

RULE MAKING ACTIVITIES

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

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

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

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-19-15-00003-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading “Office of Indigent Legal Services,” by increasing the number of positions of Assistant Counsel from 5 to 9.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-19-15-00004-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Mental Hygiene under the subheading “Office of Mental Health,” by decreasing the number of positions of Psychiatrist 3 from 61 to 41 and by adding thereto the position of Psychiatrist 3 (Forensic) (20).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

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

Jurisdictional Classification

I.D. No. CVS-19-15-00005-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the non-competitive class.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the State University of New York under the subheading "State University Colleges," by adding thereto the position of Horticultural Technician 1 (1) at SUC at Oswego.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

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

Jurisdictional Classification

I.D. No. CVS-19-15-00006-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify a position in the non-competitive class.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the State Department Service under the subheading "All State Departments and Agencies," by deleting therefrom the position of Forest General Maintenance Supervisor (except in the Department of Environmental Conservation

Proper); in the Executive Department under the subheading "Division of the Budget," by decreasing the number of positions of Chief Budget Examiner from 14 to 12 and by deleting therefrom the position of Expenditure Control Coordinator (1); in the Department of Family Assistance under the subheading "Office of Children and Family Services," by decreasing the number of positions of Family and Children's Services Minority Planning Specialist from 4 to 3; in the Department of Civil Service, by deleting therefrom the positions of Community Outreach Specialist 2 (1) and Medical Examiner (part time); in the Department of Economic Development, by decreasing the number of positions of Commerce Policy Analyst 2 from 5 to 3 and by deleting therefrom the positions of Associate Policy Analyst NYSTAR (1), Business Marketing Program Analyst 2 (1) (Until first vacated after November 19, 1991), Director of Purchasing Assistance (1), Minority Business Development Finance Specialist 3 (2), Minority Business Development Finance Specialist 4 (1), Minority Business Development Specialist 3 (2), Public Authority Economic Development Specialist (1) and Senior Public Information Specialist (1) (Until first vacated after November 19, 1991); in the Education Department, by decreasing the number of positions of Museum Scientist 4 from 12 to 10 and Museum Scientist 6 from 3 to 1 and by deleting therefrom the positions of Coordinator of Museum Special Exhibits Program (1) and Publications Format Specialist (2) and by adding thereto the position of Chief Scientist (Geology) (1); in the Executive Department under the subheading "Office of General Services," by decreasing the number of positions of Drafting Assistant from 5 to 2 and Visitor Services Assistant 1 from 14 to 12; in the Executive Department under the subheading "Division of Housing and Community Renewal," by decreasing the number of positions of Compliance Specialist 1 from 4 to 2, Director, Community Development from 2 to 1, Intergovernmental Agency Housing Coordinator from 2 to 1 and Secretary 2 from 5 to 4; in the Department of Labor under the subheading "State Insurance Fund," by decreasing the number of positions of Customer Service Representative 1 from 150 to 146 and by deleting therefrom the position of Director of Insurance Fund Underwriting (1); in the State University of New York under the subheading "SUNY at Buffalo," by deleting therefrom the position of Printing Shop Supervisor 2; in the Department of Taxation and Finance, by decreasing the number of positions of Associate Attorney (Tax Enforcement) from 14 to 13; in the New York State Thruway Authority, by deleting therefrom the positions of Dock Builder Supervisor, Manager of Business Development (1), Minority Business Specialist Trainee 1 (1) and Minority Business Specialist Trainee 2 (1); in the Department of Transportation, by decreasing the number of positions of Secretary 2 from 9 to 8 and by deleting therefrom the positions of Alternate Fuel Specialist 1 (1), Assistant Traffic Signal Mechanic and Traffic Signal Helper; and, in the Executive Department under the subheading "Office of Victim Services," by decreasing the number of positions of Secretary 2 from 4 to 3.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-15-00005-P, Issue of January 7, 2015.

Department of Economic Development

EMERGENCY RULE MAKING

Empire State Musical and Theatrical Production Tax Credit Program

I.D. No. EDV-19-15-00002-E

Filing No. 331

Filing Date: 2015-04-27

Effective Date: 2015-04-27

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

Action taken: Addition of Part 240 to Title 5 NYCRR.

Statutory authority: L. 2014, ch. 59

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

Specific reasons underlying the finding of necessity: Chapter 59 of the Laws of 2014 created the Empire State Musical and Theatrical Production Tax Credit Program. The Program provides for the allocation of tax credits to qualified musical and theatrical production companies that complete qualifying touring productions. These benefits are designed to encourage musical and theatrical production companies preparing to undertake touring productions to make expenditures associated with producing these tours in Upstate New York theatrical facilities, and to secure the economic benefits associated with these production expenditures for Upstate New York communities.

Chapter 59 of the Laws of 2014 authorized the New York State Department of Economic Development to adopt regulations establishing procedures for the allocation of credits under the Program on an emergency basis. Without regulatory action by the Department of Economic Development, procedures will not be in place to accept applications from musical and theatrical production companies desiring to participate in the Program.

Adoption of this rule will allow the Department of Economic Development to begin accepting applications from musical and theatrical production companies, and will assist in stimulating spending on musical and theatrical productions in areas of the State that would otherwise not benefit from such expenditures.

Subject: Empire State Musical and Theatrical Production Tax Credit Program.

Purpose: Establish application procedures for the Empire State Musical and Theatrical Production Tax Credit Program.

Substance of emergency rule: The Empire State Musical and Theatrical Production Tax Credit Program (the "Program") provides Empire State Musical and Theatrical Production Tax Credits ("Credits") to qualified musical and theatrical production companies that complete qualifying touring productions of eight or more shows in three or more localities.

1) The rule defines numerous important terms, including, but not limited to, "authorized applicant," "certificate of conditional eligibility," "qualified production expenditure," "qualified touring production," "show," and "technical period."

2) The rule indicates that only authorized applicants, qualified musical and theatrical production companies scheduled to begin production of qualified musical and theatrical productions after submitting an initial application to the New York State Department of Economic Development (the "Department"), may apply to participate in the Program.

3) The rule describes the application process for a musical and theatrical production company pursuing a Credit, including that an authorized applicant must submit an initial application prior to commencing the technical period for a qualified musical and theatrical production and submit a final application subsequent to completion of a qualified touring production.

4) The rule states that Credits shall be issued in the amount of twenty-five (25) percent and the sum of the qualified production expenditures and the transportation expenditures incurred by an applicant.

5) The rule provides that a final application shall not be approved unless the Department determines that the final application is complete, the applicant completed a qualified touring production, and the applicant did not knowingly submit false or misleading information to the Department.

6) The rule requires an applicant to retain records of any qualified musical and theatrical production costs used to calculate their potential or actual benefit(s) under the Program for a minimum of three years from the date the applicant claims a Credit.

7) The rule provides for an appeal process by which an applicant may appeal the disapproval of its final application by the Department, or the amount of a Credit granted by the Department, before an independent hearing officer.

8) The rule describes information sharing to take place between the Department and the New York State Department of Taxation and Finance relating to Credits applied for, allowed, or claimed under the Program, as well as information regarding taxpayers seeking Credits.

9) The rule describes the annual Program report to be submitted by the Department to the governor, the temporary president of the senate, and the speaker of the assembly. The annual report is to include information on the Credit-eligible man hours and total wages for such Credit-eligible man hours for each project, the identity of applicants for Credits, and the amount of each Credit allocated to each taxpayer.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires July 25, 2015.

Text of rule and any required statements and analyses may be obtained from: Thomas Regan, New York State Department of Economic Development, 625 Broadway, 8th Floor, Albany, NY 12207, (518) 292-5123, email: Thomas.Regan@esd.ny.gov

Regulatory Impact Statement

STATUTORY AUTHORITY:

Chapter 59 of the Laws of 2014 requires the Commissioner of the Department of Economic Development (the "Department") to promulgate regulations establishing the application process for the Empire State Musical and Theatrical Production Tax Credit Program (the "Program"). These procedures include the process for applying for tax credits under the Program, standards for the assessment of applications, and other provisions deemed necessary and appropriate. This regulatory impact statement is submitted in conjunction with the submission of a permanent regulation.

LEGISLATIVE OBJECTIVES:

The proposed rule gives effect to the intention of the legislature in adopting the Empire State Musical and Theatrical Production Tax Credit Program to encourage the production of musical and theatrical shows in venues outside of New York City. The proposed rule furthers this objective by establishing the application process for Empire State Musical and Theatrical Production Tax Credits ("Credits"), and clarifying certain requirements as to which touring productions are qualified to receive Credits under the Program.

NEEDS AND BENEFITS:

The rulemaking is necessary in order to implement the statute contained in Section 24-A of Article 1 of the Tax Law, creating the Empire State Musical and Theatrical Production Tax Credit Program. The statute authorizing the Program directs the Commissioner of the Department of Economic Development to establish procedures for the implementation and execution of the program.

Upstate New York, in particular, is home to some of the premier regional venues in which to produce musical and theatrical productions. In order to induce musical and theatrical production companies to undertake production activities in these non-New York City venues, referred to in the statute as qualified production facilities, the Program will allow musical and theatrical production companies to apply for a Credit against their qualifying production expenditures. To become eligible for a Credit, musical and theatrical production companies must undertake the pre-tour production activities comprising the technical period for the qualified touring production in a qualified production facility. Provided that musical and theatrical production companies meet this qualification requirement, they will be eligible for a Credit equal to twenty-five (25) percent of their qualified production expenditures associated with the show. In addition to pre-tour production costs, qualified production expenditures also include expenditures associated with performing a show before a paying audience in a qualified production facility if the show in question has not been previously performed in any venue other than a qualified production facility.

This incentive will allow musical and theatrical venues located outside of New York City to more fully actualize their potential for attracting musical and theatrical productions, as well as provide these venues with competitive balance against competing venues located in northeastern states that offer tax incentives to musical and theatrical productions which conduct technical rehearsals and other pre-tour production activities in their venues.

The Program is premised upon using touring musical and theatrical productions, and the expenditures associated with these productions, as tools for economic development. Program incentives will be used to increase the number of musical and theatrical productions that launch tours from venues outside of New York City. This goal will not be

achieved without first establishing procedures for the acceptance and evaluation of applications for Program Credits.

The proposed rule establishes the necessary application procedures for the Department to receive applications by musical and theatrical production companies for Program Credits. These rules allow for the prompt and efficient commencement of the Empire State Musical and Theatrical Production Tax Credit Program, clarify which touring productions will be eligible for Program Credits, and promote the general welfare of New Yorkers.

COSTS:

I. Costs to private regulated parties (the business applicants): None. The proposed rule will not impose any additional costs to eligible business applicants.

II. Costs to the regulating agency for the implementation and continued administration of the rule: None.

III. Costs to the State government: None.

IV. Costs to local governments: None. The proposed rule will not impose any costs on local governments.

LOCAL GOVERNMENT MANDATES:

None. There are no local government mandates associated with the Program.

PAPERWORK:

The rule establishes qualification rules and application procedures for the Program. The rule entails certain paperwork burdens including materials to be submitted as part of applications for Program Credits, additional documents the Commissioner may request from applicants as part of his evaluation of applications, and certain records that must be maintained by program participants for auditing purposes.

DUPLICATION:

The proposed rule will create a new section of the existing regulations of the Commissioner of the Department of Economic Development, Part 240 of Title 5 of the New York Codes, Rules and Regulations. Accordingly, there is no risk of duplication in the adoption of the proposed rule.

ALTERNATIVES:

No alternatives were considered with regard to creating a new rule in response to the statutory requirement. The rule interprets the Empire State Musical and Theatrical Production Tax Credit Program requirements as to the application process for tax credits under the Program. This action is necessary in order to clarify how qualifying musical and theatrical production companies may obtain tax benefits under the Program, and is required by the legislation establishing the Program.

FEDERAL STANDARDS:

There are no federal standards applicable to the Program; it is purely a state program that offers tax benefits to musical and theatrical production companies with qualifying expenses. Therefore, the proposed rule does not exceed any federal standard.

COMPLIANCE SCHEDULE:

The affected agency (Department of Economic Development) and any musical and theatrical production company applicants will be able to achieve compliance with the regulation as soon as it is implemented.

Regulatory Flexibility Analysis

Participation in the Empire State Musical and Theatrical Production Tax Credit Program is entirely at the discretion of qualifying musical and theatrical production companies. Neither statute nor the proposed rule impose any obligation on any local government or business entity to participate in the program. The proposed rule does not impose any adverse economic impact or compliance requirements on small businesses or local governments. In fact, the proposed rule may have a positive economic impact on small businesses. Small businesses may enjoy increased business if the Empire State Musical and Theatrical Production Tax Credit Program induces applicant musical and theatrical production companies to procure products or services from small businesses in Upstate New York regions that the musical and theatrical production companies would not have used to produce a qualified touring production without the tax credit benefits.

Because it is evident from the nature of the proposed rule that it will have either no impact or a positive impact on small businesses and local government, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required and one has not been prepared.

