

RULE MAKING ACTIVITIES

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

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

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

Department of Agriculture and Markets

NOTICE OF ADOPTION

Incorporate by Reference in 1 NYCRR of the 2014 Edition of National Institute of Standards and Technology (“NIST”) Handbook 133

I.D. No. AAM-22-14-00005-A

Filing No. 759

Filing Date: 2014-09-04

Effective Date: 2014-09-24

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

Action taken: Amendment of section 221.11 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 16, 18 and 179

Subject: Incorporate by reference in 1 NYCRR of the 2014 edition of National Institute of Standards and Technology (“NIST”) Handbook 133.

Purpose: To incorporate by reference in 1 NYCRR the 2014 edition of NIST Handbook 133.

Text or summary was published in the June 4, 2014 issue of the Register, I.D. No. AAM-22-14-00005-P.

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

Text of rule and any required statements and analyses may be obtained from: Michael Sikula, Director, NYS Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235, (518) 457-3146, email: mike.sikula@agriculture.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Incorporation by Reference in 1 NYCRR of the 2014 Edition of National Institute of Standards and Technology (NIST) Handbook 44

I.D. No. AAM-25-14-00010-A

Filing No. 758

Filing Date: 2014-09-04

Effective Date: 2014-09-24

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

Action taken: Amendment of section 220.2(a) of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 16, 18 and 179

Subject: Incorporation by reference in 1 NYCRR of the 2014 edition of National Institute of Standards and Technology (NIST) Handbook 44.

Purpose: To incorporate by reference in 1 NYCRR the 2014 edition of NIST Handbook 44.

Text or summary was published in the June 25, 2014 issue of the Register, I.D. No. AAM-25-14-00010-P.

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

Text of rule and any required statements and analyses may be obtained from: Mike Sikula, NYS Department of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, (518) 457-3146, email: Mike.Sikula@agriculture.ny.gov

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Provision by Municipalities of Certain Weights and Measures Devices to Municipal Directors of Weights and Measures

I.D. No. AAM-38-14-00002-P

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

Proposed Action: This is a consensus rule making to amend sections 222.1 and 222.2 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 18 and 179

Subject: Provision by municipalities of certain weights and measures devices to municipal directors of weights and measures.

Purpose: To lessen the burden on municipalities by requiring fewer devices to be maintained and allowing for easier calibration of devices.

Text of proposed rule: Section 222.1 of 1 NYCRR is amended to read as follows:

(a) Each municipality shall provide the *municipal* director with the following necessary standard weighing and measuring devices:

(1) Weights (class F or better).

(i) [Forty] *Twenty* 50 lb weights or 25 kg weights;

(ii) One 25 lb weight or 10 kg weight;

(iii) One customary weight kit with capacity of at least 20 lb (except in New York City where the capacity may be at least 8 lb); and

(iv) One metric weight kit with capacity of at least 10 kg (except in New York City where the capacity may be at least 5 kg); and].

[(v) One apothecary weight kit.]

(2) Volumetric measures.

(i) One large test measure with a minimum capacity of 379 L (100 gal) for inspection of petroleum dispensing meters;

(ii) One [visible] *graduated neck* type 5 gallon test measure for inspection of petroleum dispensing pumps;

(iii) One [visible] *graduated neck* type 5 gallon test measure for inspection of bulk milk holding tanks (*if applicable*); or

(iv) One slicker type 5 gallon or 10 gallon test measure for inspection of bulk milk holding tanks (*if applicable*);

(v) One set of [customary] glass or metal test measures with capacity from 2 fl oz to 1 gallon or 50 mL to 4 L.; and]

[(vi) One set of metric glass or metal test measures with capacity from 50 mL to 4 L.]

(3) Linear measures.

(i) One steel tape at least 6 feet in length;

(ii) One steel tape at least 2 meters in length; or

(iii) One steel tape with dual metric and customary graduations of comparable length;

(iv) One yard standard rigid type (optional);

(v) One meter standard rigid type (optional).

(4) Balances.

[(i) One equal arm balance, with a capacity of at least 2.3 kg (5 lb);

or]

[(ii)](i) One portable scale, approved for use in check weighing commodities.

(5) Time measure.

(i) One mechanical or electronic stopwatch.

[(6) Fabric measure.

(i) One fabric measuring tape.]

(b) Such standards must be submitted by the *municipal* director to the commissioner at the laboratory of the Bureau of Weights and Measures at 6 Harriman Campus Road, Albany, New York 12206, or such other location as approved by the commissioner, prior to use and at least once [in each] every five years thereafter for calibration and certification *except for a municipality that has entered into an intermunicipal agreement to provide the devices referred to in this section and that is not responsible for so providing pursuant to such agreement.*

Section 222.2 of 1 NYCRR is amended to read as follows:

222.2 Equipment and supplies. Each municipality shall provide the *municipal* director with the following equipment and supplies:

(a) Official seals. The official seal shall be yellow in color, printed with dark blue lettering [to be used in odd numbered years, and] or shall be dark blue in color, printed with yellow lettering [to be used in even numbered years], of a vinyl material, and in a form and design approved by the commissioner. *Other colors may be used as approved by the commissioner.*

(b) Official condemning tags and labels. The official condemning tag and labels shall be red in color, printed with black lettering, of a material and in a form and design approved by the commissioner.

(c) Prescribed forms. The following prescribed forms shall be of a design and substantive content approved by the commissioner and shall be used when current supplies of forms are depleted:

(1) Device inspection;

(2) Fees for inspection of devices (if applicable);

(3) Commodity inspection;

(4) Stop use, stop removal and removal orders;

(5) Violations;

(6) Civil actions and civil penalties recovered; [and]

(7) Complaints received and results of investigation[.]; and

(8) *Retail pricing accuracy inspection.*

[(d) Seal press and two dies, one with the initials of the municipality and the other with the current year. The size of the initials and the numerals shall be at least one eighth inch in height.]

[(e)] (d) [Lead, plastic] *Plastic or metal* seals and wire with the initials of the municipality and current year.

[(f)] (e) Identification card.

[(g)] (f) Badge.

Text of proposed rule and any required statements and analyses may be obtained from: Mike Sikula, Director, Bureau of Weights and Measures, NYS Department of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, (518) 457-3146, email: Mike.Sikula@agriculture.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.

Consensus Rule Making Determination

The proposed rule will amend sections 222.1 and 222.2 of 1 NYCRR to, generally, minimize the number of weights and measures devices

municipalities must provide to municipal directors of weights and measures; clarify the types of devices that must be provided; allow devices to be calibrated and certified "in the field" rather than having to be transported to the offices of the State director of weights and measures; and relieve certain municipalities of the obligation of having to provide devices to the State director for calibration and certification.

The proposed rule is noncontroversial in that it merely clarifies certain existing requirements and removes certain existing regulatory burdens. The proposed rule will not have an adverse impact upon regulated parties and is, therefore, non-controversial.

Job Impact Statement

The proposed rule will not have an adverse impact upon employment opportunities.

The proposed rule will minimize the number of weights and measures devices municipalities must provide to municipal directors of weights and measures; clarify the types of devices that must be provided; allow devices to be calibrated and certified "in the field" rather than having to be transported to the offices of the State director of weights and measures; and relieve certain municipalities of the obligation of having to provide devices to the State director for calibration and certification. The proposed rule, by clarifying certain existing requirements and removing certain existing regulatory burdens, will not, therefore, have an adverse impact upon jobs.

Department of Environmental Conservation

NOTICE OF ADOPTION

Sanitary Condition of Shellfish Lands

I.D. No. ENV-12-14-00006-A

Filing No. 763

Filing Date: 2014-09-09

Effective Date: 2014-09-24

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

Action taken: Amendment of Part 41 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303, 13-0307 and 13-0319

Subject: Sanitary Condition of Shellfish Lands.

Purpose: To adopt regulations classifying underwater lands to allow the harvest of shellfish.

Text or summary was published in the March 26, 2014 issue of the Register, I.D. No. ENV-12-14-00006-P.

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

Text of rule and any required statements and analyses may be obtained from: Melissa Albino Hegeman, NYSDEC - Marine Resources, 205 N Belle Mead Rd, East Setauket, NY 11733, (631) 444-0491, email: melissa.albino@dec.ny.gov

Additional matter required by statute: Pursuant to the State Environmental Quality Review Act, a negative declaration is on file with the Department.

Initial Review of Rule

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Parts 227-3, 237, and 238 Are Cap-and-Trade Programs that Help Reduce NO_x and SO₂ Emissions from Major Stationary Sources

I.D. No. ENV-21-14-00002-A

Filing No. 761

Filing Date: 2014-09-05

Effective Date: 30 days after filing

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

Action taken: Repeal of Parts 227-3, 237 and 238; and amendment of Part 200 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 19-0103, 19-0105, 19-0301, 19-0303 and 19-0311

Subject: Parts 227-3, 237, and 238 are cap-and-trade programs that help reduce NO_x and SO₂ emissions from major stationary sources.

Purpose: This rulemaking will repeal Parts 227-3, 237, 238 and revise Part 200, General Provisions, to remove associated references.

Text or summary was published in the May 28, 2014 issue of the Register, I.D. No. ENV-21-14-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Michael Miliani, P.E., NYSDEC, Division of Air Resources, 625 Broadway, Albany, NY 12233-3251, (518) 402-8396, email: airregs@gw.dec.state.ny.us

Additional matter required by statute: Pursuant to Article 8 of the State Environmental Quality Review Act, a Short Environmental Assessment Form, a Negative Declaration and a Coastal Assessment Form have been prepared and are on file.

Revised Regulatory Impact Statement

INTRODUCTION

The Department is proposing to repeal 6 NYCRR Part 227-3, Nitrogen Oxide Emissions Budget and Allowance Program; Part 237, Acid Deposition Reduction NO_x Budget Trading Program; Part 238, Acid Deposition Reduction SO₂ Budget Trading Program; and revise Part 200, General Provisions, to remove all references to Parts 227-3, 237, and 238. These regulations have become obsolete and have been superseded by other state and federal regulations, most notably 6 NYCRR Part 243, CAIR NO_x Ozone Season Trading Program; Part 244, CAIR NO_x Annual Trading Program; Part 245, CAIR SO₂ Trading Program; and 40 CFR Part 96.101-96.388, NO_x Budget Trading Program; and CAIR NO_x and SO₂ Trading Programs for State Implementation Plans. All compliance related activities under these Parts have been fully concluded and are no longer operable. As a result, Parts 227-3, 237 and 238 should be repealed. Repeal of Parts 227-3, 237, and 238 will de-clutter and streamline DEC's regulations, with zero impact on the regulated community, the People, and the State of New York.

STATUTORY AUTHORITY

The statutory authority to repeal Parts 227-3, 237, and 238 in New York State (NYS) derives primarily from the Department's obligation to prevent and control air pollution, as set out in the Environmental Conservation Law (ECL) at Sections 1-0101, 3-0301, 19-0103, 19-0105, 19-0301, and 19-0303. Following are brief synopses and legislative objectives for these sections.

Section 1-0101. This section declares NYS's policy to: conserve, improve, and protect its natural resources and environment and to prevent, abate, and control air pollution in order to enhance the health, safety, and welfare of the people of NYS and their overall economic and social well being; coordinate the State's environmental plans, functions, powers, and programs with those of the federal government and other regions and manage air resources so that the State may fulfill its responsibility as trustee of the environment for present and future generations; and foster, promote, create, and maintain conditions by which man and nature can thrive in harmony by preserving special resources such as the Adirondack and Catskill forest preserves and taking care of air resources that are shared with other states in the manner of a good neighbor.

Section 3-0301. This section empowers the Department to coordinate and develop programs to carry out the environmental policy of New York State set forth in section 1-0101. Section 3-0301 specifically empowers the Department to: provide for the prevention and abatement of air pollution; cooperate with officials and representatives of the federal government, other States, and interstate agencies regarding problems affecting the environment of NYS; encourage and undertake scientific investigation and research on the ecological process, pollution prevention, and abatement and other areas essential to understanding and achieving the environmental policy set forth in section 1-0101; monitor the environment to afford more effective and efficient control practices; identify changes in ecological systems and to warn of emergency conditions; enter into contracts with any person to do all things necessary or convenient to carry out the functions, powers, and duties of the Department; and adopt such regulations as may be necessary, convenient, or desirable to effectuate the environmental policy of the State.

Section 19-0103. This section declares the policy of NYS to maintain a reasonable degree of purity of air resources. The Department is required to balance public health and welfare, the industrial development of the State, propagation and protection of flora and fauna, and the protection of personal property and other resources. To that end, the Department must use all practical and reasonable methods to prevent and control air pollution in the State.

Section 19-0105. This section declares that it is the purpose of Article 19 of the ECL to safeguard the air resources of NYS under a program which is consistent with the policy expressed in section 19-0103 and in accordance with other provisions of Article 19.

Section 19-0301. This section declares that the Department has the power to promulgate regulations for preventing, controlling or prohibiting air pollution and shall include in such regulations provisions prescribing the degree of air pollution that may be permitted and the extent to which air contaminants may be emitted to the air by any source in any area of the State.

Section 19-0303. This section provides that the terms of any air pollution control regulation promulgated by the Department may differentiate between particular types and conditions of air pollution and air contamination sources. Section 19-0303 also provides that the Department, in adopting any regulation that contains a requirement that is more stringent than the CAA or its implementing regulations, must include in the Regulatory Impact Statement an evaluation of the cost-effectiveness of the proposed regulation in comparison to the cost-effectiveness of reasonably available alternatives and a review of the reasonably available alternative measures along with an explanation of the reasons for rejecting such alternatives.

LEGISLATIVE OBJECTIVES

Article 19 of the ECL was adopted for the purpose of safeguarding the air resources of New York State from pollution. To facilitate this purpose, the Legislature granted general and specific powers and duties on the Department, including the power to formulate, adopt, promulgate, amend, and repeal regulations for preventing, controlling, or prohibiting air pollution.

The Department promulgated Parts 227-3, 237, and 238 to reduce the amount of NO_x and SO₂ (the primary chemical contaminants that contribute to the formation of acid rain) emitted from large, fossil fuel-fired stationary sources. Acid rain causes damage to the environment, contributes to visibility degradation and negatively impacts public health. However, all compliance related activities under these Parts have been fully concluded, are no longer operable and have been superseded by other state and federally enforceable regulations. As a result, the Department now recommends the repeal of Parts 227-3, 237, and 238.

NEEDS AND BENEFITS

Part 227-3 established a NO_x emissions budget in NYS for fossil-fuel-fired boilers or indirect heat exchangers with a maximum heat input capacity equal to or greater than 250 million British thermal units per hour (MMBtu/hr), and any electric generating devices with a rated output equal to or greater than 15 megawatts.

Since the promulgation of Part 227-3 in 1999, other federal and state regulations have been adopted that regulate air pollution from large boilers and electric generating units (EGUs). Part 237 established the NO_x Budget Trading Program which was designed to reduce acid deposition in NYS by limiting emissions of NO_x from fossil fuel-fired electricity generating units during the non-ozone season. Part 238 established the SO₂ Budget Trading Program, which was designed to reduce acid deposition in NYS by limiting emissions of SO₂ from stationary sources defined as SO₂ budget units.

Subsequently, Parts 227-3, 237, and 238 have been replaced by regulations promulgated to achieve compliance with the United States Environmental Protection Agency's regulation: The Clean Air Interstate Rule (CAIR). The New York CAIR rules consist of Parts 243, 244, and 245 and established NO_x and SO₂ budgets as part of a multi-state cap-and-trade program. Additionally, CAIR established budgets for emissions of NO_x and SO₂ from EGUs in NYS. All boilers not regulated by CAIR, equal to or greater than 250 MMBtu/hr and EGUs with a rated output equal to or greater than 15 megawatts, are now regulated under Part 243. After CAIR was adopted in 2007, Parts 227-3, 237, and 238 were rendered inoperable and are currently obsolete. As a result, repeal of Parts 227-3, 237, and 238 will de-clutter and streamline DEC's regulations, with zero impact on the regulated community and the people of the State of New York.

COSTS

The only costs associated with this rulemaking will be those costs typically associated with rulemaking, such as costs for newspaper publication and the preparation of transcripts.

LOCAL GOVERNMENT MANDATES

There are no local government mandates associated with the repeal of Parts 227-3, 237, and 238.

PAPERWORK

No additional recordkeeping, reporting, or other requirements will be imposed under this rulemaking.

DUPLICATION

This proposal does not duplicate any other federal or state regulations or statutes. Parts 227-3, 237, and 238 are partially duplications of Parts 243, 244, and 245. The repeal of Parts 227-3, 237, and 238 will eliminate this duplication.

ALTERNATIVES

The alternative option to this proposal is to not repeal Parts 227-3, 237, and 238. The rules would remain on the books, but their existence would be purely historical as they have already been phased-out of use and enforcement. However, their existence might create confusion with the regulatory community regarding their use and relevance.

