RULE MAKING ACTIVITIES

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

AAM -the abbreviation to identify the adopting agency

01 -the *State Register* issue number

96 -the year

00001 -the Department of State number, assigned upon receipt of notice.

E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

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

Department of Civil Service

NOTICE OF EXPIRATION

The following notices have expired and cannot be reconsidered unless the Department of Civil Service publishes new notices of proposed rule making in the NYS *Register*.

Jurisdictional Classification

I.D. No.	Proposed	Expiration Date
CVS-29-15-00008-P	July 22, 2015	July 21, 2016

Jurisdictional Classification

I.D. No.	Proposed	Expiration Date
CVS-29-15-00010-P	July 22, 2015	July 21, 2016

Education Department

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Community School Grants

I.D. No. EDU-32-16-00002-EP
Filing No. 734
Filing Date: 2016-07-26
Effective Date: 2016-07-26

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

Proposed Action: Amendment of section 100.19 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207(not subdivided), 3015(1), (2), 211-f, 215(not subdivided), 308(not subdivided) and 309(not subdivided); L. 2016, ch. 53

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

Specific reasons underlying the finding of necessity: The purpose of the proposed amendment is to timely implement Chapter 53 of the Laws of 2016 to establish the requirements for eligible school districts with schools designated as struggling and persistently struggling by the Commissioner pursuant to Education Law section 211-f(1)(a) or (b) throughout the 2016-2017 school year that wish to apply for such grants in the 2016-2017 school year. The proposed amendment also revises the definition of the community schools to require programs in a community school to provide members of the community with access to services on school buildings and grounds consistent with all applicable laws and regulations including but not limited to Education Law section 414.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(4-a), would be the October 17-18, 2016 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be November 2, 2016, the date a Notice of Adoption would be published in the State Register.

Emergency action at the July 2016 Regents meeting is therefore necessary for the preservation of the general welfare in order to immediately establish the eligibility requirements for community school grants to implement Chapter 53 of the Laws of 2016 so that eligible school districts who have schools designated by the Commissioner as persistently struggling and struggling in the 2016-2017 school year can apply, and receive monies, to establish community schools.

Subject: Community school grants.

Purpose: To implement chapter 53 of the Laws of 2016 by establishing the criteria for community school grants.

Text of emergency/proposed rule: 1. A new subdivision (k) is added to section 100.19 of the Regulations of the Commissioner of Education, effective July 26, 2016, as follows:

(k) Community schools grants. Subject to the terms of an appropriation, community schools grant funds will be awarded by the Commissioner to eligible school districts with schools designated as struggling and persistently struggling by the Commissioner pursuant to Education Law section 211-f(1)(a) or (b) throughout the 2016-2017 school year ("designated schools") pursuant to a plan developed by the Commissioner and approved by the director of the budget pursuant to this subdivision.

(1) Application for funding. Eligible school districts that seek a community schools grant fund award for a designated school or schools shall submit an application to the Commissioner on a form and pursuant to a timeline prescribed by the Commissioner and shall meet the requirements set forth this subdivision. Applications must set forth the need for such funds, whether the school district is seeking operating funds and/or capital funds, how the funds would be used and the number of students that would be served with such funds. If an eligible school district seeks both operating and capital funds, such application shall include separate budgets for the use of operating and capital funds. Funds shall be awarded in accordance with a formula developed by the Commissioner and approved by the director of the budget which shall take into account factors that include but need not be limited to the number of designated schools in the district, the number of students enrolled in the designated schools, and the needs of such students for English language learner, special education and other enhanced services.

(i) Prior to submitting an application to the Commissioner, the eligible school district shall provide appropriate community partners and/or the community engagement team established pursuant to this section, as the school district deems appropriate, an opportunity to review and provide feedback on the application.

(ii) All applications for funding pursuant to this subdivision must include detailed plans and timelines for ensuring substantial parent, teacher, and community engagement in the planning, implementation and operations of the community school that shall include but need not be limited to the following:

(a) holding public meetings with parents, teachers and community members at least quarterly during the school year to provide information and solicit input regarding the planning, implementation and operations of the community school. Such meetings shall be held in accordance with the requirements of subparagraph (c)(1)(iii) of this section;

(b) providing written notices and communications regarding the planning, implementation and operations of the community school to parents, teachers, other school personnel and community members as often as practicable through means that shall include but need not be limited to email and posting on the district's internet website, if one exists. All such notices and communications shall be provided in English and translated, to the extent practicable, into the recipient's native language or mode of communication;

(c) ensuring that such meetings, notices and communications provide parents, teachers and community members with meaningful opportunities to provide input and feedback by providing a variety of widely accessible methods of communication such as email, telephone, and/or access to the community school site coordinator and/or the steering committee; and

(d) submitting quarterly written reports to the Commissioner in a form and format prescribed by the Commissioner containing specific information about the progress of the planning, implementation and operations of the community schools grant and the requirements of this subdivision.

(2) Eligibility for services provided under this grant. Each designated school that receives a grant to deliver co-located or school-linked services pursuant to this subdivision shall first provide such services to the students who are enrolled in such school and their families.

(i) If a designated school has additional unused capacity after making such services available to all enrolled students and their families (e.g., not all available times for health or dental screenings have been filled on a particular day after all students enrolled in the school have been given an opportunity for an appointment, or not all seats in a parenting workshop have been filled by parents of students who attend the school), the school may offer such services to students who attend feeder schools and their families so as to maximize effective and efficient use of available resources and/or students who are alumni of the school and their families in order to provide continuity of services.

(ii) For purposes of this subdivision, "feeder school" shall mean a school that receives Title I funds or is eligible for, but does not receive Title I funds, and from which at least 20 percent of the students in the designed school matriculated, provided that, for designated schools in which school choice, admissions lotteries, and/or open enrollment exist and in which feeder school patterns are therefore not consistent from year to year, the school district may request that a lesser percentage of students matriculating into the designed schools be considered or that up to three schools in the closest geographic proximity to the designated schools and from which students matriculate to such schools be feeder schools for purposes of this subdivision.

(3) Use of grant funds. Community schools grant funds shall be used to supplement and not supplant district expenditures and shall only be used for new expenditures on eligible operating and capital costs in accordance with this subdivision and subject to the terms of the appropriation. Community schools grant funds must be used to support the operating and capital costs associated with the transformation of designated schools into community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal and/or other services to students and their families, which may include but need not be limited to the following:

(i) providing a community school site coordinator at each struggling or persistently struggling school receiving a grant pursuant to this subdivision. The school district shall designate a full-time staff person to serve as the community school site coordinator at each such school who shall assist the school receiver in implementing the grant, including but not limited to managing the development of the community school strategy for that school, coordinating and integrating service delivery at the school, ensuring the maintenance and sustainability of the community school, and consulting and coordinating with any other community school site coordinators designated pursuant to this clause, if applicable. If there are circumstances that do not justify the assignment of a full-time staff person to serve as the community school coordinator for each school (e.g., the designated school is a small rural school and a full-time coordinator is not needed), or if the designation or one full-time site coordinator for multiple schools would be more effective (e.g., if the two schools designated in the district are small schools in close proximity and a full-time coordinator could serve both schools), the school district may apply to the Commissioner for a waiver from this requirement;

(ii) improving parent engagement, which may include but need not be limited to designating a family outreach coordinator, providing parents and families with information on and opportunities to participate in their child's education and school community, including participation on the school's community engagement team established pursuant to this section; in the process of local stakeholder consultation conducted pursuant to this section; in the community-wide needs assessment conducted pursuant to this section; on the steering committee established pursuant to subparagraph (vi) of this paragraph; and in family literacy programs, including early childhood education, interactive literacy activities between parents and their children, and training for parents regarding how to be the primary teacher for their children and full partners in the education of their children;

(iii) providing early childhood education programs;

(iv) offering professional development specific to the unique needs of students enrolled in a community school and their families. Such unique needs may be determined through measures including but not limited to surveys of students, families and teachers; focus group meetings with parents, students and teachers; and/or results of comprehensive school and community needs assessments, which may be the comprehensive school and community needs assessment conducted pursuant to subdivision (f)(8)(iii) of this section, if one has been conducted for the specific school. Such professional development shall include but not be limited to job-embedded professional development with an emphasis on strategies that involve teacher input and feedback as well as professional development for administrators at the school with an emphasis on strategies that develop leadership skill and use of principles of distributive leadership and instructional supervision;

(v) conducting community-wide needs assessments, provided that, if a comprehensive school and community needs assessment regarding the school has been conducted pursuant to subdivision (f)(8)(iii) of this section, such needs assessment may be used for this purpose;

(vi) creating a steering committee to provide feedback and guidance. Such steering committee shall be made up of various school and community stakeholders, which shall include but need not be limited to, the school principal, parents of or persons in parental relation to students attending the school, teachers and other school staff assigned to the school, and students attending the school; provided that, in the case of a designated school that does not serve students in grade seven or above, the steering committee need not include students; provided further that a community engagement team established pursuant to this section may also serve as the steering committee; and

(vii) constructing or renovating spaces within such school buildings to serve as health suites, adult education spaces, guidance suites, resource rooms, remedial rooms, parent/community rooms, and career and technical education classrooms, plus any other capital costs necessary to implement a community school.

2. Paragraph (8) of subdivision (a) of section 100.19 of the Regulations of the Commissioner of Education is amended, effective July 26, 2016, to read as follows:

(8) Community School shall mean a school that partners with one or more agencies with an integrated focus on rigorous academics and the fostering of a positive and supportive learning environment, and a range of school-based and school-linked programs and services that lead to improved student learning, stronger families, and healthier communities. At a minimum, programs must include, but are not limited, to:

(i) addressing social service, health and mental health needs of

students in the school and their families in order to help students arrive and remain at school ready to learn;

(ii) providing access to services in the school community to promote a safe and secure learning environment;

(iii) encouraging family and community engagement to promote stronger home-school relationships and increase families' investment in the school community;

(iv) providing access to nutrition services, resources or programs to ensure students have access to healthy food and understand how to make smart food choices;

(v) providing access to early childhood education to ensure a continuum of learning that helps prepare students for success; [and]

(vi) offering *adult and/or community education opportunities, including but not limited to,* access to career and technical education as well as workforce development services to students in the school and their families in order to provide meaningful employment skills and opportunities; [and]

(vii) offering expanded learning opportunities that include afterschool, summer school, Science, Technology, Engineering, Arts, and Math programs (STEAM) and mentoring and other youth development programs*; and*

(viii) providing members of the community with access to services on school buildings and grounds consistent with all applicable laws and regulations including but not limited to Education Law section 414.

3. Subparagraph (ii) of paragraph (8) of subdivision (f) of section 100.19 of the Regulations of the Commissioner of Education is amended, effective July 26, 2016, to read as follows:

(ii) designate a full-time staff person who participates in school leadership and community engagement team meetings and reports to the school receiver and whose sole job responsibility is to manage the development of the community school strategy for that school and subsequently ensure the maintenance and sustainability of the community school. *If there are circumstances that do not justify the assignment of a full-time staff person to serve as the community school coordinator for each school (e.g., the designated school is a small rural school and a full-time coordinator is not needed), or if the designation or one full-time site coordinator for multiple schools would be more effective (e.g., if the two schools designated in the district are small schools in close proximity and a full-time coordinator could serve both schools), the school may apply to the Commissioner for a waiver from this requirement;*

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire October 23, 2016.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, State Education Department, Office of Counsel, State Education Building, Room 148, 89 Washington Ave., Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: Doreen Ryan, State Education Department, Office of Higher Education, State Education Building, Room 2M, 89 Washington Ave., Albany, NY 12234, (518) 474-5520, email: NYSEDP12@nysed.gov

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Education Law § 207 empowers Regents/Commissioner to adopt rules to carry out State education laws and functions/duties conferred by law.

Education Law § 305(1) and (2) provide Commissioner, as chief executive officer, with general supervision over schools and institutions subject to Education Law or education-related statutes, and responsibility for executing all Regents educational policies. § 305(20) provides Commissioner with additional powers/duties as charged by Regents.

Education Law § 211-f, as added by Part EE, Subpart H of Ch. 56, L.2015, provides for appointment of receivers to assist low-performing schools to make demonstrable improvement in student performance.

Education Law § 215 authorizes Commissioner to require schools/districts to submit reports containing information prescribed by Commissioner.

Education Law § 308 authorizes Commissioner to enforce/give effect to Education Law provisions or other general/special law pertaining to education.

Education Law § 309 charges Commissioner with general supervision of school boards.

Chapter 53 of the Laws of 2016 establishes an appropriation of $75 million to be used for community school grants for persistently struggling and struggling schools and requires that the criteria for such grants to be established by the Commissioner in regulations.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment implements Chapter 53 of the Laws of 2016, by establishing criteria for community school grants for persistently struggling and struggling schools.

3. NEEDS AND BENEFITS:

As part of the 2016-2017 budget appropriation bill (Chapter 53 of the Laws of 2016), the Legislature and Governor provided a $75 million appropriation ($50 million for operating costs and $25 million for capital costs) to establish community school grants for eligible school districts with schools designated as struggling and persistently struggling by the Commissioner pursuant to Education Law section 211-f(1)(a) or (b) throughout the 2016-2017 school year ("designated schools"). The new law requires eligible school districts to apply to the Commissioner for such grants.

The proposed amendment implements these requirements and requires that all applications for funding pursuant to this subdivision include detailed plans and timelines for ensuring substantial parent, teacher, and community engagement in the planning, implementation and operations of the community school.

Each designated school that receives a grant to deliver co-located or school-linked services pursuant to this subdivision shall first provide such services to the students who are enrolled in such school and their families. If a designated school has additional unused capacity after making such services available to all enrolled students and their families (e.g., not all available times for health or dental screenings have been filled on a particular day after all students enrolled in the school have been given an opportunity for an appointment or not all seats in a parenting workshop have been filled by parents of students who attend the school), the school may offer such services to students who attend feeder schools and their families so as to maximize effective and efficient use of available resources and/or students who are alumni of the school and their families in order to provide continuity of services. The proposed amendment defines "feeder school" as a school that receives Title I funds or is eligible for, but does not receive Title I funds, and from which at least 20 percent of the students in the designated school matriculated, provided that, for designated schools in which school choice, admissions lotteries, and/or open enrollment exist and in which feeder school patterns are therefore not consistent from year to year, the school district may request that a lesser percentage of students matriculating into the designated schools be considered or that up to three schools in the closest geographic proximity to the designated schools and from which students matriculate to such schools be feeder schools for purposes of this subdivision.

Community schools grant funds shall be used to supplement and not supplant district expenditures and shall only be used for new expenditures on eligible operating and capital costs in accordance with this subdivision and subject to the terms of the appropriation. Community schools grant funds must be used to support the operating and capital costs associated with the transformation of designated schools into community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal, and/or other services to students and their families.

The proposed amendment also revises the current definition of community schools to require offering adult and/or community education opportunities and programs in community schools to provide members of the community with access to services on school buildings and grounds consistent with all applicable laws and regulations including but not limited to Education Law section 414. These revisions allow for a greater integrated focus on offering a range of school-based and school-linked programs and services leading to stronger families and healthier communities.