Rural Area Flexibility Analysis

The Empire State Musical and Theatrical Production Tax Credit Program provides tax benefits to participating musical and theatrical production companies, and does not distinguish between venues located in rural and urban areas of Upstate New York. Furthermore, the rule does not impose reporting, recordkeeping or other compliance requirements on public or private entities in rural areas, except for any rural musical and theatrical production companies which voluntarily choose to participate in the

Program. Therefore, the rule will not have a substantial adverse economic impact on rural areas. Accordingly, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement

The proposed rule establishes application procedures for musical and theatrical production companies to apply for benefits under the Empire State Musical and Theatrical Production Tax Credit Program, as well as standards for the assessment of applications by the Commissioner of the Department of Economic Development. The Empire State Musical and Theatrical Production Tax Credit Program provides tax incentives to musical and theatrical production companies that incur qualifying production expenditures in association with qualified touring productions. The program aims to attract musical and theatrical productions to Upstate New York musical and theatrical venues so as to stimulate economic activity and create jobs. The rule will not have a substantial adverse impact on jobs and employment opportunities; rather, the program is intended to create jobs. Because it is evident from the nature of the rulemaking that it will have either no impact or a positive impact on job and employment opportunities, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Department of Environmental Conservation

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Wild Turkey Fall Hunting Seasons and Bag Limits

I.D. No. ENV-19-15-00008-P

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

Proposed Action: Amendment of section 1.40 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 3-0301, 11-0303, 11-0903, 11-0905, 11-0917 and 11-1101

Subject: Wild turkey fall hunting seasons and bag limits.

Purpose: To amend wild turkey hunting regulations to revise the fall hunting season structure (season zones, season length, bag limit).

Text of proposed rule: Amend existing paragraph 1.40(c)(1) and subparagraph 1.40(d)(1)(ii) to read as follows:

(c) Season dates and boundaries.

(1) Fall.

A permittee may hunt wild turkey only during those open seasons and in those Wildlife Management Units (as described in section 4.1 of this Title) listed below.

Open Season	Wildlife Management Units
October 1st through [the first Friday after] October 14[5]th	5A, 5C, 5F, 5G, 5H, 5J, 6A, 6C, 6F, 6G, 6H, 6J, 6K and 6N
14 consecutive days beginning the first Saturday after October 14th [October 1st through the day before the Southern Zone regular deer season]	3A, 3C, 3F, 3G, 3H, 3J, 3K, 3M, 3N, 3P, 3R, 3S, 4A, 4B, 4C, 4F, 4G, 4H, 4J, 4K, 4L, 4O, 4P, 4R, 4S, 4T, 4U, 4W, 4Y, 4Z, 5R, 5S, 5T, 6P, 6R, 6S, 7A, 7F, 7H, 7J, 7M, 7P, 7R, [and] 7S, 8A, 8C, 8F, 8G, 8H, 8J, 8M, 8N, 8P, 8R, 8S, 8T, 8W, 8X, 8Y, 9A, 9C, 9F, 9G, 9H, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X, and 9Y
14 consecutive days beginning the third Saturday in November [14 consecutive days beginning 28 days prior to the Southern Zone regular deer season]	1C [7A, 8A, 8C, 8F, 8G, 8H, 8J, 9A, 9C, and 9F]
[The 28 days immediately prior to the Southern Zone regular deer season]	[8M, 8N, 8P, 8R, 8S, 8T, 8W, 8X, 8Y, 9G, 9H, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X and 9Y]

(d) Bag limits.

(1) Fall. A permittee may take:

(i) One turkey of either sex during the fall season on the Statewide carcass tag in any open area.

[(ii) A second turkey of either sex on the 2 bird area carcass tag only in Wildlife Management Units 3A, 3C, 3F, 3G, 3H, 3J, 3K, 3M, 3N, 3P, 3R, 3S, 4A, 4B, 4C, 4F, 4G, 4H, 4J, 4K, 4L, 4O, 4P, 4R, 4S, 4T, 4U, 4W, 4Y, 4Z, 5R, 5S, 5T, 6A, 6C, 6G, 6H, 6P, 6R, 6S, 7F, 7H, 7J, 7M, 7P, 7R & 7S (as described in section 4.1 of this Title).]

Text of proposed rule and any required statements and analyses may be obtained from: Michael Schiavone, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754, (518) 402-8886, email: michael.schiavone@dec.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.

Additional matter required by statute: A programmatic environmental impact statement is on file with the Department of Environmental Conservation.

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

Regulatory Impact Statement

1. Statutory Authority

Section 3-0301 of the Environmental Conservation Law (ECL) directs the Department of Environmental Conservation (DEC or department) to provide for the propagation, protection, and management wildlife.

Section 11-0303 of the ECL directs DEC to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met with regard to: ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, public safety, and protection of private premises.

ECL sections 11-0903 and 11-0905 direct DEC to promulgate regulations to establish seasons and bag limits for wild turkeys. ECL sections 11-0917 and 11-1101 describe the conditions under which wild game may be possessed, transported, or sold.

2. Legislative Objectives

The legislative objectives behind the statutory provisions listed above are to authorize the department to establish, by regulation, certain basic wildlife management tools, including the setting of open areas for hunting wild turkeys. These tools are used by the department in recognition of the importance of hunting for recreational purposes.

3. Needs and Benefits

The Division of Fish, Wildlife and Marine Resources (Division) proposes to amend the wild turkey hunting regulations to revise the fall hunting season structure (i.e., season zones, season length, bag limits) beginning in fall 2015. We are proposing a reduction in season length in most areas of the state in response to long-term population declines. A two-week season is proposed for each of three season zones (Northern Zone, Southern Zone, Long Island) with a seasonal bag limit of one bird of either sex. This represents a contraction of the fall turkey hunting season in much of the state, no change in the Great Lakes Plain, and a modest expansion in Suffolk County.

The Division proposes to revise fall hunting season zones statewide to better align harvest opportunities with current wild turkey populations and environmental conditions. Wild turkey populations in New York State have changed dramatically since the last time fall seasons were revised in 2002. Statewide, populations have declined significantly as measured by both the spring harvest and the bowhunter sighting log survey conducted during the fall. There are several reasons for this decline including a decline in reproductive success (e.g., nest success, poult success), loss of landscape-scale habitat diversity (particularly the loss of early successional habitats such as old fields, shrublands, and young forests that are important for nesting and brood rearing), and a more diverse and abundant predator community.

During the fall season a turkey of either sex may be taken. Overharvesting hens can cause populations to decline. In order to ensure that the turkey harvest is sustainable, we must adjust fall hunting seasons so that they are more appropriate for the current status of wild turkey populations in light of limiting factors such as hen survival, productivity, and habitat quality.

4. Costs

None beyond normal administrative costs.

5. Paperwork

There is no additional paperwork required based on this regulatory proposal. Wild turkey hunters have always been required to purchase a turkey hunting permit, complete a carcass tag for any bird harvested, and to report the harvest within 7 days. This regulatory proposal does not change any of these requirements.

6. Local Government Mandates

These amendments do not impose any program, service, duty or responsibility upon any county, city, town, village, school district or fire district.

7. Duplication

There are no other regulations similar to this proposal.

8. Alternatives

1. Close the fall season.

While New York's turkey populations have declined, they can still sustain a limited fall harvest. The Division used a structured-decision making process (SDM) to identify the optimal season structure for various regions of the State that balances turkey abundance and hunter satisfaction. While eliminating the fall season would eliminate hunting mortality and maximize the number of turkeys on the landscape, it would disenfranchise the 50,000 New Yorkers who pursue this popular game bird each fall, and the generations of New York hunters that have enjoyed a fall turkey hunting opportunity for over 50 years.

2. Continue with the existing fall season structure.

The current hunting season structure does not account for current ecological conditions such as weather, landscape-scale habitat, turkey abundance, productivity, and survival, and social conditions such as hunters' motivation and what drives hunter satisfaction. We evaluated various harvest alternatives based on biological and social data for major physiographic regions of the State to determine the optimal season structure. Where changes are proposed to season length or bag limit, it was because the new season structure provided a better balance between turkey abundance and hunter satisfaction than the existing season does.

3. Only allow the harvest of male turkeys during the fall season.

Data from hunter-killed birds in the fall indicate that hunters often have difficulty identifying the age and sex of the birds they harvest. Many of the birds hunters encounter during the fall are young, so the physical characteristics that help identify sex and age may not be conspicuous, making it difficult to comply with hunting regulations.

Were we to allow only the harvest of "bearded birds", this would significantly restrict hunting opportunities as the vast majority of birds with conspicuous beards during the fall are adult males, which currently only make up about 22% of the total fall harvest.

4. Consider other harvest alternatives (longer/shorter, different bag limit).

The Division evaluated four harvest alternatives that represented a range of opportunity and hunting pressure from a conservative season (2 weeks, 1 bird bag limit) to a liberal season (7 weeks, 2 bird bag limit). As mentioned above, the SDM process that was employed identified the optimal season structure for various regions of the State that balanced turkey abundance and hunter satisfaction. Social science surveys indicated that fall turkey hunters place greater value on seeing and hearing turkeys over other aspects such as harvest success or avoiding conflicts with other hunters. Since "hearing and seeing more turkeys" is directly tied to turkey abundance, the relatively conservative two-week season minimizes the impacts of hen harvest mortality while still providing hunters the chance to go afield. More lengthy seasons and liberal bag limits would provide more hunting opportunity, but would also increase the probability that populations would continue to decline.

Survey data indicate that fall turkey hunters spend 4-6 days afield on average, regardless of whether they hunt in a region with a two-week season (i.e., the Lake Plains) or a seven-week season (southeastern New York). Because the proposed season dates in the three proposed zones do not overlap (Northern Zone: Oct. 1-14; Southern Zone: Oct. 17-30; Suffolk County: Nov. 21-Dec. 4), a very dedicated hunter could hunt turkeys for up to six weeks in total if they were willing to move around the State.

Important factors in hunter satisfaction include hearing and seeing more birds (i.e., a stable or growing turkey population), a season that includes at least two weekends, and a season that does not overlap with the firearms deer season. The optimal two week-one bird season structure identified by the SDM process will meet these criteria.

9. Federal Standards

There are no federal standards associated with wild turkey hunting.

10. Compliance Schedule

Licensed hunters would have to comply with the new regulations beginning in the fall of 2015, if they are adopted as proposed.

Regulatory Flexibility Analysis

The purpose of this rule making is to amend the wild turkey hunting regulations to revise the fall hunting season structure (i.e., season zones, season length, bag limits) beginning in fall 2015, including a reduction in season length in most areas of the State in response to long-term population declines. A two-week season is proposed for each of three season zones (Northern Zone, Southern Zone, Long Island) with a seasonal bag limit of one bird of either sex. This rule will not impose any reporting, record-keeping, or other compliance requirements on small businesses or local government. Therefore, a Regulatory Flexibility Analysis is not required.

All reporting or record keeping requirements associated with hunting in general, and wild turkey hunting in particular, are administered by the New York State Department of Environmental Conservation (department). Small businesses may, and town or village clerks do, sell hunting licenses, but this rule does not affect that activity. Thus, there will be no effect on reporting or record keeping requirements imposed on those entities.

Based on the department's past experience in promulgating regulations of this nature, and based on the professional judgment of department staff, the department has determined that this rulemaking may slightly decrease the number of participants or the frequency of participation in fall turkey hunting over the short-term, but will ultimately result in higher participation if and when turkey populations recover from current low levels. Some small businesses currently benefit from hunting because hunters spend money on goods and services, and thus an increase in hunting participation should lead to positive economic impacts on such businesses over the long-term.

Changes in hunting activity will not require any new or additional reporting or record-keeping by any small businesses or local governments. For these reasons, the department has concluded that this rulemaking does not require a Regulatory Flexibility Analysis.

Rural Area Flexibility Analysis

The purpose of this rule making is to amend the wild turkey hunting regulations to revise the fall hunting season structure (i.e., season zones, season length, bag limits) beginning in fall 2015, including a reduction in season length in most areas of the State in response to long-term population declines. A two-week season is proposed for each of three season zones (Northern Zone, Southern Zone, Long Island) with a seasonal bag limit of one bird of either sex. This rule will not impose any reporting, record-keeping, or other compliance requirements on public or private entities in rural areas.

All reporting or record-keeping requirements associated with hunting are administered by the New York State Department of Environmental Conservation (department). Small businesses may, and town or village clerks do, issue hunting licenses, but this rule making does not affect that activity.

Any changes in hunting activity over the short-term or long-term that may result from this rulemaking will not require any new or additional reporting or record-keeping by entities in rural areas, and no professional services will be needed for people living in rural areas to comply with the proposed rule. Furthermore, this rule making is not expected to have any adverse impacts on any public or private interests in rural areas of New York State. For these reasons, the department has concluded that this rulemaking does not require a Rural Area Flexibility Analysis.

Job Impact Statement

The purpose of this rule making is to amend the wild turkey hunting regulations to revise the fall hunting season structure (i.e., season zones, season length, bag limits) beginning in fall 2015, including a reduction in season length in most areas of the State in response to long-term population declines. A two-week season is proposed for each of three season zones (Northern Zone, Southern Zone, Long Island) with a seasonal bag limit of one bird of either sex. The New York State Department of Environmental Conservation (DEC or department) has historically made regular revisions to its hunting regulations. Based on DEC's experience in promulgating those revisions and the familiarity of regional department staff with the specific areas of the State impacted by this proposed rulemaking, the department has determined that this rule making will not have a substantial adverse impact on jobs and employment opportunities. Few persons, if any, actually use recreational hunting as a means of employment. This rulemaking will help ensure the long-term security of wild turkey populations while providing sustainable harvest opportunities. This rulemaking may slightly decrease the number of participants or the frequency of participation in fall turkey hunting over the short-term, but will ultimately result in higher participation if and when turkey populations recover from current low levels. A more abundant turkey population may benefit local businesses and businesses that sell hunting supplies and equipment.