FEDERAL STANDARDS

There are no minimum federal standards exceeded by the repeal of Parts 227-3, 237, and 238 or from the revisions to Part 200.

COMPLIANCE SCHEDULE

There is no compliance schedule required by the repeal of Parts 227-3, 237, and 238.

Initial Review of Rule

An assessment of public comment on the 4- or 5-year initial review period is not attached because no comments were received on the issue.

Assessment of Public Comment

The agency received no public comment.

New York State Gaming Commission

NOTICE OF ADOPTION

Implementation of Rules Pertaining to Sanctions for the Unlawful Acceptance of Public Assistance Benefits at Certain Facilities

I.D. No. SGC-24-14-00001-A

Filing No. 775

Filing Date: 2014-09-12

Effective Date: 2014-09-24

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

Action taken: Amendment of sections 4009.3, 4122.3 and 4500.9, 5113.1, 5113.5, 5113.7 and 5113.8; and addition of sections 4404.18, 4822.25 and 5117.7 to Title 9 NYCRR.

Statutory authority: L. 2014, ch. 58, part F, section 3; Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(1), (19), 235(1), 310 and 520(1); Executive Law, sections 435(1)(a) and (d); and Tax Law, sections 1604 and 1617-a(a)

Subject: Implementation of rules pertaining to sanctions for the unlawful acceptance of public assistance benefits at certain facilities.

Purpose: To implement the restrictions and prohibitions contained in Part F of Chapter 58 of the Laws of 2014.

Text or summary was published in the June 18, 2014 issue of the Register, I.D. No. SGC-24-14-00001-EP.

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

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

Initial Review of Rule

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

Assessment of Public Comment

The agency received no public comment.

Department of Health

EMERGENCY RULE MAKING

Personal Care Services Program (PCSP) and Consumer Directed Personal Assistance Program (CDPAP)

I.D. No. HLT-38-14-00022-E

Filing No. 769

Filing Date: 2014-09-09

Effective Date: 2014-09-09

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

Action taken: Amendment of sections 505.14 and 505.28 of Title 18 NYCRR.

Statutory authority: Public Health Law, section 201(1)(v); Social Services Law, sections 363-a(2), 365-a(2)(e) and 365-f

Finding of necessity for emergency rule: Preservation of public health.

Specific reasons underlying the finding of necessity: Pursuant to the authority vested in the Commissioner of Health by Social Services Law § 365-a(2)(e), the Commissioner is authorized to adopt standards, pursuant to emergency regulation, for the provision and management of services for individuals whose need for such services exceeds a specified level to be determined by the Commissioner.

Subject: Personal Care Services Program (PCSP) and Consumer Directed Personal Assistance Program (CDPAP).

Purpose: To establish definitions, criteria and requirements associated with the provision of continuous PC and continuous CDPAP services.

Text of emergency rule: Paragraph (3) of subdivision (a) of section 505.14 is repealed and a new paragraph (3) is added to read as follows:

(3) *Continuous personal care services means the provision of uninterrupted care, by more than one person, for more than 16 hours per day for a patient who, because of the patient's medical condition and disabilities, requires total assistance with toileting, walking, transferring or feeding at times that cannot be predicted.*

Paragraph (4) of subdivision (a) of section 505.14 is amended by adding new subparagraph (iii) to read as follows:

(iii) *Personal care services shall not be authorized if the patient's need for assistance can be met by either or both of the following:*

(a) *voluntary assistance available from informal caregivers including, but not limited to, the patient's family, friends or other responsible adult; or formal services provided by an entity or agency; or*

(b) *adaptive or specialized equipment or supplies including, but not limited to, bedside commodes, urinals, walkers and wheelchairs, when such equipment or supplies can be provided safely and cost-effectively.*

Paragraph (5) of subdivision (a) of section 505.14 is repealed and a new paragraph (5) is added to read as follows:

(5) *Live-in 24-hour personal care services means the provision of care by one person for a patient who, because of the patient's medical condition and disabilities, requires some or total assistance with one or more personal care functions during the day and night and whose need for assistance during the night is infrequent or can be predicted.*

Clause (b) of subparagraph (i) of paragraph (6) of subdivision (a) of section 505.14 is amended to read as follows:

(b) The [initial] authorization for Level I services shall not exceed eight hours per week. [An exception to this requirement may be made under the following conditions:

(1) The patient requires some or total assistance with meal preparation, including simple modified diets, as a result of the following conditions:

(i) informal caregivers such as family and friends are unavailable, unable or unwilling to provide such assistance or are unacceptable to the patient; and

(ii) community resources to provide meals are unavailable or inaccessible, or inappropriate because of the patient's dietary needs.

(2) In such a situation, the local social services department may authorize up to four additional hours of service per week.]

Clause (b) of subparagraph (ii) of paragraph (6) of subdivision (a) of section 505.14 is amended to read as follows:

(b) When continuous [24-hour care] *personal care services* is indicated, additional requirements for the provision of services, as specified in clause (b)(4)(i)(c) of this section, must be met.

Clause (c) of subparagraph (ii) of paragraph (3) of subdivision (b) of section 505.14 is relettered as clause (d) and a new clause (c) is added to read as follows:

(c) *When live-in 24-hour personal care services is indicated, the social assessment shall evaluate whether the patient's home has adequate sleeping accommodations for a personal care aide.*

Subclauses (5) and (6) of clause (b) of subparagraph (iii) of paragraph (3) of subdivision (b) of section 505.14 are renumbered as subclauses (6) and (7), and new subclause (5) is added to read as follows:

(5) *an evaluation whether adaptive or specialized equipment or supplies including, but not limited to, bedside commodes, urinals, walkers and wheelchairs, can meet the patient's need for assistance with personal care functions, and whether such equipment or supplies can be provided safely and cost-effectively;*

Subclause (7) of clause (a) of subparagraph (iv) of paragraph (3) of subdivision (b) of section 505.14 is amended to read as follows:

(7) whether the patient can be served appropriately and more cost-effectively by using *adaptive or specialized medical equipment or supplies* covered by the MA program including, but not limited to, *bedside commodes, urinals, walkers, wheelchairs and insulin pens*; and

Clause (c) of subparagraph (iv) of paragraph (3) of subdivision (b) of section 505.14 is amended to read as follows:

(c) A social services district may determine that the assessments required by subclauses (a)(1) through (6) and (8) of this subparagraph may be included in the social assessment or the nursing assessment.

Clause (c) of subparagraph (i) of paragraph (4) of subdivision (b) of section 505.14 is amended to read as follows:

(c) the case involves the provision of continuous [24-hour] personal care services as defined in paragraph (a)(3) of this section. Documentation for such cases shall be subject to the following requirements:

Subclause (2) of clause (c) of subparagraph (i) of paragraph (4) of subdivision (b) of section 505.14 is amended to read as follows:

(2) The nursing assessment shall document that: the functions required by the patient[.]; the degree of assistance required for each function, *including that the patient requires total assistance with toileting, walking, transferring or feeding*; and the time of this assistance require the provision of continuous [24-hour care] *personal care services*.

Subparagraph (ii) of paragraph (4) of subdivision (b) of section 505.14 is amended to read as follows:

(ii) The local professional director, or designee, must review the physician's order and the social, nursing and other required assessments in accordance with the standards for levels of services set forth in subdivision (a) of this section, and is responsible for the final determination of the level and amount of care to be provided. *The local professional director or designee may consult with the patient's treating physician and may conduct an additional assessment of the patient in the home.* The final determination must be made [within five working days of the request] *with reasonable promptness, generally not to exceed seven business days after receipt of the physician's order and the completed social and nursing assessments, except in unusual circumstances including, but not limited to, the need to resolve any outstanding questions regarding the level, amount or duration of services to be authorized.*

Paragraph (4) of subdivision (b) of section 505.28 is amended to read as follows:

(4) "continuous [24-hour] consumer directed personal assistance" means the provision of uninterrupted care, by more than one consumer directed personal assistant, *for more than 16 hours per day* for a consumer who, because of the consumer's medical condition [or] *and* disabilities, requires total assistance with toileting, walking, transferring or feeding at [unscheduled times during the day and night] *at times that cannot be predicted.*

Paragraphs (8) through (13) of subdivision (b) of section 505.28 are renumbered as paragraphs (9) through (14) and the renumbered paragraph (9) is amended to read as follows:

(9) "personal care services" means the nutritional and environmental support functions, personal care functions, or both such functions, that are specified in Section 505.14(a)(6) of this Part *except that, for individuals whose needs are limited to nutritional and environmental support functions, personal care services shall not exceed eight hours per week.*

A new paragraph (8) of subdivision (b) of section 505.28 is added to read as follows:

(8) "live-in 24-hour consumer directed personal assistance" means the provision of care by one consumer directed personal assistant for a consumer who, because of the consumer's medical condition and disabilities, requires some or total assistance with personal care functions, home health aide services or skilled nursing tasks during the day and night and whose need for assistance during the night is infrequent or can be predicted.

Subparagraph (iii) of paragraph (2) of subdivision (d) of section 505.28

is amended, and new subparagraphs (iv) and (v) of such paragraph are added, to read as follows:

(iii) an evaluation of the potential contribution of informal supports, such as family members or friends, to the individual's care, which must consider the number and kind of informal supports available to the individual; the ability and motivation of informal supports to assist in care; the extent of informal supports' potential involvement; the availability of informal supports for future assistance; and the acceptability to the individual of the informal supports' involvement in his or her care [.] *and;*

(iv) *for cases involving continuous consumer directed personal assistance, documentation that: all alternative arrangements for meeting the individual's medical needs have been explored or are infeasible including, but not limited to, the provision of consumer directed personal assistance in combination with other formal services or in combination with contributions of informal caregivers; and*

(v) *for cases involving live-in 24-hour consumer directed personal assistance, an evaluation whether the individual's home has adequate sleeping accommodations for a consumer directed personal assistant.*

Subparagraph (i) of paragraph (3) of subdivision (d) of section 505.28 is repealed and a new subparagraph (i) is added to read as follows:

(i) *The nursing assessment must be completed by a registered professional nurse who is employed by the social services district or by a licensed or certified home care services agency or voluntary or proprietary agency under contract with the district.*

Clauses (g) and (h) of subparagraph (ii) of paragraph (3) of subdivision (d) of section 505.28 are relettered as clauses (h) and (i) and a new clause (g) is added to read as follows:

(g) *for continuous consumer directed personal assistance cases, documentation that: the functions the consumer requires; the degree of assistance required for each function, including that the consumer requires total assistance with toileting, walking, transferring or feeding; and the time of this assistance require the provision of continuous consumer directed personal assistance;*

Paragraph (5) of subdivision (d) of section 505.28 is amended to read as follows:

(5) Local professional director review. If there is a disagreement among the physician's order, nursing and social assessments, or a question regarding the level, amount or duration of services to be authorized, or if the case involves continuous [24-hour] consumer directed personal assistance, an independent medical review of the case must be completed by the local professional director, a physician designated by the local professional director or a physician under contract with the social services district. The local professional director or designee must review the physician's order and the nursing and social assessments and is responsible for the final determination regarding the level and amount of services to be authorized. *The local professional director or designee may consult with the consumer's treating physician and may conduct an additional assessment of the consumer in the home.* The final determination must be made with reasonable promptness, generally not to exceed [five] *seven* business days after receipt of the physician's order and the completed social and nursing assessments, except in unusual circumstances including, but not limited to, the need to resolve any outstanding questions regarding the level, amount or duration of services to be authorized.

Paragraph (1) of subdivision (e) of section 505.28 is amended to read as follows:

(1) When the social services district determines pursuant to the assessment process that the individual is eligible to participate in the consumer directed personal assistance program, the district must authorize consumer directed personal assistance according to the consumer's plan of care. The district must not authorize consumer directed personal assistance unless it reasonably expects that such assistance can maintain the individual's health and safety in the home or other setting in which consumer directed personal assistance may be provided. *Consumer directed personal assistance shall not be authorized if the consumer's need for assistance can be met by either or both of the following:*

(i) *voluntary assistance available from informal caregivers including, but not limited to, the consumer's family, friends or other responsible adult; or formal services provided by an entity or agency; or*

(ii) *adaptive or specialized equipment or supplies including, but not limited to, bedside commodes, urinals, walkers and wheelchairs, when such equipment or supplies can be provided safely and cost-effectively.*

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire December 7, 2014.

Text of 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

Regulatory Impact Statement**Statutory Authority:**

Social Services Law (“SSL”) § 363-a(2) and Public Health Law § 201(1)(v) provide that the Department has general rulemaking authority to adopt regulations to implement the Medicaid program.

The Commissioner has specific rulemaking authority under SSL § 365-a(2)(e)(ii) to adopt standards, pursuant to emergency regulation, for the provision and management of personal care services for individuals whose need for such services exceeds a specified level to be determined by the Commissioner.

Under SSL § 365-a(2)(e)(iv), personal care services shall not exceed eight hours per week for individuals whose needs are limited to nutritional and environmental support functions.

Legislative Objectives:

The Legislature sought to reform the Medicaid personal care services program by controlling expenditure growth and promoting self-sufficiency.

The Legislature authorized the Commissioner of Health to adopt standards for the provision and management of personal care services for Medicaid recipients whose need for such services exceeds a specified level. The regulations adopt such standards for Medicaid recipients who seek continuous personal care services or continuous consumer directed personal assistance for more than 16 hours per day.

The Legislature additionally sought to promote the goal of self-sufficiency among Medicaid recipients who do not need hands-on assistance with personal care functions such as bathing, toileting or transferring. It determined that recipients whose need for personal care services is limited to nutritional and environmental support functions, such as shopping, laundry and light housekeeping, could receive no more than eight hours per week of such assistance.

Needs and Benefits:

The regulations have two general purposes: to conform the Department’s personal care services and consumer directed personal assistance program (CDPAP) regulations to State law limiting the amount of services that can be authorized for individuals who require assistance only with nutritional and environmental support functions; and, to implement State law authorizing the Department to adopt standards for the provision and management of personal care services for individuals whose need for such services exceeds a specified level that the Commissioner may determine.

The term “nutritional and environmental support functions” refers to housekeeping tasks including, but not limited to, laundry, shopping and meal preparation. Department regulations refer to these support functions as “Level I” personal care services. Department regulations have long provided that social services districts cannot initially authorize Level I services for more than eight hours per week; however, an exception permitted authorizations for Level I services to exceed eight hours per week under certain circumstances.

The Legislature has nullified this regulatory exception. The regulations conform the Department’s personal care services regulations to the new State law. They repeal the regulatory exception that permitted social services districts to authorize up to 12 hours of Level I services per week, capping such authorizations at no more than eight hours per week.

The regulations similarly amend the Department’s CDPAP regulations. Some CDPAP participants are authorized to receive only assistance with nutritional and environmental support functions. Since personal care services are included within the CDPAP, it is consistent with the Legislature’s intent to extend the eight hour weekly cap on nutritional and environmental services to that program.

The regulations also implement the Department’s specific statutory authority to adopt standards pursuant to emergency regulation for the provision and management of personal care services for individuals whose need for such services exceeds a specified level. The Commissioner has determined to adopt such standards for individuals whose need for continuous personal care services or continuous consumer directed personal assistance exceeds 16 hours per day.

The regulations repeal the definition of “continuous 24-hour personal care services,” replacing it with a definition of “continuous personal care services.” The prior definition applied to individuals who required total assistance with certain personal care functions for 24 hours at unscheduled times during the day and night. The new definition applies to individuals who require such assistance for more than 16 hours per day at times that cannot be predicted.

Cases in which continuous personal care services are indicated must be referred to the local professional director or designee. Such referrals would now be required in additional cases: those involving provision of continuous care for more than 16 hours per day.

The regulations permit the local professional director or designee to consult with the recipient’s treating physician and conduct an additional assessment of the recipient in the home.

The regulations amend the documentation requirements for nursing assessments in continuous personal care services cases.

The regulations add a definition of live-in 24 hour personal care services. This level of service has long existed, primarily in New York City, but has never been explicitly set forth in the Department’s regulations. The regulations also require that, for recipients who may be eligible for such services, the social assessment evaluate whether the recipient’s home has adequate sleeping accommodations for the live-in aide.

The regulations provide that personal care services shall not be authorized when the recipient’s need for assistance can be met by the voluntary assistance of informal caregivers or by formal services or by adaptive or specialized equipment or supplies that can be provided safely and cost-effectively. The regulations require that the nursing assessments that districts currently complete or obtain include an evaluation whether adaptive or specialized equipment or supplies can meet the recipient’s need for assistance and whether such equipment or supplies can be provided safely and cost-effectively.

The regulations adopt conforming amendments to the Department’s CDPAP regulations.

Costs to Regulated Parties:

Regulated parties include entities that voluntarily contract with social services districts to provide personal care services to, or to perform certain CDPAP functions for, Medicaid recipients. These entities include licensed home care services agencies, agencies that are exempt from licensure, and CDPAP fiscal intermediaries.