4. COSTS:

(a) Costs to State government: There are no costs to State government beyond those imposed by the statute.

(b) Costs to local government: None, beyond those imposed by statute.

(c) Costs to private regulated parties: None, beyond those imposed by statute.

(d) Costs to regulating agency for implementation and continued administration of this rule: The proposed amendment does not impose any costs on SED, beyond those imposed by statute.

5. LOCAL GOVERNMENT MANDATES:

The rule is necessary to implement Chapter 53 of the Laws of 2016 by establishing criteria for community school grants. The major mandates of rule are statutorily imposed.

Eligible school districts that seek a community schools grant fund award for a designated school or schools shall submit an application to the Commissioner on a form and pursuant to a timeline prescribed by the Commissioner. Applications must set forth the need for such funds, whether the school district is seeking operating funds and/or capital funds, how the funds would be used and the number of students that would be served with such funds. If an eligible school district seeks both operating and capital funds, such application shall include separate budgets for the use of operating and capital funds. Funds shall be awarded in accordance

with a formula developed by the Commissioner and approved by the director of the budget which shall take into account factors that include but need not be limited to the number of designated schools in the district, the number of students enrolled in the designated schools, and the needs of such students for English language learner, special education and other enhanced services.

Prior to submitting an application to the Commissioner, the eligible school district shall provide appropriate community partners and/or the community engagement team established pursuant to this section, as the school district deems appropriate, an opportunity to review and provide feedback on the application.

All applications for funding must include detailed plans and timelines for ensuring substantial parent, teacher, and community engagement in the planning, implementation and operations of the community school that shall include but need not be limited to the following:

o holding public meetings with parents, teachers and community members at least quarterly during the school year to provide information and solicit input regarding the planning, implementation and operations of the community school. Such meetings shall be held in accordance with the requirements of subparagraph (c)(1)(iii) of this section;

o providing written notices and communications regarding the planning, implementation and operations of the community school to parents, teachers, other school personnel and community members as often as practicable through means that shall include but need not be limited to email and posting on the district's internet website, if one exists. All such notices and communications shall be provided in English and translated, to the extent practicable, into the recipient's native language or mode of communication;

o ensuring that such meetings, notices and communications provide parents, teachers and community members with meaningful opportunities to provide input and feedback by providing a variety of widely accessible methods of communication such as email, telephone, and/or access to the community school site coordinator and/or the steering committee; and

o submitting quarterly written reports to the Commissioner in a form and format prescribed by the Commissioner containing specific information about the progress of the planning, implementation and operations of the community schools grant and the requirements of this subdivision.

6. PAPERWORK:

See response to No. 5 above relating to local government mandates.

7. DUPLICATION:

The rule is necessary to implement Chapter 53 of the Laws of 2016 and does not duplicate, overlap or conflict with State or federal legal requirements.

8. ALTERNATIVES:

The rule is necessary to implement Chapter 56 of the Laws of 2016 by establishing criteria for community school grants. Consequently, the major provisions of the rule are statutorily imposed, and there are no significant alternatives and none were considered.

9. FEDERAL STANDARDS:

There are no applicable federal standards relating to criteria for these community school grants, appropriated by the State Legislature.

10. COMPLIANCE SCHEDULE:

The rule is necessary to implement Chapter 53 of the Laws of 2016 by establishing criteria for community school grants. Consequently, the major provisions of the proposed rule are statutorily imposed. It is anticipated that regulated parties can achieve compliance with the proposed rule by its effective date.

Regulatory Flexibility Analysis

Small Businesses:

The proposed rule is necessary to implement Chapter 53 of the Laws of 2016, by establishing criteria for struggling and persistently struggling schools to apply for community school grants and does not impose any adverse economic impact, reporting, record keeping or any other compliance requirement on small businesses. Because it is evident from the nature of the rule that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

Local Government:

1. EFFECT OF RULE:

The proposed rule applies to those school districts that have: "Persistently Failing Schools" (identified in the regulation as a "Persistently Struggling Schools"), which are Priority Schools that have been in the most severe accountability status since the 2006-07 school year, and/or Failing Schools (identified in the regulation as "Struggling Schools"), which are schools that have been in Priority Schools status since the 2012-13 school year.

There are currently 17 school districts that have Persistently Struggling Schools and/or Struggling Schools.

2. COMPLIANCE REQUIREMENTS:

As part of the 2016-2017 budget appropriation bill (Chapter 53 of the Laws of 2016), the Legislature and Governor provided a $75 million appropriation ($50 million for operating costs and $25 million for capital costs) to establish community school grants for eligible school districts with schools designated as struggling and persistently struggling by the Commissioner pursuant to Education Law section 211-f(1)(a) or (b) throughout the 2016-2017 school year ("designated schools"). The new law requires eligible school districts to apply to the Commissioner for such grants.

The proposed amendment implements these requirements and requires that all applications for funding pursuant to this subdivision include detailed plans and timelines for ensuring substantial parent, teacher, and community engagement in the planning, implementation and operations of the community school that shall include but need not be limited to the following:

• holding public meetings with parents, teachers and community members at least quarterly during the school year to provide information and solicit input regarding the planning, implementation and operations of the community school. Such meetings shall be held in accordance with the requirements of subparagraph (c)(1)(iii) of this section;

• providing written notices and communications regarding the planning, implementation and operations of the community school to parents, teachers, other school personnel, and community members as often as practicable through means that shall include but need not be limited to email and posting on the district's internet website, if one exists. All such notices and communications shall be provided in English and translated, to the extent practicable, into the recipient's native language or mode of communication;

• ensuring that such meetings, notices, and communications provide parents, teachers, and community members with meaningful opportunities to provide input and feedback by providing a variety of widely accessible methods of communication, such as email, telephone, and/or access to the community school site coordinator and/or the steering committee; and

• submitting quarterly written reports to the Commissioner in a form and format prescribed by the Commissioner containing specific information about the progress of the planning, implementation, and operations of the community schools grant and the requirements of this subdivision.

Each designated school that receives a grant to deliver co-located or school-linked services pursuant to this subdivision shall first provide such services to the students who are enrolled in such school and their families. If a designated school has additional unused capacity after making such services available to all enrolled students and their families (e.g., not all available times for health or dental screenings have been filled on a particular day after all students enrolled in the school have been given an opportunity for an appointment or not all seats in a parenting workshop have been filled by parents of students who attend the school), the school may offer such services to students who attend feeder schools and their families so as to maximize effective and efficient use of available resources and/or students who are alumni of the school and their families in order to provide continuity of services. The proposed amendment defines "feeder school" as a school that receives Title I funds or is eligible for, but does not receive Title I funds, and from which at least 20 percent of the students in the designated school matriculated, provided that, for designated schools in which school choice, admissions lotteries, and/or open enrollment exist and in which feeder school patterns are therefore not consistent from year to year, the school district may request that a lesser percentage of students matriculating into the designated schools be considered or that up to three schools in the closest geographic proximity to the designated schools and from which students matriculate to such schools be feeder schools for purposes of this subdivision.

Community schools grant funds shall be used to supplement and not supplant district expenditures and shall only be used for new expenditures on eligible operating and capital costs in accordance with this subdivision and subject to the terms of the appropriation. Community schools grant funds must be used to support the operating and capital costs associated with the transformation of designated schools into community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal, and/or other services to students and their families, which may include but need not be limited to the following:

• providing a community school site coordinator at each struggling or persistently struggling school receiving a grant pursuant to this subdivision. The school district shall designate a full-time staff person to serve as the community school site coordinator at each such school who shall assist the school receiver in implementing the grant, including but not limited to managing the development of the community school strategy for that school, coordinating and integrating service delivery at the school, ensuring the maintenance and sustainability of the community school, and consulting and coordinating with any other community school site coordinators designated pursuant to this clause, if applicable. If there are circumstances that do not justify the assignment of a full-time staff

person to serve as the community school coordinator for each school (e.g., the designated school is a small rural school and a full-time coordinator is not needed), or if the designation of one full-time site coordinator for multiple schools would be more effective (e.g., if the two schools designated in the district are small schools in close proximity and a full-time coordinator could serve both schools), the school may apply to the Commissioner for a waiver from this requirement;

• improving parent engagement, which may include but need not be limited to designating a family outreach coordinator, providing parents and families with information on and opportunities to participate in their child's education and school community, including participation on the school's community engagement team established pursuant to this section; in the process of local stakeholder consultation conducted pursuant to this section; in the community-wide needs assessment conducted pursuant to this section; on the steering committee established by these regulations; and in family literacy programs, including early childhood education, interactive literacy activities between parents and their children, and training for parents regarding how to be the primary teacher for their children and full partners in the education of their children;

• providing early childhood education programs;

• offering professional development specific to the unique needs of students enrolled in a community school and their families. Such unique needs may be determined through measures including but not limited to surveys of students, families and teachers; focus group meetings with parents, students and teachers; and/or results of comprehensive school and community needs assessments, which may be the comprehensive school and community needs assessment conducted pursuant to these regulations, if one has been conducted for the specific school. Such professional development shall include but not be limited to job-embedded professional development with an emphasis on strategies that involve teacher input and feedback as well as professional development for administrators at the school with an emphasis on strategies that develop leadership skills, use of principles of distributive leadership, and instructional supervision;

• conducting community-wide needs assessments, provided that, if a comprehensive school and community needs assessment regarding the school has already been conducted, such needs assessment may be used for this purpose;

• creating a steering committee to provide feedback and guidance. Such steering committee shall be made up of various school and community stakeholders, which shall include but need not be limited to, the school principal, parents of or persons in parental relation to students attending the school, teachers and other school staff assigned to the school, and students attending the school; provided that, in the case of a designated school that does not serve students in grade seven or above, the steering committee need not include students; provided further that a community engagement team established pursuant to section 100.19 may also serve as the steering committee; and

• constructing or renovating spaces within such school buildings to serve as health suites, adult education spaces, guidance suites, resource rooms, remedial rooms, parent/community rooms, and career and technical education classrooms, plus any other capital costs necessary to implement a community school.

The proposed amendment also revises the current definition of community schools to require offering adult and/or community education opportunities and programs in community schools to provide members of the community with access to services on school buildings and grounds consistent with all applicable laws and regulations including but not limited to Education Law section 414. These revisions allow for a greater integrated focus on offering a range of school-based and school-linked programs and services leading to stronger families and healthier communities.

3. PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional services requirements beyond those inherent in the statute.

4. COMPLIANCE COSTS:

The proposed rule is necessary to implement Chapter 53 of the Laws of 2016 and, consequently, the major mandates of the proposed rule are statutorily imposed. The Department anticipates that because $75 million has been appropriated to support the community schools grants, there will be no costs to local governments for implementing the proposed amendment.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

Economic feasibility is addressed in the Costs section above.

6. MINIMIZING ADVERSE IMPACT:

The rule is necessary to implement Chapter 53 of the Laws of 2016 by establishing criteria for community school grants. The major provisions of the rule are statutorily imposed and it is not feasible to establish differing compliance or reporting requirements, or to exempt school districts from coverage by the rule.

The Department intends to take steps to provide sufficient notice of the proposed rule to ensure that school districts are made aware of the rule's requirements so they may suitably prepare for and apply for these grants.

7. LOCAL GOVERNMENT PARTICIPATION:

Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State, from the chief school officers of the five big city school districts, which include school districts with persistently struggling and struggling schools.

8. INITIAL REVIEW OF RULE (SAPA § 207):

Pursuant to State Administrative Procedure Act section 207(1)(b), the State Education Department proposes that the initial review of this rule shall occur in the fifth calendar year after the year in which the rule is adopted, instead of in the third calendar year. The justification for a five year review period is that the proposed rule is necessary to implement Chapter 53 of the Laws of 2016, by establishing criteria for community school grants.

The Department invites public comment on the proposed five year review period for this rule. Comments should be sent to the agency contact listed in item number 10 of the Notice of Proposed Rule Making published herewith, and must be received within 45 days of the date the Notice is published in the State Register.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed rule applies to those school districts that have: "Persistently Failing Schools" (identified in the regulation as a "Persistently Struggling Schools"), which are Priority Schools that have been in the most severe accountability status since the 2006-07 school year, and/or Failing Schools (identified in the regulation as a "Struggling Schools"), which are schools that have been in Priority Schools status since the 2012-13 school year.

There is currently one school district that has one Struggling School located in a rural area (i.e. the 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less).

2. REPORTING, RECORDKEEPING AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES:

As part of the 2016-2017 budget appropriation bill (Chapter 53 of the Laws of 2016), the Legislature and Governor provided a $75 million appropriation ($50 million for operating costs and $25 million for capital costs) to establish community school grants for eligible school districts with schools designated as struggling and persistently struggling by the Commissioner pursuant to Education Law section 211-f(1)(a) or (b) throughout the 2016-2017 school year ("designated schools"). The new law requires eligible school districts to apply to the Commissioner for such grants.

The proposed amendment implements these requirements and requires that all applications for funding pursuant to this subdivision include detailed plans and timelines for ensuring substantial parent, teacher, and community engagement in the planning, implementation and operations of the community school that shall include but need not be limited to the following:

• holding public meetings with parents, teachers and community members at least quarterly during the school year to provide information and solicit input regarding the planning, implementation and operations of the community school. Such meetings shall be held in accordance with the requirements of subparagraph (c)(1)(iii) of this section;

• providing written notices and communications regarding the planning, implementation and operations of the community school to parents, teachers, other school personnel, and community members as often as practicable through means that shall include but need not be limited to email and posting on the district's internet website, if one exists. All such notices and communications shall be provided in English and translated, to the extent practicable, into the recipient's native language or mode of communication;

• ensuring that such meetings, notices, and communications provide parents, teachers, and community members with meaningful opportunities to provide input and feedback by providing a variety of widely accessible methods of communication, such as email, telephone, and/or access to the community school site coordinator and/or the steering committee; and

• submitting quarterly written reports to the Commissioner in a form and format prescribed by the Commissioner containing specific information about the progress of the planning, implementation, and operations of the community schools grant and the requirements of this subdivision.

Each designated school that receives a grant to deliver co-located or school-linked services pursuant to this subdivision shall first provide such services to the students who are enrolled in such school and their families. If a designated school has additional unused capacity after making such services available to all enrolled students and their families (e.g., not all available times for health or dental screenings have been filled on a particular day after all students enrolled in the school have been given an opportunity for an appointment or not all seats in a parenting workshop have been filled by parents of students who attend the school), the school may

offer such services to students who attend feeder schools and their families so as to maximize effective and efficient use of available resources and/or students who are alumni of the school and their families in order to provide continuity of services. The proposed amendment defines "feeder school" as a school that receives Title I funds or is eligible for, but does not receive Title I funds, and from which at least 20 percent of the students in the designated school matriculated, provided that, for designated schools in which school choice, admissions lotteries, and/or open enrollment exist and in which feeder school patterns are therefore not consistent from year to year, the school district may request that a lesser percentage of students matriculating into the designated schools be considered or that up to three schools in the closest geographic proximity to the designated schools and from which students matriculate to such schools be feeder schools for purposes of this subdivision.