For these reasons, the department anticipates that this rulemaking will have no impact on jobs and employment opportunities. Therefore, the department has concluded that a job impact statement is not required.

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

Deer Hunting Seasons and Deer Management Assistance Permits

I.D. No. ENV-19-15-00009-P

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

Proposed Action: Amendment of sections 1.11 and 1.30 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303, 11-0903(10), 11-0903(11) and 11-0907

Subject: Deer Hunting Seasons and Deer Management Assistance Permits.

Purpose: Adjust antlerless deer harvest regulations to meet local population management needs, improve Deer Management Assistance Permits.

Text of proposed rule: Amend paragraph 6 NYCRR 1.11(d)(7) as follows:

(7) During the Northern Zone muzzleloading seasons, the types of deer that may be legally harvested[,] and the open Wildlife Management Units (WMUs) as described in section 4.1 of this [Part] Title are as set forth below.

Season	Open WMUs for harvest of deer of either sex	Open WMUs for harvest [only] of antlerless deer <i>only</i> [or deer having both antlers less than three inches in length]	Open WMUs for harvest of antlered deer <i>only</i>
Early Muzzleloader	5A, 5C, 5F, 5G, 5H, 5J, [6A,] 6C, 6F, 6G, 6H, 6J, 6K		6A, 6N
Late Muzzleloader	5A, 5G, 5J, 6A, 6C, 6G, 6H		

Adopt new paragraphs 6 NYCRR 1.11 (d) (8) and (9) to read as follows:

(8) *During the early bowhunting season and the late bowhunting and muzzleloading seasons in the Southern Zone, the types of deer that may be legally taken in specified WMUs are as set forth below.*

Season	Time Period	Open WMUs for harvest of antlerless deer <i>only</i>	Open WMUs for harvest of deer of either sex
Early Bowhunting	October 1 through October 15	3M, 4J, 8A, 8C, 8F, 8G, 8H, 8N, 9A, 9F	All other WMUs
	Remainder of season		All WMUs
Late Bowhunting and Late Muzzleloader	Entire season	3M, 4J, 8A, 8C, 8F, 8G, 8H, 8N, 9A, 9F	All other WMUs

(9) *During the regular season in Suffolk and Westchester counties (WMUs 1C and 3S, respectively), only antlerless deer may be taken from October 1 through October 15.*

Amend subdivisions (a), (c), (d), (e), (f), (g), (h), (i), and (j) of 6 NYCRR 1.30 as follows:

1.30 Deer Management Assistance [Permits] Program.

(a) Purpose. This section contains the administrative procedures for the [issuance and use of deer management assistance permits. These permits] program (DMAP). DMAP offers an additional tool [for the management of the white-tailed deer resource in New York State. A Deer Management Assistance Permit (DMAP) is a special permit issued] to a land/resource manager, or a group of land/resource managers, whose property is in need of site specific deer management efforts, and who meet the eligibility criteria established herein. [With each] *Through* DMAP, the department [will] *may* issue a permit and antlerless deer tags for use on lands owned and/or controlled by the permit holder. Deer taken under a DMAP permit are in addition to any deer an individual may otherwise legally take.

(c) Open Season. DMAP[s] permits and tags are valid during any open deer season established in accordance with sections 11-0903 or 11-0907 of the ECL [, except the early archery season occurring in September in the Northern Zone].

(d) License Requirements. No person shall hunt or take antlerless deer under the authority of a DMAP permit unless they are licensed to hunt deer during the appropriate hunting season.

(e) Legal Harvest. Only wild deer without antlers or having antlers measuring less than three inches in length (“antlerless deer”) may be taken under the authority of a DMAP permit.

(f) Permit Eligibility. [Only one application may be submitted per land/resource manager or group of land/resource managers per year.] To be eligible for a DMAP permit, the applicant(s) must meet one of the following criteria:

- (1) The applicant(s) owns or controls land(s) where agricultural deer damage has been documented or can be documented by the department; or
- (2) The applicant is a municipality that has *identified social or*

ecological problems due to deer within their municipal boundary [a documented deer problem and a department approved plan for deer management]. Participating properties within the municipality need not be contiguous, but the municipality must be the named applicant; or

(3) The applicant(s) owns or controls land(s) where deer damage to significant natural plant communities has been documented or can be documented by the department. Such damage must be identified in an existing land management plan for the property; or

(4) The applicant(s) owns or controls at least 100 acres of *forest* land contained in one or more parcels all sharing a contiguous boundary or *multiple, non-contiguous parcels of forest land of at least 100 acres each within the same or adjacent Wildlife Management Unit(s)*, where forest regeneration is negatively impacted by deer. This negative impact must be identified in an existing forest and/or land management plan for the property. Parcels of less than 100 acres may also be considered, if enrolled in the Real Property Tax Law Section 480a program. Two or more landowners may cooperate to meet the acreage requirements; or

(5) The applicant(s) owns or controls at least 1,000 acres of land contained in one or more parcels all sharing a contiguous boundary and *involved in custom deer management*. Two or more landowners may cooperate to meet the acreage requirements. A deer management plan specifically designed for the property must be submitted to and approved by the [appropriate regional office of the] department.

(6) *The applicant(s) owns or controls land(s) where deer damage has been documented or can be documented by the department, and which is adjacent to or bordering a parcel of publically-owned land that is at least 250 acres and is not open to deer hunting by law, regulation, or public agency policy.*

(g) *Application Procedures and permit duration.* [Application for a DMAP shall be made through the DEC regional wildlife office in the Region where the land(s) is located.] *Application instructions will be maintained on the department's website.* [forms, permit summary cards, antlerless deer carcass and report tags will be supplied by the department.] There is no fee for the application [and] or issuance of a DMAP permit. All applications are subject to the following requirements:

(1) Application [postmark] deadline [is September prior to the opening of the big game hunting seasons for that license year. Applications not meeting this deadline will be considered at the discretion of the department.] *will be posted with the application instructions on the department's website. Applications not meeting the posted deadline will be considered for enrollment the following year. Permits will expire July 31, three years following the year of application, unless revoked earlier by the department.*

(2) Each application must designate one person to be the named "permit holder" who will serve as the contact for all communication with the department. This person must have authority to represent all parties having a controlling interest in deer hunting activities on the property(s) identified in the application. This person shall be responsible for the distribution of all DMAP tags and provide other information the department may deem necessary under the permit.

(3) The application form must include the Farm Service Agency (FSA) number or the tax map identification number as recorded in the county clerk's office for the property(s) included in the DMAP application. *Individual properties or land parcels may not be listed on more than one DMAP application. Municipal applications shall cover all public and private properties within their border, but the municipal permit holder must maintain a list of all participating properties with written consent of the associated landowners.*

(4) Each application shall describe the background and scope of the deer problem or state the deer management goals and the reasons why such goals cannot be met through standard hunting seasons and permits. Where a deer management plan is not otherwise required under this section, such a plan may be required at the discretion of the department.

(5) Information regarding past deer harvests, existing conditions, and deer management objectives within the Wildlife Management Unit(s) in which the application is applied for, will be considered each year to determine DMAP eligibility.

(6) Nothing in this section shall be construed as requiring or obligating the department to [issue] *approve a DMAP[s] application* when in its opinion the [nuisance] *deer damage* problem will not be effectively abated thereby or when in its opinion the deer management goals of the applicant can [effectively] be met through effective utilization of existing deer hunting opportunities.

(h) Tag Issuance and Procedures. Under a DMAP permit, a specified number of antlerless deer carcass tags will be issued to the applicant in accordance with the following:

(1) The [maximum] *total* number of tags issued will be *at the discretion of the department*, [no more than one for every 50 acres of land identified in a DMAP. At the discretion of the Department, additional tags may be issued for instances of deer damage that are documented or can be documented by the Department.]

(2) DMAP tag(s) are valid only on the land(s) specified in the DMAP permit.

(3) Deer taken under this subdivision are in addition to the one deer per year authorized in section 11-0907 of this title, or to any other deer lawfully authorized by section 11-0907.]

(3[4]) No more than two DMAP tags may be used per hunter per year *per DMAP permit*, except that the department, in its discretion, may authorize the use of up to [two additional] *four DMAP* tags per hunter *per year on DMAP permits* in Wildlife Management Units where the *objective is to reduce the deer population* [buck take is expected to significantly exceed the buck take objective]. For those permits where more than two tags per hunter *per year* may be used, the permit conditions shall state the number of tags allowed per hunter. *There is no limit on the number of DMAP permits that a hunter may be authorized to take deer on.*

(4[5]) DMAP tags may not be sold.

(5[6]) It shall be the responsibility of the permit holder to distribute all DMAP tags. [DMAP tags shall not be transferred or reissued other than by the permit holder.] *If the permit holder is a state or municipal government agency, the permit holder must ensure a process of tag distribution that provides equal opportunity for licensed hunters.*

(i) Manner of Taking, Transporting, and Reporting.

(1) Immediately upon taking a deer under the authority of a [deer management assistance] DMAP permit [(DMAP)], the taker must use [a] *indelible pen or indelible pencil* to sign the carcass tag and fill in all information on the carcass tag. The carcass tag must be attached to the deer, except the carcass tag does not need to be attached while the deer is actually being dragged to a camp, dwelling, or point where transportation is available. The carcass tag must not be removed until the deer is prepared for consumption. The taker must report each harvested deer to the permit holder *and to the department in accordance with current game harvest reporting requirements as set forth in 6 NYCRR 180.10.*

(2) Antlerless deer taken pursuant to [this section] *a DMAP permit* must not be transported without the carcass tag attached to it except in accordance with the provisions of subdivisions 4 and 5 of section 11-0911 of the ECL.

(3) The permit holder is responsible for submitting to the department [a] *an annual report* of all [harvested] deer taken under the authority of their DMAP permit, *by February 15 for permits issued for properties in Suffolk County and by January 15 for properties in all other counties* [within five business days of the close of the deer hunting season in the area where the DMAP has been issued].

(j) Other Regulations. All information requested on the DMAP application must be complete in order to receive consideration. The department may revoke or suspend a DMAP permit where it is obtained through fraud, or where it is obtained by persons not entitled to a DMAP permit, or where false statements are made in [applying for a] *the DMAP application*. Failure to comply with conditions of the DMAP permit, *failure to provide an annual report in accordance with permit conditions*, and/or violations of the fish and wildlife law may result in revocation of a DMAP permit and/or denial of future DMAP applications at the discretion of the Department.

Text of proposed rule and any required statements and analyses may be obtained from: Bryan Swift, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754, (518) 402-8883, email: bryan.swift@dec.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.

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

Regulatory Impact Statement

1. Statutory authority:

Section 11-0303 of the Environmental Conservation Law directs the Department of Environmental Conservation (DEC or department) to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met with regard to ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, public safety, and protection of private premises. Section 11-0903(10) provides the specific authority to set manner of taking, possession, open seasons and bag limits for the harvest of deer. Section 11-0903(11) provides authority to administer the Deer Management Assistance Program. Section 11-0907 governs open seasons and bag limits for deer.

2. Legislative objectives:

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

3. Needs and benefits:

The department is challenged to manage deer populations across a diverse range of environmental conditions and desired population levels. Currently, despite not issuing Deer Management Permits (DMPs) in Wildlife Management Unit (WMU) 6A in the St. Lawrence Valley since 2011, managers have identified the need to further restrict antlerless harvest to increase deer populations. Antlerless deer continue to be harvested during bow and muzzleloader hunting seasons, with the greatest harvest occurring during the 7-day early muzzleloader season. Over the past 25 years, the department has modified muzzleloader season opportunities in the Northern Zone, switching between either-sex, antlerless-only, or antlered-only as needed to achieve management objectives. This rulemaking will restrict harvest during the early muzzleloader season to antlered deer only in WMU 6A until such time as populations increase to desired levels and the season may again be returned to an either-sex opportunity.

In stark contrast, antlerless deer harvest must be increased in WMUs 1C, 3M, 3S, 4J, 8A, 8C, 8F, 8G, 8H, 8N, 9A, and 9F, which include portions of southeastern New York and throughout the Lake Plains and northern Finger Lakes area of central and western New York. In these areas, deer populations are above levels desired by local stakeholders, resulting in unacceptable impacts to residents and local ecosystems. Offering increasing numbers of DMPs each year is no longer a productive way to increase antlerless take in these areas because the number available has exceeded hunter demand, and there is an urgent need to achieve greater antlerless deer harvests. Consistent with the Department's Management Plan for White-tailed Deer in New York State, 2012-2016, this rule making proposes to allow hunters to only take antlerless deer during the first 15 days of the bow season and during all of the late bow and muzzleloader seasons in the areas listed above.

Additionally, this rule making will refine the Deer Management Assistance Program (DMAP), which provides site-specific deer management options for landowners and land-managers. This rule making will expand opportunity for landowners adjacent to un hunted public lands to mitigate deer-related damage, reduce paperwork burden for applicants and staff, increase flexibility for staff in administering DMAP, and improve reporting of harvest through DMAP.

4. Costs:

Implementation of this regulation has no additional costs, other than the normal administrative expenses of the Division of Fish, Wildlife and Marine Resources associated with game management. This change will not affect costs for the landowner, the resource manager or participating hunters within the DMAP program. There is no fee for DMAP permits. The increase in program efficiency will lead to a decrease in department staff time spent on the program.