Social services districts may no longer authorize certain Medicaid recipients to receive more than eight hours per week of assistance with nutritional and environmental support functions. To the extent that regulated parties were formerly reimbursed for more than eight hours per week for these services, their Medicaid revenue will decrease. This is a consequence of State law, not the regulations. The regulations do not impose any additional costs on these regulated parties.

Costs to State Government:

The regulations impose no additional costs on State government.

The statutory cap on nutritional and environmental support functions will result in cost-savings to the State share of Medicaid expenditures. The estimated annual personal care services and CDPAP cost-savings for subsequent State fiscal years are approximately \$3.4 million.

This estimate is based on 2010 recipient and expenditure data for the personal care services program. According to such data, 2,377 New York City recipients received more than eight hours per week of Level I services, the average being 11 weekly hours of such service. The number of Level I hours that exceeded eight hours per week was thus approximately 370,800 hours (2,377 recipients x 3 hours per week x 52 weeks). Multiplying this hourly total by the 2010 average hourly New York City personal care aide cost (\$17.30) results in total annual savings of \$6.4, or \$3.2 million in State share savings. Application of this calculation to the Rest of State recipient and expenditure data yields an additional \$200,000 in State share savings, or \$3.4 million.

State Medicaid cost-savings are also projected to occur as a result of changes to continuous personal care services authorizations. It is not possible to accurately estimate such savings. However, the Department anticipates that most recipients currently authorized for continuous 24-hour personal care services will continue to receive that level of care. Others may be authorized for continuous services for 16 hours per day or live-in 24 hour personal care services. Still others may be authorized for services for more than 16 hours per day but fewer than 24 hours per day.

The estimated State share savings for this portion of the regulations are \$33.1 million. This comprises approximately \$17.1 million in personal care savings and \$15.9 million in CDPAP savings. This estimate is based on 2010 personal care services and CDPAP recipient and expenditure data. In 2010, 1,809 Medicaid recipients were authorized to receive more than 16 hours of services per day. The assumption is that these recipients were authorized for continuous 24-hour services, which has an average annual per person cost of approximately \$166,000. Assuming that 20 percent were authorized for live-in 24-hour services at an average annual per person cost of approximately \$83,000, and 15 percent were authorized for 16 hours per day at an average hourly cost of between approximately \$17.00 and \$22.00, depending on service and location, the annual State share savings per recipient would range from approximately \$28,000 to \$35,000.

Costs to Local Government:

The regulation will not require social services districts to incur new costs. State law limits the amount that districts must pay for Medicaid services provided to district recipients. Districts may claim State reimbursement for any costs they may incur when administering the Medicaid program.

Costs to the Department of Health:

There will be no additional costs to the Department.

Local Government Mandates:

The regulations require social services districts to refer additional cases to their local professional directors or designees. Currently, the regula-

tions require that such referrals be made for continuous 24 hour care and certain other cases. Under the proposed regulations, such referrals must also be made for recipients who may require continuous services for more than 16 hours.

Paperwork:

The regulations specify additional documentation requirements for the social and nursing assessments that districts currently complete or obtain for personal care services and CDPAP applicants and recipients. For persons who may be eligible for live-in 24 hour services, the social assessment must evaluate whether the recipient's home has adequate sleeping accommodations for the live-in aide. The nursing assessments for all personal care services and CDPAP cases, including those not involving continuous services, must include an evaluation whether adaptive or specialized equipment or supplies can meet the recipient's need for assistance and whether such equipment or supplies can be used safely and cost-effectively. The amendments to the CDPAP regulations also specify additional documentation requirements for the social and nursing assessments for cases involving continuous consumer directed personal assistance. These requirements mirror long-standing documentation requirements in the personal care services regulations.

Duplication:

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

Alternatives:

With respect to the regulation that caps authorizations for nutritional and environmental support functions to eight hours per week, no alternatives exist. The regulation must conform to State law that imposes this weekly cap. With respect to the regulation that establishes new requirements for continuous services, alternatives existed but were not now pursued. One such alternative may be the repeal of the regulatory authorization for continuous 24-hour services. The Department determined to promulgate further regulatory controls regarding the provision and management of continuous services, rather than repeal such services in their entirety.

Federal Standards:

This rule does not exceed any minimum federal standards.

Compliance Schedule:

The Department has issued instructions to social services districts advising them of the new State law that limits nutritional and environmental support functions to no more than eight hours per week for certain recipients. Districts should not now be authorizing more than eight hours per week of such assistance and should thus be able to comply with the regulations when they become effective. With regard to the remaining regulations, social services districts should be able to comply with the regulations when they become effective. For applicants, social services districts would apply the regulations when assessing applicants' eligibility for personal care services and the CDPAP. For current recipients, districts would apply the regulations upon reassessing these recipients' continued eligibility for services.

Regulatory Flexibility Analysis

Effect of Rule:

The regulation limiting authorizations of nutritional and environmental support functions to no more than eight hours per week primarily affects licensed home care services agencies and exempt agencies that provide only such Level I services. These entities are the primary employers of individuals providing Level I services. Most recipients of Level I personal care services are located in New York City. There are currently eight Level I only personal care service providers in New York City, none of which employ fewer than 100 persons.

Fiscal intermediaries that are enrolled as Medicaid providers and that facilitate payments for the nutritional and environmental support functions provided to consumer directed personal assistance program (CDPAP) participants may also experience slight reductions in service hours reimbursed. There are approximately 46 fiscal intermediaries that contract with social services districts. Fiscal intermediaries are typically non-profit entities such as independent living centers but may also include home care services agencies.

With respect to continuous care, a significant majority of existing 24-hour a day continuous care cases are located in New York City. There are currently 60 Level II personal care service providers in New York City, none of which employ fewer than 100 persons.

The regulations also affect social services districts. There are 62 counties in New York State, but only 58 social services districts. The City of New York comprises five counties but is one social services district.

Compliance Requirements:

Social services districts currently assess whether Medicaid recipients are eligible for personal care services and the CDPAP. When 24 hour continuous care is indicated, districts are currently required to refer such cases to the local professional director or designee for final determination. The regulations would require districts to refer additional continuous care

cases to the local professional director or designee; namely, those cases in which continuous care for more than 16 hours a day is indicated would also be referred to the local professional director or designee. The local professional director or designee would be required to consult with the recipient's treating physician before approving continuous care for more than 16 hours per day.

In addition, the nursing assessments that districts currently complete or obtain for personal care services and CDPAP applicants and recipients would be required to include an evaluation of whether adaptive or specialized equipment or supplies would be appropriate and could be safely and cost-effectively provided. In cases involving the authorization of live-in 24 hour services, the social assessments that districts currently are required to complete would have to include an evaluation whether the recipient's home had sufficient sleeping accommodations for a live-in aide.

Professional Services:

No new or additional professional services are required in order to comply with the rule.

Compliance Costs:

No capital costs will be imposed as a result of this rule, nor are there any annual costs of compliance.

Economic and Technological Feasibility:

There are no additional economic costs or technology requirements associated with this rule.

Minimizing Adverse Impact:

The regulations should not have an adverse economic impact on social services districts. Districts currently assess Medicaid recipients to determine whether they are eligible for personal care services or the CDPAP. The regulations modify these assessment procedures. Should districts incur administrative costs to comply with the regulation, they may seek State reimbursement for such costs.

Small businesses providing Level I personal care services and consumer directed environmental and nutritional support functions may experience slight reductions in service hours provided. This is a consequence of State law limiting these services to no more than eight hours per week.

Small businesses currently providing continuous 24-hour services may experience some reductions in service hours provided.

Small Business and Local Government Participation:

The Department solicited comments on the regulations from the New York City Human Resources Administration, which administers the personal care services program and CDPAP for New York City Medicaid recipients who are not enrolled in managed care. Most of the State's personal care services and CDPAP recipients reside in New York City. Personal care services provided to New York City recipients comprises approximately 84 percent of Medicaid personal care services expenditures.

Small business and local governments also have the opportunity to provide input into the redesign of New York State's Medicaid program. The Medicaid Redesign Team (MRT) was tasked by Governor Cuomo to find ways to reduce costs and increase quality and efficiency in the Medicaid program for the 2011-12 Fiscal Year. As part of its work, the MRT sought and continues to seek ideas from the public at large, as well as experts in health care delivery and insurance, the health care workforce, economics, business, consumer rights and other relevant areas. The MRT conducted regional public hearings across the State to solicit ideas from the public on ways to reduce costs and improve the quality of the Medicaid program. Additionally, a web page was established, providing a vehicle for all individuals and organizations to provide ideas, comments and recommendations.

Cure Period:

Chapter 524 of the Laws of 2011 requires agencies to include a "cure period" or other opportunity for ameliorative action to prevent the imposition of penalties on the party or parties subject to enforcement when developing a regulation or explain in the Regulatory Flexibility Analysis why one was not included. This regulation creates no new penalty or sanction. Hence, a cure period is not necessary.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

Rural areas are defined as counties with populations less than 200,000 and, for counties with populations greater than 200,000, include towns with population densities of 150 persons or less per square mile. In 2010, only 6% of all continuous care cases resided in the counties listed below. Currently there are 34 organizations which maintain contracts with local districts to provide consumer directed environmental and nutritional support functions, and 50 individual licensed home care services agencies which maintain contracts with local districts to provide Level I personal care services, within the following 43 counties having populations of less than 200,000:

Allegany	Hamilton	Schenectady
Cattaraugus	Herkimer	Schoharie

Cayuga	Jefferson	Schuyler
Chautauqua	Lewis	Seneca
Chemung	Livingston	Steuben
Chenango	Madison	Sullivan
Clinton	Montgomery	Tioga
Columbia	Ontario	Tompkins
Cortland	Orleans	Ulster
Delaware	Oswego	Warren
Essex	Otsego	Washington
Franklin	Putnam	Wayne
Fulton	Rensselaer	Wyoming
Genesee	St. Lawrence	Yates
Greene		

Reporting, Recordkeeping and Other Compliance Requirements and Professional Services:

Social services districts would be required to refer additional cases to their local professional directors or designees. Currently, the personal care services and CDPAP regulations require that such referrals be made for recipients seeking continuous 24-hour services and in certain other cases. Under the regulations, such referrals must also be made for recipients who require continuous care for more than 16 hours. The regulations also specify additional documentation requirements for the social and nursing assessments that districts currently complete or obtain for personal care services and CDPAP applicants and recipients.

Costs:

There are no new capital or additional operating costs associated with the rule.

Minimizing Adverse Impact:

It is anticipated the rule will have minimal impact on rural areas as the Department has determined that the preponderance of Level I services in excess of eight hours per week occur in downstate urban areas. Additionally, in 2010, only 6% of all individuals receiving continuous care services resided in those counties listed above. To the extent that social services districts incur administrative costs to comply with the regulations' requirements for referral of continuous care cases and social and nursing assessment documentation requirements, they may seek State reimbursement of such expenses.

Rural Area Participation:

Individuals and organizations from rural areas have the opportunity to provide input into the redesign of New York State's Medicaid program. The Medicaid Redesign Team (MRT) is tasked by Governor Cuomo to find ways to reduce costs and increase quality and efficiency in the Medicaid program for the 2011-12 Fiscal Year. As part of its work, the MRT sought and continues to seek ideas from the public at large, as well as experts in health care delivery and insurance, the health care workforce, economics, business, consumer rights and other relevant areas. The MRT conducted regional public hearings across the State to solicit ideas from the public on ways to reduce costs and improve the quality of the Medicaid program. Additionally, a web page was established, providing a vehicle for all individuals and organizations to provide ideas, comments and recommendations.

Job Impact Statement

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have a substantial adverse impact on jobs and employment opportunities.

Office of Mental Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Telepsychiatry Services in OMH-Licensed Clinics

I.D. No. OMH-38-14-00001-P

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

Proposed Action: Addition of section 599.17 to Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 7.07, 7.09 and 31.04

Subject: Telepsychiatry services in OMH-licensed clinics.

Purpose: Establish basic standards and parameters to approve telepsychiatry in OMH-licensed clinic programs choosing to offer this service.

Text of proposed rule: A new Section 599.17 is added to Title 14 NYCRR to read as follows:

§ 599.17 Telepsychiatry services.

(a) *Definition of Telepsychiatry.* For purposes of this Section, "telepsychiatry" means the use of two-way real time-interactive audio and video to provide and support clinical psychiatric care at a distance. Such services do not include a telephone conversation, electronic mail message, or facsimile transmission between a clinic and a recipient or a consultation between two professional or clinical staff (as such terms are defined in this Part), although these activities may support telepsychiatry services.

(b) *Approval to Offer Telepsychiatry Services.*

(1) Telepsychiatry services may be authorized by the Office for assessment and treatment services provided by physicians or nurse practitioners from a site distant from the location of a recipient, where both the recipient and the physician or nurse practitioner are physically located at clinic sites licensed by the Office.

(2) Requests for approval to offer telepsychiatric services shall be submitted to the Field Office serving the area in which either licensed clinic is located. Such Field Office may make an on-site visit prior to issuing approval.

(3) Approval of the Office will be based on submission and review of a written plan to provide telepsychiatry services that addresses the following standards and procedures:

(i) All telepsychiatry services must be performed on dedicated secure transmission linkages that meet minimum federal and state requirements, including but not limited to 45 C.F.R. Parts 160 and 164 (HIPAA Security Rules), and which are consistent with guidelines of the Office. Transmissions must employ acceptable authentication and identification procedures by both the sender and the receiver.

(ii) Confidentiality must be maintained as required by Mental Hygiene Law Section 33.13 and 45 C.F.R. Parts 160 and 164 (HIPAA Privacy Rules).

(a) All existing confidentiality requirements that apply to written medical records shall apply to services delivered by telecommunications, including the actual transmission of the service, any recordings made during the time of transmission, and any other electronic records.

(b) The spaces occupied by the recipient and the distant physician or nurse practitioner both must meet the minimum standards for privacy expected for recipient-clinician interaction at a single licensed clinic location.

(iii) For telepsychiatric services provided to recipients whose primary language is other than English, the communication must include culturally competent translation services with a preference that any translator be present with the recipient.

(iv) Telepsychiatric services provided to recipients under age 18 may include clinical staff, as such term is defined in this Part, in the room with the recipient. Such determinations shall be clinically based, consistent with clinical guidelines issued by the Office.

(v) All telepsychiatry sites must have a written procedure detailing the availability of face-to-face assessments by a physician or nurse practitioner in an emergency situation.

(vi) Procedures for prescribing medications shall be identified.

(vii) The recipient shall be enrolled at only one of the two sites.

(a) If the recipient is enrolled at the site away from the physician or nurse practitioner, such physician or nurse practitioner shall prepare appropriate progress notes and securely forward them to the clinic as a condition of reimbursement.

(b) If the telepsychiatric services for a particular recipient are a regular part of the recipient's treatment plan, the physician or nurse practitioner must coordinate with the responsible professional at the clinic of enrollment, and prepare and update the treatment plan in accordance with applicable provisions of this Part to permit the clinic to be reimbursed for continuing services.

(viii) The recipient shall be provided with basic information about telepsychiatry and shall provide his or her consent to participate in services utilizing this technology. The recipient has the right to refuse to participate in telepsychiatry services and must be made aware of the alternatives including any delays in service, need to travel, or risks associated with not having the services provided by telepsychiatry.

(ix) There must be a written procedure detailing the contingency plan when there is a failure of the transmission or other technical difficulties that render the service undeliverable.

(x) A review of telepsychiatry services shall be included in the provider's quality management process.

(4) Clinics approved to offer telepsychiatry services shall be provided with written authorization to do so by the Field Office.

(c) Reimbursement standards.

(1) Telepsychiatry services must be provided by a physician or nurse practitioner who possesses a current, valid license to practice in New York State.

(2) For the purposes of this Section, telepsychiatric services shall be considered face-to-face contacts.

(3) To be eligible for Medicaid reimbursement, telepsychiatry services must meet all requirements of this Part applicable to assessment and treatment services, and must exercise the same standard of care as in-house delivered services.

(4) Telepsychiatric services will be reimbursed at the same rates for identical procedures provided by on-site physicians or nurse practitioners.

(d) Guidance. The Office shall post implementation guidance on its public website to assist in the provision of telepsychiatric services. Such guidance shall include:

(1) clinical guidelines; and

(2) technology guidelines, including:

(i) the minimum technology thresholds (i.e., equipment, bandwidth, videoconferencing software, network specifications, carrier selection, hub/bridge, and security specifications), which shall be updated as new technology is approved; and

(ii) the form or format regarding the technology and communications to be used, which must be submitted to the Office by a provider seeking approval to provide telepsychiatry services, or which has been approved by the Office to do so.

Text of proposed 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: Section 7.07(c) of the Mental Hygiene Law charges the Office of Mental Health with the responsibility for seeing that persons with mental illness are provided with care and treatment, and that such care, treatment and rehabilitation is of high quality and effectiveness.

Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the authority and responsibility to adopt regulations that are necessary and proper to implement matters under his/her jurisdiction.

