

RULE MAKING ACTIVITIES

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

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

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

Department of Agriculture and Markets

REGULATORY IMPACT STATEMENT, REGULATORY FLEXIBILITY ANALYSIS, RURAL AREA FLEXIBILITY ANALYSIS AND/OR JOB IMPACT STATEMENT

Growth, Cultivation, Sale, Distribution, Transportation, and Processing of Industrial Hemp

I.D. No. AAM-47-16-00005-EP

This regulatory impact statement, regulatory flexibility analysis, rural area flexibility analysis and/or job impact statement pertain(s) to a notice of emergency adoption and proposed rulemaking, I.D. No. AAM-47-16-00005-EP, printed in the *State Register* on November 23, 2016.

Regulatory Impact Statement

1. Statutory authority:

Agriculture and Markets Law (“A&ML”) section 16 authorizes the Commissioner of Agriculture and Markets (“Commissioner”) to execute the laws of the State relative to agriculture. A&ML section 18 authorizes the Commissioner to enact rules necessary for the exercise of his power to execute such laws. A&ML section 506, as amended by chapter 256 of the laws of 2016, allows the Commissioner to authorize an educational institution to not only grow and cultivate industrial hemp but, in connection with such authorization, to also sell, distribute, process, and/or transport such

commodity. A&ML section 508 authorizes the Commissioner to promulgate regulations to carry out the provisions of the A&ML that authorize him to permit such institutions to grow, cultivate, sell, distribute, process, and/or transport industrial hemp.

2. Legislative objectives:

In 2015, the legislature enacted Article 29 of the A&ML that, generally, allowed the Commissioner to authorize a limited number of educational institutions to study the growth and cultivation of industrial hemp; pursuant to section 508 therein, the Commissioner promulgated regulations in Title One of the Official Compilation of Codes, Rules and Regulations of the State of New York (“1 NYCRR”) Part 159, to implement the provisions of that Article. In chapter 256 of the laws of 2016, the legislature amended Article 29 to allow the Commissioner to authorize such educational institutions to not only grow and cultivate industrial hemp but, also, to sell, distribute, process, and/or transport such commodity; the proposed rule implements the legislature’s objective in this regard by amending 1 NYCRR Part 159 accordingly.

3. Needs and benefits:

The proposed rule is needed to allow educational institutions that have been authorized by the Commissioner to grow and cultivate industrial hemp to, also, sell, distribute, process, and/or transport the commodity. Once such educational institutions are so authorized to conduct these activities, they will be in a better position to accomplish the objective of determining whether there is a market for industrial hemp and, if so, the broad contours of that market.

The State’s agricultural industry will benefit by the adoption of the proposed rule. Farmers in other states where the sale and distribution of industrial hemp is permitted have profited thereby and authorized educational institutions in this State will, after having engaged in the activities that will be permitted after the proposed rule is promulgated, be better able to determine if the State’s farmers will, also, be able to so benefit. Furthermore, certain manufacturers of such products as apparel, paper, and tools that are located in the State could benefit in that locally-produced industrial hemp will be available, albeit most likely in limited quantities, for use as a component in such products.

4. Costs:

a. Costs to regulated parties:

None; the proposed rule merely permits the Commissioner to allow an educational institution that has been or will be authorized to grow and cultivate industrial hemp to, also, sell, distribute, process, and/or transport that commodity.

b. Costs to state and local governments:

None.

5. Local government mandates:

None.

6. Paperwork:

None; the proposed rule merely permits the Commissioner to allow an educational institution that has been or will be authorized to grow and cultivate industrial hemp to, also, sell, distribute, process, and/or transport that commodity.

7. Duplication:

Section 7606 of the federal Agricultural Reform, Food and Jobs Act of 2013 (Public Law 113-79) amended Title 7 of the United States Code (“USC”) to add section 5940 thereto to authorize states to enact statutes allowing educational institutions to grow and cultivate industrial hemp. Pursuant to section 763 of the Consolidated Appropriations Act of 2016, 7 USC section 5940 was functionally amended to authorize states to permit educational institutions that have been authorized to grow and cultivate industrial hemp to, also, sell, distribute, process and transport that commodity. Pursuant to such authorizations, the New York State legislature passed, and the Governor signed, legislation that permits the Commissioner to authorize educational institutions to engage in such activities. The federal laws referred to above do not set forth any duplicative, overlapping or conflicting requirements.