5. Local government mandates:

There are no local governmental mandates associated with this proposal.

6. Paperwork:

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

7. Duplication:

None.

8. Alternatives:

1) No change. No change in antlerless harvest strategies would maintain a lower than desired deer population in WMU 6A and perpetuate deer overabundance and associated negative social and ecological impacts in many WMUs in the Lake Plains and northern Finger Lakes area.

2) Establish a special muzzleloader season for antlerless deer in areas where additional antlerless harvest is needed. This option is identified in the deer management plan as the Phase-3 action for increasing antlerless harvests and will be considered in areas where the Phase-2 action is insufficient. A special muzzleloader season would likely yield a greater increase in antlerless harvest and more quickly achieve the desired population reduction than the proposed antlerless-only portions of the bow and muzzleloader seasons. However, this alternative has been strongly contested by some bowhunters who perceived potential loss of their own exclusive opportunities prior to opening of the regular firearms season. Nonetheless, Phase-3 may be needed by 2017 in some WMUs.

3) Establish an "earn-a-buck" system in areas where additional antlerless harvest is necessary. Earn-a-buck systems require that hunters take one or more antlerless deer before they are eligible to harvest a buck or before they are eligible to take a second buck. While this approach was not proposed in the department's deer management plan, it has been suggested by some hunters and been effective in some jurisdictions. However, earn-a-buck strategies are generally unpopular with most hunters and entail logistical costs to implement and enforce. An earn-a-buck system may be necessary at some point in New York's deer management future, but the department believes the Phase-2 and Phase-3 strategies are more reasonable as preliminary options.

9. Federal standards:

There are no federal government standards associated with this proposal.

10. Compliance schedule:

Hunters will be required to comply with the new regulations during the 2015-16 license year, which begins on September 1, 2015.

Regulatory Flexibility Analysis

The proposed regulation would amend the Department of Environmental Conservation's (department) white-tailed deer hunting regulations to reduce harvest of antlerless deer in one Wildlife Management Unit (WMU) in northern New York and increase harvest of antlerless deer in several WMUs in southeastern and western New York. The proposed rule making would also amend regulations governing the Deer Management Assistance Program to improve program efficiency. The department has historically made regular revisions to its hunting regulations in New York. Based on the department's experience in promulgating those revisions and the familiarity of the department's regional personnel with the affected areas, the department has determined that this rule making will not have an adverse economic effect on small businesses or local governments.

All reporting, recordkeeping, and compliance requirements associated with deer hunting is administered by the department. Therefore, the department has determined that this rule making will not impose any reporting, recordkeeping, or other compliance requirements on small businesses or local governments.

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

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

White-tailed deer are ubiquitous in New York. Consequently, the proposed regulation impacts rural areas throughout New York State.

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

All reporting, recordkeeping and other compliance requirements; and professional services associated with white-tailed deer is the responsibility of the New York State Department of Environmental Conservation (department).

3. Costs:

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

4. Minimizing adverse impact:

The proposed rule making will reduce harvest of antlerless deer in Wildlife Management Unit (WMU) 6A in portions of St. Lawrence, Franklin and Jefferson counties where deer populations are below the level desired by local stakeholders. The proposed rule making also seeks to increase the harvest of antlerless deer in a number of WMUs in southeastern New York and throughout the Lake Plains and northern Finger Lakes area of central and western New York where deer populations are greater than desired by local stakeholders. Because this rulemaking seeks to balance deer populations with the recommendations of local stakeholders, the proposed changes are expected to have a positive effect on rural areas.

5. Rural area participation:

A key component of the New York State White-tailed Deer Management Program is the use of Citizen Task Forces to discuss local deer-related impacts and generate a stakeholder recommendation for deer population change. This rulemaking furthers the department's effort to align deer populations to the interests expressed by local stakeholders.

Job Impact Statement

The proposed regulation would amend the Department of Environmental Conservation's (department) white-tailed deer hunting regulations to reduce harvest of antlerless deer in one Wildlife Management Unit (WMU) in northern New York and increase harvest of antlerless deer in several WMUs in southeastern and western New York. The proposed rule making would also amend regulations governing the Deer Management Assistance Program to improve program efficiency. Few, if any, persons hunt as a means of employment. Such a person, for whom hunting is an income source (e.g., professional guides), are not expected to suffer substantial adverse impact as a result of this proposed rule making. Though this rule will reduce hunting opportunity for antlerless deer during the 7-day early muzzleloader season in WMU 6A and reduce opportunity for antlered deer in several WMUs for during a portion of the early bowhunting season and all of the late bow and muzzleloader seasons, ample opportunity to hunt deer remains in other seasons and throughout the state. For this reason, the department anticipates that this rule making will have no impact on jobs and employment opportunities.

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

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

Fisher Trapping Seasons and Bag Limits and General Trapping Regulations for Furbearers

I.D. No. ENV-19-15-00010-P

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

Proposed Action: Amendment of sections 6.2 and 6.3 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 3-0301, 11-0303, 11-0917, 11-1101, 11-1103 and 11-1105

Subject: Fisher trapping seasons and bag limits and general trapping regulations for furbearers.

Purpose: Revise existing fisher seasons, establish a new season in central/western NY, update and clarify general trapping regulations.

Text of proposed rule: Title 6 / Part 6 of NYCRR, Section 6.2, entitled "Mink, muskrat, raccoon, opossum, weasel, red fox, gray fox, skunk, coyote, fisher, bobcat and pine marten trapping seasons and bag limits," and Section 6.3, entitled "General regulations for trapping beaver, otter, mink, muskrat, raccoon, opossum, weasel, red fox, gray fox, skunk, coyote, fisher, bobcat and pine marten," are amended as follows:

Amend existing subparagraphs 6.2(a)(2), (a)(4), (a)(5), (b)(2), (c)(2)-(4) to read as follows:

§ 6.2 Mink, muskrat, raccoon, opossum, weasel, red fox, gray fox, skunk, coyote, fisher, bobcat and pine marten trapping seasons and bag limits.

(a) No person shall trap the following listed species except during the open trapping seasons corresponding to the listed wildlife management units, or parts of units. Refer to Section 4.1 of this Title for a description of wildlife management units.

(2) Raccoon, red fox, gray fox, skunk, coyote, opossum and weasel.

Open season	Wildlife Management Units
November 1 to February 25, except closed for coyote	1A, 1C and 2A
[October 25 to December 10]	[5A, 5C, 5F, 5G, 5H, 5J, 6A, 6C, 6F, 6G, 6H, 6J, 6K and 6N.]
[December 11 to February 15]	[5A, 5C, 5F, 5G, 5H, 5J, 6A, 6C, 6F, 6G, 6H, 6J, 6K and 6N. Body-gripping traps set on land may not be set with bait or lure.]
October 25 to February 15	All other WMUs

(4) Fisher.

Open season	Wildlife Management Units
October 25 to December 10	3A, 3C, 3F, 3G, 3H, 3J, 3K, 3M, 3N, 3P, 4A, 4B, 4C, 4G, 4H, 4J, 4K, 4L, 4P, 4R, 4S, 4T, 4U, 4W, 4Y, 4Z, 5A, [5C, 5F, 5G, 5H, 5J,] 5R, 5S, 5T, 6A, 6C, [6F,] 6G, 6H, [6J,] 6K, 6N, 6R and 6S
October 25 to November 15	5C, 5F, 5G, 5H, 5J, 6F, and 6J
October 25 to November 2	4F, 4O, 7A, 7M, 7P, 7R, 7S, 8T, 8W, 8X, 8Y, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X, 9Y
Closed	All other WMUs

(5) Pine Marten.

Open season	Wildlife Management Units
October 25 to November 15 [December 10]	5C, 5F, 5G, 5H, 5J, 6F and 6J
Closed	All other WMUs

(b) Bag limits.

(2) Mink, muskrat, fisher, raccoon, red fox, gray fox, skunk, coyote, bobcat, opossum and weasel may be taken by trappers in any number during their respective open seasons, *except in Wildlife Management Units 4F, 4O, 7A, 7M, 7P, 7R, 7S, 8T, 8W, 8X, 8Y, 9J, 9K, 9M, 9N, 9P, 9R, 9S,*

9T, 9W, 9X, 9Y where a maximum of one fisher may be taken by a single trapper during the open season for trapping fisher.

(c) Bobcat or Fisher permit.

(2) No person shall trap fisher in Wildlife Management Units 4F, 4O, 5A, 5C, 5F, 5G, 5H, 5J, 6A, 6C, 6F, 6G, 6H, 6J, 6K, 6N, 7A, 7M, 7P, 7R, 7S, 8T, 8W, 8X, 8Y, 9J, 9K, 9M, 9N, 9P, 9R, 9S, 9T, 9W, 9X, 9Y unless the person holds a revocable special permit for fisher issued by the department.

[(2)](3) Requirements and procedures for obtaining a bobcat or fisher permit will be described in the department's annual hunting and trapping syllabus and on the department's website.

[(3)](4) The holder of a bobcat or fisher permit must comply with all conditions stated on the permit.

Repeat existing subparagraph 6.3(a)(1) and renumber subparagraphs (a)(2) through (a)(16) as subparagraphs (a)(1) through (a)(15).

Amend renumbered subparagraph 6.3(a)(1) to read as follows:

(1) [(2)] No person shall use traps of the leg - gripping type [that have teeth in the jaws or that have a spread of jaws] with a dimension of greater than 5³/₄ inches except that traps up to 7¹/₄ inches may be used when set under water during the open season for trapping beaver or otter. No person shall set or use a [body] leg - gripping type trap [with a dimension of more than 7¹/₂ inches except when used in water during the open season for trapping beaver and otter. No person shall set a trap] in such a manner that the animal, when caught, would be suspended. No person shall use traps of the leg-gripping type that have teeth in the jaws.

Amend renumbered subparagraphs 6.3(a)(5) and (a)(6) to read as follows:

(5) [(6)] [No person shall trap beaver or otter with traps of the leg - gripping type that have teeth in the jaws or that are set under water and have a spread of jaws greater than 7¹/₄ inches.] No person shall set or use on land a body - gripping type trap with a dimension of more than 7¹/₂ inches [for trapping beaver or otter]. *Body-gripping traps with a dimension of more than 7¹/₂ inches may be set in the water during the open season for beaver or otter.* No [person shall set a trap for beaver or otter] body-gripping trap may be set in such a manner that the animal, when caught, would be suspended. *No person shall use traps of the body-gripping type that have teeth in the jaws.*

(6) [(7)] It is unlawful for any person to disturb a beaver den or house (an aggregate of sticks and mud, either free-standing in water or connected to a bank) at any time. This restriction does not apply to holes in a bank without a den or house. It is unlawful for any person to trap on or within 15 feet of a beaver dam, den or house, [or within 15 feet thereof,] measured at ice or water level, except under the following conditions:

(i) During an open otter season, *traps of any legal size may be set on or within 15 feet of a beaver dam, but not on or within 15 feet of a beaver den or house.*

(ii) During [a] *an open or closed otter season, [when using one] any of the following traps may be set on or within 15 feet of a beaver dam, den, or house:*

Amend renumbered subparagraph 6.3(a)(11) to read as follows:

(11) [(12)] Trigger specifications for body gripping traps in the Southern Zone. In the Southern Zone, no person shall use or set a body gripping trap with a dimension of more than [nine] 8¹/₂ inches in any wildlife management unit where the river otter trapping season is closed, unless the trap has only one triggering device and such device is a "two-way/parallel trigger" possessing all of the following design features:

Add new subparagraph 6.3(a)(16) to read as follows:

(16) *In the northern zone (Wildlife Management Units 5A, 5C, 5F, 5G, 5H, 5J, 6A, 6C, 6F, 6G, 6H, 6J, 6K and 6N) body-gripping traps set on land may not be set with bait or lure during a closed season for fisher and/or marten. Refer to paragraphs 6.2(a)(4) and (5) for descriptions of fisher and pine marten seasons, respectively.*

Text of proposed rule and any required statements and analyses may be obtained from: Michael Schiavone, New York State Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-4754, (518) 402-8886, email: michael.schiavone@dec.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.

Additional matter required by statute: A programmatic environmental impact statement is on file with the Department of Environmental Conservation.

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

Regulatory Impact Statement

1. Statutory Authority

Section 3-0301 of the Environmental Conservation Law (ECL) directs the Department of Environmental Conservation (DEC or department) to provide for the propagation, protection, and management wildlife.

Section 11-0303 of the ECL directs DEC to develop and carry out programs that will maintain desirable species in ecological balance, and to observe sound management practices. This directive is to be met with regard to: ecological factors, the compatibility of production and harvest of wildlife with other land uses, the importance of wildlife for recreational purposes, public safety, and protection of private premises.

ECL sections 11-0917 and 11-1101 describe the conditions under which wild game may be possessed, transported, or sold, and which trapping activities are prohibited.

ECL section 11-1103 states that the department may by regulation permit trapping of beaver, fisher, otter, bobcat, coyote, fox, raccoon, opossum, weasel, skunk, muskrat, pine marten and mink and may regulate the taking, possession and disposition of such animals.

ECL section 11-1105 describes how traps may be set, how often they must be checked, and how animals may be dispatched.