Community schools grant funds shall be used to supplement and not supplant district expenditures and shall only be used for new expenditures on eligible operating and capital costs in accordance with this subdivision and subject to the terms of the appropriation. Community schools grant funds must be used to support the operating and capital costs associated with the transformation of designated schools into community hubs to deliver co-located or school-linked academic, health, mental health, nutrition, counseling, legal, and/or other services to students and their families, which may include but need not be limited to the following:

- providing a community school site coordinator at each struggling or persistently struggling school receiving a grant pursuant to this subdivision. The school district shall designate a full-time staff person to serve as the community school site coordinator at each such school who shall assist the school receiver in implementing the grant, including but not limited to managing the development of the community school strategy for that school, coordinating and integrating service delivery at the school, ensuring the maintenance and sustainability of the community school, and consulting and coordinating with any other community school site coordinators designated pursuant to this clause, if applicable. If there are circumstances that do not justify the assignment of a full-time staff person to serve as the community school coordinator for each school (e.g., the designated school is a small rural school and a full-time coordinator is not needed), or if the designation of one full-time site coordinator for multiple schools would be more effective (e.g., if the two schools designated in the district are small schools in close proximity and a full-time coordinator could serve both schools), the school may apply to the Commissioner for a waiver from this requirement;
- improving parent engagement, which may include but need not be limited to designating a family outreach coordinator, providing parents and families with information on and opportunities to participate in their child's education and school community, including participation on the school's community engagement team established pursuant to this section; in the process of local stakeholder consultation conducted pursuant to this section; in the community-wide needs assessment conducted pursuant to this section; on the steering committee established by these regulations; and in family literacy programs, including early childhood education, interactive literacy activities between parents and their children, and training for parents regarding how to be the primary teacher for their children and full partners in the education of their children;
- providing early childhood education programs;
- offering professional development specific to the unique needs of students enrolled in a community school and their families. Such unique needs may be determined through measures including but not limited to surveys of students, families and teachers; focus group meetings with parents, students and teachers; and/or results of comprehensive school and community needs assessments, which may be the comprehensive school and community needs assessment conducted pursuant to these regulations, if one has been conducted for the specific school. Such professional development shall include but not be limited to job-embedded professional development with an emphasis on strategies that involve teacher input and feedback as well as professional development for administrators at the school with an emphasis on strategies that develop leadership skills, use of principles of distributive leadership, and instructional supervision;
- conducting community-wide needs assessments, provided that, if a comprehensive school and community needs assessment regarding the school has already been conducted, such needs assessment may be used for this purpose;
- creating a steering committee to provide feedback and guidance. Such steering committee shall be made up of various school and community stakeholders, which shall include but need not be limited to, the school principal, parents of or persons in parental relation to students attending the school, teachers and other school staff assigned to the school, and students attending the school; provided that, in the case of a designated school that does not serve students in grade seven or above, the steering committee need not include students; provided further that a community engagement team established pursuant to section 100.19 may also serve as the steering committee; and
- constructing or renovating spaces within such school buildings to serve as health suites, adult education spaces, guidance suites, resource rooms, remedial rooms, parent/community rooms, and career and technical education classrooms, plus any other capital costs necessary to implement a community school.

The proposed amendment also revises the current definition of community schools to require offering adult and/or community education opportunities and programs in community schools to provide members of the community with access to services on school buildings and grounds consistent with all applicable laws and regulations including but not limited to Education Law section 414. These revisions allow for a greater integrated focus on offering a range of school-based and school-linked programs and services leading to stronger families and healthier communities.

3. COMPLIANCE COSTS:

The proposed rule is necessary to implement Chapter 53 of the Laws of 2016 and, consequently, the major mandates of the proposed rule are statutorily imposed. The Department anticipates that because $75 million has been appropriated to support community schools grants, the grant money will be used to assist local governments and that no additional costs are imposed on local governments by the proposed amendment.

4. MINIMIZING ADVERSE IMPACT:

The rule is necessary to implement Chapter 53 of the Laws of 2016 by establishing criteria for community school grants. The major provisions of the rule are statutorily imposed and it is not feasible to establish differing compliance or reporting requirements, or to exempt school districts from coverage by the rule.

The Department intends to take steps to provide sufficient notice of the proposed rule to ensure that school districts, including those located in rural areas are made aware of the rule's requirements so they may suitably prepare for and apply for these grants.

5. RURAL AREA PARTICIPATION:

Department staff will solicit comments on the proposed amendment from the Rural Advisory Committee, which has members who live and work in rural areas on the State.

Job Impact Statement

The purpose of the proposed amendment is to timely implement Chapter 53 of the Laws of 2016 to establish the requirements for eligible school districts with schools designated as struggling and persistently struggling by the Commissioner pursuant to Education Law section 211-f(1)(a) or (b) throughout the 2016-2017 school year that wish to apply for such grants in the 2016-2017 school year. The proposed amendment also revises the definition of the community schools to require programs in a community school to provide members of the community with access to services on school buildings and grounds consistent with all applicable laws and regulations including but not limited to Education Law section 414.

Furthermore, an apportionment of $75 million in State funds will be available to Struggling and Persistently Struggling Schools for the implementation of community schools and a portion of those monies must be used on operating costs. Another portion of the funding is to be used for capital costs (i.e., construction and/or renovation). This will result in a net gain of jobs.

Department of Environmental Conservation

EMERGENCY RULE MAKING

Chemical Bulk Storage (CBS)

I.D. No. ENV-19-16-00006-E
Filing No. 709
Filing Date: 2016-07-21
Effective Date: 2016-07-21

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

Action taken: Amendment of Part 597 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 3-0303, 17-0301, 17-0303, 17-0501, 17-1743, 27-1301, 37-0101 through 37-0107 and 40-0101 through 40-0121

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

Specific reasons underlying the finding of necessity: The New York

State Department of Health (NYSDOH) has requested that the New York State Department of Environmental Conservation (DEC) add perfluorooctanoic acid (PFOA-acid, Chemical Abstracts Service (CAS) No. 335-67-1), ammonium perfluorooctanoate (PFOA-salt, CAS No. 3825-26-1), perfluorooctane sulfonic acid (PFOS-acid, CAS No. 1763-23-1), and perfluorooctane sulfonate (PFOS-salt, CAS No. 2795-39-3) to 6 NYCRR Section 597.3, List of Hazardous Substances. DEC has concluded that these four substances meet the definition of a hazardous substance based upon the conclusion of the NYSDOH that prolonged exposure to significantly elevated levels of these compounds can affect health and, consequently, pose a threat to public health in New York State when improperly treated, stored, transported, disposed of or otherwise managed. NYSDOH scientists have concluded that it is essential to list these chemicals as hazardous substances. See the Regulatory Impact Statement for additional information, including NYSDOH's letter requesting that these chemicals be added to the List of Hazardous Substances (Section 597.3).

It is essential to immediately identify PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt as hazardous substances pursuant to 6 NYCRR Section 597.3, thereby making them hazardous wastes pursuant to Environmental Conservation Law Section 27-1301, and enabling DEC to exert its enforcement authorities and to expend funds from the Hazardous Waste Remedial Fund to clean up the contaminant. The emergency rule will provide DEC with authority to take immediate action to protect public health. To the extent elevated levels of PFOA-related and PFOS-related substances are identified throughout the State, DEC needs the authority to act expeditiously.

Subject: Chemical Bulk Storage (CBS).

Purpose: To amend Part 597 of the CBS regulations.

Text of emergency rule: 6 NYCRR Part 597 is amended to read as follows:

Existing subdivision 597.1(a) through paragraph 597.1(b)(1) remain unchanged.

Existing paragraph 597.1(b)(2) is amended to read as follows:

(2) Chemical [a]*A*bstract*s* [s]*S*ervice number or CAS number is the unique identifier for a chemical substance assigned by the CAS division of the American Chemical Society.

Existing paragraph 597.1(b)(3) through section 597.2 remain unchanged.

Existing section 597.3 is amended to read as follows:

597.3 List of hazardous substances

Table 1 sets forth the list of hazardous substances in alphabetical order. Table 2 sets forth the list of hazardous substances in Chemical Abstract*s* Service (CAS) number order.

Table 1 and Table 2 are amended to read as follows:

Table 1 – Alphabetical Order

CASRN	Substance	RQ Air *(pounds)*	RQ Land/ Water *(pounds)*	Notes
3825-26-1	*Ammonium Perfluorooctanoate*	*1*	*1*	
2795-39-3	*Perfluorooctane Sulfonate*	*1*	*1*	
1763-23-1	*Perfluorooctane Sulfonic Acid*	*1*	*1*	
335-67-1	*Perfluorooctanoic Acid*	*1*	*1*	

Table 2 – CAS Number Order

CASRN	Substance	RQ Air *(pounds)*	RQ Land/ Water *(pounds)*	Notes
335-67-1	*Perfluorooctanoic Acid*	*1*	*1*	
1763-23-1	*Perfluorooctane Sulfonic Acid*	*1*	*1*	
2795-39-3	*Perfluorooctane Sulfonate*	*1*	*1*	
3825-26-1	*Ammonium Perfluorooctanoate*	*1*	*1*	

Existing subdivision 597.4(a) is amended to read as follows:

(a) Prohibition of releases.

The release of a hazardous substance which is required to be reported pursuant to subdivision (b) of this section is prohibited unless:

(1) such release is authorized; [or]

(2) such release is continuous and stable in quantity and rate and has been reported pursuant to paragraph (b)(4) of this section[.]*; or*

(3) such release is of fire-fighting foam containing Perfluorooctanoic Acid (CAS No. 335-67-1), Ammonium Perfluorooctanoate (CAS No. 3825-26-1), Perfluorooctane Sulfonic Acid (CAS No. 1763-23-1), or Perfluorooctane Sulfonate (CAS No. 2795-39-3) used for fighting fires (but not for training purposes) and occurs on or before April 25, 2017. In the event there is a release of such foam that exceeds the reportable quantity of any hazardous substance, the release must be reported pursuant to subdivision (b) of this section.

Existing subdivision 597.4(b) remains unchanged.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. ENV-19-16-00006-EP, Issue of May 11, 2016. The emergency rule will expire September 18, 2016.

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

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

Summary of Regulatory Impact Statement

Full text of the Regulatory Impact Statement is available on the New York State Department of Environmental Conservation's website at http://www.dec.ny.gov/regulations/104968.html

1. STATUTORY AUTHORITY

The State law authority that empowers the New York State Department of Environmental Conservation (Department) to create a list of hazardous substances is found in Title one of Article 37 of the Environmental Conservation Law (ECL), sections 37-0101 through 37-0111, entitled "Substances Hazardous to the Environment" (Article 37). The Department is authorized to adopt regulations to implement ECL provisions (ECL sections 3-0301[2][a] and [m]) which includes listing "substances hazardous to the public health, safety or environment" which "because of their quantity, concentration, or physical, chemical or infectious characteristics cause physical injury or illness when improperly treated, stored, transported, disposed of, or otherwise managed" in 6 NYCRR Part 597.

2. LEGISLATIVE OBJECTIVES

The legislative objectives underlying Article 37 are directed toward establishing a list of hazardous substances which pose a threat to public health or the environment. The emergency rule adds perfluorooctanoic acid (PFOA-acid, Chemical Abstracts Service [CAS] No. 335-67-1), ammonium perfluorooctanoate (PFOA-salt, CAS No. 3825-26-1), perfluorooctane sulfonic acid (PFOS-acid, CAS No. 1763-23-1), and perfluorooctane sulfonate (PFOS-salt, CAS No. 2795-39-3) to the list of hazardous substances in 6 NYCRR Section 597.3 (Section 597.3). The proposed rule, upon adoption, makes the amendments permanent.

3. NEEDS AND BENEFITS

The purpose of the emergency rule and proposed rule is to:

1. Add PFOA-acid, PFOA-salt, PFOS-acid, and the PFOS-salt to Section 597.3;

2. Allow fire-fighting foam containing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt to be used to fight fires (but not for any other purposes) on or before April 25, 2017; and

3. Correct the list of hazardous substances by providing units for the reportable quantities (RQs).

Needs and Benefits of Adding PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt to the List of Hazardous Substances

The Department promulgated an emergency rule on January 27, 2016 to add PFOA-acid to the list of hazardous substances in Section 597.3. Since then, the Department became aware of three additional substances that need to be added to the list of hazardous substances. These additional substances have physical, chemical, and toxicological properties similar to PFOA-acid. The Department decided to allow the January 27, 2016 emergency rule to expire and to undertake the emergency and proposed rule to include all four substances on the list of hazardous substances.

The Department has concluded that these four substances meet the definition of hazardous substance based upon the conclusion of the New York State Department of Health (NYSDOH) that the combined weight of evidence from human and experimental animal studies indicates that

prolonged exposure to significantly elevated levels of these compounds can affect health and, consequently, pose a threat to public health in New York State when improperly treated, stored, transported, disposed of or otherwise managed. NYSDOH scientists have concluded that it is essential to list these chemicals as hazardous substances. See the Regulatory Impact Statement for additional information, including NYSDOH's letter requesting that these chemicals be added to the List of Hazardous Substances (Section 597.3).

There are at least three benefits of listing these substances as hazardous substances in Part 597. First, if a mixture containing one of these substances in concentrations of 1% or more is stored in an aboveground tank of 185 gallons or more or any size underground tank, the tank would be subject to the requirements of the Chemical Bulk Storage (CBS) regulations (6 NYCRR Parts 596 – 599) with the purpose of preventing leaks and spills to protect public health and the environment. Second, releases to the environment are prohibited (subdivision 597.4[a]). Any release of one pound or more of these substances must be reported to the Department's spill hotline (subdivision 597.4[b]). Third, if one of these substances is released, the Department is authorized to pursue clean-up of the contamination under one of the Department's remedial programs (6 NYCRR Part 375) and may expend funds under the "State Superfund" if a responsible party is unwilling or unable to undertake the remediation.

Need and Benefit of Allowing Continued Use of Fire-Fighting Foam

These four substances have been used in Aqueous Film-Forming Foam (AFFF). While their use was restricted or reportedly removed from new products by December 2015, AFFF containing these substances are likely stored at some facilities since the reported shelf-life of AFFF is up to 25 years. In accordance with existing 6 NYCRR subdivision 597.4(a), the release of a hazardous substance is prohibited. This rule adds a provision allowing entities with fire-fighting foam time to determine if stored foam contains these hazardous substances. If so, the facility would be required to arrange for proper disposal of the foam by April 25, 2017. Replacement foam may not contain a hazardous substance at a concentration that would result in the release of more than the RQ (one pound) when used as a fire-fighting foam. Prior to April 25, 2017, entities storing this foam would be allowed to use the foam, as needed, to fight fires to protect public safety but not for any other purpose such as training. If the foam is used to fight a fire and there is a release of one pound or more of a hazardous substance, the release must be reported to the Department's spill hotline to allow the Department to determine if remediation of the release is appropriate.