2. Legislative Objectives: Articles 7 and 31 of the Mental Hygiene Law reflect the Commissioner’s authority to establish regulations regarding mental health programs.

3. Needs and Benefits: Technology has made it possible to increase access to health care, including behavioral health care, by utilizing secure interactive communications. Telepsychiatry is the use of electronic communication and information technologies to provide or support clinical psychiatric care at a distance. Telepsychiatry is appropriate in situations where on-site services are not available due to distance, location, time of day, or availability of resources. The many advantages offered through telepsychiatry have led to a rapid expansion of such programs across New York State and the rest of the country. While clinical practice standards are developing along with this proliferation, OMH regulations currently do not specifically address the use of this technology in programs under its jurisdiction. These amendments are intended to establish basic standards and parameters to approve the use of telepsychiatry in OMH licensed clinic programs that choose to offer this service.

4. Costs: Costs to implement telepsychiatry, in general, are significantly offset by the cost savings that can result from its use, in terms of commuting time, cost of fuel, losses due to “no show” appointments, and number of appointments that can be booked per day. Specifically:

(a) cost to State government: There are no new costs to State government as a result of these amendments.

(b) cost to local government: There are no new costs to local government as a result of these amendments.

(c) cost to regulated parties: For providers that wish to offer these services (which can include State operated clinics, clinics operated by local governments, or community based licensed clinics), the minimum requirements for an Internet-based solution are approximately \$120 for a Webcam and then a WebEx end user license. Software licensing cost can vary, depending on the number of users at a clinic site.

5. Local Government Mandates: These regulations establish standards for providers (including local governments) that choose to offer telepsychiatry services. The provision of this service is not required, and thus the amendments themselves do not create new local government mandates.

6. Paperwork: For providers that wish to provide this service, written plans must be submitted for approval by the Office.

7. Duplication: These regulatory amendments do not duplicate existing State or federal requirements.

8. Alternatives: OMH has been granting regulatory waivers in accordance with 14 NYCRR Part 501 to clinic providers that have wished to provide telepsychiatry services. OMH could continue to grant such waivers on an ad hoc basis; however, given the interest in, and advantages to, this service, OMH wishes to advance these amendments to establish basic standards for the provision of telepsychiatry services, to ensure quality and efficacy.

9. Federal Standards: There are currently no federal standards specific to the provision of in-state telepsychiatry. However, the regulatory amendments conform to the minimum standards of the federal government with respect to the privacy and security of transmissions of protected health information (45 C.F.R. Parts 160 and 164, or HIPAA). In addition, the regulatory amendments are consistent with the definition of “telemedicine” issued by the Centers for Medicare and Medicaid Services (42 U.S.C. §§ 1395m(m)(1), 42 C.F.R. § 410.78(a)(3)).

10. Compliance Schedule: The amendments would be effective upon adoption.

Regulatory Flexibility Analysis

The amendments to 14 NYCRR Part 599 are intended to establish basic standards and parameters to approve the use of telepsychiatry in OMH-licensed clinic programs that choose to offer this service. The provision of this service is not required, and the amendments themselves do not create new local government mandates. As there will be no adverse economic impact on small businesses or local governments as a result of these amendments, a regulatory flexibility analysis is not submitted with this notice.

Rural Area Flexibility Analysis

The amendments to 14 NYCRR Part 599 are intended to establish basic standards and parameters to approve the use of telepsychiatry in OMH-licensed clinic programs that choose to offer this service. The provision of this service is not required. The proposed rule will not impose any adverse economic impact on rural areas; therefore, a Rural Area Flexibility Analysis is not submitted with this notice.

Job Impact Statement

The amendments to 14 NYCRR Part 599 are intended to establish basic standards and parameters to approve the use of telepsychiatry in OMH-licensed clinic programs that choose to offer this service. The provision of this service is not required. As it is evident from the subject matter that there will be no adverse impact on jobs and employment opportunities as a result of these amendments, a Job Impact Statement is not submitted with this notice.

Department of Motor Vehicles

NOTICE OF ADOPTION

Colored Lights on Fire Vehicles, Ambulances, Emergency Ambulance Service Vehicles and County Emergency Medical Service Vehicles

I.D. No. MTV-28-14-00010-A

Filing No. 760

Filing Date: 2014-09-04

Effective Date: 2014-09-24

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

Action taken: Amendment of section 44.4 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a) and 375(41)

Subject: Colored lights on fire vehicles, ambulances, emergency ambulance service vehicles and county emergency medical service vehicles.

Purpose: To conform the regulation the regulation to existing statutory provisions.

Text or summary was published in the July 16, 2014 issue of the Register, I.D. No. MTV-28-14-00010-P.

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

Text of rule and any required statements and analyses may be obtained from: Heidi Bazicki, Department of Motor Vehicles, 6 Empire State Plaza, Rm. 526, Albany, NY 12228, (518) 474-0871, email: heidi.bazicki@dmv.ny.gov

Assessment of Public Comment

The agency received no public comment.

Office for People with Developmental Disabilities

NOTICE OF ADOPTION

Pathway to Employment Fee Adjustment

I.D. No. PDD-28-14-00009-A

Filing No. 768

Filing Date: 2014-09-09

Effective Date: 2014-09-24

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

Action taken: Amendment of Subparts 635-10, 635-99 and section 686.99 of Title 14 NYCRR.

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

Subject: Pathway to Employment Fee Adjustment.

Purpose: To increase fees for Region 3 and make other changes to requirements for the pathway to employment service.

Text or summary was published in the July 16, 2014 issue of the Register, I.D. No. PDD-28-14-00009-EP.

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

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

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

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

I.D. No. PDD-28-14-00017-A

Filing No. 767

Filing Date: 2014-09-09

Effective Date: 2014-09-24

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

Action taken: Amendment of Subpart 641-1 of Title 14 NYCRR.

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

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

Purpose: To amend the new rate methodology effective July 2014.

Text or summary was published in the July 16, 2014 issue of the Register, I.D. No. PDD-28-14-00017-EP.

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

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

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Amendments to Rate Setting for Non-State Providers: Rates for ICF/DD Services

I.D. No. PDD-28-14-00018-A

Filing No. 766

Filing Date: 2014-09-09

Effective Date: 2014-09-24

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

Action taken: Amendment of Subpart 641-2 of Title 14 NYCRR.

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

Subject: Amendments to Rate Setting for Non-State Providers: Rates for ICF/DD Services.

Purpose: To amend the new rate methodology effective July 2014.

Text or summary was published in the July 16, 2014 issue of the Register, I.D. No. PDD-28-14-00018-EP.

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

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

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Supervised IRA/CR Residential Habilitation Unit of Service

I.D. No. PDD-28-14-00021-A

Filing No. 765

Filing Date: 2014-09-09

Effective Date: 2014-09-24

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

Action taken: Amendment of sections 635-10.5(b) and 671.1 of Title 14 NYCRR.

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

Subject: Supervised IRA/CR residential habilitation unit of service.

Purpose: To conform existing OPWDD regulations to the change in the unit of service from monthly to daily.

Text or summary was published in the July 16, 2014 issue of the Register, I.D. No. PDD-28-14-00021-EP.

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

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

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

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

NOTICE OF ADOPTION

Allowing Pheasant Hill to Increase Its Annual Revenues by \$18,948 or 56.67% in PSC 1—Water

I.D. No. PSC-53-13-00007-A

Filing Date: 2014-09-08

Effective Date: 2014-09-08

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

Action taken: On 9/4/14, the PSC adopted an order allowing Pheasant Hill Water Corporation (Pheasant Hill) to increase its annual revenues by \$18,948 or 56.67% in PSC 1—Water, to become effective.

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

Subject: Allowing Pheasant Hill to increase its annual revenues by \$18,948 or 56.67% in PSC 1—Water.

Purpose: To allow Pheasant Hill to increase its annual revenues by \$18,948 or 56.67% in PSC 1—Water.

Substance of final rule: The Commission, on September 4, 2014, adopted an order allowing Pheasant Hill Water Corporation to increase its annual revenues by \$18,948 or 56.67%, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(13-W-0547SA1)

NOTICE OF ADOPTION

Allowing West Valley to Increase Its Annual Revenues by \$14,088 or 20.2% in PSC 3—Water

I.D. No. PSC-10-14-00009-A

Filing Date: 2014-09-08

Effective Date: 2014-09-08

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

Action taken: On 9/4/14, the PSC adopted an order allowing West Valley Crystal Water Company, Inc. (West Valley) to increase its annual revenues by \$14,088 or 20.2% in PSC 3—Water, to become effective.

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

Subject: Allowing West Valley to increase its annual revenues by \$14,088 or 20.2% in PSC 3—Water.

Purpose: To allow West Valley to increase its annual revenues by \$14,088 or 20.2% in PSC 3—Water.

Substance of final rule: The Commission, on September 4, 2014, adopted an order allowing West Valley Crystal Company, Inc. to increase its annual revenues by \$14,088 or 20.2%, 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-0070SA1)

NOTICE OF ADOPTION

Allowing Wellsville to Increase Its Annual Revenues by \$135,979 or 4.7% in PSC 1 — Electricity

I.D. No. PSC-12-14-00009-A

Filing Date: 2014-09-04

Effective Date: 2014-09-04

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

Action taken: On 9/4/14, the PSC adopted an order allowing the Village of Wellsville (Wellsville) to increase its annual revenues by \$135,979 or 4.7% in PSC 1 — Electricity, to become effective.

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

Subject: Allowing Wellsville to increase its annual revenues by \$135,979 or 4.7% in PSC 1 — Electricity.

Purpose: To allow Wellsville to increase its annual revenues by \$135,979 or 4.7% in PSC 1 — Electricity.

Substance of final rule: The Commission, on September 4, 2014, adopted an order allowing the Village of Wellsville to increase its annual revenues by \$135,979 or 4.7%, in PSC No. 1 — 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.

(14-E-0083SA1)

NOTICE OF ADOPTION

Allowing O&R's Filing to Become Effective with Modifications

I.D. No. PSC-22-14-00014-A

Filing Date: 2014-09-04

Effective Date: 2014-09-04

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

Action taken: On 9/4/14, the PSC adopted an order allowing Orange and Rockland Utilities, Inc.'s (O&R) tariff filing to make revisions to its General Information Section 12.2, Monthly Gas Adjustment, contained in PSC 4 — Gas to become effective, with modifications.

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

Subject: Allowing O&R's filing to become effective with modifications.

Purpose: To allow O&R's filing to become effective with modifications.

Substance of final rule: The Commission, on September 4, 2014, adopted an order allowing Orange and Rockland Utilities, Inc.'s tariff filing to make revisions to its General Information Section 12.2, Monthly Gas Adjustment, contained in PSC 4 — Gas to become effective, with modifications, 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-0181SA1)

NOTICE OF ADOPTION

Adopting the Terms of a Joint Proposal between National Grid USA and Staff**I.D. No.** PSC-23-14-00009-A**Filing Date:** 2014-09-05**Effective Date:** 2014-09-05

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

Action taken: On 9/4/14, the PSC adopted an order approving the terms of a joint proposal between National Grid USA and Department of Public Service Staff (Staff) resolving all issues related to an investigation of the need for rate and earnings adjustments.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Adopting the terms of a joint proposal between National Grid USA and Staff.

Purpose: To adopt the terms of a joint proposal between National Grid USA and Staff.

Substance of final rule: The Commission, on September 4, 2014, adopted an order approving the terms of a Joint Proposal entered into between the Department of Public Service Staff and, collectively, National Grid USA, Niagara Mohawk Power Corporation d/b/a National Grid, The Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid (Company) to resolve all issues related to the Commission's investigation into the Company's Cost Allocations, Policies and Procedures, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(13-M-0026SA1)

NOTICE OF ADOPTION

Allowing Central Hudson's Filing to Become Effective**I.D. No.** PSC-23-14-00013-A**Filing Date:** 2014-09-08**Effective Date:** 2014-09-08

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

Action taken: On 9/4/14, the PSC adopted an order allowing Central Hudson Gas & Electric Corporation's (Central Hudson) filing to establish fees for residential customers who opt out of using Automated Meter Reading devices, in PSC 15—Electricity to become effective.

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

Subject: Allowing Central Hudson's filing to become effective.

Purpose: To allow Central Hudson's filing to become effective.

Substance of final rule: The Commission, on September 4, 2014, adopted an order allowing Central Hudson Gas and Electric Corporation's filing to establish fees for residential customers who choose to opt out of using Automated Meter Reading (AMR) devices and elect to have non-AMR meters installed, contained in PSC 15—Electricity, to become effective, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(14-M-0196SA1)

NOTICE OF ADOPTION

Allowing Central Hudson's Filing to Become Effective**I.D. No.** PSC-23-14-00015-A**Filing Date:** 2014-09-08**Effective Date:** 2014-09-08

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

Action taken: On 9/4/14, the PSC adopted an order allowing Central Hudson Gas & Electric Corporation's (Central Hudson) filing to establish fees for residential customers who opt out of using Automated Meter Reading devices, in PSC 12—Gas to become effective.

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

Subject: Allowing Central Hudson's filing to become effective.

Purpose: To allow Central Hudson's filing to become effective.

Substance of final rule: The Commission, on September 4, 2014, adopted an order allowing Central Hudson Gas and Electric Corporation's filing to establish fees for residential customers who choose to opt out of using Automated Meter Reading (AMR) devices and elect to have non-AMR meters installed, contained in PSC 12—Gas, to become effective, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(14-M-0196SA2)

NOTICE OF ADOPTION

Granting a Waiver of 16 NYCRR 503.4, to Allow NYAW to Place an Additional Well in Service in its Sea Cliff Service District**I.D. No.** PSC-27-14-00016-A**Filing Date:** 2014-09-05**Effective Date:** 2014-09-05

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

Action taken: On 9/4/14, the PSC adopted an order granting New York American Water, Inc.'s (NYAW) petition for a waiver of 16 NYCRR 503.4 dealing with the quantity of supply to place an additional well in service in its Sea Cliff Service District.

Statutory authority: Public Service Law, sections 89-b(1), 89-c(1) and (2)

Subject: Granting a waiver of 16 NYCRR 503.4, to allow NYAW to place an additional well in service in its Sea Cliff Service District.

Purpose: To grant a waiver of 16 NYCRR 503.4, to allow NYAW to place an additional well in service in its Sea Cliff Service District.

Substance of final rule: The Commission, on September 4, 2014, adopted an order granting New York American Water, Inc.'s (NYAW) petition for a waiver of 16 NYCRR 503.4 dealing with the quantity of supply to place an additional well in service in its Sea Cliff Service District to meet the regulations requirements, 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-0215SA1)

NOTICE OF ADOPTION**Approving an Emergency Rule As a Permanent Rule a Water Supply Agreement between NYAW and Glenwood****I.D. No.** PSC-28-14-00003-A**Filing Date:** 2014-09-05**Effective Date:** 2014-09-05

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

Action taken: On 9/4/14, the PSC adopted an order approving an emergency rule as a permanent rule for New York American Water Company, Inc. (NYAW) to enter into a water supply agreement with the Glenwood Water District (Glenwood).

Statutory authority: Public Service Law, section 89-c

Subject: Approving an emergency rule as a permanent rule a water supply agreement between NYAW and Glenwood.

Purpose: To approve an emergency rule as a permanent rule a water supply agreement between NYAW and Glenwood.

Substance of final rule: The Commission, on September 4, 2014, adopted an order approving an emergency rule as a permanent rule to allow New York American Water Company, Inc. to enter into a water-supply agreement with the Glenwood Water District, 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-0215EA1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED****Whether to Approve, Reject or Modify, in Whole or in Part a Time-Sensitive Rate Pilot Program****I.D. No.** PSC-38-14-00003-P

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

Proposed Action: The Public Service Commission is considering whether to approve, reject or modify, in whole or in part, a Time-Sensitive Rate pilot program proposed by Consolidated Edison Company of New York, Inc.

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

Subject: Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.

Purpose: Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, an implementation plan for a time-sensitive rate pilot filing by Consolidated Edison Company of New York, Inc. (Con Edison) made pursuant to the Commission's Order Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal, issued February 21, 2014 in Case 13-E-0030. The time-of-use (TOU) Pilot proposal is the result of collaboration with, and input received from interested parties. The filing proposes a new residential TOU rate structure (TOU Pilot Rate) that will be paired with other tools and technologies to help participants manage their energy use. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-E-0030SP4)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED****Study and Petition of Con Edison Regarding Use, Accounting and Ratemaking Treatment for 11-23 and 2-28 Hudson Ave., Brooklyn****I.D. No.** PSC-38-14-00004-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 whether to approve, reject or modify, in whole or in part the study and petition of Consolidated Edison Company of New York, Inc. regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave., Brooklyn, NY.

Statutory authority: Public Service Law, sections 4(1), 5(1), 79(1) and 80

Subject: The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave., Brooklyn.

Purpose: The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave., Brooklyn.