2. Legislative Objectives

The legislative objectives behind the statutory provisions listed above are to authorize the department to establish, by regulation, certain basic wildlife management tools, including the setting of open areas for trapping fisher and other furbearers. These tools are used by the department in recognition of the importance of trapping for recreational purposes.

3. Needs and Benefits

The Division of Fish, Wildlife and Marine Resources (Division) proposes to establish a new 9-day fisher trapping season in select Wildlife Management Units (WMUs) in central and western New York that can sustain a limited harvest opportunity based on analyses of fisher population data and estimates of trapping pressure. In addition, the Division proposes a restriction of the fisher season in Adirondack WMUs from 46 days to 22 days based on scientific evidence that harvest rates in those units is exceeding 20%, the threshold for sustainable harvest. Finally, the Division is proposing minor revisions to the general trapping regulations for furbearers to improve clarity and ease compliance and enforcement.

4. Costs

None beyond normal administrative costs.

5. Paperwork

The proposed revisions require participants in fisher trapping seasons in the Northern Zone and select Wildlife Management Units (WMUs) in central and western New York to obtain a special permit from DEC free of charge and to complete a trapping effort log. These requirements allow wildlife managers to obtain important information on trapping harvest, participation, and effort to ensure that harvest is sustainable.

6. Local Government Mandates

These amendments do not impose any program, service, duty or responsibility upon any county, city, town village, school district or fire district.

7. Duplication

There are no other regulations similar to this proposal.

8. Alternatives

Alternatives for Fisher Trapping in Adirondack WMUs in Northern New York

No changes to fisher trapping seasons in Adirondack WMUs. A fundamental part of fisher management is that populations can generally sustain annual harvest rates of approximately 20%. Harvest and trapping effort data from the Adirondacks indicate that the fisher population has declined in recent years and that harvest rates exceed 20%. Based on our analysis of fisher harvest data, DFWMR staff concluded that some changes to trapping regulations are necessary to ensure that fisher harvests are managed on a sustainable basis as a public trust resource.

Implement a seasonal bag limit on fishers in Adirondack WMUs. Imposing a seasonal bag limit on fishers, with or without some season reduction, could be used to reduce the harvest and directly align fisher and marten trapping regulations in the Adirondacks (current regulations include a seasonal limit of 6 marten per trapper). Trappers in the Adirondacks usually pursue both species simultaneously and the methods used to trap these species are very similar. However, a seasonal bag limit on fishers creates some challenges for law enforcement; for example, trappers exceeding their bag limit may tag them on another trapper's permit, or report the harvest from an adjacent WMU where there was no limit. Bag limits also can be burdensome to trappers who typically set numerous traps at one time, but have no way to limit their cumulative take each day. Consequently, having a restrictive bag limit could result in unintended violations and discourage trapping participation.

Temporarily close fisher trapping seasons in Adirondack WMUs. Fisher trapping season closures were implemented in New York in 1977, 1983, and 1984; however, the recently observed fisher harvest declines do not warrant such action at this time. While such measures may provide immediate relief of harvest pressure on fisher populations, short-term season closures are unlikely to provide long-term benefits if other harvest restrictions are not implemented when seasons are re-opened. Furthermore, because fishers and martens are trapped using the same methods, the

marten trapping season in the Adirondacks would also be closed under this alternative. Fishers would also continue to be harvested incidental to other terrestrial furbearers with concurrent seasons (e.g., fox, raccoon, coyote). Lastly, when trapping seasons are closed, the Department loses a valuable source of data (i.e., biological data collected during pelt sealing) that is used to assess population status and make management decisions.

Alternatives for Fisher Trapping in Central and Western New York

Maintain a closed season for trapping fishers. While maintaining a closed season for fisher trapping is a viable management option, providing regulated trapping opportunities is consistent with the NYSDEC Bureau of Wildlife's mission "To provide the people of New York the opportunity to enjoy all the benefits of the wildlife of the State, now and in the future." These benefits include opportunities to harvest and observe fishers in the wild. Even with the proposed opening of a limited trapping season Central/Western New York, we expect fisher populations to continue to expand to other areas of western New York (e.g., the Lake Plains) which will provide additional opportunities for the public to observe and enjoy this species in the future.

Open a fisher trapping season with harvest regulations similar to other areas of New York (existing or proposed). We considered this option to address potential concerns regarding inequity of harvest opportunities among fisher management zones or having different trapping seasons and regulations across the state. However, our assessment of fisher populations and harvest data from ecologically-similar areas of southeastern New York, suggested that a more conservative season than occurs elsewhere currently (46 days) or than is proposed for the Adirondack WMUs (22 days) was more appropriate for opening a new season. The proposed 9-day season, with a seasonal bag limit of one fisher, will almost certainly be sustainable, provide some new harvest opportunities, and provide data that we can use to evaluate possible season expansions in the future.

Alternatives for Revisions to General Trapping Regulations for Furbearers

Make no changes to existing general trapping regulations in NYCRR Section 6.3. We can continue to manage furbearers without making changes to the general regulations described in Section 6.3, but the current wording has led to confusion among both trappers and law enforcement personnel, making compliance and enforcement a challenge.

9. Federal Standards

There are no federal standards associated with fisher trapping.

10. Compliance Schedule

Trappers would have to comply with the new regulations beginning in the fall of 2015, if they are adopted as proposed.

Regulatory Flexibility Analysis

The purpose of this rule making is to revise existing fisher trapping seasons in northern New York and establish a new nine-day trapping season in select Wildlife Management Units in central and western New York. In addition, this rule making is needed to update and clarify general trapping regulations for furbearers. This rule will not impose any reporting, recordkeeping, or other compliance requirements on small businesses or local government. Therefore, a Regulatory Flexibility Analysis is not required.

All reporting or recordkeeping requirements associated with trapping in general, and fisher trapping in particular, are administered by the New York State Department of Environmental Conservation (department). Small businesses may, and town or village clerks do, sell trapping licenses, but this rule does not affect that activity. Thus, there will be no effect on reporting or recordkeeping requirements imposed on those entities.

Based on the department's past experience in promulgating regulations of this nature, and based on the professional judgment of department staff, the department has determined that this rulemaking may slightly increase the number of participants or the frequency of participation in fisher trapping, particularly in select Wildlife Management Units in central and western New York. Some small businesses currently benefit from trapping because trappers spend money on goods and services, and thus an increase in trapper participation should lead to positive economic impacts on such businesses.

Additional trapping activity will not require any new or additional reporting or recordkeeping by any small businesses or local governments. For these reasons, the department has concluded that this rulemaking does not require a Regulatory Flexibility Analysis.

Rural Area Flexibility Analysis

The purpose of this rule making is to revise existing fisher trapping seasons in northern New York and establish a new nine-day trapping season in select Wildlife Management Units in central and western New York. In addition, this rule making is needed to update and clarify general trapping regulations for furbearers. This rule will not impose any reporting, recordkeeping, or other compliance requirements on public or private entities in rural areas, other than individual trappers.

All reporting or recordkeeping requirements associated with trapping are administered by the New York State Department of Environmental Conservation (DEC or department). Small businesses may, and town or village clerks do, issue trapping licenses, but this rule making does not affect that activity.

Additional trapping activity will not require any new or additional reporting or recordkeeping by entities in rural areas, and no professional services will be needed for people living in rural areas to comply with the proposed rule. Furthermore, this rule making is not expected to have any adverse impacts on any public or private interests in rural areas of New York State. For these reasons, the department has concluded that this rulemaking does not require a Rural Area Flexibility Analysis.

Job Impact Statement

The purpose of this rule making is to revise existing fisher trapping seasons in northern New York and establish a new nine-day trapping season in select Wildlife Management Units in central and western New York. In addition, this rule making is needed to update and clarify general trapping regulations for furbearers. The New York State Department of Environmental Conservation (DEC or department) has historically made regular revisions to its trapping regulations. Based on DEC’s experience in promulgating those revisions and the familiarity of regional department staff with the specific areas of the state impacted by this proposed rulemaking, the department has determined that this rule making will not have a substantial adverse impact on jobs and employment opportunities. Few, if any, persons actually use recreational trapping as a means of employment, but a modest increase in trapping participation in some select Wildlife Management Units in central and western New York may benefit local businesses and businesses that sell trapping supplies and equipment.

For these reasons, the department anticipates that this rulemaking will have no impact on jobs and employment opportunities. Therefore, the department has concluded that a job impact statement is not required.

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

Regulations Governing the Recreational Harvest of Black Sea Bass

I.D. No. ENV-19-15-00016-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 40 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0303, 13-0105 and 13-0340-f

Subject: Regulations governing the recreational harvest of black sea bass.

Purpose: To reduce recreational black sea bass harvest by 33% by increasing the fish minimum size to 14 inches.

Text of proposed rule: Existing subdivision 40.1(f) of 6 NYCRR is amended to read as follows:

Species Striped bass through Scup remain the same. Species Black sea bass is amended to read as follows:

40.1(f) Table A – Recreational Fishing.

Species	Open Season	Minimum Length	Possession Limit
Black sea bass	July 15-[Dec. 31]Oct. 31 Nov. 1-Dec. 31	[13]14" TL 14" TL	8 10

Species Anadromous river herring through Oyster toadfish remain the same.

Text of proposed rule and any required statements and analyses may be obtained from: Stephen Heins, New York State Department of Environmental Conservation, 205 North Belle Mead Road, Suite 1, East Setauket, NY 11733, (631) 444-0435, email: steve.heins@dec.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.

Additional matter required by statute: Pursuant to the State Environmental Quality Review Act, a short environmental assessment form is on file at DEC.

Regulatory Impact Statement

1. Statutory authority:

Environmental Conservation Law (ECL) sections 11-0303, 13-0105, and 13-0340-f authorize the Department of Environmental Conservation (DEC or the department) to establish by regulation the open season, size,

catch limits, possession and sale restrictions and manner of taking for black sea bass.

2. Legislative objectives:

It is the objective of the above-cited legislation that DEC manages marine fisheries to optimize resource use for commercial and recreational harvesters consistent with marine fisheries conservation and management policies, and interstate fishery management plans.

3. Needs and benefits:

These regulations are necessary for New York to maintain compliance with the Interstate Fishery Management Plan (FMP) for Black Sea Bass adopted by the Atlantic States Marine Fisheries Commission (ASMFC). New York, as a member state of ASMFC, must comply with the provisions of the FMPs adopted by ASMFC. These FMPs are designed to promote the long-term sustainability of marine species, preserve the States’ marine resources, and protect the interests of both commercial and recreational fishermen. To remain in compliance with the FMPs, all member states must promulgate the necessary regulations that implement the provisions of the FMPs. If ASMFC determines a state to be in non-compliance with a specific FMP, the state may be subject to a complete prohibition on all fishing for the associated species in the waters of the non-compliant state until the state comes into compliance with the FMP.

ASMFC requires all states from Massachusetts through New Jersey to reduce recreational harvest of black sea bass by 33 percent to prevent recreational anglers from exceeding the coast-wide recreational harvest limit (RHL) set by the National Marine Fisheries Service (NMFS) for 2015. As a result, black sea bass rules will be more restrictive and may have negative impacts upon businesses dependent on recreational fishing. However, the proposed rule must be adopted so that New York reduces recreational black sea bass harvest and remains in compliance with the ASMFC FMP.

4. Costs:

There are no new costs to state and local governments from this action. The department will incur limited costs associated with both the implementation and administration of these rules, including the costs relating to notifying recreational harvesters, party and charter boat operators and other recreational support industries of the new rules. There may be negative impacts to private regulated parties due to the more restrictive black sea bass recreational harvest rules.

5. Local government mandates:

The proposed rule does not impose any mandates on local government.

6. Paperwork:

None.

7. Duplication:

The proposed amendment does not duplicate any state or federal requirement.

8. Alternatives:

Thirty regulatory options were developed by working with a group of anglers and recreational fishing industry members. These options included the manipulation of minimum sizes, possession limits, and fishing seasons to achieve the required reduction. These options were narrowed down to 8 by the working group and presented to New York’s Marine Resources Advisory Council (MRAC). MRAC members provided input during a regularly scheduled meeting on March 10, 2015. A voting quorum was not present, nonetheless, MRAC members did indicate a preference for 2 out of the 8 options. The DEC’s Division of Fish, Wildlife and Marine Resources (DFWWR) has chosen to propose the option that increases the minimum size limit by one inch to achieve the required reduction.

The second preferred option included the same 1 inch increase in minimum size combined with 3 different possession limits. This option was intended to allow the fishing season to open earlier in June (The season currently starts July 15). The possession limit would be 2 fish from June 12 through August 31, increasing to 5 fish from September through October, and increasing to 10 fish from November through December. The initial 2 fish possession limit would effectively reduce this offshore/structure-oriented fishery to an incidental by catch during the time of peak black sea bass fishing. The three different possession limits may lead to angler confusion, non-compliance with the rule, and potential law enforcement issues. DFWMR determined that 8 fish at 14 inches from July 15 through October 31 and 10 fish at 14 inches from November 1-December 31 to be the best option for New York.

“No action” alternative: If New York were to not adopt regulations that reduced recreational black sea bass harvest in 2015 by 33 percent, the State would be out of compliance with ASMFC and subject to federal sanctions.

9. Federal standards:

The amendments to Part 40 are in compliance with the ASMFC and Mid-Atlantic Fishery Management Council FMP.