8. Alternatives:

The Department did not consider any alternatives to the proposed rule. As set forth above, the legislature, in chapter 256 of the laws of 2016, amended A&ML section 506 to permit the Commissioner to allow educational institutions that have been or will be authorized to grow and cultivate industrial hemp to, also, sell, distribute, process, and/or transport that commodity; the proposed rule merely amends 1 NYCRR Part 159 which, currently, sets forth regulations to implement the provisions of A&ML Article 29 to reflect the latest amendments to that Article.

9. Federal standards:

The proposed rule is authorized by A&ML section 508 which is part of A&ML Article 29 which, in turn, was authorized pursuant to 7 USC section 5940 as functionally amended by section 763 of the Consolidated Appropriations Act of 2016.

10. Compliance schedule:

An educational institution that has been authorized to grow and cultivate industrial hemp and, in connection therewith, to sell, distribute, process, and/or transport that commodity, will be required to comply with all of the provisions of the proposed rule immediately upon being granted authorization.

Regulatory Flexibility Analysis

1. Effect of rule:

The proposed rule amends 1 NYCRR Part 159, entitled "Industrial Hemp", by allowing the Commissioner of Agriculture and Markets ("Commissioner") to permit an educational institution that has been authorized to grow and cultivate industrial hemp to, also, sell, distribute, process, and/or transport that commodity.

It is anticipated that the rule will have only an incidental impact on local governments. Local governments may, for example, decide to increase the number of police patrols in areas where industrial hemp is grown or cultivated by institutions of higher education that have been authorized by the Commissioner to do so ("authorized institutions"). The rule will have no impact on small businesses, will not impose any compliance requirements upon them, will not require them to obtain any professional services, and will not cause them to incur any compliance costs.

2. Compliance requirements:

None. The proposed rule, as described above, imposes no substantial compliance requirements; rather, it merely allows the Commissioner to permit an educational institution that has been authorized to grow and cultivate industrial hemp to sell, distribute, process, and/or transport that commodity. A small business to which industrial hemp has been sold or distributed, however, will be required to maintain a record that sets forth the volume of industrial hemp received, the use to which it was put and the volume allocated to each use, and the volume disposed of.

3. Professional services:

None.

4. Compliance costs:

(a) Initial capital costs that will be incurred by a small business that has contracted with an authorized institution of higher education:

None. The proposed rule, as described above, imposes no substantial compliance costs; rather, it merely allows the Commissioner to permit an educational institution that has been authorized to grow and cultivate industrial hemp to also sell, distribute, process, and/or transport that commodity. A small business to which industrial hemp has been sold or distributed, however, will be required to maintain a record that sets forth the volume of industrial hemp received, the use to which it was put and the volume allocated to each use, and the volume disposed of. It is not anticipated that his record keeping requirement will cause a small business to incur a substantial initial capital cost nor ongoing annual costs.

(b) Annual cost for continuing compliance with the proposed rule:

None.

5. Economic and technological feasibility:

The proposed rule merely allows the Commissioner to allow an educational institution that has been authorized to grow and cultivate industrial hemp to sell, distribute, process, and/or transport that commodity; as such, compliance therewith is economically and technologically feasible.

6. Minimizing adverse impact:

The rule will not have adverse impact upon local governments. Furthermore, the rule does not regulate institutions of higher education in general; rather, only those institutions that choose to seek authorization from the Commissioner of Agriculture and Markets will be regulated by the rule.

7. Small business and local government participation:

On February 24, 2014, a meeting of the Industrial Hemp Work Group was held at the Department's offices. This group consisted of Department representatives; manufacturers of products that contain industrial hemp; representatives of educational institutions involved in the study of industrial hemp; and a state assemblywoman. Prior to the meeting, the participants were furnished with a copy of the proposed provisions of 1 NYCRR Part 259. At the meeting, several participants suggested amend-

ments to the express terms and, after the meeting was concluded, the Department assessed such comments and made substantial revisions to such provisions. On January 13, 2016, the Commissioner adopted 1 NYCRR Part 159 and this rulemaking would amend that Part only to allow the Commissioner to permit educational institutions that are authorized to grow and cultivate industrial hemp to, also, sell, distribute, process, and/or transport that commodity.