Substance of proposed rule: The Public Service Commission is considering whether to approve, reject or modify, in whole or in part the study and petition of Consolidated Edison Company of New York, Inc. regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave., Brooklyn, NY. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-S-0032SP4)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED****Action on the Report and Petition of Con Edison Regarding the Storm Hardening and Resiliency Collaborative, Phase 2****I.D. No.** PSC-38-14-00005-P

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

Proposed Action: The Commission is considering whether to approve, reject or modify, in whole or in part the report and petition of Consolidated Edison Company of New York, Inc. regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Statutory authority: Public Service Law, sections 4(1), 5(1), 65(1), (14), 66(1), (1-a), (2), (4) and (12)

Subject: Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Purpose: Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Substance of proposed rule: On September 2, 2014, Consolidated Edison Company of New York, Inc. (Con Edison or the Company) filed in accordance with Clause 8 of the Public Service Commission's February 21, 2013 Order in Cases 13-E-0030, 13-G-0031 and 13-S-0032 Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal its Storm Hardening and Resiliency Collaborative Phase Two Report (Phase Two Report). The Public Service Commission is considering whether to grant, approve, reject or modify, in whole or in part the Phase Two Report and petition of Consolidated Edison Company of New York, Inc. regarding its proposed Storm Hardening and Resiliency plans for work to commence during 2015 and 2016 and to apprise the Commission of the status of related collaborative initiatives including methane emissions reduction efforts, climate change vulnerability study, and risk assessment and cost benefit modeling. In addition, the Commission will address any accounting and ratemaking treatment for such work. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-G-0031SP4)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Demand Response Program

I.D. No. PSC-38-14-00006-P

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

Proposed Action: The Commission is considering a tariff filing by Consolidated Edison Company of New York, Inc. (Con Edison or the Company) to make various changes to the rates, charges, rules and regulations contained in its Schedule for Electric Service P.S.C. No. 10.

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

Subject: Demand Response Program.

Purpose: To make revisions to Rider S - Commercial System Relief Program and Rider U - Distribution Load Relief Program.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a tariff filing by Consolidated Edison Company of New York, Inc. (Con Edison or the Company) to make revisions to its electric tariff schedule, P.S.C. No. 10. The Company proposes to make tariff revisions to Rider S - Commercial System Relief Program and Rider U - Distribution Load Relief Program in compliance with Order Clause 2 of Commission Order Denying Petition for Rehearing But Granting Reconsideration in Part, issued June 27, 2014 in Case 13-E-0573 regarding pledge reductions. The Company also proposes to make the following tariff revisions to these Riders: 1) state in the Riders that prior to the start of the 2015 Capability Period, each Aggregator that participated in the Three-Year Incentive Period in 2014 must allocate its contracted kW of Load Relief per network into one or more Aggregator Network Resources prior to the start of the 2015 Capability Period by February 2, 2015; 2) modify Rider U to allow the Company to call Test Events more than once in a Capability Period; 3) allow an applicant for Riders S and U to commence participation on July 1 if interval metering is not used for monthly billing at the time of application for Rider service, provided the application is received by April 1 and requirements are met; 4) modify metering provisions in Rider S and Rider U; 5) revise Rider S to eliminate the penalty applicable to Direct Participants and Aggregators that do not have interval metering and/or telecommunications service operational at least 30 days before commencing Rider S Service; and 6) housekeeping

changes to Rider U. The amendments have an effective date of December 22, 2014. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-E-0573SP3)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Whether to Expand Con Edison's Low Income Program to Include Medicaid Recipients

I.D. No. PSC-38-14-00007-P

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

Proposed Action: The Public Service Commission is considering whether to approve, deny or modify, in whole or in part, a petition filed by Consolidated Edison Company of New York, Inc. (Con Edison) to expand its electric low income program to include Medicaid recipients.

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

Subject: Whether to expand Con Edison's low income program to include Medicaid recipients.

Purpose: Whether to expand Con Edison's low income program to include Medicaid recipients.

Substance of proposed rule: The Public Service Commission is considering whether to approve, deny or modify, in whole or in part, a petition filed by Consolidated Edison Company of New York, Inc. (Con Edison) to expand its electric low income program to include Medicaid recipients. The electric low income program currently is budgeted at \$47.5 million annually and serves approximately 417,000 participants. Participants receive a \$9.50 monthly discount on their electric bills. Con Edison reports that adding Medicaid recipients to the program would add approximately 129,000 participants, resulting in a program serving 546,000 participants. Adding Medicaid participants at the current discount level would result in raising the program cost to \$62.5 million. Alternatively, the discount could be reduced: reducing the discount to \$8.50 would result in an annual program cost of \$55.7 million; reducing the discount to \$7.50 would cost \$49.1 million. The discount could be reduced to the \$7.50 level after 6 months at the \$8.50 level, resulting in an annual cost between those two figures. The Company declined to make a specific recommendation. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-E-0030SP7)

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

Study and Petition of Con Edison Regarding Use, Accounting and Ratemaking Treatment for 11-23 and 2-28 Hudson Ave., Brooklyn

I.D. No. PSC-38-14-00008-P

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

Proposed Action: The Commission is considering whether to approve, reject or modify, in whole or in part the study and petition of Consolidated Edison Company of New York, Inc. regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave., Brooklyn, NY.

Statutory authority: Public Service Law, sections 4(1), 5(1), 65(1), 66(1), (4) and (12)

Subject: The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave., Brooklyn.

Purpose: The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave., Brooklyn.

Substance of proposed rule: The Public Service Commission is considering whether to approve, reject or modify, in whole or in part the study and petition of Consolidated Edison Company of New York, Inc. regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave., Brooklyn, NY. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-E-0030SP5)

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

Action on the Report and Petition of Con Edison Regarding the Storm Hardening and Resiliency Collaborative, Phase 2

I.D. No. PSC-38-14-00009-P

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

Proposed Action: The Commission is considering whether to approve, reject or modify, in whole or in part the report and petition of Consolidated Edison Company of New York, Inc. regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Statutory authority: Public Service Law, sections 4(1), 5(1), 65(1), (14), 66(1), (1-a), (2), (4), (12), 79(1), 80(1), (2), (3), (4) and (10)

Subject: Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Purpose: Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Substance of proposed rule: On September 2, 2014, Consolidated Edison Company of New York, Inc. (Con Edison or the Company) filed in accordance with Clause 8 of the Public Service Commission's February 21, 2013 Order in Cases 13-E-0030, 13-G-0031 and 13-S-0032 Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal its Storm Hardening and Resiliency Collaborative Phase Two Report (Phase Two Report). The Public Service Commission is considering whether to grant, approve, reject or modify, in whole or in part the Phase Two Report and petition of Consolidated Edison Company of New York, Inc. regarding its proposed Storm Hardening and Resiliency plans for work to commence

during 2015 and 2016 and to apprise the Commission of the status of related collaborative initiatives including methane emissions reduction efforts, climate change vulnerability study, and risk assessment and cost benefit modeling. In addition, the Commission will address any accounting and ratemaking treatment for such work. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-E-0030SP6)

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

Inter-Carrier Telephone Service Quality Standard and Metrics and Administrative Changes

I.D. No. PSC-38-14-00010-P

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

Proposed Action: The Public Service Commission is considering modifications to existing inter-carrier telephone service quality measures and standards and administrative changes as proposed by the Carrier Working Group.

Statutory authority: Public Service Law, section 94(2)

Subject: Inter-carrier telephone service quality standard and metrics and administrative changes.

Purpose: To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.

Substance of proposed rule: The specific modifications to the Inter-Carrier Service Quality Guidelines are being considered by the Commission in this action include: administrative changes and process changes for specific products offered in the following metrics:

1. Order Confirmation Timeliness. The OR-1 metric measures the amount of elapsed time (in hours and minutes) between receipt of a valid order request (Verizon Ordering Interface) (or fax date and time stamp) and distribution of a Service Order confirmation. Rejected orders will have the clock re-started upon receipt of a valid order. These metrics are proposed for deletion due to no activity: OR-1-04-3210, OR-1-06-3341, OR-1-19-5030 and these are proposed due to low activity: OR-1-04-2214, OR-1-04-2341, OR-1-04-3341, OR-1-06-2214, OR-1-06-2341, OR-1-06-3213; OR-2-04-2200, OR-2-06-2210, OR-2-03-6080. OR-2 measures the amount of elapsed time (in hours or minutes) between receipt of an order request and distribution of a Service Order request, both based on Ordering Interface System (Request Manager) or fax date and time stamp. OR-2-04-2200, OR-2-06-2210, OR-2-03-6080 is deleted due to low activity. OR-13-3523 measures the percentage of large job hot cut project negotiations completed.

2. Pre-Ordering Performance. Pre-Ordering PO-2-02, PO-2-03-6080 measures the OSS Interface Availability. The OSS interface Availability metric is a measurement of the time during which the electronic OSS Interface is actually available as a percentage of scheduled availability. The PO-5-01 Metric measures the amount of time that elapses between Verizon identification of a Verizon interface outage and Verizon notification to CLECs that an outage exists.

3. Maintenance and Repair. The MR-1 Response Time OSS Maintenance Interface sub-metrics measure the response time defined as the time, in seconds, that elapses from receipt of a request at Verizon's access platform to issuance of a response from Verizon's access platform. These metrics, based on no activity, are proposed to be deleted: MR-1-09-6095, MR-1-04-6050. The MR-2 Trouble Report Rate metric measures the total initial Customer Direct (CD) or Customer Referred (CR) troubles (Cate-

gory 1) reported, where the trouble disposition was found to be in the network, per 100 lines/circuits/trunks in service. These metrics, based on no activity, are proposed to be deleted: MR-2-01-2200, MR-2-01-5000 MR-2-02-2341, MR-2-02-3341, MR-2-05-2200, MR-2-05-2341, MR-2-05-3341. The MR-3 metrics measure the percent of reported Network Troubles not repaired and cleared by the date and time committed. These metrics, based on no activity, are proposed to be deleted: MR-3-01-2341, MR-3-03-2341, MR-3-03-2100, MR-3-03-3341. The MR-4 metric measures trouble duration intervals. These metrics, based on no activity, are proposed to be deleted: MR-4-01-2216, MR-4-01-2217, MR-4-01-2341, MR-4-01-3216, MR-4-01-3341, MR-4-02-2341, MR-4-03-2341, MR-4-04-2216, MR-4-04-2217, MR-4-04-2341, MR-4-04-3216, MR-4-04-06-2216, MR-4-06-2217, MR-4-06-3216, MR-4-07-2341, MR-4-08-2216, MR-4-08-2217, MR-08-2341, MR-4-08-3216, MR-4-08-3341. The MR-5 Repeat Trouble Reports metric measures the percent of troubles closed that have an additional trouble closed within 30 days for which a network trouble is found. The MR-5 metrics proposed to be closed are: MR-05-01-2200, MR-05-2341.

4. Provisioning Performance The PR-1 sub-metric measures the average interval offered for completed and cancelled orders. The metrics proposed to be deleted are PR-1-01-2341, PR-1-01-3341, PR-1-02-3341, PR-1-03-2120, PR-1-04-2100, PR-1-04-3112, PR-1-05-2100, PR-1-09-2210, PR-1-09-3512, PR-09-3530, PR-1-13-3529. The PR-3 sub-metric measures the percent of POTS orders completed in specified numbers (by metrics), of business days, between application and work completion dates. The proposed metrics are: PR-3-06-2100, PR-3-09-2100, PR-10-3341, PR-11-3528, PR-3-12-3531, PR-3-12-3532, PR-3-13-3531, PR-3-13-3532. The PR-4 sub-metric measures the percent of Order completed after the due date. The proposed metrics are PR-4-01-2211, PR-4-01-2213, PR-4-01-3210, PR-4-01-3213, PR-4-02-2200, PR-04-02-2341, PR-4-04-2341. The PR-5 sub-metric measures calculations for the report month include Orders that are complete in the billing system. The proposed metrics are: PR-5-01-2341, PR-5-02-2341. The PR-6 sub-metric measures the percent of lines/circuits/trunks installed where a reported trouble was found in the Verizon network within 30 days of Order completion. The proposed metrics are: PR-6-01-2341, PR-6-03-2341, PR-6-03-3341. The PR-8 sub-metric measures the number of open Orders that at the close of the reporting period have been a hold status for more than 30 calendar days, as a percent of Orders completed in the reporting period. The sub-metric is PR-08-01-2341.

5. Billing Accuracy. The BI-3-07-1000 sub-metric measures the promptness with which Verizon acknowledges and resolved CLEC billing adjustment claims proceed in the Verizon Bill Claim Center.

6. Network Performance. The NP-1 and NP-2 sub-metrics measure the percent of dedicated one-way Final Trunk Groups (FTGs) carrying traffic from Verizon's tandem to the CLEC that exceed blocking design threshold. The proposed metrics are: NP-1-01-5000, NP-1-02-5000, NP-2-05-6701, NP-2-05-6702.

The most recent version of the C2C Guidelines is available at <http://www.dps.ny.gov/carrier.htm>. The Commission may adopt these modifications in whole or in part and may make any other changes to the Guidelines.

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

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

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

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

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

(97-C-0139SP33)

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

Waiver of Extension of Mains Regulation and Tariff Terms and Financing of Long-Term Debt

I.D. No. PSC-38-14-00011-P

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

Proposed Action: The Commission is considering whether to approve, reject or modify the petition of Saratoga Water Service, Inc. for a waiver of the company's tariff and 16 NYCRR Part 501 and authorization to finance up to \$175,000 in long term debt.

Statutory authority: Public Service Law, sections 89-b, 89-c and 89-f

Subject: Waiver of extension of mains regulation and tariff terms and financing of long-term debt.

Purpose: To decide whether to authorize a waiver of main extension regulations and tariff terms, and authorize long-term debt.

Substance of proposed rule: The Commission is considering whether to approve, deny, or modify, in whole or in part a Petition in which Saratoga Water Services, Inc. (Saratoga) seeks issuance of an Order (1)(a) approving the terms and conditions of a certain "Agreement For The Provision of Water Service and Sale and Purchase of Water Facilities", dated October 17, 2013 (Agreement) between Saratoga and Lakeview Outlets, Inc. as being in the public interest; (b) waiving Saratoga's tariff provisions to the extent they are inconsistent with the Agreement, and (c) waiving the applicability of the provisions of 16 N.Y.C.R.R. Parts 501 and 502 to the extent they are inconsistent with the Agreement; and (2) approval of a loan agreement with the Adirondack Trust Company for \$175,000. Saratoga is proposing to acquire existing water facilities owned by of Lakeview Outlets, Inc., which provides water supply service to the commercial tenants in Malta Commons Park. Lakeview has requested that Saratoga take over the provision of service to Malta Commons Park and acquire its facilities. In order to acquire these assets, Saratoga wants to issue and sell long-term debt in the amount not to exceed \$175,000. The Commission shall consider all 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-W-0486SP2)

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

Action on the Report and Petition of Con Edison Regarding the Storm Hardening and Resiliency Collaborative, Phase 2

I.D. No. PSC-38-14-00012-P

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

Proposed Action: The Commission is considering whether to approve, reject or modify, in whole or in part the report and petition of Consolidated Edison Company of New York, Inc. regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Statutory authority: Public Service Law, sections 4(1), 5(1), 79(1), 80(1), (2), (3), (4) and (10)

Subject: Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Purpose: Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.

Substance of proposed rule: On September 2, 2014, Consolidated Edison Company of New York, Inc. (Con Edison or the Company) filed in accordance with Clause 8 of the Public Service Commission's February 21, 2013 Order in Cases 13-E-0030, 13-G-0031 and 13-S-0032 Approving Electric, Gas and Steam Rate Plans in Accord with Joint Proposal its Storm Hardening and Resiliency Collaborative Phase Two Report (Phase Two Report). The Public Service Commission is considering whether to grant, approve, reject or modify, in whole or in part the Phase Two Report and petition of Consolidated Edison Company of New York, Inc. regarding its proposed Storm Hardening and Resiliency plans for work to commence during 2015 and 2016 and to apprise the Commission of the status of re-

lated collaborative initiatives including methane emissions reduction efforts, climate change vulnerability study, and risk assessment and cost benefit modeling. In addition, the Commission will address any accounting and ratemaking treatment for such work. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(13-S-0032SP5)

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

Communication Devices for Daily Meter Reading for Gas Balancing Services

I.D. No. PSC-38-14-00013-P

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

Proposed Action: The Commission is considering a tariff filing by New York State Electric & Gas Corporation (NYSEG) to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Service P.S.C. Nos. 87 and 88.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Communication devices for daily meter reading for gas balancing services.

Purpose: To allow for the installation of alternative communication devices used for daily meter reading for gas balancing services.