Need for Correction of the List of Hazardous Substances

A correction is being made to the tables listing hazardous substances. It was determined that the units for RQs were left off the table causing some uncertainty regarding when a release would need to be reported. This rule adds units back to the column heading of the table.

4. COSTS

Costs to Regulated Parties

Because the use of these chemicals is limited by United States Environmental Protection Agency (USEPA) and the CBS tank system requirements for handling and storing these chemicals do not apply until April 25, 2018, the Department expects that compliance costs will be minimal. For example, if a facility is storing one of these substances in a 5,000 gallon aboveground storage tank, the two-year registration fee would be $125. If the facility were to discontinue storage by April 25, 2018, when the storage and handling standards go into effect, there would be no substantive costs beyond payment of the registration fee. If the facility were to continue to store one of these substances, it would be subject to the costs of complying with the handling and storage requirements in Parts 598 and 599.

With one possible exception (entities with fire-fighting form), the release prohibition should not present unusual compliance costs for persons who may be in possession of PFOA-containing or PFOS-containing substances. Since the Department recognizes the important societal interest of ensuring the availability of materials to control fires, persons have until April 25, 2017 to determine if foam contains hazardous substances and replace the foam if necessary. If fire-fighting foam contains a hazardous substance, it cannot be released to the environment after April 25, 2017. The Department anticipates that replacement foams would be purchased and that old foam containing a hazardous substance would be disposed of in accordance with applicable requirements. The cost to replace the foam ranges from $16 to $32 per gallon, depending on the amount and type of foam. Since use of these substances has been restricted or phased-out, the Department is uncertain how many regulated parties may be in possession of fire-fighting foams that contain one of these substances.

The costs of complying with the requirements of Part 375 to implement a remedial program where the four substances are primary contaminants will vary widely as costs depend upon many factors. Thus, it is not possible to meaningfully estimate potential remedial costs other than to note that remedial program costs for other hazardous substances range from the thousands to millions of dollars.

Costs to the Department, State, and Local Government

The Department will incur costs to administer the CBS program and to oversee of site remediation by responsible parties. In cases where a responsible party is unwilling or unable to undertake remediation, the costs of the remediation would be incurred by the Department (subject to efforts to recover the costs).

State and local governments will incur costs making determinations regarding whether products containing one of these substances are stored at their facilities.

5. LOCAL GOVERNMENT MANDATES

No additional recordkeeping, reporting, or other requirements not already created by statute or described above would be imposed on local governments. This is not a local government mandate.

6. PAPERWORK

The emergency rule and proposed rule contain no substantive changes to existing reporting and record keeping requirements, except for those newly subject to this regulation.

7. DUPLICATION

The listing of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt as hazardous substances in Part 597 causes no duplication, overlap or conflict with any other state or federal government programs or rules.

8. ALTERNATIVES

The only alternative to listing PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt as hazardous substances considered by the Department, the no action alternative, was not taken. The Department declined to take no action because, as determined by NYSDOH, the combined weight of evidence from human and experimental animal studies indicates that prolonged exposure to significantly elevated levels of these compounds can affect health and, consequently, pose a threat to public health in New York State when improperly treated, stored, transported, disposed of, or otherwise managed.

9. FEDERAL STANDARDS

Listing PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt as hazardous substances exceeds the current federal approach, as USEPA has not listed these substances as any of the substances defined as hazardous substances under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C Section 9601, et seq., or under the applicable regulation, 40 CFR Part 302 ("Designation, Reportable Quantities, and Notification"). Under the Toxic Substances Control Act, USEPA worked with industry to voluntarily phase out the use of PFOA-related substances by December 2015, and proposed a significant new use rule, completed in 2002, to limit production and importation of PFOA-related substances.

10. COMPLIANCE SCHEDULE

A facility that stores one of these substances that is subject to the CBS registration requirements is required to submit its registration application to the Department when it becomes subject to regulation. If a facility is already storing one of these substances and is subject to the registration requirements, the requirement became effective on April 25, 2016, the effective date of this emergency rule. If a facility begins storing one of these substances and is subject to the registration requirements, it must obtain a valid registration certificate prior to storing the material. Facilities with existing storage are not required to comply with the handling and storage requirements for hazardous substances until April 25, 2018 (6 NYCRR subdivision 598.1[h]). The Department expects that facilities that currently store one of these substances will phase out storage of the substance prior to April 25, 2018, and, therefore, will not have significant CBS compliance requirements beyond the registration requirement.

Existing Part 597 prohibits the release of a hazardous substance to the environment (subdivision 597.4[a]). This emergency rule and proposed rule allow entities storing fire-fighting foam to use the foam until April 25, 2017 while they determine if the foam contains one of these hazardous substances. If the foam does contain one of the substances, the foam must not be released to the environment after April 25, 2017. However, if the foam is used to fight a fire and there is a release of one pound or more of a hazardous substance, the release needs to be reported to the Department's spill hotline (subdivision 597.4[b]).

Listing these substances as hazardous substances results in sites contaminated with one of these substances being subject to the inactive hazardous waste disposal sites regulatory requirements of Part 375, which sets forth requirements for remediation. Remedial programs for a site tend to be complex, multi-phased, and take from a few to many years to complete.

Summary of Regulatory Flexibility Analysis

Full text of the Regulatory Flexibility Analysis for Small Businesses & Local Governments is available on the New York State Department of Environmental Conservation's website at http://www.dec.ny.gov/regulations/104968.html

1. EFFECT OF RULE

The purpose of the emergency rule and proposed rule is to:

1. Add perfluorooctanoic acid (PFOA-acid, Chemical Abstracts Service [CAS] No. 335-67-1), ammonium perfluorooctanoate (PFOA-salt, CAS No. 3825-26-1), perfluorooctane sulfonic acid (PFOS-acid, CAS No. 1763-23-1), and perfluorooctane sulfonate (PFOS-salt, CAS No. 2795-39-3) to 6 NYCRR Section 597.3;

2. Allow fire-fighting foam containing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt (all four substances) to be used to fight fires (but not for training or any other purposes) on or before April 25, 2017, a use which would not otherwise be allowed under the regulation since the release of a hazardous substance is prohibited; and

3. Correct the list of hazardous substances by providing units for reportable quantities (RQs).

The emergency rule and proposed rule apply statewide in all 62 counties of New York State (State). The listing of the hazardous substances has two effects. First, facilities storing all four substances are now (upon the effective date of the emergency rule) subject to registration requirements (6 NYCRR Part 596) with the New York State Department of Environmental Conservation (Department) under the Department's Chemical Bulk Storage (CBS) program. Facilities must comply with the applicable handling and storage requirements (6 NYCRR Parts 598-599).

Production of all four substances has already been restricted or reportedly phased out and replaced with alternative substances. Facilities storing products containing any of the four substances manufactured prior to the manufacturing phase-out will be subject to CBS registration requirements. Older stocks of fire-fighting foam containing any of the four substances will be subject to the CBS registration requirements. If the stored foam contains PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt, the facility would be required to arrange for the proper disposal of the foam by April 25, 2017. Small businesses are not likely to store these foams in quantities (explained below). Large local government agencies (fire departments, fire districts) possibly maintain stocks of fire-fighting foam that could be subject to the registration requirement. The number of facilities that would be required to register as CBS facilities is expected to be small and go to zero as stocks of the four substances are eliminated.

Most facilities subject to the CBS regulations are municipal facilities, manufacturing facilities, and utilities. There are over 1,400 registered CBS facilities. The Department believes that the great majority of facility owners and operators are likely small businesses. Local governments have registered over 580 CBS facilities. The Department believes that the types of facilities registered by local governments are water and wastewater treatment facilities and are not expected to store any of the four substances.

The Department only collects information regarding the name, address, and contact information for the owner and operator of registered facilities. Hence, the Department cannot estimate the number of small businesses which are CBS regulated (6 NYCRR Parts 596 through 599) or will be regulated due to the emergency rule and proposed rule.

The second effect of the promulgation of this rule is the permanent prohibition of releases of any of the four substances to the environment. The prohibition takes effect on April 25, 2017 for fire-fighting foams. The release prohibition now applies to the four substances including any older stocks of fire-fighting foams and any material containing the four substances stored by small businesses or local governments. This will require local government and small businesses to dispose of materials containing the four substances. Releases of listed hazardous substances above the reportable quantity (RQ) given in Part 597 (one pound for the four substances) must be reported to the Department's Spill Hotline (subdivision 597.4[b]).

The number of sites that will become remedial sites because of the addition of these four substances to Part 597 is unknown. The Department has placed one site on the Registry of Inactive Hazardous Waste Disposal Sites (Registry) as a result of adding PFOA-acid to Part 597 (Site Registry ID No. 442046). The Department expects that other sites that used the any of the four substances in commercial or industrial processes may have environmental contamination. Locations where disposal of the substances occurred or where the substances were components of materials released to the environment may become remedial sites subject to the requirements of Part 375.

The Department anticipates that remediation issues would be most significant for areas where the substances were either manufactured, used to make other products, released, or disposed of. Based upon currently available information, the four substances have not been manufactured in New York State, but have been used here to create other products. It is not known how many small businesses or local governments own properties that will be subject to the regulatory requirements of Part 375 because of contamination from these four substances.

2. COMPLIANCE REQUIREMENTS

This rule makes no changes to any substantive requirement for CBS facilities other than to place the four substances on the list of hazardous substances in Part 597.

Facilities that store the any of the four substances in amounts and in tanks that make them subject to the registration requirements of 6 NYCRR Part 596 must include tank systems on facility registrations with the Department and pay the registration fee associated with the CBS program. The fees range from $50 per tank for tanks with capacities less than 550 gallons to $125 per tank for capacities greater than 1,100 gallons.

If a facility is already storing any of the four substances and is subject to the registration requirements, the registration requirement became effective on April 25, 2016, the effective date of this emergency rule. A facility planning to start storing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt must obtain a valid registration certificate prior to storage. Facilities with existing storage of these substances are not required to comply with the handling and storage requirements for hazardous substances until April 25, 2018 (6 NYCRR subdivision 598.1[h]). The Department anticipates that facilities that currently store any of the four substances will phase out their storage of the substance prior to April 25, 2018 and therefore would not have substantive CBS compliance requirements beyond the registration requirement.

Listing the four substances as hazardous results in sites otherwise meeting regulatory criteria to be subject to the inactive hazardous waste disposal sites regulatory requirements of Part 375 for the first time. In these cases, requirements for investigation and cleanup are established by Part 375 and by Department orders and agreements with regulated entities. Part 375 sets forth site investigation requirements which determine the nature and extent of environmental contamination, evaluate remedial alternatives, design and construct a remedy, complete the operation and maintenance activities required to achieve the site remedial action objectives, and maintain any institutional or engineering controls which make the remedy effective. Remedial programs for a site tend to be complex, multi-phased, and take from a few to many years to complete.

3. PROFESSIONAL SERVICES

No new or additional professional services will be needed for small businesses or local governments to comply with this rule. Facilities continuing to store the substances after April 25, 2018, when the storage and handling standards go into effect, may need professional services to meet hazardous substances handling and storage requirements.

A small business or local government which becomes a remedial party subject Part 375 remedial program requirements, will require consulting and contractual services, including professional engineers or qualified environmental professionals as defined in Part 375 and contractual services needed to undertake site investigation field work, analyses of environmental samples, or other specialized services.

4. COMPLIANCE COSTS

Production of the four substances has been phased out and the substantive CBS tank system requirements for their handling and storage will not apply until April 25, 2018. The Department expects that the compliance costs for meeting the CBS requirements will be minimal. If the facility discontinues storage by April 25, 2018, when the storage and handling standards go into effect, there will be no other substantive costs.

The release prohibition will not present significant compliance costs for small businesses and local governments.

Part 375 compliance costs for remedial program implementation where any of the four substances are the primary contaminants will vary widely. Costs are related to the following: quantity released to the environment, media contaminated (e.g., soil, groundwater, surface water, sediment, bedrock), the horizontal and vertical extent of contamination, the accessibility of contamination, whether there are human or environmental receptors to protect while a remedial program is undertaken, the difficulty of removing the substances from the contaminated environmental media, the anticipated future use of the area of contamination, and other factors. It is not possible to meaningfully estimate the potential costs to small businesses and local governments resulting from listing the substances as hazardous. Remedial program costs for other hazardous substances have ranged from the thousands to millions of dollars on a case-by-case basis.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

The economic and technological feasibility for small businesses or local governments related to compliance with this rule depends upon which requirements apply. If small businesses or local governments are required to comply with CBS registration requirements only, no significant impediments will be faced. If a CBS facility decides to store the substances after April 25, 2018, when the storage and handling standards go into effect, costs would be incurred to comply with handling and storage requirements. Costs could include design, construction, and maintenance of tank systems to meet the technical requirements for release prevention, release detection, and containment of potential spills. No technological feasibility issues will exist, but costs would be incurred commensurate with storage amounts.

The economic and technical feasibility of complying with the requirements to remediate a site contaminated by the substances for a small business or local government is explained above in compliance costs.

6. MINIMIZING ADVERSE IMPACT

The Department is adopting this emergency rule and proceeding with this proposed rule based upon the conclusion of NYSDOH that the combined weight of evidence from human and experimental animal studies indicates that prolonged exposure to significantly elevated levels of these compounds can affect health and, consequently, pose a threat to public health in New York State when improperly treated, stored, transported, disposed of or otherwise managed. See the Regulatory Impact Statement for additional information, including NYSDOH's letter requesting that these chemicals be added to the List of Hazardous Substances (Section 597.3).

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

The Department will ensure public notice and input by issuing public notices in the State Register and newspapers, publication in the Department's Environmental Notice Bulletin, holding a comment period of at least 45 days, and holding public hearings. Interested parties, including small businesses and local governments, will have the opportunity to submit comments and participate in public hearings. The Department will post relevant rule making documents on the Department's website.

8. CURE PERIOD OR OTHER OPPORTUNITY FOR AMELIORATIVE ACTION

There can be no ameliorative actions or cure period regarding the prohibition against releasing the four substances to the environment because the prohibition is absolute and intended to prevent the harm that would come to public health. Prolonged exposure to significantly elevated levels of these compounds can affect health and, consequently, pose a threat to public health in New York State when improperly treated, stored, transported, disposed of or otherwise managed. The concept of a cure period does not apply in the case of a remedial program.

If a facility subject to the CBS facility registration requirement for the any of the four substances fails to register its facility in accordance with Part 596, the facility owner/operator will be subject to penalties that have been in place and exercised by the Department for all types of parties for decades, including small businesses and local governments. Therefore, no additional ameliorative actions or cure period established for this rule regarding CBS registration or handling and storage requirements.