Rural Area Flexibility Analysis

The proposed rule implements the provisions of Agriculture and Markets Law Article 29, as amended by chapter 256 of the laws of 2016, and allows an educational institution to sell, distribute, process and transport industrial hemp if authorized by the Commissioner of Agriculture and Markets to do so – such activities were not, prior to the passage of the 2016 amendments to Agriculture and Markets Law Article 29 and under current regulations, permissible.

Because this proposal does not impose an adverse impact upon rural areas and because it imposes no reporting, recordkeeping or other compliance requirements on public or private entities in rural areas that have not applied and have not been granted authorization to grow and cultivate industrial hemp, no rural area flexibility has been prepared in connection with the proposed rule, pursuant to SAPA section 202-bb(4)(a).

Office of Children and Family Services

NOTICE OF ADOPTION

Provisions Relating to the Revocation, Suspension, Limitation or Denial of an Operating Certificate for an Adult Care Facility

I.D. No. CFS-39-16-00002-A

Filing No. 1061

Filing Date: 2016-11-21

Effective Date: 2016-12-07

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

Action taken: Amendment of section 485.5 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 460 and 460-b

Subject: Provisions relating to the revocation, suspension, limitation or denial of an operating certificate for an adult care facility.

Purpose: To conform the provisions for actions taken on operating certificates for adult care facilities to State law.

Text or summary was published in the September 28, 2016 issue of the Register, I.D. No. CFS-39-16-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Public Information Office, New York State Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 473-7793, email: info@ocfs.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Education Department

EMERGENCY RULE MAKING

Assessments for the New York State Career Development and Occupational Studies (CDOS) Commencement Credential

I.D. No. EDU-39-16-00033-E

Filing No. 1043

Filing Date: 2016-11-16

Effective Date: 2016-12-12

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

Action taken: Amendment of section 100.6(b)(4) of Title 8 NYCRR.

Statutory authority: Education Law, sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 209(not subdivided), 305(1), (2), 308(not subdivided) and 309(not subdivided)

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

Specific reasons underlying the finding of necessity: The proposed amendment is necessary to implement Regents policy to require that, on or after April 3, 2017, any work-readiness assessments used to meet the requirements for the New York State Career Development and Occupational Studies (CDOS) Commencement Credential shall be approved by the Commissioner and meet certain criteria and conditions prescribed by the Commissioner in regulations.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adoption, after publication in the State Register on September 28, 2016 and expiration of the 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(1) and (5), is the December 12-13, 2016 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the December meeting, would be December 28, 2016, the date a Notice of Adoption would be published in the State Register.

Emergency action is therefore necessary for the preservation of the general welfare in order to ensure that there is sufficient time for the Commissioner to approve work-readiness assessments pursuant to the criteria outlined in the proposed amendment so that affected students know which work-readiness assessments have been approved by the Commissioner so they can earn a NYS CDOS Commencement Credential on or after April 3, 2017 and to ensure that the emergency rule adopted at the September 2016 Regents meeting remains in effect until it can be adopted as a permanent rule.

It is anticipated that the proposed amendment will be presented for adoption as a permanent rule at the December 2016 Regents meeting, after publication of the proposed amendment in the State Register and expiration of the 45-day public comment period prescribed by the State Administrative Procedure Act for State agency rule makings.

Subject: Assessments for the New York State Career Development and Occupational Studies (CDOS) Commencement Credential.

Purpose: Establish conditions and procedures for approval of work-readiness assessments for the CDOS credential.

Text of emergency rule: 1. Paragraph (4) of subdivision (b) of section 100.6 of the Regulations of the Commissioner of Education is amended, effective December 12, 2016, as follows:

(4)(i) Notwithstanding the provisions of paragraph (3) of this subdivision, a board of education or trustees of the school district, or the governing body of the nonpublic school, may award the career development and occupational studies commencement credential *prior to April 3, 2017* to a student who has met the requirements for a nationally-recognized work-readiness credential, including but not limited to SkillsUSA *Work Force Ready Employability Assessment*, the National Work Readiness Credential, the National Career Readiness Certificate – (ACT) WorkKeys and the Comprehensive Adult Student Assessment Systems Workforce Skills Certification System.

