OMH fulfills its responsibility to assure the development of comprehensive plans, programs and services in the care, treatment, rehabilitation and training of persons with mental illness.

3. Needs and benefits: Recently, the Centers for Medicare and Medicaid Services awarded New York State a "State Balancing Incentive Payment Program Grant" under Section 10202 of the Affordable Care Act. The Balancing Incentive Program (BIP) provides a financial incentive to stimulate greater access to non-institutionally based long-term services and supports. Under this proposal, during the grant period OMH would use BIP funding to provide the financial support needed to help transition individuals to live in more integrated and independent settings in the community. This proposal allows for a payment rate add-on for community rehabilitation services provided on or after April 1, 2014, to individuals who were discharged directly from a State psychiatric center or a nursing home. Under this proposed rule, the equivalent of an additional 30 percent rate add-on would be paid for up to two years of com-

Office of Mental Health

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Medical Assistance Payments for Community Rehabilitation Services Within Residential Programs for Adults, Children, Adolescents

I.D. No. OMH-42-14-00002-EP

Filing No. 863

Filing Date: 2014-10-07

Effective Date: 2014-10-07

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

Proposed Action: Amendment of Part 593 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)

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

Specific reasons underlying the finding of necessity: The Centers for Medicare and Medicaid Services recently awarded New York State a "State Balancing Incentive Payment Program Grant" under Section 10202 of the Affordable Care Act. The Balancing Incentive Program (BIP) provides a financial incentive to stimulate greater access to non-institutionally based long-term services and supports. Under this proposal, during the grant period, OMH would use BIP funding to provide the financial support needed to help transition individuals to live in more integrated and independent community settings. This proposal allows for a payment rate add-on for community rehabilitation services provided on or after April 1, 2014, to individuals who were discharged directly from a State psychiatric center or a nursing home. Under this proposal, the equivalent of a 30 percent add-on would be paid for up to two years of com-

munity rehabilitation services provided to individuals who were discharged directly from a State psychiatric center or nursing home to a congregate residence. The equivalent of an additional 15 percent rate add-on would be paid for up to three years for community rehabilitation services provided to individuals who were discharged directly from a State psychiatric center or nursing home to an apartment residence. This rate add-on will serve to incentivize providers of community rehabilitation services who serve individuals in a restrictive setting to move toward a less restrictive, more community-based setting.

4. Costs:

(a) Cost to State government: BIP funds are 100 percent federal dollars and will be used to support increases in the rates paid to providers of community rehabilitation services to individuals who had been discharged directly from a State psychiatric center or nursing home to either a congregate residence or an apartment residence. This increase will be retroactive to services provided on or after April 1, 2014. BIP funds are projected to be available through September, 2015. OMH anticipates being able to continue to financially support the rate add-on beyond the BIP end date, subject to Federal financing participation.

(b) Cost to local government: These regulatory amendments are not expected to result in any additional costs to local government.

(c) Cost to regulated parties: These regulatory amendments are not expected to result in any additional costs to regulated parties.

5. Local government mandates: The regulation will not mandate any additional imposition of duties or responsibilities upon county, city, town, village, school or fire districts.

6. Paperwork: This rule making should not result in an increase in paperwork requirements.

7. Duplication: The regulatory amendment does not duplicate existing State or federal requirements.

8. Alternatives: The only alternative would have been to continue with the current rate structure for community rehabilitation services. As the amendments serve to provide enhancements to assist individuals in their transition to more independent community living, and serve to reimburse providers for these services, that alternative was necessarily rejected.

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

10. Compliance schedule: The regulatory amendment will become effective upon adoption.

Regulatory Flexibility Analysis

The amendments to Part 593 serve to provide enhancements to assist individuals in their transition to more independent community living, and to reimburse providers for these community rehabilitative services. As there will be no adverse economic impact on small business or local governments, a Regulatory Flexibility Analysis for Small Business and Local Governments has not been submitted with this notice.

Rural Area Flexibility Analysis

The amendments to Part 593 serve to provide enhancements to assist individuals in their transition to more independent community living, and to reimburse providers for these community rehabilitative services. As there will be no adverse economic impact on rural areas, a Rural Area Flexibility Analysis is not submitted with this notice.

Job Impact Statement

The amendments to Part 593 serve to provide enhancements to assist individuals in their transition to more independent community living, and to reimburse providers for these community rehabilitative services. It is apparent from the nature and purpose of the rule that it will not have an impact on jobs and employment opportunities; therefore, a Job Impact Statement for these amendments is not being submitted with this rule making.