9. INITIAL REVIEW OF THE RULE

DEC would conduct an initial review of the rule within three years of the promulgation of the final rule.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS

There are 44 counties in New York State (State) that have populations of less than 200,000 people and 71 towns in non-rural counties where the population density is less than 150 people per square mile. Since the emergency rule and proposed rule apply statewide, they apply to all rural as well as non-rural areas of the State. The emergency rule adds perfluorooctanoic acid (PFOA-acid, Chemical Abstracts Service [CAS] No. 335-67-1), ammonium perfluorooctanoate (PFOA-salt, CAS No. 3825-26-1), perfluorooctane sulfonic acid (PFOS-acid, CAS No. 1763-23-1), and perfluorooctane sulfonate (PFOS-salt, CAS No. 2795-39-3) to the list of hazardous substances in 6 NYCRR Section 597.3 (Section 597.3). This rule also provides time for facilities storing fire-fighting foam containing one or more of these newly listed hazardous substances to properly dispose of it, and makes a correction to the tables of hazardous substances in Part 597 by providing units for reportable quantities (RQs). There is no reason to believe that the actions under this rule will disproportionally impact rural areas.

2. REPORTING, RECORDKEEPING, OTHER COMPLIANCE REQUIREMENTS, AND NEED FOR PROFESSIONAL SERVICES

This emergency rule and proposed rule makes no changes to reporting, recordkeeping, or other compliance requirements for Chemical Bulk Storage (CBS) facilities other than to place PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt on the list of hazardous substances in Section 597.3.

Facilities that store PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt in specified quantities and use certain tanks that make them subject to the registration requirements of 6 NYCRR Part 596 must include these tank systems in their facility registration with the Department, and pay a registration fee associated with the CBS program. Facilities regulated under 6 NYCRR Parts 596-599 most commonly store hazardous substances in stationary aboveground tank systems with a capacity greater than 185 gallons.

A facility that stores PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt that is subject to the CBS registration requirements, as explained above, must submit its registration application to the Department and pay the commensurate fee at the time it becomes subject to regulation. If the facility is already storing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt, and is subject to the registration requirements, the registration requirements became effective on April 25, 2016, the effective date of this emergency rule. If a facility plans to start storing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt, and is subject to the registration requirement, it must obtain a valid registration certificate prior to storing the material. A facility with existing storage of PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt is not required to comply with the handling and storage requirements for hazardous substances until April 25, 2018 (subdivision 598.1[h]). Since the Department anticipates that facilities that currently store PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt will phase out storage of the substance prior to April 25, 2018, they will not have substantive CBS compliance requirements regarding these chemicals beyond the registration requirement.

Existing Part 597 prohibits the release of a hazardous substance to the environment unless a release is authorized or is continuous and stable and has been reported to the Department (subdivision 597.4[a]). This rule in addition allows entities with fire-fighting foam to use the foam to fight fires on or before April 25, 2017 while they determine if the foam contains PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt. If the foam contains one of these hazardous substances, the foam must be disposed of in accordance with appropriate regulations by April 25, 2017. Replacement foam may not contain a hazardous substance at a concentration that would result in the release of more than the RQ (one pound) when used as a fire-fighting foam. However, if the foam is used to fight a fire and there is a release of a hazardous substance above the RQ stated in Part 597 for the substance (one pound for these hazardous substances), the release must be reported to the Department's spill hotline (subdivision 597.4[b]).

Listing PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt as hazardous substances results in sites contaminated with PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt being subject to the inactive hazardous waste disposal sites regulatory requirements of 6 NYCRR Part 375. In these cases, requirements for investigation and cleanup are established by Part 375 and by Department orders and agreements with regulated entities. Part 375 sets forth requirements for the investigation of site conditions to determine the nature and extent of environmental contamination, evaluate remedial alternatives, design and construct a remedy, complete the operation and maintenance activities required to achieve the remedial action objectives for the site, and maintain any institutional or engineering controls needed to maintain the effectiveness of the remedy. Remedial programs for a site tend to be complex, multi-phased, and take from a few to many years to complete.

No new or additional professional services are anticipated to be needed by facilities located in rural areas to comply with the emergency rule and proposed rule regarding the CBS requirements if they discontinue storing PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt before the handling and storage requirements take effect on April 25, 2018. If facilities continue to store after April 25, 2018, when the storage and handling standards go into effect, facility owners/operators may need professional services to assist them in meeting the handling and storage requirements for hazardous substances.

If an owner/operator in a rural area becomes a remedial party subject to requirements to implement a remedial program under Part 375, it would likely require consulting and contractual services to assist in carrying out the remedial program. This could include professional engineers or qualified environmental professionals, as defined in Part 375, and contractual services needed to complete site investigation field work, analyses of environmental samples, or other specialized services.

3. COSTS

The Department does not anticipate a variation in compliance costs for different types of public and private entities in rural areas. Since PFOS-acid, PFOS-salt, and PFOS-related substances was restricted beginning in 2002 and, under the EPA's Stewardship Program addressing PFOA-related substances, eight companies voluntarily removed PFOA-acid, PFOA-salt, and PFOA-related substances from new products by December 2015, and because the substantive CBS tank system requirements for handling and storing PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt will not apply until April 25, 2018, the Department expects that the compliance costs for meeting the CBS requirements will be minimal. Hazardous substances regulated under Parts 596-599 are most commonly stored in stationary aboveground tank systems with a capacity greater than 185 gallons. Registration fees apply to each regulated tank and depend upon the capacity of each tank. The fees range from $50 per tank for tanks with capacities less than 550 gallons to $125 per tank for capacities greater than 1,100 gallons. If a facility discontinues storage by April 25, 2018, when the storage and handling standards go into effect, there will be no other substantive costs.

The prohibition of releases of hazardous substances is not expected to present significant compliance costs for public or private entities in rural areas with the possible exception of entities in possession of fire-fighting foams (Aqueous Film Forming Foam - AFFF) that contain PFOA-related or PFOS-related substances. This emergency rule and proposed rule adds a provision to allow facilities with fire-fighting foam the time necessary to determine if stored foam contains one or more of these substances. If the stored foam contains one of these substances, the facility would be

required to arrange for the disposal of the foam by April 25, 2017. Replacement foam may not contain a hazardous substance. The older foams may be disposed of as solid waste in a permitted landfill since these substances do not meet the definition of Resource Conservation and Recovery wastes when disposed properly. The cost to replace the foam ranges from $16 to $32 per gallon, dependent on the amount and type of foam that is being stored. Prior to April 25, 2017, entities storing this foam will be allowed to use the foam, as needed, to fight fires to protect public safety. However, if the foam containing one or more of these hazardous substances is released to the environment in an amount that exceeds the RQ (one pound), the release must be reported to the spill hotline to allow the Department to determine if any remediation of the release is appropriate.

The costs of complying with the requirements of Part 375 to implement a remedial program where PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt are the primary contaminants, will vary widely as the costs depend upon many factors. These include the quantity released to the environment, the media contaminated (e.g., soil, groundwater, surface water, sediment, bedrock), the horizontal and vertical extent of contamination for each medium, the accessibility of the contamination, whether there are human or environmental receptors that must be protected while a remedial program is being undertaken, the difficulty of removing PFOA-acid, PFOA-salt, PFOS-acid and PFOS-salt from the contaminated environmental media, the future anticipated use of the area of contamination, and other factors. Because of the wide variety of scenarios, it is not possible to meaningfully estimate the potential costs to persons managing PFOA-acid, PFOA-salt, PFOS-acid and PFOS-salt in rural areas resulting from the listing of PFOA-acid, PFOA-salt, PFOS-acid and PFOS-salt as hazardous substances other than to note that remedial program costs for other hazardous substances can range from the thousands to millions of dollars on a case-by-case basis.

4. MINIMIZING ADVERSE IMPACT

The Department is adopting this emergency rule and proceeding with this proposed rule based upon the conclusion of the New York State Department of Health (NYSDOH) that the combined weight of evidence from human and experimental animal studies indicates that prolonged exposure to significantly elevated levels of these compounds can affect health and, consequently, pose a threat to public health in New York State when improperly treated, stored, transported, disposed of or otherwise managed. NYSDOH scientists have concluded that it is essential to list these chemicals as hazardous substances. See the Regulatory Impact Statement for additional information, including NYSDOH's letter requesting that these chemicals be added to the List of Hazardous Substances (Section 597.3).

This action does not lend itself to the mitigating measures listed in State Administrative Procedure Act section 202-bb(2), but there are existing requirements established in the regulations that help to minimize adverse impacts. For example, the CBS regulations allow a two-year period after a new chemical is added to the list of hazardous substances before the handling and storage requirements of Part 598 apply to facilities with existing storage of the chemical (subdivision 598.1[h]). In addition, the Department has determined through other rule making actions that the remaining regulatory compliance provisions, including the storage, handling, release prohibition, and disposal provisions, appropriately apply to persons managing hazardous substances in rural areas.

5. RURAL AREA PARTICIPATION

The Department is providing statewide outreach to persons who are subject to this emergency and proposed rule, including those in rural areas. The Department will ensure public notice and input by issuing public notices in the State Register, newspapers, and the Department's Environmental Notice Bulletin; holding a comment period of at least 45 days; and holding public hearings. Interested parties will have the opportunity to submit written comments and participate in the public hearings. The Department will also post relevant rule making documents on the Department's website.

6. INITIAL REVIEW OF THE RULE

The Department will conduct an initial review of the rule within three years of the promulgation of the final rule.

Job Impact Statement

1. NATURE OF IMPACT

Through the emergency rule and proposed rule, the New York State Department of Environmental Conservation (Department):

1. Adds perfluorooctanoic acid (PFOA-acid, Chemical Abstracts Service No. 335-67-1), ammonium perfluorooctanoate (PFOA-salt, CAS No. 3825-26-1), perfluorooctane sulfonic acid (PFOS-acid, CAS No. 1763-23-1), and perfluorooctane sulfonate (PFOS-salt, CAS No. 2795-39-3) to the list of hazardous substances in 6 NYCRR Section 597.3 (Section 597.3);

2. Allows fire-fighting foam containing PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt to be used to fight fires (but not for training or any other purposes) on or before April 25, 2017, a use which would not otherwise be allowed under the regulation since the release of a hazardous substance is prohibited; and

3. Corrects the list of hazardous substances by providing units for reportable quantities (RQs).

The substantive effects of listing of these substances in Section 597.3 is to (1) make the handling and storage of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt subject to the registration and other regulatory standards for Chemical Bulk Storage (CBS) facilities (6 NYCRR Parts 596-599); (2) prohibit the unauthorized release of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt to the environment (subdivision 597.4[a]) and require that any releases above the RQ (one pound) be reported to the Department (subdivision 597.4[b]); and (3) make the investigation and remediation of releases of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt to the environment subject to the Department's remedial program requirements (6 NYCRR Part 375).

The substantive effect of allowing fire-fighting foam to be used to fight fires (but not for training or any other purposes) on or before April 25, 2017 is to provide entities the time necessary to determine if stored foam contains one or more of these hazardous substances and replace any foams as necessary. If stored foam contains one of these substances, a facility would have to arrange for the proper disposal of the foam in accordance with all local, state, and federal requirements. Replacement foam may not contain a hazardous substance at a concentration that would result in the release of more than the RQ (one pound) when used as a fire-fighting foam. The older foams may be disposed of as solid waste in a permitted landfill since these substances are not Resource Conservation and Recovery Act wastes when disposed properly.

The effect of correcting the tables listing hazardous substances is to include the units for RQs to remove uncertainty regarding when a release must be reported.

Under the federal Toxic Substances Control Act, the United States Environmental Protection Agency (USEPA) has worked with industry to voluntarily phase out the use of PFOA-related substances by December 2015, and proposed a significant new use rule (SNUR) to limit the production and importation of PFOA-related substances in anticipation of the phase-out deadline (80 FR 2885; January 21, 2015). USEPA completed the SNUR to limit the production and importation of PFOS-related substances in 2002.

Since production of PFOA-related and PFOS-related substances has already been reportedly phased out or restricted, and alternative substances have been developed to take the place of these hazardous substances, the Department does not expect this rule to have a significant impact on jobs and employment either in terms of lost jobs or the creation of new jobs. Employment opportunities should remain the same or may increase somewhat due to remediation activities.

2. CATEGORIES AND NUMBERS AFFECTED

Since PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt are reportedly no longer being produced in the United States, the CBS regulations would only apply to stored PFOA-containing or PFOS-containing materials produced before the phase-out. Since replacement materials are already in place and the number of facilities storing PFOA or PFOS in quantities large enough to be subject to the CBS regulations is expected to be small, the number of jobs affected is expected to be small. Existing employees may be required to arrange for the disposal of older stocks of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt containing materials, but this should not require the creation of new jobs or the loss of existing jobs.

Where PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt has previously been released to the environment in ways that make the resulting contamination subject to a 6 NYCRR Part 375 remedial program, a limited number of jobs may be created in order to complete the necessary investigations and remediation of the sites. Job categories would include, for example, drilling contractors and other heavy equipment operators, field investigation technicians, hydrogeologists, engineers, analytical chemists and technicians, and others with training and experience related to site remediation.

The number of sites that may become remedial sites because of the addition of PFOA-acid, PFOA-salt, PFOS-acid, and PFOS-salt to Section 597.3 is unknown. The Department has placed one site on the Registry of Inactive Hazardous Waste Disposal Sites (Registry) as a result of adding PFOA-acid to Section 597.3 (Site Registry ID No. 442046). The Department expects that other sites that used PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt in commercial or industrial processes may have PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt environmental contamination. Locations where PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt disposal occurred or where PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt were components of materials released to the environment may become remedial sites subject to the requirements of Part 375. Nationally, research by the United States Department of Defense (DoD) found that approximately 600 DoD sites are categorized as fire/crash/training areas and thus have the potential for contamination with perfluoroalkyl compounds (including PFOA-related and PFOS-related substances) due to historical

use of aqueous film-forming foams (AFFF) [Strategic Environmental Research and Development Program (SERDP), FY 2014 Statement of Need (SON), Environmental Restoration (ER) Program Area, "In Situ Remediation of Perfluoroalkyl Contaminated Groundwater," SON Number: ERSON-14-02, October 25, 2012]. It is possible that the Department will list additional Registry sites. The work needed to investigate and remediate these sites may be accomplished by existing staff or new jobs may be added depending upon the number and complexity of sites.

3. REGIONS OF ADVERSE IMPACT

There are no regions of the State expected to be disproportionately impacted by the emergency rule and proposed rule as they apply statewide. There is no reason to expect that PFOA-acid, PFOA-salt, PFOS-acid, or PFOS-salt issues will be concentrated in one area over another to any significant degree.

4. MINIMIZING ADVERSE IMPACT

For the reasons described above, the emergency rule and proposed rule are not expected to have a significant adverse impact on jobs and employment.

5. SELF-EMPLOYMENT OPPORTUNITIES

The emergency rule and proposed rule are not expected to impact self-employment opportunities.

6. INITIAL REVIEW OF RULE

The Department will conduct an initial review of the rule within three years of the promulgation of the final rule.