(ii) *On or after April 3, 2017, a board of education or trustees of the school district, or the governing body of the nonpublic school, may award the career development and occupational studies commencement credential to a student who has received a satisfactory passing score on any work-readiness assessment approved by the commissioner pursuant to this subparagraph.*

(a) *Approval of work-readiness assessments by the commissioner. Each work-readiness assessment approved by the commissioner shall meet the following criteria, in addition to any criteria set forth in any request for qualifications process:*

(1) *measure universal foundation knowledge, skills and abilities necessary for entry-level employment across multiple industries and occupations and the assessment shall be reviewed at least every five years and be updated accordingly;*

(2) *be designed in consultation with workforce experts, such as, but not limited to, employers, national business organizations, or federal or State labor agencies;*

(3) *be consistent with technical criteria for validity, reliability, and fairness in testing;*

(4) *be developed by an entity other than a local school or school district;*

(5) *be available for use by any school or school district in New York State; and*

(6) *be administered in accordance with assessment security conditions, directions and procedures established by the Commissioner.*

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. EDU-27-16-00002-EP, Issue of July 6, 2016. The emergency rule will expire January 14, 2017.

Text of rule and any required statements and analyses may be obtained from: Kirti Goswami, New York State Education Department, 89 Washington Avenue, Room 148, Albany, NY 12234, (518) 474-8966, email: legal@nysed.gov

Regulatory Impact Statement

STATUTORY AUTHORITY:

Education Law section 101 continues the existence of the Education Department, with the Board of Regents at its head and the Commissioner of Education as the chief administrative officer, and charges the Department with the general management and supervision of public schools and the educational work of the State.

Education Law section 207 empowers the Regents and the Commissioner to adopt rules and regulations to carry out State laws regarding education and the functions and duties conferred on the State Education Department by law.

Education Law section 208 authorizes the Regents to establish examinations as to attainments in learning and to award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

Education Law section 209 authorizes the Regents to establish secondary school examinations in studies furnishing a suitable standard of graduation and of admission to colleges; to confer certificates or diplomas on students who satisfactorily pass such examinations; and requires the admission to these examinations of any person who shall conform to the rules and pay the fees prescribed by the Regents.

Education Law section 305 (1) and (2) provide that the Commissioner, as chief executive officer of the State system of education and of the Board of Regents, shall have general supervision over all schools and institutions subject to the provisions of the Education Law, or of any statute relating to education, and execute all educational policies determined by the Regents.

Education Law section 308 authorizes the Commissioner to enforce and give effect to any provision in the Education Law or in any other general or special law pertaining to the school system of the State or any rule or direction of the Regents.

Education Law section 309 charges the Commissioner with the general supervision of boards of education and their management and conduct of all departments of instruction.

LEGISLATIVE OBJECTIVES:

The proposed amendment is consistent with the above statutory authority and is necessary to implement policy enacted by the Regents to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the New York State (NYS) Career Development and Occupational Studies (CDOS) Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved.

NEEDS AND BENEFITS:

The NYS CDOS Commencement Credential is a credential recognized by the Board of Regents that certifies a student has the standards-based knowledge and skills necessary for entry-level employment. The requirements to earn the credential were developed consistent with research and the guiding principles established by the Regents. The requirements are rigorous in that the student must successfully complete additional courses of study and hours in work-based learning, demonstrate competency at the commencement level of the CDOS learning standards, participate in career planning and preparation and have an employability profile showing readi-

ness for entry-level employment. There are two options available for students to earn the credential. Option 1 - Students must meet each of the following: development of a Career Plan; demonstrated achievement of the commencement level CDOS learning standards 1, 2 and 3a; successful completion of at least 216 hours of CTE coursework and/or work-based learning experiences (of which at least 54 hours must be in work-based learning experiences); and have a completed employability profile. Option 2 - In lieu of a student meeting the requirements of Option 1 to be awarded the NYS CDOS Commencement Credential, a district may award a student this credential if the student has met the requirements for one of the nationally recognized rigorous work readiness credentials, including but not limited to: National Work Readiness Credential; SkillsUSA Work Force Ready Employability Assessment; National Career Readiness Certificate WorkKeys - (ACT); and Comprehensive Adult Student Assessment Systems Workforce Skills Certification System.