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 New York State Electric & Gas Corporation (the Company) to make revisions to its gas tariff schedules, P.S.C. Nos. 87 and 88, to allow for the installation of alternative communication devices used for daily meter reading for gas balancing services that are compatible with the Company's Metretek equipment. Daily metered customers must currently install a dedicated telephone line to communicate with the Metretek equipment. The Company also proposes to revise the notification requirements of customer enrollment in conformance with the Uniform Business Practices. The amendments have an effective date of January 1, 2015.

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

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

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

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

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

(14-G-0377SP1)

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

Calculation of the Gas Supply Charge

I.D. No. PSC-38-14-00014-P

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

Proposed Action: The Commission is considering a tariff filing by Rochester Gas and Electric Corporation (RG&E) to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Service P.S.C. No. 16.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Calculation of the Gas Supply Charge.

Purpose: To change the denominator used in RG&E's calculation of the Gas Supply Charge from historical to forecasted normalized sales.

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 Rochester Gas and Electric Corporation to make revisions to its gas tariff schedule, P.S.C. No. 16, to change the denominator used in the calculation of the Gas Supply Charge from historical normalized sales to forecasted normalized sales. The proposed revision to the calculation is similar to the method used by New York State Electric & Gas Corporation and provides consistency between the two Companies. The amendments have an effective date of January 1, 2015.

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

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

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

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

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

(14-G-0379SP1)

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

Acquisition of Common Stock of a New York Electric Corporation

I.D. No. PSC-38-14-00015-P

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

Proposed Action: The Commission is considering a petition of T. Rowe Price Associates, Inc. for authorization to acquire up to 20 percent of the common stock of FirstEnergy Corp. and other related relief.

Statutory authority: Public Service Law, sections 65, 66 and 70

Subject: Acquisition of common stock of a New York electric corporation.

Purpose: Consideration of a proposed acquisition of stock of FirstEnergy Corp. and other relief related to such acquisition.

Substance of proposed rule: The Public Service Commission is considering whether to approve, modify or reject, in whole or in part, a petition of T. Rowe Price Associates, Inc. (TRP) for authorization to allow it to acquire up to 20 percent of the common stock of FirstEnergy Corp. TRP also requests that the Commission declare that TRP will not be deemed an "electric corporation" under New York law as a result of such acquisition. TRP also requests other relief related to the proposed acquisition such as the waiver of certain portions of Part 39 of the Commission's regulations requiring financial disclosure, including §§ 39.1(a), 39.1(c) and 39.1(d) for the reasons stated in its petition.

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

Albany, New York 12223-1350, (518) 486-2659, email: Deborah.Swatling@dps.ny.gov

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

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

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

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

(14-E-0384SP1)

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

Communication Devices for Daily Meter Reading for Gas Balancing Services

I.D. No. PSC-38-14-00016-P

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

Proposed Action: The Commission is considering a tariff filing by Rochester Gas and Electric Corporation (RGE) to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Service P.S.C. No. 16.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Communication devices for daily meter reading for gas balancing services.

Purpose: To allow for the installation of alternative communication devices used for daily meter reading for gas balancing services.

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 Rochester Gas and Electric Corporation (the Company) to make revisions to its gas tariff schedule, P.S.C. No. 16, to allow for the installation of alternative communication devices used for daily meter reading for gas balancing services that are compatible with the Company's Metretek equipment. Daily metered customers must currently install a dedicated telephone line to communicate with the Metretek equipment. The Company also proposes to revise the notification requirements of customer enrollment in conformance with the Uniform Business Practices. The amendments have an effective date of January 1, 2015.

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

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

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

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

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

(14-G-0376SP1)

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

Service Classification (SC) No. 8— Gas Transportation Service with Standby Sales Service

I.D. No. PSC-38-14-00017-P

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

Proposed Action: The Commission is considering a tariff filing by Niagara Mohawk Power Corporation d/b/a National Grid to make various

changes to the rates, charges, rules and regulations contained in its Schedule for Gas Service P.S.C. No. 219.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Service Classification (SC) No. 8—Gas Transportation Service with Standby Sales Service.

Purpose: To clarify the definitions and provisions related to SC No. 8—Gas Transportation Service with Standby Sales Service.

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 Niagara Mohawk Power Corporation d/b/a National Grid (the Company) to make revisions to its gas tariff schedule, P.S.C. No. 219. The Company proposes to clarify the definitions and provisions related to Service Classification No. 8—Gas Transportation Service with Standby Sales Service and to change the title and terms of the existing Statement of Daily Standby Prices to align it with the tariff. The amendments have an effective date of January 1, 2015.

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

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

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

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

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

(14-G-0400SP1)

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

New Electric Utility Demand Response Tariffs May Be Adopted

I.D. No. PSC-38-14-00018-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 options to modify its regulation of electric utilities by implementing reliability-based demand response programs that could respond to local and bulk power needs.

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

Subject: New electric utility demand response tariffs may be adopted.

Purpose: To develop mature DER markets by enabling the development and use of DR as an economic system resource.

Substance of proposed rule: The Commission is considering whether to adopt, modify, or reject, in whole or in part, potential modifications in its regulation of New York State's electric industry to enable the increase of demand response programs in accordance with the recommendations made in the August 22, 2014 New York State Department of Public Service Report entitled "Developing the REV Market in New York: DPS Staff Straw Proposal on Track One Issues" filed in Case 14-M-0101. In particular, the Commission is considering adopting demand response tariffs for all electric utility service territories in the state that will allow demand response providers, interfacing with the distribution utilities, to respond to bulk power system needs currently addressed by the NYISO's Special Case Resource and Emergency Demand Response Programs.

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

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

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

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

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

(14-M-0101SP10)

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

Whether to Approve, Modify or Reject in Whole or in Part an Increase in Annual Revenues of Approximately \$18,356 or 17.8%

I.D. No. PSC-38-14-00019-P

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

Proposed Action: The Public Service Commission is considering a tariff filing by Dover Plains Water Company to increase its annual revenues by approximately \$18,356, or 17.8%, to become effective January 1, 2015.

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

Subject: Whether to approve, modify or reject in whole or in part an increase in annual revenues of approximately \$18,356 or 17.8%.

Purpose: Whether to approve, modify or reject in whole or in part an increase in annual revenues of approximately \$18,356 or 17.8%.

Substance of proposed rule: The Commission is considering whether to approve, modify or reject, in whole or in part, a tariff filing by Dover Plains Water Company to increase its annual revenues from their current tariff schedule by approximately \$18,356, or 17.8% by filing a new tariff schedule, P.S.C. No. 5 – Water in electronic format. The tariff amendments have an effective date of January 1, 2015. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(14-W-0378SP1)

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

Various Tariff Revisions to the Rates, Charges, Rules and Regulations

I.D. No. PSC-38-14-00020-P

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

Proposed Action: The Commission is considering a tariff filing by Consolidated Edison Company of New York, Inc. to make various changes to the rates, charges, rules and regulations contained in its Schedule for Steam Service P.S.C. No. 4.

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

Subject: Various tariff revisions to the rates, charges, rules and regulations.

Purpose: For approval to make various tariff revisions to P.S.C. No. 4—Steam.

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 Consolidated Edison Company of New York, Inc. (the Company) to make revisions to its steam tariff schedule, P.S.C. No. 4. The Company proposes to: (1) establish a charge of \$388.00 during Business Hours of 7:30 a.m. to 3:00 p.m. Monday through Friday, excluding Holidays and \$431.00 (excluding taxes) for an investigation begun or completed After Hours, any time other than Business Hours, for visits to customers' premises to inspect equipment and replace the seal on Company equipment when the seal is broken; (2) make housekeeping changes to the ap-

plication for steam service; (3) eliminate obsolete tariff language regarding the applicability of Service Classification (SC) No. 2—Annual Power Service and SC No. 3—Apartment House Service; (4) clarify when a customer will commence service under SC No. 4—Back-up/Supplementary Service; and (5) modify provisions in SC No. 4 regarding contract demand. The amendments have an effective date of December 10, 2014. The Commission may consider any 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) 474-6530, email: secretary@dps.ny.gov

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

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

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

(14-S-0382SP1)

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

Service Lines, Leakage Surveys, Testing Requirements, MAOP, Odorization, 16 NYCRR 255.3(a)(29), 255.723, 255.507, 255.619, 255.625

I.D. No. PSC-38-14-00021-P

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

Proposed Action: Amendment of Part 255 of Title 16 NYCRR.

Statutory authority: Public Service Law, sections 4, 5, 65 and 66

Subject: Service lines, leakage surveys, testing requirements, MAOP, odorization, 16 NYCRR sections 255.3(a)(29), 255.723, 255.507, 255.619, 255.625.

Purpose: To align State gas safety rules with federal gas safety requirements.

Substance of proposed rule (Full text is posted at the following State website: www.dps.ny.gov): The Public Service Commission is considering the revision of certain sections of 16 NYCRR Part 255 that will align state gas safety measures with their corollary federal rules to make the state rules at least as stringent as the federal rules. Proposed changes to 16 NYCRR §§ 255.3(a)(29) – service line definition; 255.507 – testing requirements; 255.619 – maximum allowable operating pressure procedures; 255.625 – odorization in gas in route to storage; and 255.723 – leakage surveys are necessary to further protect the overall safety of gas delivery and service in New York State. Moreover, the proposed regulatory changes are necessary to ensure that the Commission may continue to make its annual 49 USC § 60105 certification to the U.S. Department of Transportation that the Commission has adopted all applicable federal gas safety standards and thereby remains eligible for federal funding to continue to implement New York's gas safety program.

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.state.ny.us/f96dir.htm>. For questions, contact: Deborah Swatling, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2659, email: deborah.swatling@dps.ny.gov

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

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

Summary of Regulatory Impact Statement

1. Statutory authority: Public Service Law (PSL) §§ 4, 5, 65, and 66 and 49 USC 60101 et. seq. authorizes the proposed rule amendments. The Public Service Commission (PSC or Commission) has general supervision of all gas companies operating anywhere in the State and of all property owned, leased or operated by a gas company in connection with or to fa-

cilitate the conveying, transportation, distribution, or furnishing of gas for light, heat or power. See PSL §§ 4(1), 5(1)(b), 65(1) and 66(1).

2. Legislative objectives: The new rules achieve the statutory goal of PSL § 65 by ensuring the continued safety of gas service and gas delivery in New York State. The purpose of the proposed regulations is to make State gas safety regulations as stringent as the corollary federal regulations by, for instance, requiring leakage surveys and atmospheric corrosion inspections of inside gas piping upstream from the meter in addition to gas piping over which the PSC currently asserts jurisdiction.

3. Needs and benefits: Safety measures that are at least as stringent as the federal rules further protect the overall safety of gas delivery and service in New York State. Moreover, the proposed regulatory changes are necessary to align the Commission's gas safety regulations with the federal regulations to ensure that the Commission may continue to make its annual § 60105 certification to the U.S. Department of Transportation that the Commission has adopted all applicable federal gas safety standards and thereby remains eligible for federal funding to continue to implement New York's gas safety program.

4. Costs: Regulated gas utilities or local distribution companies (LDCs), including municipally-owned gas companies, would see an increase in their operation and maintenance costs because they would need to perform leakage surveys and corrosion inspections on inside gas piping that is upstream from a gas meter. Increased costs would impact professionals who currently make alterations and repairs on inside piping because such professionals would need to be Operator Qualified and drug and alcohol tested in accordance with the Commission's proposed gas safety rule amendments. Gas utilities would also be responsible for at least a portion of the new Operator Qualified training and testing costs, which could be recoverable in PSC utility rate proceedings where appropriate. Building owners who would be required to hire only Operator Qualified professionals to alter or repair inside gas piping upstream from the gas meter would see a slight increase in costs because newly Operator Qualified and alcohol and drug tested individuals who perform alterations and repairs likely would spread the cost of training and testing among all building owners. Some costs associated with the proposed changes could be mitigated with the opportunity for waivers from the PSC, which, if allowed, could extend the time intervals during which leakage and corrosion inspections would need to occur. Localities that now use building inspectors to approve alterations and repairs made to inside gas piping would reduce their costs because utilities would be responsible for such inspections. Eliminating the five-year cycling option to maintain an LDC's Maximum Allowable Operating Pressure (MAOP) would reduce costs for LDCs. Prohibiting soap testing of new inside services would slightly increase costs because in-service pressure testing prior to placing pipe into service takes more time than soap testing and storage costs may increase for pre-pressure-tested pipe that has not yet been placed into service.

The Commission is unable to estimate actual costs associated with this rulemaking and therefore seeks comments on the estimated costs associated with training, testing, inspections, or other operational changes that would from these proposed rule amendments.

5. Costs to local government: Inspections, training, and testing of inside gas piping upstream of the meter would fall under the jurisdiction of the state and federal regulators; therefore, LDCs would be required to carry out such actions. As such, local governments would likely see a decrease in costs associated with building inspections of inside gas services.

For municipalities that own and operate gas companies, costs that are associated with additional testing and training, the storage of pre-tested pipes, and the added time required for pressure (as opposed to soap) testing would increase slightly.

6. Costs to the Public Service Commission or the Department of Public Service: Since amendment of the regulations as proposed would result in continued federal funding to administer the State's Gas Safety program, no additional costs to the Department of Public Service are expected.

7. Local government mandates: If applicable, local governments would need to amend building or other codes that may be in conflict with the State's amended gas safety regulations. Such conflicts would occur if a local code, for instance, authorized professionals who are not Operator Qualified or drug and alcohol tested to alter or repair inside gas piping upstream from the meter.

8. Paperwork: Gas companies would need to maintain additional Operator Qualification certificates for the additional professionals who would be performing alterations or repairs on inside gas piping. Professionals who now perform alterations or repairs on inside gas piping upstream of the meter would need to retain documentation that they are Operator Qualified.

9. Duplication: The proposed regulations do not duplicate, overlap or conflict with any existing federal or State statutes or regulations.

10. Alternatives: There are no significant alternatives to consider because the proposed regulations are consistent with federal regulations. The possibility of waivers exists, which would allow an LDC to deviate from the rules upon a showing that the application of all of the operation and main-

tenance requirements, primarily the schedule of leakage surveys and corrosion inspections, would be impractical, costly, inappropriate, or unreasonable, if it could be shown that the alternate operation and maintenance plan would be equal to or safer than the rules being adopted.

11. Federal standards: The proposed rule amendments are intended to conform 16 NYCRR Part 255 and related Parts to 49 USC 60101 et. seq. and 49 CFR Part 192.

12. Compliance schedule: The regulated community would be required to comply with the proposed regulations within 90 days of the adoption of the new rules. Requests for waivers of any rule requirement would be required to be submitted within 30 days of adoption of the new rules. The full text of the Regulatory Impact Statement can be found on the Department's website at www.dps.ny.gov by searching Case 14-G-0357.

Regulatory Flexibility Analysis

1. Effect of rule: The proposed rule aligns the definition of "service line" with its federal code counterpart (16 NYCRR §§ 255.3 and 255.723), repeals soap pressure testing (§ 255.507), deletes the technical requirement that an operator may throttle pressure in cathodically unprotected steel pipelines to maintain the current maximum allowable operating pressure (§ 255.619) and eliminates an exception that gas in route to storage need not be odorized (§ 255.625).

2. Compliance requirements: The proposed rule would require professionals in the industry who now perform alterations or repairs on inside piping upstream of the meter to become Operator Qualified and submit to drug and alcohol testing in order to perform such work. The LDC employing these professionals will have to train, test, inventory, update, and likely expand existing Operator Qualification programs and records. Likewise, an intrastate pipeline operator affected by the elimination of the storage exception may have to expand existing records to document the addition of odorant to its pipelines. There are no additional burdens on industry to increase reporting requirements resulting from the proposed rule. Since the industry may conduct in-house training and testing of its employees and contractors, there is not anticipated to be any professional assistance required to comply with these Operator Qualification requirements. A small number of towns in New York State operate their own municipal gas corporations and under the proposed rule would be required to expand the retention of their Operator Qualification records to the extent that new employees or contractors will become operator qualified to work on each gas corporation's inside building piping that is upstream of the meter.

3. Professional services: There are no professional services that a small business or local government is likely to need to comply with the changes associated with this rule.

4. Compliance costs: Costs to industry, municipalities, and unions relative to compliance with the "service line" provisions of the proposed rule are currently unknown and the PSC is seeking public comment for specific estimated costs. Potential offsets to minimize adverse impacts on small businesses could include adding such costs to utility operation and maintenance budgets to socialize them among utility ratepayers. Building owners may also be able to bear the added costs of trained operator qualified workers to work on inside piping upstream of the meter because such costs per building owner will likely be negligible. Some costs associated with the proposed changes could be mitigated with the opportunity for waivers from the PSC, which, if allowed, would extend the time intervals during which leakage and corrosion inspections would need to occur.