New York State Gaming Commission

NOTICE OF ADOPTION

Thoroughbred Restricted Time Periods for Various Drugs

I.D. No. SGC-39-15-00005-A

Filing No. 735

Filing Date: 2016-07-26

Effective Date: 2016-08-10

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

Action taken: Amendment of section 4043.2(a) and (e) of Title 9 NYCRR.

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

Subject: Thoroughbred restricted time periods for various drugs.

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

Text or summary was published in the September 30, 2015 issue of the Register, I.D. No. SGC-39-15-00005-RP.

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

Revised rule making(s) were previously published in the State Register on September 30, 2015.

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

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Simplifying How a Trainer May Alter the Use of Hopples

I.D. No. SGC-22-16-00004-A

Filing No. 736

Filing Date: 2016-07-26

Effective Date: 2016-08-10

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

Action taken: Amendment of sections 4113.5 and 4117.3 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

Subject: Simplifying how a trainer may alter the use of hopples.

Purpose: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

Text or summary was published in the June 1, 2016 issue of the Register, I.D. No. SGC-22-16-00004-P.

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

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

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Decoupling of Harness Horses in Major Stakes Races

I.D. No. SGC-22-16-00005-A

Filing No. 738

Filing Date: 2016-07-26

Effective Date: 2016-08-10

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

Action taken: Amendment of section 4111.15 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

Subject: Decoupling of harness horses in major stakes races.

Purpose: To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

Text or summary was published in the June 1, 2016 issue of the Register, I.D. No. SGC-22-16-00005-P.

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

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

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The Gaming Commission received public comments from The Hambletonian Society and from management of Tioga Downs and Vernon Downs racetracks in support of adopting the proposed amendments.

NOTICE OF ADOPTION

Voidable Claims Based on Race Day Samples

I.D. No. SGC-23-16-00006-A

Filing No. 737

Filing Date: 2016-07-26

Effective Date: 2016-08-10

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

Action taken: Amendment of sections 4038.19(a) and 4109.7(a) of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 301(1)

Subject: Voidable claims based on race day samples.

Purpose: To enhance the safety and integrity of horse racing while generating a reasonable return for government.

Text or summary was published in the June 8, 2016 issue of the Register, I.D. No. SGC-23-16-00006-P.

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

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

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Criteria for the Licensing, Conduct and Operation of Independent Testing Laboratories

I.D. No. SGC-23-16-00014-A

Filing No. 739

Filing Date: 2016-07-26

Effective Date: 2016-08-10

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

Action taken: Addition of Part 5318; and amendment of sections 5100.2 and 5118.6 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), 1303, 1326(1) and 1335(8); Tax Law, section 1617-a(c)

Subject: Criteria for the licensing, conduct and operation of independent testing laboratories.

Purpose: To govern the licensing, conduct and operation, testing and reporting requirements of independent testing laboratories.

Text or summary was published in the June 8, 2016 issue of the Register, I.D. No. SGC-23-16-00014-P.

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

Text of rule and any required statements and analyses may be obtained from: Kristen Buckley, Acting Secretary, New York State Gaming Commission, One Broadway Center, 6th Fl., Schenectady, NY 12305, (518) 388-3407, email: gamingrules@gaming.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The Gaming Commission received a comment from one entity, Allen & Desnoyers LLP on behalf of Gaming Laboratories International, LLC in regard to this proposed rulemaking. The Commission has considered the comment and decided that no changes are appropriate at this time. In particular:

1. Proposed Rule 5318.3. The commenter recommends that independent testing laboratories seeking licensure should be able to demonstrate, through clear and convincing evidence, its financial suitability, stability and viability to the Commission. The Commission believes there is no need to duplicate those requirements in the proposed rule. Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1326(1), independent testing laboratories are casino vendor enterprises. Casino vendor enterprises must qualify under the standards for qualification of a casino key employee under Racing, Pari-Mutuel Wagering and Breeding Law section 1326(4). Thus, the laboratories must establish by clear and convincing evidence the financial stability of the applicant under Racing, Pari-Mutuel Wagering and Breeding Law section 1323(2)(a). To do so, the laboratories must complete the vendor license application form that includes financial suitability information.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Licensing and Registration of Gaming Facility Employees and Vendors

I.D. No. SGC-32-16-00001-P

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

Proposed Action: Amendment of Parts 5303 through 5307 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2), 1322, 1323, 1324, 1325, 1326 and 1327

Subject: Licensing and registration of gaming facility employees and vendors.

Purpose: To govern the licensing and registration of gaming facility employees and vendors.

Substance of proposed rule (Full text is posted at the following State website:www.gaming.ny.gov): The proposed amendments to Parts 5303 through 5307 of Subtitle T of Title 9 NYCRR clarifies the licensing and registration process required by the New York Gaming Commission ("Commission") for gaming facility employees and vendors.

Section 5303.9 clarifies the Commission's expectations in regard to updating a submitted application. Section 5303.15 (renumbered as section 5303.14) specifies the process and circumstances under which an applicant who has been denied a license or registration, or a licensee or registrant whose license or registration has been revoked, may re-apply for a new license or registration. Section 5306.2(b) applies the statutory disqualification criteria to applicants for a non-gaming employee registration. Section 5306.4 sets the term for a non-gaming employee registration at five years, to match the statutory five-year duration for a casino key employee and gaming employee license. Section 5307.2 revises language to allow for more entities to be categorized as vendor registrants rather than ancillary casino vendor enterprises. Section 5307.3 designates groups of vendors who are not required to be licensed or registered. Section 5307.5 clarifies the forms required for licensing of casino vendor enterprises or ancillary casino vendor enterprises, the standards applicable to such licensing, the forms required for registration of employees of vendor registrants and the standards applicable to such employee registrants.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, One Broadway Center, 6th Floor, Schenectady, NY 12305, (518) 388-3407, email: kristen.buckley@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: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) grants rule making authority to the Commission to implement, administer and enforce the provisions of Racing Law Article 13.

Racing Law section 1307(2) prescribes that the Commission regulate, among other things: the methods and forms of application and registration that any applicant or registrant shall follow and complete; the methods, procedures, and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs; the procedures for the fingerprinting of an employee of a licensee, or registrant; the manner and method of collection of payments of fees; and the grounds and procedures for the revocation or suspension of licenses and registrations.

Racing Law section 1322 requires the Commission to regulate the form by which applicants, licensees and registrants provide information pertaining to their qualifications for licensure or registration.

Racing Law section 1323 requires the Commission to regulate the procedures for photographing and fingerprinting applicants, licensees and registrants for identification and investigation purposes.

Racing Law section 1324 requires the Commission to regulate the method and form of registration that a gaming employee shall follow and complete, and the form for delivery of information pertaining to a gaming employee's qualifications for registration.

Racing Law section 1325 requires the Commission to establish by regulation appropriate fees to be paid upon the filing of the required applications.

Racing Law section 1326 requires the Commission to establish by regulation the time period during which a casino vendor may conduct business transactions with a gaming facility applicant or licensee prior to the casino vendor receiving a license. Racing Law section 1326 also requires the Commission to regulate the method and form of vendor registration.

Racing Law section 1327 requires the Commission to establish by regulation appropriate fees to be imposed on vendor registrants.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent

organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed amendments implement the above listed statutory directives regarding the establishment of licensing and registration requirements for gaming facility employees and vendors. The proposed amendments provide specificity with respect to updating information contained in their applications, specifying the process of reapplication after a denial or revocation of a license or registration, clarifying the categories of vendor licensing and designating groups of vendors who are not required to be licensed.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: There are no new or additional costs associated with the proposed amendments. The amendments seek to clarify the existing licensing and registration process and, in certain circumstances, exempt specific vendors from the licensing or registration process, reducing overall costs to the gaming facilities and the vendors.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of these rules: There are no new or additional costs associated with the proposed amendments. The amendments seek to clarify the existing process and, in certain cases, exempt specific vendors from the licensing or registration process, reducing overall costs to the division of the state police and the Commission. The proposed amendments will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost estimate is based: These proposed amendments are clarifying the process of licensing and registration of gaming facility employees and vendors. They impose no additional costs; no methods were used to determine the costs to the regulated parties or the Commission and the state.

5. LOCAL GOVERNMENT MANDATES: These proposed amendments do not impose any mandatory program, service, duty, or responsibility upon local government because the licensing and registration of gaming facility employees and vendors is strictly a matter of State law.

6. PAPERWORK: These proposed amendments are not expected to impose any significant paperwork requirements for gaming facility employees and vendor applicants other than the paperwork already required by the existing rules.

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

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulations. Alternatives were discussed and considered with stakeholders and compared to other jurisdiction regulations. These included the type of information required to be updated from an employee or vendor application; the appropriate vendors to be exempt from the licensing or registration process; and the types of vendors to be properly classified as ancillary vendor enterprises.

9. FEDERAL STANDARDS: There are no federal standards applicable to the licensing or registration of gaming employees and vendors in New York. It is purely a matter of New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that affected parties will be able to achieve compliance with these proposed amendments upon adoption.

Regulatory Flexibility Analysis

1. EFFECT OF RULE: These proposed amendments impact the licensure and registration of gaming facility employees and vendors. Small business vendors seeking to be licensed or registered will be impacted by these amendments. Local government will not be affected by these rules.

2. COMPLIANCE REQUIREMENTS: These proposed amendments require participating small business vendors to update their application with the Commission under specific circumstances.

3. PROFESSIONAL SERVICES: No new or additional professional services are required in order to comply with these proposed amendments.

4. COMPLIANCE COSTS: These amendments impose no new or additional compliance costs upon the small business vendors.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY: These proposed amendments will not impose any technological costs on small businesses or local government.

6. MINIMIZING ADVERSE IMPACT: These proposed amendments do not impose adverse impacts on small businesses or local government.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION: These proposed amendments are in response to comments received from industry stakeholders and affected parties. Small businesses and local governments will have an additional opportunity to submit comments regarding these amendments during the comment period of the rule making process.

8. FOR RULES THAT EITHER ESTABLISH OR MODIFY A VIOLATION OR PENALTIES ASSOCIATED WITH A VIOLATION: The Commission has an administrative hearing process in place, which provides for notice and an opportunity to be heard, for those licensed vendors that violate the rules associated with horse racing, lottery, video lottery and charitable gaming. The Commission anticipates a similar process applying to those licensed vendors that violate Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and the related rules.

Rural Area Flexibility Analysis

Several of the development zone regions authorized to host a licensed gaming facility, as contemplated by Racing, Pari-Mutuel Wagering and Breeding Law section 1310, are located within "rural areas" as that term is defined in Executive Law section 481(7). The decision to locate a licensed gaming facility in a rural area will not have an adverse economic impact. In addition, these proposed amendments will not have an adverse or disproportionate economic impact upon rural areas. Accordingly, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement

1. NATURE OF IMPACT: The Commission has determined that the proposed amendments to these rules will not have a substantial adverse impact on jobs and employment opportunities. To the contrary, these rules are intended to create thousands of well-paying jobs. In addition, the amendments are intended to clarify the process for potential employees and vendors to obtain a license or registration from the Commission.

2. CATEGORIES AND NUMBERS AFFECTED: It is anticipated that up to 4 gaming facilities, as contemplated by Racing, Pari-Mutual Wagering and Breeding Law Article 13, would employ more than 4,000 people. In addition, the construction of the gaming facilities will generate many new jobs.

3. REGIONS OF ADVERSE IMPACT: The Commission does not anticipate regions of the state to suffer a disproportionate adverse impact in regards to jobs or employment opportunities.

4. MINIMIZING ADVERSE IMPACT: These amendments do not create any unnecessary adverse impact on existing jobs. A positive impact on jobs and employment is anticipated.

Department of Health

NOTICE OF ADOPTION

Requirements for Manufacturers and Distributors Regarding Controlled Substances

I.D. No. HLT-30-15-00009-A

Filing No. 708

Filing Date: 2016-07-20

Effective Date: 2016-08-10

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

Action taken: Amendment of section 80.11 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 3008(2)

Subject: Requirements for Manufacturers and Distributors Regarding Controlled Substances.

Purpose: To clarify and use language consistent with current terminology used by the State Board of Pharmacy.

Text of final rule: 80.11 Additional requirements for manufacturers and distributors. In addition to the requirements set forth in article 33 of the Public Health Law, holders of licenses shall comply with the following requirements:

(a) [Except as hereinafter provided, no person shall obtain a class 1 or 2 license for controlled substances unless he or she employs a full-time pharmacist and, except as hereinafter provided, no licensed activity shall be conducted by a holder of a class 1 or 2 license unless such activity is under the personal supervision of a chemist or pharmacist.] *A class 1 manufacturer who produces a final product that by its composition or combination with other ingredients is intended for human or animal consumption and presents a potential for abuse, must employ a full-time pharmacist and the licensed controlled substance activity must be under the personal supervision of a pharmacist or a chemist. The supervisor shall not be at the same time a supervisor of any other class 1 or class 2 establishment licensed by the New York State Department of Health. A chemist is a person who meets the following requirements:*

(1) possess a bachelor of science or a bachelor of arts degree in chemistry, pharmacology or equivalent specialization and have had not less than four years of experience in the manufacture of drug products;

(2) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(3) be of the age of 21 years or older;

(4) be of good moral character and, if the person has been convicted of one or more criminal offenses, he or she must be found eligible after a balancing of the factors set out in Article 23-A of Correction Law. In accordance with that Article, no person shall be deemed not to be a chemist on account of having been previously convicted of one or more criminal offense unless (i) there is a direct relationship between one or more of the previous criminal offenses and the duties required of the position or (ii) deeming the person a chemist would involve an unreasonable risk to property or the safety or welfare of a specific individual or the general public. In addressing these questions, the Department shall evaluate all factors listed under New York State Correction Law Section 753; and

(5) not be, and not have been, a habitual user of narcotics or any other habit-forming drugs.

(b) [A manufacturer who produces a final product that by its composition or combination with other ingredients is not intended for human or animal consumption and does not present a potential for abuse, may employ either a full-time pharmacist or a person who meets the following requirements:

(1) possess a bachelor of science or a bachelor of arts degree in chemistry, pharmacology or equivalent specialization and have had not less than four years of experience in the manufacture of drug products;

(2) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(3) be of the age of 21 years or over;

(4) be of good moral character as attested to by affidavits signed by either the sheriff of the county of residence, local police officials, or other such persons acceptable to the department;

(5) not have been convicted of a misdemeanor or felony by any court of the State of New York, or by any court of the United States or of any other state; and

(6) not be, and not have been, a habitual user of narcotics or any other habit-forming drugs.]

A class 1 manufacturer who produces a final product that by its composition or combination with other ingredients is not intended for human or animal consumption and does not present a potential for abuse, must employ either a full-time pharmacist or a full-time chemist and the licensed activity in which he or she is engaged must be under the supervision of either a pharmacist, or a chemist, as defined in subdivision (a) of this section. The supervisor shall not be at the same time a supervisor of any other class 1 or class 2 establishment licensed by the New York State Department of Health.