In order to ensure that the assessments taken under Option 2 to earn the CDOS Commencement Credential measure universal foundation skills necessary for entry-level employment, are of sufficient rigor, meet requirements for validity and reliability, and are available to all NYS students, the proposed regulations require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved. The Department will be working to identify which work-readiness assessments meet the criteria established in regulations for use in the 2016-17 school year.

Section 100.6(b)(4), as amended, provides that, effective April 3, 2017, any assessment of work-readiness used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establishes the conditions and criteria by which such assessments may be approved.

COSTS:

- (a) Costs to State government: none.
- (b) Costs to local government: none.
- (c) Costs to private regulated parties: none.
- (d) Costs to regulating agency for implementation and continued administration of this rule: none.

The proposed amendment does not impose any additional costs on the State, school districts, charter schools, registered nonpublic schools or the State Education Department. The amendment implements Regents policy to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved. There are many NYS school districts and Boards of Cooperative Educational Services (BOCES) that already provide students with opportunities to earn take work-readiness assessments to earn the CDOS Commencement Credential.

LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any additional program, service, duty or responsibility upon school districts beyond those imposed by federal and State statutes and regulations. The proposed amendment merely implements Regents policy to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved.

PAPERWORK:

The proposed amendment does not impose any specific additional recordkeeping, reporting or other paperwork requirements.

DUPLICATION:

The proposed amendment does not duplicate existing State or Federal requirements.

ALTERNATIVES:

There were no significant alternatives to the rule and none were considered.

FEDERAL STANDARDS:

There are no applicable Federal standards.

COMPLIANCE SCHEDULE:

It is anticipated that regulated parties will be able to achieve compliance with the proposed amendment by its effective date.

Regulatory Flexibility Analysis

Small Businesses:

The proposed amendment is necessary to implement Regents policy to establish is necessary to implement policy enacted by the Regents to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the New York State (NYS) Career Development and Occupational Studies (CDOS) Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved.

The proposed amendment relates to State learning standards, State as-

essments, credential and diploma requirements and higher levels of student achievement, and does not impose any adverse economic impact, reporting, record keeping or other compliance requirements on small businesses. Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further steps 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 Governments:

EFFECT OF RULE:

The proposed amendment applies to each of the 689 public school districts in the State and to charter schools and nonpublic schools to the extent that they offer instruction in the high school grades.

COMPLIANCE REQUIREMENTS:

The proposed amendment does not impose any additional compliance requirements on school districts, charter schools or registered nonpublic schools high schools. The amendment implements Regents policy to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved. It would not change existing requirements that allow a student to take an assessment of work-readiness to earn a NYS CDOS Commencement Credential pursuant to section 100.6(b) of the Commissioner's Regulations.

Section 100.6(b)(4), as amended, provides that effective April 3, 2017, any assessment of work-readiness used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establishes the conditions and criteria by which such assessments may be approved.

PROFESSIONAL SERVICES:

The proposed amendment does not impose any additional professional service requirements.

COMPLIANCE COSTS:

The proposed amendment does not impose any additional costs on school districts or charter schools. The amendment implements Regents policy to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved. There are many NYS school districts and Boards of Cooperative Educational Services (BOCES) that already provide students with opportunities to earn take work-readiness assessments to earn the CDOS Commencement Credential.

ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed amendment does not impose any additional technological requirements on school districts, charter schools or registered nonpublic schools high schools. Economic feasibility is addressed above under compliance costs.

MINIMIZE ADVERSE IMPACT:

The proposed amendment does not impose any additional compliance requirements or significant costs and therefore would have no adverse impact on the regulated parties. The amendment implements Regents policy to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved. It would not change existing requirements that allow a student to take an assessment of work-readiness to earn a NYS CDOS Commencement Credential pursuant to section 100.6(b) of the Commissioner's Regulations.

LOCAL GOVERNMENT PARTICIPATION:

Copies of the proposed amendment have been provided to District Superintendents with the request that they distribute them to school districts within their supervisory districts for review and comment. Copies were also provided for review and comment to the chief school officers of the five big city school districts and to charter schools.

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 amendment is necessary to implement long-range Regents policy relating to State learning standards, State assessments, credential and diploma requirements and higher levels of student achievement. Accordingly, there is no need for a shorter review period.