5. Economic and technological feasibility: The proposed rule does not require any specialized technology for compliance.

6. Minimizing adverse impact: No adverse impacts exist relative to the requirement that gas in route to storage in transmission lines be odorized because this rule change only affects interstate pipeline operators which are non-jurisdictional in New York State. Staff is unaware of any intrastate pipeline operators subject to New York's gas safety program in Part 255 who would be impacted by this odorization requirement. No adverse impacts exist relative to the proposed elimination of soap testing and MAOP throttling provisions because existing jobs could be redirected within the industry or could even increase in response to this proposed rule. In order to minimize any adverse impacts associated with compliance, the Commission may issue a waiver, which would allow a LDC to deviate from the proposed rules upon a showing that the application of all of the operation and maintenance requirements, primarily the schedule of leakage surveys and corrosion inspections, would be impractical, costly, inappropriate, or unreasonable. The LDC would have to demonstrate to the Commission that the alternate operation and maintenance plan would be equal to or safer than the rules being adopted.

LDCs operating in other northeast states, such as National Grid and Iberdrola USA, must already comply with state gas safety rules similar to this proposed rule and have already instituted internal corporate processes to comply with all aspects of the proposed rule which should aid in the overall mitigation of adverse impacts.

7. Small business and local government participation: The PSC will comply with the New York State Administrative Procedure Act (SAPA)

section 202-b (6) by assuring that small businesses and local governments have been given an opportunity to participate in the rule making. This participation will occur through meetings and/or interactions with affected municipalities, such as the City of New York, utilities, such as Consolidated Edison Company of New York and National Grid, labor unions, and other stakeholder groups, such as the NYS Association of Towns, Conference of Mayors, and NYS Association of Counties, during the rulemaking process. An update on stakeholder outreach and interactions will be provided in the revised Regulatory Flexibility Analysis.

Furthermore, PSC will be accepting public comments to the Notice of Proposed Rulemaking and will be summarizing comments and responding to comments that are received. The Secretary of the Public Service Commission will also be issuing a notice to stakeholder groups on a distribution list to apprise members of this rulemaking and to solicit comments.

8. Cure period: No cure period is included in the proposed rule because upon enactment of the rule, any affected utility may apply to the Commission for a waiver from the proposed requirement, to the extent that the utility can demonstrate that inspection, surveys, and testing can be safely conducted on a more infrequent basis or an equivalent technical alternative can be employed. Gas Safety Section Staff at the Department of Public Service typically offers utilities a thirty (30) day cure period to correct deficiencies in biannual audit findings and prior to recommending the pursuit of an enforcement case. Staff will work on formalizing internal guidance to document this existing best practice which involves a right to cure. Additionally, Department Staff anticipates commencing a comprehensive revision to Part 255 in the future, whereupon an express cure period will be considered as part of the rulemaking package.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: This rule applies to the entire State and impacts all rural areas of the State.

2. Reporting, recordkeeping and other compliance requirements; and professional services: The proposed rule would require professionals in the industry who now perform alterations or repairs on inside piping upstream of the meter to become Operator Qualified and submit to drug and alcohol testing in order to perform such work. The LDC employing these professionals will have to train, test, inventory, update, and likely expand existing Operator Qualification programs and records. Likewise, an intrastate pipeline operator that may be affected by the elimination of the storage exception may have to expand existing records to document the addition of odorant to its pipelines. There are no additional burdens on industry to increase reporting requirements resulting from the proposed rule. Since the industry may conduct in-house training and testing of its employees and contractors, there is not anticipated to be any professional assistance required to comply with these Operator Qualification requirements. A small number of towns in New York State operate their own municipal gas corporations and under the proposed rule would be required to expand the retention of their Operator Qualification records to the extent that new employees or contractors will become operator qualified to work on each gas corporation's inside building piping that is upstream of the meter. Operators will also have to retain documentation that leakage surveys and atmospheric corrosion inspections were performed on the inside piping.

3. Costs: Costs to industry, municipalities, and unions relative to compliance with the "service line" provisions of the proposed rule are currently unknown and the PSC is seeking public comment for specific estimated costs. Potential offsets to minimize adverse impacts on small businesses could include adding such costs to utility operation and maintenance budgets to socialize them among utility ratepayers. Building owners may also be able to bear the added costs of trained operator qualified workers to work on inside piping upstream of the meter because such costs per building owner will likely be negligible. Some costs associated with the proposed changes could be mitigated with the opportunity for waivers from the PSC, which, if allowed, would extend the time intervals during which leakage and corrosion inspections would need to occur.

4. Minimizing adverse impact: No adverse impacts exist relative to the requirement that gas in route to storage in transmission lines be odorized because this rule change only affects interstate pipeline operators which are non-jurisdictional in New York State. Staff is unaware of any intrastate pipeline operators subject to New York's gas safety program in Part 255 who would be impacted by this odorization requirement. No adverse impacts exist relative to the proposed elimination of soap testing and MAOP throttling provisions because existing jobs could be redirected within the industry or could even increase in response to this proposed rule. In order to minimize any adverse impacts associated with compliance, the Commission may issue a waiver, which would allow a LDC to deviate from the proposed rules upon a showing that the application of all of the operation and maintenance requirements, primarily the schedule of leakage surveys and corrosion inspections, would be impractical, costly, inappropriate, or unreasonable. The LDC would have to demonstrate to the Commission that the alternate operation and maintenance plan would be equal to or safer than the rules being adopted.

LDCs operating in other northeast states, such as National Grid and Iberdrola USA, must already comply with state gas safety rules similar to this proposed rule and have already instituted internal corporate processes to comply with all aspects of the proposed rule which should aid in the overall mitigation of adverse impacts.

5. Rural area participation: The PSC will comply with the New York State Administrative Procedure Act (SAPA) section 202-bb (7) by assuring that public and private interests in rural areas have been given an opportunity to participate in the rule making process. This participation will occur through meetings and/or interactions with affected municipalities, utilities, such as Consolidated Edison Company of New York and National Grid, labor unions, and other stakeholder groups, such as the NYS Association of Towns, Conference of Mayors, and NYS Association of Counties, during the rulemaking process. An update on stakeholder outreach and interactions will be provided in the revised Rural Area Flexibility Analysis.

Furthermore, the PSC will be accepting public comments to the Notice of Proposed Rulemaking and will be summarizing and responding to the comments that are received. The Secretary of the Public Service Commission will also be issuing a notice to stakeholder groups on a distribution list to apprise members of this rulemaking and to solicit comments.

Job Impact Statement

1. Nature of impact: Compliance with the requirements associated with the proposed "service line" provisions of the rule will result in additional training, education, and testing requirements for all professionals, in addition to the already qualified utility workers and contractors, who perform work on inside piping upstream of the meter. There may be an initial deficit in the number of operator qualified workers to perform this type of work while persons who currently perform such work absent Operator Qualifications are trained and tested, which may create a backlog. However, it is anticipated that by aligning the state definition of "service line" with its federal code counterpart, a LDC (operator) will likely have to hire additional qualified workers to address the increase in its operation and maintenance requirements which will likely translate into a long-term growth in jobs. It is anticipated that adding the requirement that gas in transmission lines in route to storage be odorized will have a minimal impact on state jobs since no intrastate pipelines are known to be affected by the proposed rule. Likewise, the proposed elimination of the MAOP throttling provision will have a minimal impact on jobs because the operator qualified workers who would otherwise be responsible for performing the five-year cycling could refocus job tasks and perform, for instance, leakage surveys, atmospheric corrosion inspections, or pressure testing instead. Proposed elimination of soap testing could in fact produce the opposite effect of job loss and lead to an increase in jobs because more workers will have to be needed to perform the more labor intensive pressure testing instead. Overall, negative impacts to income will be minimized and negative impacts on jobs will likewise be minimal.

2. Categories and numbers affected: There are an unknown number of operator qualified utility workers who perform work on inside piping that could be impacted by the proposed rule. Additionally, there are an unknown number of Master Plumbers in the City of New York who currently work on natural gas piping inside of buildings who will be subject to the proposed Operator Qualification and drug and alcohol testing programs in order to continue to perform such work.

3. Regions of adverse impact: Urban areas in the state with older high rise buildings will likely bear the most impact because more inside gas piping will have to be inspected and any operation and maintenance work will have to be performed by an operator qualified professional. There are not entire regions in the State, however, where this rule making will have a disproportionate adverse impact on jobs or employment opportunities.

4. Minimizing adverse impact: Potential offsets to minimize adverse impacts on building owners could include adding such costs to utility operation and maintenance budgets to socialize them among utility ratepayers rather than individual building owners. No adverse impacts exist relative to the requirement that gas in route to storage in transmission lines be odorized because this rule change only affects interstate pipeline operators which are non-jurisdictional in New York State. Staff is unaware of any intrastate pipeline operators subject to New York's gas safety program in Part 255 who would be impacted by this odorization requirement. No adverse impacts exist relative to the proposed elimination of soap testing and MAOP throttling provisions because existing jobs could be redirected within the industry or could even increase in response to this proposed rule.

(14-G-0357SP1)

Office of Temporary and Disability Assistance

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP)

I.D. No. TDA-38-14-00023-EP

Filing No. 770

Filing Date: 2014-09-09

Effective Date: 2014-10-01

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

Proposed Action: Amendment of section 387.12 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d) and 95; 7 United States Code section 2014(e)(6)(C); 7 Code of Federal Regulations section 273.9(d)(6)(iii)

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

Specific reasons underlying the finding of necessity: It is of great importance that the federally mandated and approved standard utility allowances for the Supplemental Nutrition Assistance Program (SNAP) are applied to SNAP benefit calculations effective October 1, 2014 and thereafter until new amounts eventually are approved by the United States Department of Agriculture. If past standard utility allowances were to be used in calculating ongoing SNAP benefits, thousands of SNAP households would receive SNAP underpayments each month. These emergency amendments protect the public interest by setting forth the federally approved standard utility allowances as of October 1, 2014 and by helping to meet the nutritional needs of SNAP recipients.

It is noted that the amendments are being promulgated pursuant to a combined "Notice of Emergency Adoption and Proposed Rule Making," instead of a "Notice of Proposed Rule Making," due to time constraints. On July 31, 2014, the United States Department of Agriculture approved the Office of Temporary and Disability Assistance's (OTDA's) proposed federal fiscal year 2015 standard utility allowances, effective October 1, 2014. The approval was then provided to OTDA. This did not provide sufficient time for OTDA to publish a "Notice of Proposed Rule Making" and have the new standard utility allowances be effective on October 1, 2014. An emergency adoption is necessary to have the new standard utility allowances be effective on October 1, 2014. Although these regulations are being promulgated on an emergency basis to protect the public interest, OTDA will receive public comments on its combined "Notice of Emergency Adoption and Proposed Rule Making" until 45 days after publication of this notice.

Subject: Standard Utility Allowances (SUAs) for the Supplemental Nutrition Assistance Program (SNAP).

Purpose: These regulatory amendments set forth the federally mandated and approved SUAs as of 10/1/14.

Text of emergency/proposed rule: Clauses (a) and (b) of subparagraph (v) of paragraph (3) of subdivision (f) of § 387.12 of Title 18 NYCRR are amended to read as follows:

(a) The standard allowance for heating/cooling consists of the costs for heating and/or cooling the residence, electricity not used to heat or cool the residence, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water and basic service for one telephone. The standard allowance for heating/cooling is available to households which incur heating and/or cooling costs separate and apart from rent and are billed separately from rent or mortgage on a regular basis for heating and/or cooling their residence, or to households entitled to a Home Energy Assistance Program (HEAP) payment or other Low Income Home Energy Assistance Act (LIHEAA) payment. A household living in public housing or other rental housing which has central utility meters and which charges the household for excess heating or cooling costs only is not entitled to the standard allowance for heating/cooling unless they are entitled to a HEAP or

LIHEAA payment. Such a household may claim actual costs which are paid separately. Households which do not qualify for the standard allowance for heating/cooling may be allowed to use the standard allowance for utilities or the standard allowance for telephone. As of October 1, [2013] 2014, but subject to subsequent adjustments as required by the United States Department of Agriculture ("USDA"), the standard allowance for heating/cooling for SNAP applicant and recipient households residing in New York City is [\$753] \$785; for households residing in either Suffolk or Nassau Counties, it is [\$702] \$732; and for households residing in any other county of New York State, it is [\$623] \$650.

(b) The standard allowance for utilities consists of the costs for electricity not used to heat or cool the residence, cooking fuel, sewage, trash collection, water fees, fuel for heating hot water and basic service for one telephone. It is available to households billed separately from rent or mortgage for one or more of these utilities other than telephone. The standard allowance for utilities is available to households which do not qualify for the standard allowance for heating/cooling. Households which do not qualify for the standard allowance for utilities may be allowed to use the standard allowance for telephone. As of October 1, [2013] 2014, but subject to subsequent adjustments as required by the USDA, the standard allowance for utilities for SNAP applicant and recipient households residing in New York City is [\$298] \$311; for households residing in either Suffolk or Nassau Counties, it is [\$275] \$287; and for households residing in any other county of New York State, it is [\$252] \$263.

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 December 7, 2014.

Text of rule and any required statements and analyses may be obtained from: Richard P. Rhodes, Jr., New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, NY 12243-0001, (518) 486-7503, email: richard.rhodesjr@otda.ny.gov

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

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

Regulatory Impact Statement

1. Statutory authority:

The United States Code (USC) at 7 USC § 2014(e)(6)(C) provides that in computing shelter expenses for budgeting under the federal Supplemental Nutrition Assistance Program (SNAP), a State agency may use a standard utility allowance as provided in federal regulations.

The Code of Federal Regulations (CFR) at 7 CFR § 273.9(d)(6)(iii) provides for standard utility allowances in accordance with SNAP. Clause (A) of this subparagraph states that with federal approval from the Food and Nutrition Services (FNS) of the United States Department of Agriculture, a State agency may develop standard utility allowances to be used in place of actual costs in calculating a household's excess shelter deduction. Federal regulations allow for the following types of standard utility allowances: a standard utility allowance for all utilities that includes heating or cooling costs; a limited utility allowance that includes electricity and fuel for purposes other than heating or cooling, water, sewerage, well and septic tank installation and maintenance, telephone, and garbage or trash collection; and an individual standard for each type of utility expense. Clause (B) of the subparagraph provides that a State agency must review the standard utility allowances annually and make adjustments to reflect changes in costs, rounded to the nearest whole dollar. Also State agencies must provide the amounts of the standard utility allowances to the FNS when they are changed and submit methodologies used in developing and updating the standard utility allowances to the FNS for approval whenever the methodologies are developed or changed.

Social Services Law (SSL) § 20(3)(d) authorizes the New York State Office of Temporary and Disability Assistance (OTDA) to promulgate regulations to carry out its powers and duties.

SSL § 95 authorizes OTDA to administer SNAP in New York State and to perform such functions as may be appropriate, permitted or required by or pursuant to federal law.

2. Legislative objectives:

It was the intent of the Legislature to implement the federal SNAP Act in New York State in order to provide SNAP benefits to eligible New York State residents.

3. Needs and benefits:

The regulatory amendments set forth the standard utility allowances within New York State as of October 1, 2014. OTDA is amending its standard utility allowances in 18 NYCRR § 387.12(f)(3)(v)(a) and (b) to reflect an increase in fuel and utility costs, which is indicated in the Consumer Price Index (CPI) fuel and utilities values (which includes components for water, sewage and trash collection).

The following chart sets forth the standard utility allowance categories; the past standard utility allowances ("Past SUA") that were in effect for federal fiscal year (FFY) 2014, from October 1, 2013 through September

31, 2014; and the new standard utility allowances (“New SUA”) that are in effect for FFY 2015, effective October 1, 2014:

	New York City		Nassau / Suffolk Counties		Rest of State	
	Past SUA	New SUA	Past SUA	New SUA	Past SUA	New SUA
Heating / Air Conditioning SUA	\$753	\$785	\$702	\$732	\$623	\$650
Basic Utility SUA	\$298	\$311	\$275	\$287	\$252	\$263
Phone SUA	\$33 (Unchanged for all Counties)					

To determine the new standard utility allowance values for FFY 2015, the CPI Fuel and Utility value for June 2014 was compared to the CPI Fuel and Utility value for June 2013, the CPI value that was used to determine the adjustment for the FFY 2014 standard utility allowance values. The percentage change between June 2013 and June 2014 was then applied to the FFY 2014 standard utility allowance figures and rounded to the nearest dollar. The June 2014 CPI Fuel and Utility value was 4.290% higher than the June 2013 value. The June CPI values were used because they were the most recent month for which CPI values were available at the time when the programming of the new SUA values into the Welfare Management System (WMS) had to be done in order to comply with the October 1, 2014 effective date.

OTDA has all required approvals from the FNS pertaining to these changes and is required to apply the standard utility allowances for FFY 2015 in its SNAP budgeting effective October 1, 2014. As of October 1, 2014, OTDA does not have federal approval or authority to apply past standard utility allowances in its prospective SNAP budgeting.

It is of great importance that the federally mandated and approved standard utility allowances for SNAP are applied to SNAP benefit calculations effective October 1, 2014 and thereafter. If past standard utility allowances were to be used in calculating ongoing SNAP benefits, thousands of SNAP households would receive SNAP underpayments each month. They would not receive the full amount of SNAP benefits for which they are eligible. Thus it is necessary for the preservation of the public health and the general welfare to set forth the federally-approved standard utility allowances as of October 1, 2014 in order to comply with federal requirements and to help meet the nutritional needs of SNAP recipients.