(c) [A distributor who does not bottle or rebottle, pack or repack, label or relabel, controlled substances may obtain a class 2 license, provided that the licensed activity in which he is engaged is conducted under the supervision of a pharmacist or person approved by the department. A person not a pharmacist shall meet the following requirements:] *An applicant for licensure who is a registered outsourcing facility pursuant to Title 8 of the Education Law and who compounds controlled substances not pursuant to a patient specific prescription shall be deemed as conducting manufacturing activities of controlled substances. Manufacturing activities shall be conducted under the personal supervision of a licensed pharmacist. An applicant for licensure who is a registered wholesaler pursuant to Title 8 of the Education Law who bottles or rebottles, packs or repacks, labels or relabels, controlled substances shall be deemed as conducting class 1 manufacturing activities of controlled substances and subject to the requirements of subdivision (a) of this section. An applicant for licensure who is a registered wholesaler pursuant to Title 8 of the Education Law who does not bottle or rebottle, pack or repack, label or relabel, controlled substances may obtain a class 2 distributor license, provided that the licensed activity in which he or she is engaged is conducted under the personal supervision of a pharmacist or a person approved by the department. The supervisor shall not be at the same time a supervisor of any other establishment registered by the New York State Board of Pharmacy. A person not a pharmacist shall meet the following requirements:*

(1) possess a high school diploma, or the equivalent thereof;

(2) be a citizen of the United States or an alien lawfully admitted for permanent residence in the United States;

(3) be of the age of 21 years or over;

(4) [be of good moral character as attested to by affidavits signed by either the sheriff of the county of residence, local police officials, or other such persons acceptable to the department;

(5) not have been convicted of a misdemeanor or felony by any court of the State of New York, or by any court of the United States or of any other state] *be of good moral character and if the person has been convicted of one or more criminal offenses, he or she must be found eligible after a balancing of the factors set out in Article 23-A of Correction Law. In accordance with that Article, no distributor license shall be denied by reason of the applicable employee having been previously convicted of one or more criminal offenses unless (i) there is a direct relationship between one or more of the previous criminal offenses and the duties required of the license or (ii) licensing the applicant would involve an unreasonable risk to property or the safety or welfare of a specific individual or the general public. In determining these questions, the agency will look at all factors listed under New York State Correction Law Section 753;*

[(6)] *(5)* not be, and not have been, an habitual user of narcotics or other habit-forming drugs; and

[(7)] *(6)* have had not less than eight years of experience in the wholesaling of controlled substances, or such other experience determined by the department to be the equivalent thereof.

(d) Persons conducting manufacturing activities of controlled substances within the State of New York shall obtain a class 1 license from the department.

(e) Persons conducting manufacturing activities of controlled substances outside of the State of New York and doing business within the State of New York shall obtain a class 1a license from the department. *A class 1a license applicant shall meet the following requirements:*

(1) the out-of-state manufacturer possesses a valid New York State Board of Pharmacy registration or exemption; and

(2) the out-of-state manufacturer possesses a valid U.S. Drug Enforcement Administration registration; and

(3) based on the application, the commissioner is satisfied that the out-of-state manufacturer will be able to maintain effective control against diversion of controlled substances.

(f) Persons conducting distributing activities of controlled substances within the State of New York shall obtain a class 2 license from the department, except that;

(1) Except in an adult care facility subject to provisions of Title 18 NYCRR Parts 487, 488 and 490, a pharmacy may distribute a controlled substance to a practitioner in a Class 3a institutional dispenser limited solely for stocking in sealed emergency medication kits. Such distribution shall be pursuant only to a written request by the Class 3a facility indicating the name and address of the facility, the name and address of the pharmacy, the date of the request, the type and quantity of the drug requested and the signature of the authorized person making the request. With each distribution, the pharmacy shall provide the Class 3a facility with an itemized list indicating the name and address of the pharmacy, the name and address of the Class 3a facility, the date of the distribution, the type and quantity of the drug distributed, and the signature of the pharmacist.

(g) Out-of-State persons conducting distributing activities of controlled substance to persons within the State of New York shall obtain a class 2a license from the department. *A class 2a license applicant shall meet the following requirements:*

(1) the out-of-state distributor possesses a valid New York State Board of Pharmacy registration or exemption; and

(2) the out-of-state distributor possesses a valid U.S. Drug Enforcement Administration registration; and

(3) based on the application, the commissioner is satisfied that the out-of-state distributor will be able to maintain effective control against diversion of controlled substances.

(h) All persons authorized to manufacture or distribute controlled substances shall accept returns of such controlled substances manufactured or distributed by them, and either destroy them or provide for the return, disposition, and disposal of such controlled substances in a manner approved by the Department pursuant to section 80.51(c)(2).

(i) An individual who is designated as the supervisor of controlled substance activity pursuant to subdivisions (a), (b) or (c) of this section shall be responsible for the following non-delegable tasks:

(1) maintaining all required records relating to the purchase and distribution of all controlled substances manufactured or repacked at that facility;

(2) providing for the proper storage of controlled substances in order to prevent loss or theft;

(3) assuring security and limiting access to all areas holding controlled substances;

(4) insuring against all unauthorized sales or distribution of controlled substances to establishments or professionals not authorized to receive such items;

(5) issuing verbal and written notice to each of his or her subordinates concerning the applicable state and federal laws, regulations and rules to ensure full compliance;

(6) for manufacturers, assuring that all Good Manufacturing Procedures as outlined by the FDA are followed; and

(7) for manufacturers engaged in compounding of controlled sub-

stances, assuring that all controlled substances are compounded under the personal supervision of a licensed pharmacist.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 80.11(a)(4), (b) and (c).

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

Revised Regulatory Impact Statement

Statutory Authority:

PHL 3308 authorizes the Commissioner to promulgate regulations which are necessary and proper to supplement the provisions of Article 33 to effectuate its purposes and intent.

Additionally, PHL 3390 authorizes the Commissioner to revoke a license or certificate issued under Article 33 in whole or in part upon a finding that the licensee or certificate holder has been convicted in any jurisdiction relating to a substance listed as a controlled substance in Article 33.

PHL 3312 contains the licensure requirements for manufacturers and distributors of controlled substances. It requires applicants to demonstrate that they are of good moral character and to report whether they have any convictions relating to or arising out of the manufacture or distribution of drugs.

Legislative Objectives:

The purpose of PHL Article 33 is to prevent the illegal use of and trade in controlled substances and to provide for the legitimate use of controlled substances in health care.

Needs and Benefits:

The current section 80.11is amended to ensure consistency with Correction Law Article 23-A's balancing test that is used when reviewing application forms for applicants and existing providers who have criminal convictions.

The proposed regulations also clarify when a chemist and/or pharmacist is required to be employed, on-site, or in a supervisory position. Language is also updated to provide consistency with the State Education Department State Board of Pharmacy registration requirements.

Costs for the Implementation of and Continuing Compliance with these Regulations to the Regulated Entity:

The proposed rule does not impose any new costs on the regulated parties.

Cost to State and Local Government:

There will be no costs to the general public, state and local government.

Cost to the Department of Health:

The Department of Health will not incur any additional costs.

Local Government Mandates:

These provisions do not add any additional mandates to local governments.

Paperwork:

The regulation proposes no new reporting or filing requirements.

Duplication:

This measure does not duplicate, overlap or conflict with a State or federal statute or rule.

Alternative Approaches:

There are no other viable alternative approaches.

Federal Requirements:

This regulatory amendment does not exceed any minimum standards of the federal government for the same or similar subject areas.

Compliance Schedule:

This proposal will go into effect upon publication of a Notice of Adoption in the New York State Register.

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

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

Assessment of Public Comment

The agency received no public comment.

Department of Motor Vehicles

NOTICE OF ADOPTION

Special and Reserved Series Plates

I.D. No. MTV-22-16-00007-A
Filing No. 733
Filing Date: 2016-07-26
Effective Date: 2016-08-10

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

Action taken: Amendment of sections 16.1, 16.3 and 16.5 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a), 404 and 411-a

Subject: Special and reserved series plates.

Purpose: Establish guidelines for the issuance of special and reserved series plates.

Text or summary was published in the June 1, 2016 issue of the Register, I.D. No. MTV-22-16-00007-P.

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

Text of rule and any required statements and analyses may be obtained from: Heidi Bazicki, DMV, 6 Empire State Plaza, Rm. 522A, Albany, NY 12228, (518) 474-0871, email: heidi.bazicki@dmv.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

Comment: The Reverend Jason J. McGuire, Executive Director of New Yorkers for Constitutional Freedoms, wrote:

1. The proposed regulations fail to set forth a process to be used by the Commissioner in making decisions regarding the acceptability of applications for reserved series license plates;
2. The proposed regulations fail to require the Commissioner to state a reason for rejecting an application for reserved series license plates;
3. The proposed regulations fail to set forth any internal procedure for reconsidering or appealing denials of applications for reserved series license plates; and
4. The proposed regulations would give the Commissioner of the Department of Motor Vehicles unbridled discretion in accepting or rejecting applications for reserved series license plates. The recitation of a vague, non-exclusive list of "objectionable" characteristics does not provide an adequate safeguard against unchecked executive authority, or against potential viewpoint discrimination.

Response: The DMV appreciates the comments submitted by New Yorkers for Constitutional Freedoms. We respond to its concerns as follows:

1. The Department disagrees that the proposed regulations fail to set forth a process regarding the acceptability of applications for reserved series license plates. As the Regulatory Impact Statement explains, "The proposed regulation accords with the legislative objective of giving applicants for special plates notice about the DMV's standards and procedures relative to the issuance of such plates." In fact, the proposed regulation explains in far greater detail than the current regulation the criteria for plate issuance and denial and the process for revoking an objectionable personalized reserved series plate.

An agency is not required to set forth detailed procedures in a regulation. The Court of Appeals wrote, "[W]e have said that a ''rule or regulation'' is ''a fixed, general principle to be applied by an administrative agency without regard to other facts and circumstances relevant to the regulatory scheme of the statute it administers'' Cubas v. Martinez, 8 NY3d 611 (2007). In Cubas, the Court determined that the DMV was not required to incorporate procedures and references to forms into regulations related to qualifications for a driver's license.

2. If the Department denies an application for a reserved series license plate, the Department will inform the applicant of its decision. However, the Department is not required, by statute or regulation, to offer a reason for a denial of an application for a reserved series plate.

3. The Department is not required by statute or regulation to offer a process to appeal the denial of an application for a reserved series plate. Such

a denial would be deemed a final determination of the agency and the applicant could pursue all remedies provided by law.

4. The Department disagrees with the statement that the "proposed regulations would give the Commissioner of the Department of Motor Vehicles unbridled discretion in accepting or rejecting applications for reserved series license plates." The proposed rules give specific reasons for denying an application, in far greater detail than the current regulation. In Children First Found., Inc. v. Fiala, 790 F.3d 328, 790 F. 3d 328(2015), the Second Circuit Court of Appeals held that New York's regulation regarding custom license plates "did not impermissibly vest the DMV Commissioner with unbridled discretion in approving custom plate designs." The proposed regulation, which more concretely guides an agency decision regarding the issuance of reserved series plates, would certainly pass Constitutional muster in light of the Children First and Walker v. Tex. Div., Sons of Confederate Veterans, Inc., 135 S. Ct. 2239 (2015) decisions.

Public Service Commission

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-06-15-00003-A
Filing Date: 2016-07-21
Effective Date: 2016-07-21

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

Action taken: On 7/14/16, the PSC adopted an order approving City Point Residential LLC's (City Point) petition to submeter electricity at 336 Flatbush Avenue Extension, 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: Submetering of electricity.

Purpose: To approve City Point's petition to submeter electricity at 336 Flatbush Avenue Extension, Brooklyn, New York.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving City Point Residential LLC's petition to submeter electricity at 336 Flatbush Avenue Extension, Brooklyn, New York, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York, 12223, (518) 486-2655, email: john.pitucci@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-0005SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-42-15-00007-A
Filing Date: 2016-07-20
Effective Date: 2016-07-20

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

Action taken: On 7/14/16, the PSC adopted an order approving Sandy Clarkson LLC's (Sandy Clarkson) petition to submeter electricity at 310 Clarkson 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: Submetering of electricity.

Purpose: To approve Sandy Clarkson's petition to submeter electricity at 310 Clarkson Avenue, Brooklyn, New York.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving Sandy Clarkson LLC's petition to submeter electricity at 310 Clarkson Avenue, Brooklyn, New York, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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-0553SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-45-15-00010-A
Filing Date: 2016-07-20
Effective Date: 2016-07-20

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

Action taken: On 7/14/16, the PSC adopted an order approving One Vandam Condominium's (One Vandam) petition to submeter electricity at 180 Avenue of the Americas, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve One Vandam's petition to submeter electricity at 180 Avenue of the Americas, New York, New York.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving G-Z/10 UNP Realty, LLC's petition to submeter electricity at 823 First Avenue, New York, New York, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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-0594SA1)

NOTICE OF ADOPTION

AMETEK JEMStar II Power Meter

I.D. No. PSC-47-15-00010-A
Filing Date: 2016-07-21
Effective Date: 2016-07-21

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

Action taken: On 7/14/16, the PSC adopted an order approving AMETEK, Inc.'s (AMETEK) petition to use the AMETEK JEMStar II Power Meter for use in industrial electric meter applications in New York State.

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

Subject: AMETEK JEMStar II Power Meter.

Purpose: To approve AMETEK's petition to use the AMETEK JEMStar II in New York State.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving AMETEK, Inc.'s petition to use the AMETEK JEMStar II Power Meter for use in industrial electric meter applications in New York State, 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: John Pitucci, Public Service Commis-

sion, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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-0636SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-52-15-00016-A

Filing Date: 2016-07-20

Effective Date: 2016-07-20

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

Action taken: On 7/14/16, the PSC adopted an order approving G-Z/10 UNP Realty, LLC's (G-Z/10 UNP) petition to submeter electricity at 823 First Avenue, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve G-Z/10 UNP's petition to submeter electricity at 823 First Avenue, New York, New York.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving G-Z/10 UNP Realty, LLC's petition to submeter electricity at 823 First Avenue, New York, New York, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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-0705SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-01-16-00004-A

Filing Date: 2016-07-21

Effective Date: 2016-07-21

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

Action taken: On 7/14/16, the PSC adopted an order approving 10 Madison Square West's (10 Madison Square) petition to submeter electricity at 10 Madison Square West, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 10 Madison Square's petition to submeter electricity at 10 Madison Square West, New York, New York.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving 10 Madison Square West's petition to submeter electricity at 10 Madison Square West, New York, New York, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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-0707SA1)

NOTICE OF ADOPTION

CPCN and Request for Continued Lightened Regulation

I.D. No. PSC-06-16-00011-A

Filing Date: 2016-07-20

Effective Date: 2016-07-20

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

Action taken: On 7/14/16, the PSC adopted an order approving AG-Energy, L.P.'s (AG-Energy) petition for a Certificate of Public Convenience and Necessity (CPCN) and request for continued lightened regulation.

Statutory authority: Public Service Law, sections 2(13), 5(1)(b), 68(1) and 70

Subject: CPCN and request for continued lightened regulation.