Public Service Commission

NOTICE OF ADOPTION

Approving an Order Implementing Originating Access Charge Reform

I.D. No. PSC-05-14-00009-A

Filing Date: 2014-10-03

Effective Date: 2014-10-03

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

Action taken: On 10/2/14, the PSC adopted an order for intrastate originating access charges be reduced to the intrastate level in two steps and provide for recovery on a revenue neutral basis for the small incumbent telephone companies.

Statutory authority: Public Service Law, sections 4, 5, 90, 91, 92, 94 and 97

Subject: Approving an order implementing originating access charge reform.

Purpose: To approve an order implementing originating access charge reform.

Substance of final rule: The Commission, on October 2, 2014, adopted an order approving intrastate originating access charges to be reduced to the interstate level in two steps, in January 2015 and January 2016; and provide for recovery on a revenue neutral basis for the small incumbent telephone companies, 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.

(09-M-0527SA7)

NOTICE OF ADOPTION

Allowing RG&E to Implement an Upgraded Gas Transportation Billing System

I.D. No. PSC-17-14-00012-A

Filing Date: 2014-10-03

Effective Date: 2014-10-03

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

Action taken: On 10/2/14, the PSC adopted an order allowing Rochester Gas and Electric Corporation's (RG&E) filing to implement an upgraded gas transportation billing system contained in PSC 16 — Gas, to become effective.

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

Subject: Allowing RG&E to implement an upgraded gas transportation billing system.

Purpose: To allow RG&E to implement an upgraded gas transportation billing system.

Substance of final rule: The Commission, on October 2, 2014, adopted an order allowing Rochester Gas and Electric Corporation to reflect the development and implementation of a new gas transportation billing system contained in PSC No. 16 - Gas, 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-0131SA2)

NOTICE OF ADOPTION

Allowing NYSEG to Implement an Upgraded Gas Transportation Billing System

I.D. No. PSC-17-14-00013-A

Filing Date: 2014-10-03

Effective Date: 2014-10-03

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

Action taken: On 10/2/14, the PSC adopted an order allowing New York State Electric & Gas Corporation's (NYSEG) filing to implement an upgraded gas transportation billing system contained in PSC 88 — Gas, to become effective.

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

Subject: Allowing NYSEG to implement an upgraded gas transportation billing system.

Purpose: To allow NYSEG to implement an upgraded gas transportation billing system.

Substance of final rule: The Commission, on October 2, 2014, adopted an order allowing New York State Electric & Gas Corporation to reflect the development and implementation of a new gas transportation billing system contained in PSC No. 88 - Gas, 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-0131SA1)

NOTICE OF ADOPTION

Allowing RG&E to Modify Its Load Share Ratio to Calculate RNY Load and Non-RNY Load for Standby Customers

I.D. No. PSC-29-14-00006-A

Filing Date: 2014-10-02

Effective Date: 2014-10-02

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

Action taken: On 10/2/14, the PSC adopted an order allowing Rochester Gas and Electric Corporation's (RG&E) filing to modify the load share ratio used to calculate the ReCharge New York load and non-ReCharge New York load for standby customers, to become effective.

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

Subject: Allowing RG&E to modify its load share ratio to calculate RNY load and non-RNY load for standby customers.

Purpose: To allow RG&E to modify its load share ratio to calculate RNY load and non-RNY load for standby customers.

Substance of final rule: The Commission, on October 2, 2014, adopted an order allowing Rochester Gas and Electric Corporation to modify the load share ratio used to calculate the ReCharge New York (RNY) and the non-RNY load for standby customers contained in PSC No. 19 - Electricity, 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-E-0176SA16)

NOTICE OF ADOPTION

Allowing NYSEG to Modify Its Load Share Ratio to Calculate RNY Load and Non-RNY Load for Standby Customers

I.D. No. PSC-29-14-00007-A

Filing Date: 2014-10-02

Effective Date: 2014-10-02

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

Action taken: On 10/2/14, the PSC adopted an order allowing New York State Electric & Gas Corporation's (NYSEG) filing to modify the load share ratio used to calculate the ReCharge New York load and non-ReCharge New York load for standby customers, to become effective.

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

Subject: Allowing NYSEG to modify its load share ratio to calculate RNY load and non-RNY load for standby customers.

Purpose: To allow NYSEG to modify its load share ratio to calculate RNY load and non-RNY load for standby customers.