10. Compliance schedule:

Regulated parties will be notified by mail, through appropriate news releases and via DEC’s website of the changes to the regulations. The rule

must be in effect by July 15, 2015, the date the recreational black sea bass seasons opens, to ensure a reduction in the recreational black sea bass harvest and prevent New York from being out of compliance with the ASMFC FMP.

Regulatory Flexibility Analysis

1. Effect of rule:

The Atlantic State Marine Fisheries Commission (ASMFC) facilitates cooperative management of marine and anadromous fish species among the fifteen Atlantic Coast member states. The principal mechanism for implementation of cooperative management of migratory fish is the ASMFC's Interstate Fishery Management Plans (FMPs) for individual species or groups of fish. The FMPs are designed to promote the long-term health of these species, preserve resources, and protect the interests of both commercial and recreational fishers.

The ASMFC mandated a 33 percent reduction in recreational black sea bass harvest by coastal states from Massachusetts through New Jersey in 2015. The Department of Environmental Conservation (DEC or the department) now seeks to amend its regulations to comply with the requirements of the FMP. There are severe consequences for failure to comply with FMPs. If ASMFC determines a state to be in non-compliance with a specific FMP, the state may be subject to a complete prohibition on all fishing for the associated species in the waters of the non-compliant state until the state comes into compliance with the FMP. Furthermore, failure to take required actions to protect our marine and anadromous resources may lead to the collapse of the targeted species' populations. Either situation could have a significant adverse impact on the commercial and recreational fisheries for that species, as well as the supporting industries for those fisheries.

Those most affected by the proposed rule are recreational anglers, licensed party and charter businesses, and retail and wholesale marine bait and tackle shops operating in New York State. The department consulted with the Marine Resources Advisory Council (MRAC) and other individuals who chose to share their views on marine recreational fishing management measures. The new regulations will increase the minimum size by 1 inch, from 13 to 14 inches; maintains the 8 fish possession limit from July 15 through October 31, and increases the possession limit by 2 fish during the months of November and December, from 8 fish to 10 fish.

The proposed regulations are more restrictive and designed to reduce New York's black sea bass harvest. Larger black sea bass are less available to anglers fishing from some parts of the Marine and Coastal District, so this rule's impact will differ geographically. In addition, the larger size limit will increase the number of fish discarded by recreational anglers, including dead discards. Finally, some anglers may view the increase in the possession limit in November and December as favoring party and charter vessels. It should be noted that this increase in the possession limit had no impact on the season, size limit, or possession limit established for recreational black sea bass during other times of the year.

There are no local governments involved in the recreational fish harvesting business, nor do any participate in the sale of marine bait fish or tackle. Therefore, no local governments are affected by these proposed regulations.

2. Compliance requirements:

None.

3. Professional services:

None.

4. Compliance costs:

There are no initial capital costs that will be incurred by a regulated business or industry to comply with the proposed rule. The proposed regulations may decrease the income of party and charter businesses, marinas and marine bait and tackle shops that depend heavily upon the recreational black sea bass fishery, especially in areas where larger fish are less available.

5. Economic and technological feasibility:

Compliance with this rule will not present any economic or technological challenges to small business or local governments.

6. Minimizing adverse impact:

The promulgation of this regulation is necessary for DEC to maintain compliance with the FMP for black sea bass while optimizing opportunities for its recreational fishing industry and recreational anglers. Since these regulatory amendments are consistent with the Interstate FMPs, DEC anticipates that New York State will remain in compliance with the FMPs.

Ultimately, the maintenance of long-term sustainable fisheries will have a positive effect on employment for the fisheries in question, including party and charter boat fisheries as well as wholesale and retail bait and tackle shops and other support industries for recreational fisheries. Failure to comply with FMPs and take required actions to protect our natural resources could cause the collapse of a stock and have a severe adverse impact on the commercial and recreational fisheries for that species, as well as the supporting industries for those fisheries. These regulations are

being proposed in order to provide the appropriate level of protection and allow for harvest consistent with the capacity of the resource to sustain such effort.

7. Small business and local government participation:

The department received recommendations from the MRAC, which is comprised of representatives from recreational and commercial fishing interests. The proposed regulations are also based upon comments received from recreational fishing organizations, party and charter boat owners and operators, retail and wholesale bait and tackle shop owners, recreational anglers and state law enforcement personnel. There was no special effort to contact local governments because the proposed rule does not affect them.

8. Cure period or other opportunity for ameliorative action:

Pursuant to SAPA 202-b (1-a)(b), no such cure period is included in the rule because of the potential adverse impact on the resource. Cure periods for the illegal taking of fish or wildlife are neither desirable nor recommended. Immediate compliance is required to ensure the general welfare of the public and the resource is protected.

9. Initial review of rule:

The department will conduct an initial review of the rule within three years as required by SAPA section 207.

Rural Area Flexibility Analysis

The Department of Environmental Conservation has determined that this rule will not impose an adverse impact on rural areas. There are no rural areas within the marine and coastal district. The black sea bass fishery directly affected by the proposed rule is entirely located within the marine and coastal district, and are not located adjacent to any rural areas of the state. Further, the proposed rule does not impose any reporting, record-keeping, or other compliance requirements on public or private entities in rural areas. Since no rural areas will be affected by the proposed amendments of 6 NYCRR Part 40, a Rural Area Flexibility Analysis is not required.

Job Impact Statement

1. Nature of impact:

New York is part of a management region that includes the states of Massachusetts, Rhode Island, Connecticut and New Jersey. All member states of the region are required by the Atlantic States Marine Fisheries Commission to independently reduce recreational black sea bass harvest by thirty-three percent using changes to minimum size limit, possession limit, and season length.

The promulgation of this regulation is necessary for the Department of Environmental Conservation (DEC) to maintain compliance with the Fishery Management for Plan Black Sea Bass, and to optimize recreational fishing opportunities available to New Yorkers. The proposed rule reduces the recreational black sea bass harvest by increasing the minimum size by 1 inch, from 13 to 14 inches; maintains the 8 fish possession limit from July 15 through December 31, and increases the possession limit by 2 fish during the months of November and December, from 8 fish to 10 fish.

Many currently licensed party and charter boat owners and operators, as well as bait and tackle businesses, will be affected by these regulations. The proposed restrictions may reduce the amount of money spent in pursuit of this species.

2. Categories and numbers affected:

In 2014, there were 490 licensed party and charter businesses in New York State. There were also a number of retail and wholesale marine bait and tackle shop businesses operating in New York; however, DEC does not have a record of the actual number. According to the American Sportfishing Association, in 2011 New York had an estimated 800,811 marine recreational anglers that spent \$1,194,493,042 on saltwater fishing, generating \$144,539,079 in state and local tax revenue. In 2014 New York anglers took an estimated 173,511 fishing trips targeting black sea bass, significantly more than any other year in the last 5 years.

3. Regions of adverse impact:

The more restrictive black sea bass regulations will decrease the number of trips anglers take in pursuit of this species, decreasing the amount of money they spend on bait, tackle, fares and gas. This will have a negative impact upon those businesses (bait and tackle retail, party and charter operations, gas docks, marinas, etc.) that cater to these anglers. The change in minimum size will not impact all anglers in the same manner. Anglers fishing from the western south shore or in western and central Long Island Sound have less access to large fish. In addition, large fish are more available further offshore, especially later in the season. This proposed rule will have greater impacts on small boat owners, inshore fishermen and anglers who fish the western shores of Long Island.

4. Minimizing adverse impact:

A thirty-three percent reduction in New York's recreational black sea bass harvest will have a significant negative impact on fishery participants and associated businesses. Thirty regulatory options were developed by

working with a group of anglers and recreational fishing industry members. These options included the manipulation of minimum sizes, possession limits, and fishing seasons to achieve the required reduction. These options were narrowed down to 8 by the working group and presented to New York’s Marine Resource Advisory Council (MRAC). MRAC members provided input during a regularly scheduled meeting on March 10, 2015. A voting quorum was not present, nonetheless, MRAC members did indicate a preference for 2 out of the 8 options. The Division has chosen to propose the option that increases the minimum size limit by one inch to achieve the required reduction. This option represents the least disruption to last year’s regulations and preserves the targeted nature of the fishery for the period when most anglers have access.

5. Self-employment opportunities:

The party and charter boat businesses, the bait and tackle shops, and marinas are, for the most part, small businesses, owned and often operated by the owner. The recreational fishing industry is mostly self-employed. This rule will likely have a negative effect upon opportunities for businesses related to the recreational harvest of black sea bass.

6. Initial review of the rule, pursuant to SAPA § 207 as amended by L. 2012, ch. 462:

The department will conduct an initial review of the rule within three years as required by SAPA section 207.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Permits Coupled Entries with Thoroughbred Superfecta Wagering

I.D. No. SGC-19-15-00017-P

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

Proposed Action: Renumbering and amendment of section 4011.22 to section 4011.21; addition of new section 4011.22 to Title 9 NYCRR.

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

Subject: Permits coupled entries with thoroughbred superfecta wagering.

Purpose: To improve wagering opportunities in thoroughbred horse racing.

Text of proposed rule: Section 4011.22 of 9 NYCRR would be renumbered and amended to read as follows:

THE TRIFECTA
§ [4011.22] 4011.21. Trifecta.

(a) The object of the trifecta is to select in order, the first-, second- and third-place horses in a designated trifecta race. The trifecta pool shall be held entirely separate from all other pools and has no relation to any other pool.

(b) Races in which trifecta betting shall be conducted shall be approved by the commission and be clearly designated in the program.

(c) If a horse is scratched or excused from racing or betting no further tickets shall be sold designating such horse and all tickets previously sold designating such horse shall be refunded and the money deducted from the pool.

(d)(1) If no ticket is sold designating, in order, the first three horses or only two horses finish, the net pool shall be distributed equally among holders of tickets designating the first two horses in order[;].

(2) [if] If no ticket is sold designating, in order, the first two horses or only one horse finishes, the net pool shall be distributed equally among holders of tickets designating the [first] horse to win.

[(e)] (3) If no ticket is sold designating the winner to win, the trifecta shall be declared off and the gross pool refunded. An announcement of such possibility shall be made as soon as the pool closes.

[(f)] (e) Dead heat. In the event of a dead heat, all tickets designating the correct order of finish, crediting each horse in a dead heat as finishing in [either position] any of the dead-heat positions, shall be winning tickets[and distribution]. Distribution shall be in accordance with established pari-mutuel practice relative to dead heats, i.e., separate price calculations for different combinations.

[(g)] (f) Coupled entries and fields are permitted in trifecta races. In

such races no wagers may be accepted or issued (including “wheel” or “box” type bets) that couple the same coupled entry or the same field in the same combination.

[(h)] (g) The numbers of the first three horses as made official shall constitute the winning combination, except that where two or more such horses are part of the same coupled entry or field only the best finishing position attained by such coupled entry or field horses shall be considered for pay-off purposes and the next best finishing horses not part of such coupled entry or field shall be selected to determine the winning trifecta combination.

[(i)] (h) No trifecta wagering shall be conducted on any race having fewer than five betting entries. If fewer than five betting entries start, the trifecta shall be declared off and the gross pool refunded. The commission’s steward may, in the exercise of discretion to protect the wagering public, require that there be at least six betting entries for the conduct of trifecta wagering.

A new section 4011.22 would be added to 9 NYCRR to read as follows:

THE SUPERFECTA
§ 4011.22. Superfecta.

(a) The object of the superfecta is to select in order, the first-, second-, third- and fourth-place horses in a designated superfecta race. The superfecta pool shall be held entirely separate from all other pools and has no relation to any other pool.

(b) Races in which superfecta betting shall be conducted shall be approved by the commission and be clearly designated in the program.

(c) If a horse is scratched or excused from racing or betting no further tickets shall be sold designating such horse and all tickets previously sold designating such horse shall be refunded and the money deducted from the pool.

(d)(1) If no ticket is sold designating, in order, the first four horses or only three horses finish, the net pool shall be distributed equally among holders of tickets designating the first three horses in order.

(2) If no ticket is sold designating, in order, the first three horses or only two horses finish, the net pool shall be distributed equally among holders of tickets designating the first two horses in order.

(3) If no ticket is sold designating, in order, the first two horses or only one horse finishes, the net pool shall be distributed equally among holders of tickets designating the horse to win.

(4) If no ticket is sold designating the winner to win, the superfecta shall be declared off and the gross pool refunded. An announcement of such possibility shall be made as soon as the pool closes.

(f) Dead heat. In the event of a dead heat, all tickets designating the correct order of finish, crediting each horse in a dead heat as finishing in any of the dead-heat positions, shall be winning tickets. Distribution shall be in accordance with established pari-mutuel practice relative to dead heats, i.e., separate price calculations for different combinations.

(g) Coupled entries and fields are permitted in superfecta races. In such races no wagers may be accepted or issued (including “wheel” or “box” type bets) that couple the same coupled entry or the same field in the same combination.

(h) The numbers of the first four horses as made official shall constitute the winning combination, except that where two or more such horses are part of the same coupled entry or field only the best finishing position attained by such coupled entry or field horses shall be considered for pay-off purposes and the next best finishing horses not part of such coupled entry or field shall be selected to determine the winning superfecta combination.