4. Costs:

The amendments will not result in any impact to the State financial plan, and they will not impose costs upon the social services districts because SNAP benefits are 100 percent federally funded, and these amendments comply with federal statute and regulation to implement federally approved standard utility allowances.

5. Local government mandates:

The amendments do not impose any mandates upon social services districts since the amendments simply set forth the federally approved standard utility allowances, effective October 1, 2014. Also it is noted that the calculation of SNAP budgets, which incorporates the standard utility allowances, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA’s Welfare Management System. To the extent that the processes are not automated, the amendments do not impose any additional requirements upon the social services districts than already exist in terms of calculating SNAP budgets.

6. Paperwork:

The amendments do not impose any new forms, new reporting requirements or other paperwork upon the State or the social services districts.

7. Duplication:

The amendments do not duplicate, overlap or conflict with any existing State or federal statutes or regulations.

8. Alternatives:

One alternative is not to implement the revised standard utility allowances. However, this alternative is not a viable option because if New York State were to opt not to implement the new standard utility allowances or were otherwise judicially precluded from doing so, then New York State would be out of compliance with federal statutory and regulatory requirements.

9. Federal standards:

The amendments do not conflict with or exceed minimum standards of the federal government.

10. Compliance schedule:

Since the amendments set forth the federally approved standard utility allowances effective October 1, 2014, the State and all social services districts will be in compliance with the amendments.

Regulatory Flexibility Analysis

1. Effect of Rule:

The amendments will have no effect on small businesses. The amend-

ments do not impose any mandates upon social services districts since the amendments simply set forth the federally approved standard utility allowance amounts, effective October 1, 2014. The calculation of Supplemental Nutrition Assistance Program (SNAP) budgets, which incorporates the standard utility allowances, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA’s Welfare Management System, and to the extent the processes are not automated, the amendments do not impose any additional requirements upon the social services districts than already exist in terms of calculating SNAP budgets.

2. Compliance Requirements:

The amendments do not impose any reporting, recordkeeping or other compliance requirements on social services districts.

3. Professional Services:

The amendments do not require social services districts to hire additional professional services to comply with the new regulations.

4. Compliance Costs:

The amendments do not impose initial costs or any annual costs upon social services districts because SNAP benefits are 100 percent federally funded, and these amendments comply with federal statute and regulation to implement federally approved standard utility allowances.

5. Economic and Technological Feasibility:

All social services districts have the economic and technological ability to comply with these regulations.

6. Minimizing Adverse Impact:

The amendments will not have an adverse impact on social services districts.

7. Small Business and Local Government Participation:

OTDA plans to provide a General Information System (GIS) release to social services districts in New York State setting forth, in part, the new standard utility allowances for SNAP effective October 1, 2014. In past years, social services districts have not raised any concerns or objections related to the implementation of the new standard utility allowances. After OTDA releases its GIS reflecting the standard utility allowances effective October 1, 2014, social services districts will have an opportunity to contact OTDA with any concerns, questions or other issues. The GIS release will be posted to OTDA’s internet site.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

The amendments will have no effect on small businesses in rural areas. The amendments do not impose any mandates upon the forty-four social services districts in rural areas of the State. Rather, the amendments simply set forth the federally approved standard utility allowance amounts, effective October 1, 2014. The calculation of Supplemental Nutrition Assistance Program (SNAP) budgets, which incorporates the standard utility allowances, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA’s Welfare Management System. To the extent the processes are not automated, the amendments do not impose any additional requirements upon the social services districts than already exist in terms of calculating SNAP budgets.

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

The amendments do not impose any reporting, recordkeeping or other compliance requirements on the social services districts in rural areas. Also the social services districts in rural areas do not need to hire additional professional services to comply with the regulations.

3. Costs:

The amendments do not impose initial capital costs or any annual costs upon the social services districts in rural areas because SNAP benefits are 100 percent federally funded, and these amendments comply with federal statute and regulation to implement federally approved standard utility allowances.

4. Minimizing adverse impact:

The amendments will not have an adverse impact on the social services districts in rural areas.

5. Rural area participation:

OTDA plans to provide a General Information System (GIS) release to social services districts in New York State setting forth, in part, the new standard utility allowances for SNAP effective October 1, 2014. In past years, social services districts have not raised any concerns or objections related to the implementation of the new standard utility allowances. After OTDA releases its GIS reflecting the standard utility allowances effective October 1, 2014, social services districts will have an opportunity to contact OTDA with any concerns, questions or other issues. The GIS release will be posted to OTDA’s internet site.

Job Impact Statement

A Job Impact Statement is not required for the amendments. It is apparent from the nature and the purpose of the amendments that they will not have

a substantial adverse impact on jobs and employment opportunities in either the public or the private sectors. The amendments will have no effect on small businesses. The amendments will not affect in any significant way the jobs of the workers in the social services districts or the State. These regulatory amendments set forth the federally approved standard utility allowances for the Supplemental Nutrition Assistance Program (SNAP) as of October 1, 2014. The calculation of SNAP budgets, which incorporates the standard utility allowances, and the resulting issuances of SNAP benefits are mostly automated processes in New York City and the rest of the State using OTDA's Welfare Management System. To the extent the processes are not automated, the amendments do not impose any additional requirements upon the social services districts than already exist in terms of calculating SNAP budgets. Thus the changes will not have any adverse impact on jobs and employment opportunities in New York State.

NOTICE OF ADOPTION

State Supplement Program (SSP)

I.D. No. TDA-14-14-00014-A

Filing No. 764

Filing Date: 2014-09-09

Effective Date: 2014-10-01

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

Action taken: Repeal of Part 398; addition of new Part 398 and section 358-5.12 to Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 22(3)(f), (4), (8), 207, 211 and 212

Subject: State Supplement Program (SSP).

Purpose: To set forth the process for OTDA's administration of the SSP and allow for telephone hearings to challenge SSP determinations.

Substance of final rule: The regulations will repeal Part 398 of Title 18 NYCRR and add a new Part 398 in relation to Supplemental Security Income Additional State Payments.

Subpart 398-1 provides the scope and the purpose of the rule, which is to provide the framework for the State Supplement Program (SSP).

Subpart 398-2 contains definitions for the terms used in this Part. Nonsubstantial revisions were made to section 398-2.1(a), (e) and (k) to add electronic addresses for locating the referenced materials.

Subpart 398-3 sets forth the eligibility requirements and the benefit levels for the State Supplemental Personal Needs Allowance (SSPNA).

Subpart 398-4 sets forth the eligibility requirements and the payment provisions for SSP benefits. The subpart also contains provisions for designated representatives to act on behalf of recipients of SSP benefits. A nonsubstantial revision was made to § 398-4.5(c) to clarify that family care homes may be certified by the Office of Mental Health (OMH) or the Office for People With Developmental Disabilities (OPWDD) in accordance with applicable provisions of law and regulations. Also a nonsubstantial revision was made to § 398-4.2(a)(1) to add an electronic address for locating the referenced materials.

Subpart 398-5 governs initial and continuing eligibility for SSP benefits and the applicants' and recipients' responsibility to furnish information. A nonsubstantial revision was made to section 398-5.1 to add an electronic address for locating the referenced materials.

Subpart 398-6 sets forth the reporting responsibilities of applicants and recipients of SSP or SSPNA.

Subpart 398-7 provides the ramifications for failing or refusing to comply, without good cause, with the requirements for SSP or SSPNA.

Subpart 398-8 sets forth the Office of Temporary and Disability Assistance's (OTDA's) responsibility to issue notices of action for SSP or SSPNA. A nonsubstantial revision was made to section 398-8.1(b)(6) to add an electronic address for locating the referenced materials.

Subpart 398-9 addresses the replacement of lost or stolen benefits.

Subpart 398-10 provides that applicants and recipients have the right to request an administrative fair hearing to appeal an OTDA action pertaining to SSP or SSPNA.

Subparts 398-11 and 398-12 address the recovery of overpayments and equivalent benefits of SSP or SSPNA. Subpart 398-11 also addresses the correction of underpayments of SSP or SSPNA.

Subparts 398-13 and 398-14 set forth OTDA's responsibilities concerning the confidentiality, the retention and the maintenance of SSP and SSPNA records.

The regulations also will add a new section 358-5.12 to Title 18 NYCRR to allow for telephone hearings to challenge SSP or SSPNA determinations.

A copy of the full text of the regulatory proposal is available on OTDA's website at www.otda.ny.gov/legal.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 398-2.1(a), (e), (k), 398-4.2(a)(1), 398-4.5(c), 398-5.1 and 398-8.1(b)(6).

Revised rule making(s) were previously published in the State Register on July 23, 2014.

Text of rule and any required statements and analyses may be obtained from: Jeanine S. Behuniak, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, New York 12243-0001, (518) 474-9779, email: Jeanine.Behuniak@otda.ny.gov

Revised Regulatory Impact Statement

1. Statutory Authority:

Social Services Law (SSL) § 20(3)(d) authorizes the Office of Temporary and Disability Assistance (OTDA) to promulgate regulations to carry out its powers and duties.

SSL § 22(3)(f) provides that persons entitled to a fair hearing include applicants for and recipients of State-administered additional State payments for eligible aged, blind and disabled persons.

SSL § 22(4) establishes that, with limited exceptions, all appeals to OTDA's Office of Administrative Hearings "must be requested within sixty days after the date of the action or failure to act complained of."

SSL § 22(8) requires OTDA to promulgate regulations, not inconsistent with federal and State law, as may be necessary to administer its fair hearings process.

SSL § 207 establishes a Statewide program of additional State payments for eligible aged, blind and disabled persons.

Additional State payments for eligible aged, blind and disabled persons are currently made pursuant to an agreement for the federal administration of the State Supplement Program under SSL § 211. Subdivision 2 of that section provides that such agreement "shall contain conditions of eligibility for such additional state payments, including the requirement of current residence and amounts of earned or unearned income to be disregarded in determining eligibility, in accordance with the provisions of this title, regulations of the department and federal law and regulations."

SSL § 211(4) authorizes termination of the federal agreement with the approval of the New York State Director of the Budget.

SSL § 212 provides that OTDA shall be responsible for providing such additional State payments to eligible residents of New York if there is no agreement in effect with the Social Security Administration (SSA) for federal administration and shall take all "actions necessary to effectuate the provisions of this title."

2. Legislative Objectives:

It was the intent of the Legislature in enacting SSL §§ 20(3)(d), 207, 211 and 212 that OTDA establish rules, regulations and policies to effectuate the purposes of the State Supplement Program, which will administer Supplemental Security Income (SSI) State supplement payments. Also SSL §§ 20(3)(d) and 22(8) enable OTDA to establish rules in order to ensure that the due process rights of applicants and recipients are adequately protected during OTDA's fair hearings process.

3. Needs and Benefits:

In 1972, Congress enacted the federal SSI program to provide payments to aged, blind and disabled individuals and couples based on uniform federal eligibility standards and a national base payment level. The program replaced the former programs of Old Age Assistance, Aid to the Blind, and Aid to the Disabled, which were State and federal matching programs with payments based on standards of need that varied widely among the states.

The federal SSI standards did not account for variations in living costs from one state to another, and in some cases provided less assistance than the previous programs. Consequently, the SSI program required States to maintain the levels of payment for individuals and couples who were recipients of Old Age Assistance, Assistance to the Blind, Aid to the Disabled, or the combined program of Aid to the Aged, Blind and Disabled Persons as of December 31, 1973. In addition to this mandatory supplement, the SSI program allowed a mechanism for states to provide additional optional payments to supplement the basic federal SSI payment.

New York State chose to establish such an optional program of supplemental State payments. There are two kinds of additional State payments: the State Supplement Payment and the State Supplemental Personal Needs Allowance (SSPNA).

Federal law allows the State to contract with the SSA to administer its additional State payments. If there is no agreement in effect for federal administration of the additional State payments, then the Commissioner of OTDA is responsible for the administration of such payments.

The proposed regulations will add a new Part to Title 18 NYCRR setting forth the process for OTDA's administration of the State Supplement Program. The proposed regulations provide the initial and continuing eligibility requirements for additional State payments. They set forth the

reporting responsibilities of applicants and recipients of the State Supplement Program benefits and the ramifications if they fail to comply with the requirements. The proposed regulations address the issuance of notices of action and provide for administrative fair hearings. They also address when OTDA will replace additional State payments for recipients and when underpayments of such benefits will be corrected. Conversely, the proposed regulations also provide when OTDA will recover overpayments and equivalent benefits from recipients. Lastly, the proposed regulations address OTDA's administrative responsibilities including confidentiality and document retention requirements. This new Part will provide the framework for OTDA's administration of the State Supplement Program.

The proposed regulations also will add a new section 358-5.12 to Title 18 NYCRR allowing telephone hearings for applicants and recipients of additional State payments. The telephone hearings not only will accord these applicants and recipients all of the due process rights of in-person fair hearings, but also the telephone hearings will allow them to participate in the hearings process from their homes or another location that is convenient for them.

After the Notice of Revised Rule Making was published on July 23, 2014, nonsubstantial changes were made to §§ 398-2.1(a), (e) and (k), 398-4.2(a)(1), 398-5.1 and 398-8.1(b)(6) to add electronic addresses for locating the referenced materials. Also a nonsubstantial revision was made to § 398-4.5(c) to clarify that family care homes may be certified by the Office of Mental Health (OMH) or the Office for People With Developmental Disabilities (OPWDD) in accordance with applicable provisions of law and regulations.

4. Costs:

Pursuant to the SSI program, states were permitted to enter into agreements with the SSA under which the latter would act on behalf of the states to determine eligibility for the additional State payments and add them to the federal payment. New York contracts with the SSA to administer its additional State payments, and the SSA currently determines eligibility for New York's mandatory and optional payments, charging the State an administrative fee to cover processing and issuance costs.

In 1993, the SSA began assessing a processing fee of \$1.67 per check per month. By October 2003, the processing fee had increased to \$8.77 per check per month and is subject to continued increases based on the Consumer Price Index. Based on projected costs, OTDA determined that it is no longer cost-effective to pay the SSA to administer its additional State payments. Assuming responsibility for the administration and issuance of the additional State payments will result in both immediate and long-term savings to the State.

It is projected that the fee will increase to \$11.96 by State Fiscal Year 2015-16. State enabling legislation was enacted in SFY 2012-13 to effectuate termination of the federal agreement and provide for State administration of State Supplement Program payments. It is expected that there will be \$90 million in full annual savings from State administration of these payments.

In addition, New York will not incur costs as a result of the proposed telephone hearings. OTDA already has the necessary hardware to conduct the telephone hearings, and the hearings will be held by hearings officers who are currently employed by OTDA.

5. Local Government Mandates:

The proposed regulations will not impose mandates on social services districts. The State Supplement Program will be administered entirely by State staff.

6. Paperwork:

The social services districts will not need to complete any reporting requirements, including forms or other paperwork, as a result of the rule.

7. Duplication:

The proposed regulations do not duplicate, overlap or conflict with any existing federal or State statutes or regulations.

8. Alternatives:

There are no significant alternatives to consider because the proposed regulations are consistent with federal and State statutes and regulations.

9. Federal Standards:

The proposed regulations do not exceed federal minimum standards for the same or similar subject areas.

10. Compliance Schedule:

It is anticipated that OTDA will be in compliance with the proposed regulations on their effective date of October 1, 2014.

Revised Regulatory Flexibility Analysis

The Office of Temporary and Disability Assistance has determined that the nonsubstantive changes made to the last published rule do not necessitate revision to the previously published Regulatory Flexibility Analysis for Small Businesses and Local Governments. The changes will not impose a substantial adverse economic impact or any reporting, record-keeping or other compliance requirements on small businesses or local governments.

Revised Rural Area Flexibility Analysis

The Office of Temporary and Disability Assistance has determined that the nonsubstantive changes made to the last published rule do not necessitate revision to the previously published Rural Area Flexibility Analysis for this proposal. The changes will not impose a substantial adverse impact or any reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Revised Job Impact Statement

The Office of Temporary and Disability Assistance has determined that the nonsubstantive changes made to the last published rule do not necessitate revision to the previously published statement in lieu of a Job Impact Statement for this proposal. There continues to be no adverse impact on jobs and employment opportunities in either the public or private sector in New York State as a result of the proposal.

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 Office of Temporary and Disability Assistance (OTDA) received a comment from one organization on the proposed regulations. This comment has been reviewed and duly considered in this Assessment of Public Comments.

The comment requested that an additional reference be made to the Office for People With Developmental Disabilities (OPWDD) in § 398-4.5(c), which defines congregate care level 1 facilities. Since OPWDD, in addition to the Office of Mental Health (OMH), does certify these facilities, a technical change was made to this definition to include OPWDD.