Substance of final rule: The Commission, on October 2, 2014, adopted an order allowing New York State Electric & Gas Corporation to modify the load share ratio used to calculate the ReCharge New York (RNY) and the non-RNY load for standby customers contained in PSC No. 120 - Electricity, 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-E-0176SA15)

NOTICE OF ADOPTION

Allowing Jamestown's Filing to Modify Rider No. 5 and SC No. 6 in PSC - Electricity, to Become Effective

I.D. No. PSC-29-14-00009-A

Filing Date: 2014-10-02

Effective Date: 2014-10-02

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

Action taken: On 10/2/14, the PSC allowed the City of Jamestown's (Jamestown) filing to make revisions to Rider No. 5 and Service Classification (SC) No. 6, contained in PSC 7 — Electricity, to become effective.

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

Subject: Allowing Jamestown's filing to modify Rider No. 5 and SC No. 6 in PSC — Electricity, to become effective.

Purpose: To allow Jamestown's filing to modify Rider No. 5 and SC No. 6 in PSC — Electricity, to become effective.

Substance of final rule: The Commission, on October 2, 2014, allowed the City of Jamestown's filing to modify Rider No. 5 – Line Extension and Obsolete Service Equipment Upgrades, Business Development Recruitment and Retention Assistance; and Service Classification No. 6 Economic Development Service, Individual Negotiated Contracts contained in P.S.C. No. 7 – Electricity, to become effective.

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-0247SA1)

NOTICE OF ADOPTION**Approving AGC's Petition for Financing Up to \$2 Billion**

I.D. No. PSC-30-14-00022-A

Filing Date: 2014-10-02

Effective Date: 2014-10-02

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

Action taken: On 10/2/14, the PSC adopted an order approving the petition of Astoria Generating Company, L.P. (AGC), requesting financing for a maximum of \$2 billion.

Statutory authority: Public Service Law, section 69

Subject: Approving AGC's petition for financing up to \$2 billion.

Purpose: To approve AGC's petition for financing up to \$2 billion.

Substance of final rule: The Commission, on October 2, 2014, adopted an order approving the petition of Astoria Generating Company, L.P. to increase financing from \$1.38 billion to \$2 billion; and to allow the flexibility to modify in the future the identity of the financing entities, payment terms and the amount financed up to the \$2 billion limit, without additional Commission approval, 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-0264SA1)

NOTICE OF ADOPTION**Adopting Emergency Rule As a Permanent Rule**

I.D. No. PSC-32-14-00003-A

Filing Date: 2014-10-03

Effective Date: 2014-10-03

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

Action taken: On 10/2/14, the PSC adopted an order approving an emergency rule as a permanent rule that allowed Beaver Dam Lake Water Corporation to withdraw funds from an escrow account to pay an outstanding invoice and replenish its operating accounts.

Statutory authority: Public Service Law, section 89-f

Subject: Adopting emergency rule as a permanent rule.

Purpose: To adopt emergency rule as a permanent rule.

Substance of final rule: The Commission, on October 2, 2014, adopted an emergency rule as a permanent rule that allowed Beaver Dam Lake Water Corporation to withdraw up to \$50,459 from an escrow account established to repay a reconstruction loan from the Environmental Facilities Corporation, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(14-W-0266EA1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED****Annual Reconciliation of Gas Expenses and Gas Cost Recoveries**

I.D. No. PSC-42-14-00003-P

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

Proposed Action: The PSC is considering whether to approve, modify, or reject, in whole or part, the filings made by various local gas distribution companies (LDCs) and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

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

Subject: Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Purpose: The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Substance of proposed rule: The Commission is considering whether to approve, modify, or reject, in whole or in part, the filings made by various local gas distribution companies (LDCs) and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries. The Commission may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2653, email: deborah.swatling@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-4535, email: kathleen.burgess@dps.ny.gov

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

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

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

(14-G-0325SP1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED****Winter Bundled Sales Service Option**

I.D. No. PSC-42-14-00004-P

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

Proposed Action: The Commission is considering a proposal filed by Orange and Rockland Utilities, Inc. to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Service P.S.C. No. 4.

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

Subject: Winter Bundled Sales Service Option.

Purpose: To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge.

Substance of proposed rule: The Public Service Commission is considering whether to approve, modify or reject, in whole or in part, a tariff filing by Orange and Rockland Utilities, Inc. (O&R) to modify the language in Service Classification No. 11 contained in P.S.C. No. 4 – Gas. O&R proposes to modify the description of Winter Bundled Sales (WBS) to remove language indicating that fixed storage charges are included in the determination of the WBS Charge. The amendment has an effective date of January 10, 2015. The Commission may also consider other related matters.

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

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-4535, email: secretary@dps.ny.gov

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

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

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

(14-G-0453SP1)