(i) No superfecta wagering shall be conducted on any race having fewer than five betting entries. If fewer than five betting entries start, the superfecta shall be declared off and the gross pool refunded. The commission’s steward may, in the exercise of discretion to protect the wagering public, require that there be at least six betting entries for the conduct of superfecta wagering.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, Acting Secretary, New York State Gaming Commission, One Broadway Center, PO Box 7500, Schenectady, New York 12305-7500, (518) 388-3407, email: gamingrules@gaming.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 New York State Gaming Commission (“Commission”) is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law sections 103(2), 104(1), 104(19) and 122. Under Section 103(2), the Commission is responsible to supervise, regulate, and administer all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in

such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Section 122 continues previous rules and regulations of the legacy New York State Racing and Wagering Board, subject to the authority of the Commission to modify or abrogate such rules and regulations.

2. Legislative Objectives: To improve wagering opportunities in thoroughbred pari-mutuel racing.

3. Needs and Benefits: This rulemaking will add an explicit superfecta wagering rule for thoroughbred racing to Part 4011 of 9 NYCRR. The new rule will be numbered Section 4011.22 and an existing Section 4011.22 will be renumbered as Section 4011.21.

Under this proposal, the Commission would permit a racetrack operator to offer superfecta wagering without special permission of the Commission and modernize the type of superfecta wagering that may be offered to expand the wagering opportunities.

When the Commission authorized superfecta wagers in March 1998, it did so with a rule, 9 NYCRR 4011.28, that allowed a racetrack operator to offer wagers not fully described in the Commission rules, provided that permission was granted by the Commission and such additional type of wager was defined in the model rules of the Association of Racing Commissioners International, Inc. ("ARCI"). In particular, the Commission incorporated by reference the December 1996 version of the ARCI model rules that permitted superfecta wagering. Since then, superfecta wagering has become widely accepted and ARCI has modified its superfecta wagering model rule.

The proposal would allow a racetrack operator to offer superfecta wagering without requesting special permission for this wager. This type of wager would be fully described in the Commission rules, instead, and the description would reflect the current ARCI model rule which, for example, now permits coupled entries in a superfecta race.

This proposal will streamline the process of offering wagering opportunities for New York racetrack operators. It will allow more superfecta wagering opportunities by permitting this wager, in which the first four horses must be selected in the correct order of finish, when the field includes coupled entries. A coupled entry is the combining of the wager on one horse with other horses that have common ownership or training, such that a single wager is attributed to all linked horses. The proposal provides if a bettor selects a coupled entry in a superfecta wager, then only the best finishing of the coupled horses is included in determining the order of finish of the horses for such wager. This allows the racetrack operator to offer superfecta wagering when there are coupled entries, in conformance with the modern ARCI model rule.

As a result, this proposal would provide more superfecta wagering opportunities for thoroughbred pari-mutuel racing bettors and generate more handle and revenue for the racetrack operator and for local and state government.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: This amendment would not add any new mandated costs to the existing rules.

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. There will be no costs to local governments because they do not regulate pari-mutuel racing activities.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: The Commission has determined that no costs will be imposed because the rule does not create any mandatory new duty or obligation.

5. Local Government Mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel horse racing activities.

6. Paperwork: The Commission will lessen the paperwork faced by thoroughbred racetrack operators by eliminating the requirement of special permission to offer superfecta wagers.

7. Duplication: None.

8. Alternatives: The Commission considered not proposing this rule. The outdated ARCI superfecta wagering rule does permit superfecta wagering, but not as much because of its archaic requirement that coupled entries are not permitted. Other racetrack operators in other jurisdictions successfully offer the modern ARCI version of this rule, however, and the Commission concluded that New York thoroughbred racetrack operators and those who prefer to wager on New York racing should have the enhanced opportunities to offer or wager on New York superfecta races.

9. Federal Standards: None.

10. Compliance Schedule: The proposed rule does not create any additional requirements with which regulated persons must comply.

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

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not

required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

This proposal only authorizes the thoroughbred racetrack operators in New York to offer superfecta wagering when the field includes coupled entries, the combination of more than one horse as a single wagering selection when the horses are owned or trained in common. The proposal will allow superfecta wagering with coupled entries by counting only the best finishing of the coupled horses for such wagers. No regulated party will need a period to cure a pending matter because there is no penalty enhancement.

Such regulation will serve the best interests of thoroughbred racing by increasing the wagering opportunities that racetrack operators may offer to the wagering public. This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

Division of Homeland Security and Emergency Services

EMERGENCY RULE MAKING

Registration of Manufacturers, Distributors, Wholesalers, Various Retailers of Sparkling Devices

I.D. No. HES-19-15-00001-E

Filing No. 328

Filing Date: 2015-04-22

Effective Date: 2015-04-22

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

Action taken: Addition of Part 225 to Title 9 NYCRR.

Statutory authority: Executive Law, sections 156(20) and 156-h; L. 2014, ch. 477

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

Specific reasons underlying the finding of necessity: Executive Law section 156-h requires that the Office of Fire Prevention and Control promulgate rules regarding registration of manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices. Registration is required prior to the legal sale of such sparkling devices. This rule includes the registration processes, fees and reporting requirements. Accordingly, this rule must be adopted on an emergency basis in order to ensure that such procedures are in effect to assure the public's safety and general welfare.

Subject: Registration of manufacturers, distributors, wholesalers, various retailers of sparkling devices.

Purpose: Establish the registration process, fees and reporting requirements related to sparkling devices.

Substance of emergency rule: PART 225

SPARKLING DEVICES

Section 225.1 Definitions

Establishes definitions of sparkling devices according to new statutory language. Establishes that "Sparkling Devices" are consumer fireworks for the purpose of the Uniform Fire Prevention and Building Code and National Fire Protection Association standard 1124 (2006).

Section 225.2 Registration

Requires every manufacturer, distributor, wholesaler, specialty retailer, or permanent retailer of sparkling devices to annually register with the Office of Fire Prevention and Control. Requires temporary (seasonal) retailers to register with the Office of Fire Prevention and Control each selling season. Establishes the registration process and related documentation required as part of the registration package.

Section 225.3 Fees

Establishes application fees; the revenue of which goes to the Office of Fire Prevention and Control to be used for firefighter safety and training programs as well as for the registration process, consistent with Executive Law § 156-h. A manufacturer, distributor, wholesaler must pay an annual registration fee of \$5,000; a specialty retailer must pay an annual registration fee of \$2,500; a permanent retailer must pay an annual registration fee of \$200 for each location; and a temporary seasonal retailer must pay a registration fee of \$250 per season for each location.

Section 225.4 Certification

The Office of Fire Prevention and Control is responsible to issue a certification valid for one year to manufacturers, distributors, wholesalers, specialty retailers, or permanent retailers. Certificates issued to temporary seasonal retailers will be valid for 30 day prior to through 30 day after the dates of the selling season specified in General Business Law § 392-j. Non-compliance with any of the requirements set forth may result in a revocation of the certificate of registration, as determined by the Office of Fire Prevention and Control. Revocation shall remain in effect until the manufacturer, distributor, wholesaler, specialty retailer, permanent retailer, or temporary seasonal retailer provides evidence of compliance acceptable to the Office of Fire Prevention and Control.

Section 225.5 Records and Reports

Manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers shall maintain, and make available to the Office of Fire Prevention and Control, records regarding the name and quantity of any sparkling devices produced in, imported to, exported from, or sold in New York. Establishes the Office of Fire Prevention and Control's authority to inspect to assure compliance with the terms of registration/certification.

Section 225.6 Reporting of incidents

Requires manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers to report basic information on incidents of fires or explosions, including accidental discharge of sparkling devices, that occurs on premises to the Office of Fire Prevention and Control: within 24 hours if no injury or death; within 1 hour, or as soon as practicable if injury or death is involved. The Office of Fire Prevention and Control is responsible to share information with local code enforcement officials, as appropriate.

Section 225.7 General Requirements

Requires posting of documentation in each location of business, to include: copy of the Office of Fire Prevention and Control certification for such location; the list, as most recently published by the New York State Police, of counties and cities that have opted by local law to legalize the use of sparkling devices; copy of any Federal Permit(s) (if applicable); copy of the Insurance Certificate; and copy of a sparkling device safety pamphlet produced by the Office of Fire Prevention and Control.

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 July 20, 2015.

Text of rule and any required statements and analyses may be obtained from: Elisha S. Tomko, Division of Homeland Security and Emergency Services, 1220 Washington Avenue, State Office Campus, Bldg 7A, Albany, (518) 474-6746, email: elisha.tomko@dhses.ny.gov

Regulatory Impact Statement**1. Statutory Authority**

Section 156(20) of the Executive Law authorizes the Office of Fire Prevention and Control to register the manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices who wish to do business in New York State. Section 156-h of the Executive Law requires that the Office of Fire Prevention and Control promulgate rules regarding registration of manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices.

2. Legislative Objectives

The legislative objective behind section 156(20) and section 156-h are to assure that the proper processes are in place prior to the sale of sparkling devices. Registration with the Office of Fire Prevention and Control is required prior to the sale of such sparkling devices, pursuant to General Business Law 392-j.

3. Needs and Benefits

Section 156-h of the Executive Law requires that the Office of Fire Prevention and Control promulgate rules regarding registration of manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices.

The regulation establishes the process for registration of manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices, including registration, fees, certification and reporting requirements.

The benefits of the regulations include allowing the Office of Fire Prevention and Control to maintain a list of certified manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices and sets forth registration requirements to assure public safety, including compliance with the Uniform Fire Prevention and Building Code and reporting of incidents.

4. Costs

The rule establishes application fees, consistent with section 156-h of the Executive Law. A manufacturer, distributor, or wholesaler must pay

an annual registration fee of \$5,000; Specialty retailer must pay an annual registration fee of \$2,500 for each location; Permanent retailer must pay an annual registration fee of \$200 for each location; and Temporary seasonal retailer must pay a registration fee of \$250 per season to the Office of Fire Prevention and Control for each location.

The cost to the Office of Fire Prevention and Control for the implementation of the rule is approximately \$850,000 per year for administration, inspection and investigative costs. Section 156-h requires that revenue generated from registration fee payments must be used for firefighter safety and training programs as well as for the registration process.

In developing its cost estimates associated with this new responsibility, the Office of Fire Prevention and Control consulted with state fire marshal offices in other states that have recently legalized sparkling devices and/or consumer fireworks in an effort to learn what their work load experiences have been. OFPC extrapolated the data and applied it to its specific costs (IE: personnel and equipment).

There would be no costs to local governments for the implementation of the rule.

5. Local Government Mandates

This rule making will not impose any program, service, duty or responsibility upon counties, cities, towns, villages, school districts, fire districts or other special districts. This rule regulates the manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices.

6. Paperwork

The Office of Fire Prevention and Control will be required to develop and make available registration forms, certification forms and a sparkling device safety pamphlet. Manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers shall maintain, and make available to the Office of Fire Prevention and Control, records regarding the name and quantity of any sparkling devices produced in, imported to, exported from, or sold in this State. Retailers will be required to post documentation in each location of business, to include: copy of the Office of Fire Prevention and Control certification for such location; the list, as most recently published by the New York State Police, of counties and cities that have opted by local law to legalize the use of sparkling devices; copy of any Federal Permit(s) (if applicable); copy of the Insurance Certificate; and copy of a sparkling device safety pamphlet produced by the Office of Fire Prevention and Control.

7. Duplication

No rules or other legal requirements of either the state or federal government exist at the present time which duplicate, overlap, or conflict with the rule.

8. Alternatives

The Office of Fire Prevention and Control does not have statutory authority to consider any alternative other than to adopt a rule addressing these issues; no other significant alternatives were considered.

9. Federal Standards

Any person importing, manufacturing for commercial use, dealing in, transporting or causing to be transported, or otherwise receiving certain fireworks must obtain an ATF Federal explosives license or permit for the specific activity. Federal explosives licensees and permittees must comply with all applicable regulations under 27 CFR, Part 555. Any person manufacturing consumer fireworks for commercial use must obtain a Federal explosives manufacturers license. This rule does not exceed or conflict with such requirements.

10. Compliance Schedule

Manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices can comply with the requirements of the rule once a city or county opts to legalize the sale and use of sparkling devices within its municipality.

Regulatory Flexibility Analysis**1. Effect of Rule**

The rule does not affect local governments. The rule affects small businesses, including manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices.

2. Compliance Requirements

This rule making will not impose any reporting, recordkeeping or other affirmative acts on local governments.

Small business manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers will be required to meet registration requirements and maintain, and make available to the Office of Fire Prevention and Control (OFPC), records regarding the name and quantity of any sparkling devices produced in, imported to, exported from, or sold in New York. Small business specialty retailers, permanent retailers and temporary seasonal retailers will be required to post documentation in each location of business, to include: copy of the Office of Fire Prevention and Control certification for such location; the list, as most recently published by the New York State Police, of counties

and cities that have opted by local law to legalize the use of sparkling devices; copy of any Federal Permit(s) (if applicable); copy of the Insurance Certificate; and copy of a sparkling device safety pamphlet produced by the Office of Fire Prevention and Control.

Small business manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers also need to report to the Office of Fire Prevention and Control, any fire or explosion that results in injury or death within one hour of its occurrence or as soon as practicable.

3. Professional Services

Neither local governments or small business affected by this rule will require professional services in order to comply with the rule.

4. Compliance Costs

There would be no initial capital costs associated with compliance with the rule. The annual costs for continuing compliance are the required fees: a manufacturer, distributor, or wholesaler must pay an annual registration fee of \$5,000; Specialty retailer must pay an annual registration fee of \$2,500 for each location; Permanent retailer must pay an annual registration fee of \$200 for each location; and Temporary seasonal retailer must pay a registration fee of \$250 per season to the Office of Fire Prevention and Control for each location.