Purpose: To approve AG-Energy's petition for a CPCN and request for continued lightened regulation.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving AG-Energy, L.P.'s petition for a Certificate of Public Convenience and Necessity and request for continued lightened regulation, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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.

(16-E-0033SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-07-16-00015-A

Filing Date: 2016-07-21

Effective Date: 2016-07-21

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

Action taken: On 7/14/16, the PSC adopted an order approving 20 Lafayette LLC's (20 Lafayette) petition to submeter electricity at 286 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: Submetering of electricity.

Purpose: To approve 20 Lafayette's petition to submeter electricity at 286 Ashland Place, Brooklyn, New York.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving 20 Lafayette LLC's petition to submeter electricity at 286 Ashland Place, Brooklyn, New York, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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.

(16-E-0016SA1)

NOTICE OF ADOPTION

Use of Voltage Transformers in New York State

I.D. No. PSC-12-16-00006-A
Filing Date: 2016-07-20
Effective Date: 2016-07-20

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

Action taken: On 7/14/16, the PSC adopted an order approving Arteche USA Corporation's (Arteche) petition to use the UCE-17, URL-17 and VCE-17 voltage transformers for commercial and industrial applications in New York State.

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

Subject: Use of voltage transformers in New York State.

Purpose: To approve Arteche's petition to use the UCE-17, URL-17 and VCE-17 voltage transformers in New York State.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving Arteche USA Corporation's petition to use the UCE-17, URL-17 and VCE-17 voltage transformers for commercial and industrial applications in New York State, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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.
(16-E-0119SA1)

NOTICE OF ADOPTION

Accounting Changes

I.D. No. PSC-20-16-00012-A
Filing Date: 2016-07-20
Effective Date: 2016-07-20

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

Action taken: On 7/14/16, the PSC adopted an order approving Central Hudson Gas and Electric Corporation's (Central Hudson) petition, with modifications, to change its accounting for electric operations.

Statutory authority: Public Service Law, section 66

Subject: Accounting changes.

Purpose: To approve Central Hudson's accounting changes for electric operations.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving Central Hudson Gas and Electric Corporation's petition, with modifications, to change its accounting for unbilled revenues for financial accounting and regulatory purposes, for electric operations, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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-0318SA5)

NOTICE OF ADOPTION

Accounting Changes

I.D. No. PSC-20-16-00013-A
Filing Date: 2016-07-20
Effective Date: 2016-07-20

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

Action taken: On 7/14/16, the PSC adopted an order approving Central Hudson Gas and Electric Corporation's (Central Hudson) petition, with modifications, to change its accounting for gas operations.

Statutory authority: Public Service Law, section 66

Subject: Accounting changes.

Purpose: To approve Central Hudson's accounting changes for gas operations.

Substance of final rule: The Commission, on July 14, 2016, adopted an order approving Central Hudson Gas and Electric Corporation's petition, with modifications, to change its accounting for unbilled revenues for financial accounting and regulatory purposes, for gas operations, 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: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@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-0319SA2)

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Major Gas Rate Filing

I.D. No. PSC-32-16-00005-P

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

Proposed Action: The Commission is considering a proposal filed by National Fuel Gas Distribution Corporation (National Fuel) to make various changes in the rates, charges, rules and regulations contained in its Schedule P.S.C. No. 9 — Gas.

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

Subject: Major gas rate filing.

Purpose: To consider an increase in National Fuel's gas delivery revenues of approximately $41.7 million or 15.27%.

Public hearing(s) will be held at: 10:00 a.m., Oct. 5, 2016 and daily on succeeding business days as needed*, at Department of Public Service, Agency Bldg. 3, 3rd Fl. Hearing Rm., Albany, NY.

*On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 16-G-0257.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Substance of proposed rule: The Commission is considering a proposal filed by National Fuel Gas Distribution Corporation (National Fuel) to increase its gas delivery revenues for the rate year ending March 31, 2018, by approximately $41.7 million (or 15.27%). National Fuel's requested increase in gas delivery revenues results in a total annual bill increase of about $69 (7.16% on the total bill) for an average residential heating customer. National Fuel also proposes to establish a new tariff schedule, P.S.C. No. 9 – Gas, which would supersede its current tariff schedule, P.S.C. No. 8 – Gas. The initial suspension period for the proposed filing

runs through and including September 27, 2016. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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: Five days after the last scheduled public hearing.

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.

(16-G-0257SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Performance Assurance Plan Waiver for Certain Wholesale Service Quality Metrics

I.D. No. PSC-32-16-00003-P

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

Proposed Action: The Public Service Commission is considering Verizon New York Inc.'s (Verizon) petition to waive certain April and May 2016 service quality metrics measured under the Performance Assurance Plan.

Statutory authority: Public Service Law, section 91(1)

Subject: Performance Assurance Plan waiver for certain wholesale service quality metrics.

Purpose: To consider Verizon's waiver petition concerning certain wholesale service quality results.

Substance of proposed rule: The Commission is considering Verizon New York Inc.'s petition to waive certain April and May 2016 wholesale service quality results measured under the Performance Assurance Plan. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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.

(99-C-0949SP15)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-32-16-00004-P

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

Proposed Action: The Public Service Commission is considering the Notice of Intent, filed by 58 Corner LLC, to submeter electricity at 600 W. 58th Street, New York, New York, and the request for a waiver of 16 NYCRR § 96.5(k)(3), requiring an energy audit.

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

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent of 58 Corner LLC to submeter electricity at 600 W. 58th Street, New York, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by 58 Corner LLC on June 16, 2016, to submeter electricity at 600 W. 58th Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission is also considering Petitioner's request for a waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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.

(16-E-0367SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Proposed Revisions for a New Daily Delivery Service and the Winter Bundled Sales Service

I.D. No. PSC-32-16-00006-P

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

Proposed Action: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. to revise its gas tariff schedule, P.S.C. No. 9, in regard to Daily Delivery Service and Winter Bundled Sales Service.

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

Subject: Proposed revisions for a new Daily Delivery Service and the Winter Bundled Sales Service.

Purpose: To consider a new Daily Delivery Service and a modified Winter Bundled Sales Service.

Substance of proposed rule: The Public Service Commission (Commission) is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison or the Company) to revise its gas tariff schedule, P.S.C. No. 9, in regard to Daily Delivery Service (DDS) and Winter Bundled Sales Service (WBSS). Con Edison proposes to establish a new DDS Program, under Service Classification No. 20 – Gas Marketers, to replace the Company's existing Firm Balancing Programs (Load Following Service and Managed Supply Service). The Company's proposal will provide Gas Marketers or their agents with daily delivery quantity requirements to meet the forecasted gas consumption of their respective aggregated customers. Con Edison also proposes to continue a modified WBSS for the period from December 1, 2016 through March 1, 2017, and to terminate WBSS on March 1, 2017. WBSS will provide Gas Marketers with a tool to address a potential operating condition on one of the Company's upstream pipelines this upcoming winter season. Under the proposed modified WBSS program, Gas Marketers will be responsible for the reservation costs to provide WBSS, regardless of whether they elect the baseload amount prior to each month. The proposed amendments have an effective date of November 1, 2016. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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.

(16-G-0406SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Utility DSIPs to Achieve the Commission's Reforming the Energy Vision (REV) Initiative

I.D. No. PSC-32-16-00007-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 the Initial Distributed System Implementation Plans (DSIPs) filed by the utilities in response to the Commission's Order Adopting DSIP Guidance, issued on April 20, 2016 in Case 14-M-0101.

Statutory authority: Public Service Law, sections 5(1), (2), 65(1), 66(1), (2) and (3)

Subject: Utility DSIPs to achieve the Commission's Reforming the Energy Vision (REV) initiative.

Purpose: Development of utility DSIPs for improving utility planning and operations functions under REV.

Substance of proposed rule: The Public Service Commission (Commission) is considering the Initial Distributed System Implementation Plans (DSIPs) filed by the utilities in response to the Commission's Order Adopting DSIP Guidance, issued on April 20, 2016 in Case 14-M-0101. Initial DSIP filings required utilities to identify immediate changes that could be made to their own systems to effectuate state energy goals and objectives. DSIPs are intended to promote utility/stakeholder relations, allow third-parties to provide cost-effective market solutions to identified energy needs, expand the use of distributed energy resources (DER), and increase energy efficient measures. The DSIP filings are the first steps toward establishing a grid that can support increasing levels of DERs into the future and ultimately, achieving Reforming the Energy Vision (REV) goals and objectives. The Commission may adopt, reject, or modify, in whole or in part, the proposed DSIPs, and may resolve 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: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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.

(16-M-0411SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Proposed Revisions to Add and Clarify Provisions Related to Electric Generators Under SC No. 14

I.D. No. PSC-32-16-00008-P

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

Proposed Action: The Commission is considering a proposal by Niagara Mohawk Power Corporation d/b/a National Grid to revise provisions to electric generators under SC No. 14—Gas Transportation Services for Dual Fuel Electric Generators in P.S.C. No. 219—Gas.

Statutory authority: Public Service Law, section 66

Subject: Proposed revisions to add and clarify provisions related to electric generators under SC No. 14.

Purpose: To consider revisions to SC No. 14 - Daily Balancing Service.

Substance of proposed rule: The Public Service Commission is considering modifications proposed by Niagara Mohawk Power Corporation d/b/a National Grid (NMPC) to Service Classification (SC) No. 14 - Gas Transportation Services for Dual Fuel Electric Generators contained in its gas tariff schedule, P.S.C. No. 219 - Gas. On December 29, 2015, NMPC proposed revisions SC No. 14 related to electric generators that take transportation service under this service classification. On July 21, 2016, NMPC filed further revisions proposing to clarify the definitions of Daily Gas Purchase Price and Daily Gas Sales Price. NMPC also proposes adding language stating customers that choose Daily Balancing Service must be a Direct Customer and that any customer taking balancing service from a gas balancing agent must either be a Direct Customer or in a marketing pool of a balancing agent. The proposed amendments have an effective date of November 1, 2016. The Commission may adopt, modify, or reject, in whole or in part, the relief proposed and may resolve 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: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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-0759SP2)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Proposed Acquisition of 100% of the Assets of New Vernon and Whitlock Farms by NYAW

I.D. No. PSC-32-16-00009-P

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

Proposed Action: The Public Service Commission is considering a Joint Petition filed by New York American Water Company (NYAW) Inc. and the Estate of Edwin Silvers for the acquisition of all assets of both New Vernon Water Company and Whitlock Farms Water Company.

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

Subject: Proposed acquisition of 100% of the assets of New Vernon and Whitlock Farms by NYAW.

Purpose: To consider the proposed acquisition of assets of New Vernon and Whitlock Farms by NYAW.

Substance of proposed rule: The Public Service Commission is considering a joint petition filed on July 18, 2016 by the Estate of Edwin D. Silvers (Phyllis Silvers, Executrix) (the Seller) and New York American Water Company Inc. (NYAW) for approval of an Agreement of Sale under which seller will sell and NYAW will purchase 100 percent of the water supply assets of New Vernon Water Company (New Vernon) along with all stock and 100 percent of water supply assets of Whitlock Farms Water Company (Whitlock Farms) (collectively known as the Companies). New Vernon provides flat rate water service to approximately 72 customers in the Town of Mount Hope in Orange County and the Town of Mamakating in Sullivan County. Whitlock Farms provides flat rate water service to approximately 32 customers in Mount Hope, Orange County. NYAW proposes, upon the close of the transaction, the installation of commission approved meters at all customer connections, the implementation of a Supervisory Control and Data Acquisition (SCADA) system at each facility, the construction of a treatment plant to address Department of Health concerns at the Whitlock facility, replacement of the building which houses the chemical injection systems of New Vernon while upgrading the equipment within including the Hydro-pneumatic tank and pumps.

NYAW would also update the electrical systems of New Vernon and install a back-up generator to continue service during outages. All these projects would be funded by the capital budget of NYAW. NYAW proposes that the current customers of New Vernon and Whitlock Farms would eventually be transitioned to the Lynbrook District Tariff. Additionally, NYAW requests the authority to maintain the books and records of New Vernon and Whitlock Farms outside the state, seeks recovery of certain environmental expenses related to the acquisition, and requests waiver of certain requirements of 16 NYCRR § 31.1 related to information to be provided in the petition. The Commission may adopt, reject, or modify, in whole or in part, the joint petition and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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.

(16-W-0402SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-32-16-00010-P

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

Proposed Action: The Public Service Commission is considering the Notice of Intent, filed by The Residential Board of Managers of 30 Park Place Condominium, to submeter electricity at 30 Park Place, New York, New York.

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

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent to submeter electricity at 30 Park Place, New York, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by The Residential Board of Managers of 30 Park Place Condominium on June 29, 2016, to submeter electricity at 30 Park Place, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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.

(16-E-0391SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-32-16-00011-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 the Notice of Intent, filed by Flushing Commons Property Owner, LLC, to submeter electricity at 138-35 39th Avenue, Flushing, 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: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent to submeter electricity at 138-35 39th Avenue, Flushing, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by Flushing Commons Property Owner, LLC on June 28, 2016, to submeter electricity at 138-35 39th Avenue, Flushing, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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.

(16-E-0387SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Benefit-Cost Analysis Handbooks

I.D. No. PSC-32-16-00012-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 Benefit-Cost Analysis Handbooks filed on June 30, 2016 by investor-owned electric utilities.

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

Subject: Benefit-Cost Analysis Handbooks.

Purpose: To evaluate proposed methodologies of benefit-cost evaluation.

Substance of proposed rule: The Public Service Commission (Commission) is considering Benefit-Cost Analysis Handbooks filed the State's investor-owned electric utilities owning transmission and distribution facilities (Utilities) on June 30, 2016. The Utilities filed the Handbooks in compliance with the Commission's January 21, 2016 Order Establishing the Benefit-Cost Analysis Framework in Case 14-M-0101. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@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.

(16-M-0412SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Continued Deferral of $300,000 in Property Taxes

I.D. No. PSC-32-16-00021-P

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

Proposed Action: The Commission is considering a petition of New York American Water Company, Inc. to reduce its property tax reconciliation surcharge by further continuing to defer $300,000 of the company's outstanding balance.

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

Subject: Continued deferral of $300,000 in property taxes.

Purpose: To consider the continued deferral of $300,000 in property taxes.

Substance of proposed rule: The Commission is considering a petition filed by New York American Water Company, Inc. (the Company) on June 1, 2016 regarding its annual Revenue and Property Tax Reconciliation Mechanism (RPCRC) for the rate year ending March 1, 2016. Due to the significant size of the property tax component ($375.88 per customer), the Company proposed using an earning sharing refund for its Sea Cliff District to reduce the size of the surcharge by $7.84 per customer. On July 25, 2016, the Company proposed to further reduce the surcharge by continuing to defer $300,000 of its property tax reconciliation balance, reducing the surcharge amount by $70.08 to $279.96 per customer. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: John.Pitucci@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.

(16-W-0410SP1)