5. Economic and Technological Feasibility

The rule sets forth the registration and reporting requirements for small business manufacturers, distributors, wholesalers, and retailers of sparkling devices, both of which are economically and technologically feasible.

6. Minimizing Adverse Impact

The rule establishes the registration process for manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices. The fees, contained in the rule, are created by statute and therefore, the rule does not impose any adverse economic impact and no alternatives were considered.

7. Small Business and Local Government Participation

Small business and local governments, through their respective associations, are invited to participate in the proposed rulemaking process, through the submission of comments and attendance and participation in various meetings held on topic.

8. For Rules That Either Establish or Modify a Violation or Penalties

The penalty for non-compliance with the requirements of the rule is revocation of registration. This revocation remains in effect until the manufacturer, distributor, wholesaler, specialty retailer, permanent retailer, or temporary seasonal retailer provides evidence of compliance. Revocation will only occur if and when an inspector identifies a violation of the requirements of this rule and the registrant is unable or refuses to comply with such. One purpose for the registration of manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices is to assure public safety (i.e. compliance with the fire safety codes), and therefore, the rule does not set forth a specific cure period; the length of revocation period will be dependent on the actions or inaction of the registrant.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas

The rule would apply to counties and cities, outside of New York City, that opted to legalize the sale and use of sparkling devices, including those located in rural areas as that term is defined in section 102(10) of the State Administrative Procedure Act ("SAPA").

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

This rule making will not impose any reporting, recordkeeping or other affirmative acts on local governments in rural areas.

In counties and cities, in rural areas, that opted to legalize the sale and use of sparkling devices, manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers will be required to meet registration requirements and maintain, and make available to the Office of Fire Prevention and Control (OFPC), records regarding the name and quantity of any sparkling devices produced in, imported to, exported from, or sold in New York. Specialty retailers, permanent retailers and temporary seasonal retailers will be required to post documentation in each location of business, to include: copy of the Office of Fire Prevention and Control certification for such location; the list, as most recently published by the New York State Police, of counties and cities that have opted by local law to legalize the use of sparkling devices; copy of any Federal Permit(s) (if applicable); copy of the Insurance Certificate; and copy of a sparkling device safety pamphlet produced by the Office of Fire Prevention and Control.

Manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers also need to report to the Office of Fire Prevention and Control, any fire or explosion that results in injury or death within one hour of its occurrence or as soon as practicable.

In rural areas, professional services are not required to comply with the rule.

3. Costs

In rural areas, there would be no initial capital costs associated with compliance with the rule. The annual costs for continuing compliance are the required fees: a manufacturer, distributor, or wholesaler must pay an annual registration fee of \$5,000; Specialty retailer must pay an annual registration fee of \$2,500 for each location; Permanent retailer must pay an annual registration fee of \$200 for each location; and Temporary seasonal retailer must pay a registration fee of \$250 per season to the Office of Fire Prevention and Control for each location.

4. Minimizing adverse impact

The rule establishes the registration process for manufacturers, distributors, wholesalers, specialty retailers, permanent retailers and temporary seasonal retailers of sparkling devices. The fees, contained in the rule, are created by statute and therefore, the rule does not impose any adverse economic impact and no alternatives were considered.

5. Rural area participation

Businesses and local governments, in rural areas, through their respective associations, will be invited to participate in the proposed rulemaking process, through the submission of comments and attendance and participation in various meetings held on topic.

Job Impact Statement

1. Nature of impact

The nature of the impact that the rule will have on jobs and employment opportunities is expected to be minimal based on the seasonal/limited selling season of June first and July fifth and December twenty-sixth through January second of each year.

2. Categories and numbers affected

The rule may result in part-time seasonal/temporary retail jobs in those counties and cities that have opted to legalize the sale and use of sparkling devices during the limited selling season of June first and July fifth and December twenty-sixth through January second of each year.

3. Regions of adverse impact

The minimal impact that the rule will have on jobs and employment opportunities will not result in a disproportionate impact on any region of the State.

4. Minimizing adverse impact

The rule would not have any adverse impact on existing jobs.

Assessment of Public Comment

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

Public Service Commission

NOTICE OF ADOPTION

Approving the Use of the Elster Q Sonic Plus Multi-Path Ultrasonic Gas Meter

I.D. No. PSC-23-14-00012-A

Filing Date: 2015-04-22

Effective Date: 2015-04-22

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

Action taken: On 4/16/15, the PSC adopted an order approving the petition of Central Hudson Gas and Electric Corporation (Central Hudson) to use the Elster Q Sonic Plus Multi-Path Ultrasonic gas meter.

Statutory authority: Public Service Law, section 67(1)

Subject: Approving the use of the Elster Q Sonic Plus Multi-Path Ultrasonic gas meter.

Purpose: To approve the use of the Elster Q Sonic Plus Multi-Path Ultrasonic gas meter.

Substance of final rule: The Commission, on April 16, 2015, adopted an order approving the petition of Central Hudson Gas and Electric Corporation (Central Hudson) to use the Elster Q Sonic Plus Multi-Path Ultrasonic gas meter in New York State to monitor natural gas flow for electric generation applications, 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: Elaine Agresta, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2660, email: elaine.agresta@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-0160SA1)

NOTICE OF ADOPTION**Approval to Submeter Electricity at 125 Ashland Place, Brooklyn, New York**

I.D. No. PSC-52-14-00022-A

Filing Date: 2015-04-22

Effective Date: 2015-04-22

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

Action taken: On 4/16/15, the PSC adopted an order approving the petition filed by Kingsview Homes, Inc. to submeter electricity at 125 Ashland Place, Brooklyn, New York.

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

Subject: Approval to submeter electricity at 125 Ashland Place, Brooklyn, New York.

Purpose: To approve submetering of electricity at 125 Ashland Place, Brooklyn, New York.

Substance of final rule: The Commission, on April 16, 2015, adopted an order approving the petition of Kingsview Homes, Inc. to submeter electricity at 125 Ashland Place, Brooklyn, New York, located in the territory of Consolidated Edison Company of New York, Inc., 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: Elaine Agresta, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2660, email: elaine.agresta@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-0522SA1)

NOTICE OF ADOPTION**Approving Eaton Corporation's Petition to Use the Eaton Power Xpert Multipoint Meter**

I.D. No. PSC-05-15-00004-A

Filing Date: 2015-04-22

Effective Date: 2015-04-22

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

Action taken: On 4/16/15, the PSC adopted an order approving the petition filed by Eaton Corporation to use the Eaton Power Xpert Multipoint Meter for submetering applications.

Statutory authority: Public Service Law, section 67(1)

Subject: Approving Eaton Corporation's Petition to use the Eaton Power Xpert Multipoint Meter.

Purpose: To approve Eaton Corporation's Petition to use the Eaton Power Xpert Multipoint.

Substance of final rule: The Commission, on April 16, 2015, adopted an order approving Eaton Corporation's Petition to use the Eaton Power Xpert Multipoint Meter for submetering applications, 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: Elaine Agresta, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2660, email: elaine.agresta@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.

(15-E-0003SA1)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED****Gas Safety Performance Measures and Associated Negative Revenue Adjustments**

I.D. No. PSC-19-15-00011-P

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

Proposed Action: Consideration of a KeySpan Gas East Corporation d/b/a National Grid proposal for modification of Gas Safety Performance Measures.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Gas Safety Performance Measures and associated negative revenue adjustments.

Purpose: To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid.

Substance of proposed rule: The Public Service Commission is considering a proposal filed by KeySpan Gas East Corp. d/b/a Brooklyn Union of L.I. (KEDLI) to modify and update its applicable Gas Safety Performance Measures. KEDLI's March 17, 2015 proposal was filed in compliance with the Commission's December 15, 2014 Order Directing Investments and Allowing, in Part, Deferral Authority for Costs Associated with Incremental Capital Expenditures and Establishing a Surcharge (Order) in Case 14-G-0214. In that Order, the Commission granted KEDLI the ability to implement a surcharge and defer costs in exchange for certain conditions including an update to KEDLI's gas safety performance measures that had not been modified since 2007. The Commission ordered KEDLI to file a proposal to assist the Commission in determining specific modifications to make to the applicable measures. The Commission may adopt, reject or modify KEDLI's proposal in whole or in part, and may also consider other related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: elaine.agresta@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-0214SP3)

**PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED****Revisions to Various Provisions Related to Electric Generators**

I.D. No. PSC-19-15-00012-P

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

Proposed Action: The Commission is considering a proposal filed by Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Service P.S.C. No. 12.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Revisions to various provisions related to electric generators.

Purpose: To modify various provisions related to electric generators in KEDNY's tariff.

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 The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to amend its tariff to further clarify provisions related to electric generators that take service under Service Classification No. 1B-DG – Residential Heating Distributed Generation Service (SC 1B-DG), Service Clas-

sification No. 4A – High Load Factor Service (SC 4A), Service Classification No. 6 – Temperature Controlled Service (SC 6), Service Classification No. 18 – Non-Core Transportation Service (SC 18), Service Classification No. 20 – Non-Core Transportation Service for Electric Generation (SC 20) and Service Classification No. 21 – Baseload Distributed Generation Sales Service (SC 21). KEDNY proposes to (a) revise SC 1B-DG, SC 4A, SC 6 and SC 21 to allow customers to supply electricity they generate to the local electric utility; (b) clarify that SC 21 is applicable to distributed generation customers and remove the requirement that customers certify that they are using qualifying cogeneration equipment; (c) include a new provision to cap the overall transportation rate charged to customers taking service under SC 20 and SC 18 to no greater than the otherwise applicable interruptible transportation rate; and (d) reduce the Value Added Charge to the extent necessary to remain within the cap. The proposed amendments have an effective date of August 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: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: elaine.agresta@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-0316SP2)

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

Revisions to Various Provisions Related to Electric Generators

I.D. No. PSC-19-15-00013-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 proposal filed by KeySpan Gas East Corp. d/b/a Brooklyn Union of L.I. (KEDLI) to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Services P.S.C. No. 1 — Gas.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Revisions to various provisions related to electric generators.

Purpose: To modify various provisions related to electric generators in KEDLI's tariff.

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 KeySpan Gas East Corp. d/b/a Brooklyn Union of L.I. (KEDLI) to amend its tariff to further clarify provisions related to electric generators that take service under Service Classification No. 1 – Residential Distributed Generation Service (SC 1DG), Service Classification No. 7 – Interruptible Transportation Service (SC 7), Service Classification No. 14 – Electric Generation Service (SC 14), Service Classification No. 15 – High Load Factor Service (SC 15) and Service Classification No. 17 – Baseload Distributed Generation Service (SC 17). KEDLI proposes to (a) clarify that customers taking service under SC 1DG may supply electricity they generate to the local electric utility; (b) revise SC 17 to allow customers to supply electricity they generate to the local electric utility and clarify that SC 17 is applicable to distributed generation customers and remove the requirement that customers certify that they are using qualifying cogeneration equipment; (c) revise SC 15 to allow customers to supply electricity they generate to the local electric utility and broaden the applicability of SC 15 to include generation and/or gas fired technologies that have annual load factors of 50% or greater, and clarify that SC 15 is for customers that have generation capacity of less than 50 megawatts; (d) include a new provision to cap the overall transportation rate charged to customers taking service under SC 14 and SC 7 to no greater than the otherwise applicable interruptible transportation rate; (e) reduce the Value Added Charge to the extent necessary to remain within the cap; and (f) correct an inadvertent change to the company's Tennessee cash out price under the Daily Balancing Program to use the Texas Eastern M3 published index. The amendments have an effective date of August 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: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: elaine.agresta@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-0315SP2)

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

Service Classification No. 14 — Gas Transportation Service for Dual Fuel Electric Generators (SC No. 14)

I.D. No. PSC-19-15-00014-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 proposal filed 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 Services P.S.C. No. 219 — Gas.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Service Classification No. 14 — Gas Transportation Service for Dual Fuel Electric Generators (SC No. 14).

Purpose: For approval to add a new provision to cap the overall transportation rate charged to SC No. 14 customers.

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 amend Service Classification No. 14 – Gas Transportation Service for Dual Fuel Electric Service for Electric Generators (SC 14). The Company proposes to include a new provision to cap the overall transportation rate charged to SC 14 customers to no greater than the otherwise applicable interruptible transportation rate. The Company also proposes to reduce the Value Added Charge to the extent necessary to remain within the cap. The amendments have a proposed effective date of August 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: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: elaine.agresta@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.

(15-G-0246SP1)

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

To Consider the Request of Hudson CBD Flatbush LLC to Submeter Electricity at 626 Flatbush Avenue, Brooklyn, New York

I.D. No. PSC-19-15-00015-P

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

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent to submeter electricity filed by Hudson CBD Flatbush LLC, for the premises located at 626 Flatbush Avenue, Brooklyn, New York.

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

Subject: To consider the request of Hudson CBD Flatbush LLC to submeter electricity at 626 Flatbush Avenue, Brooklyn, New York.

Purpose: To consider the request of Hudson CBD Flatbush LLC to submeter electricity at 626 Flatbush Avenue, Brooklyn, New York.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent filed by Hudson CBD Flatbush LLC, to submeter electricity at 626 Flatbush Avenue, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: Elaine.Agresta@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.

(15-E-0234SP1)