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 10. of the Notice of Proposed Rule Making published herewith, and must be received within 45 days of the State Register publication date of the Notice.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed amendment applies to each of the 689 public school

districts in the State, charter schools, and registered nonpublic schools in the State, to the extent that they offer instruction in the high school grades, including those located in 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. At present, there is one charter school located in a rural area that is authorized to issue Regents diplomas.

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

The proposed amendment does not impose any additional compliance requirements or professional services requirements on entities that are located in rural areas. The proposed amendment implements Regents policy to require that, April 3, 2017, work-readiness assessments used to meet the requirements for the New York State (NYS) Career Development and Occupational Studies (CDOS) Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved. It would not change existing requirements that allow a student to take an assessment of work-readiness to earn a NYS CDOS Commencement Credential pursuant to section 100.6(b) of the Commissioner's Regulations.

Section 100.6(b)(4), as amended, provides that effective April 3, 2017, any assessment of work-readiness used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establishes the conditions and criteria by which such assessments may be approved.

3. COMPLIANCE COSTS:

The proposed amendment will not impose any significant costs on schools located in rural areas. The proposed amendment implements Regents policy to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved. There are many NYS school districts and Boards of Cooperative Educational Services (BOCES) that already provide students with opportunities to earn take work-readiness assessments to earn the CDOS Commencement Credential.

4. MINIMIZING ADVERSE IMPACT:

The proposed amendment does not impose any additional compliance requirements or significant costs and therefore would have no adverse impact on the regulated parties. The amendment implements Regents policy to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the CDOS Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved. It would not change existing requirements that allow a student to take an assessment of work-readiness to earn a NYS CDOS Commencement Credential pursuant to section 100.6(b) of the Commissioner's Regulations.

Because the Regents policy upon which the proposed amendment is based applies to all school districts in the State and to charter schools and registered nonpublic high schools, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

5. RURAL AREA PARTICIPATION:

Comments on the proposed rule were solicited from the Department's Rural Advisory Committee, whose membership includes school districts located in rural areas.

6. 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 amendment is necessary to implement long-range Regents policy relating to State learning standards, State assessments, credential and diploma requirements and higher levels of student achievement. Accordingly, there is no need for a shorter review period.

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 10. of the Notice of Proposed Rule Making published herewith, and must be received within 45 days of the State Register publication date of the Notice.

Job Impact Statement

The proposed amendment is necessary to implement Regents policy to require that, effective April 3, 2017, work-readiness assessments used to meet the requirements for the New York State Career Development and Occupational Studies Commencement Credential must be approved by the Commissioner and establish conditions and criteria by which such assessments may be approved.

The proposed amendment will not have a substantial adverse impact on jobs or employment opportunities. Because it is evident from the nature of the proposed amendment that it will have no impact, or a positive impact,

on jobs or employment opportunities, no further steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Assessment of Public Comment

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

Department of Health

NOTICE OF ADOPTION

Transgender Related Care and Services

I.D. No. HLT-40-16-00030-A

Filing No. 1063

Filing Date: 2016-11-22

Effective Date: 2016-12-07

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

Action taken: Amendment of section 505.2(l) of Title 18 NYCRR.

Statutory authority: Public Health Law, sections 201 and 206; Social Services Law, sections 363-a and 365-a(2)

Subject: Transgender Related Care and Services.

Purpose: To amend provisions regarding Medicaid coverage of transition-related transgender care and services.

Text of final rule: Subdivision (l) of section 505.2 is amended to read as follows:

(l) Gender dysphoria treatment.

(1) As provided in this subdivision, payment is available for medically necessary hormone therapy and/or gender reassignment surgery for the treatment of gender dysphoria.

(2)(i) Hormone therapy, whether or not in preparation for gender reassignment surgery, [may] *shall* be covered [for individuals 18 years of age or older.] *as follows:*

(a) *treatment with gonadotropin-releasing hormone agents (pubertal suppressants), based upon a determination by a qualified medical professional that an individual is eligible and ready for such treatment, i.e., that the individual:*

(1) *meets the criteria for a diagnosis of gender dysphoria;*

(2) *has experienced puberty to at least Tanner stage 2, and pubertal changes have resulted in an increase in gender dysphoria;*

(3) *does not suffer from psychiatric comorbidity that interferes with the diagnostic work-up or treatment;*

(4) *has adequate psychological and social support during treatment; and*

(5) *demonstrates knowledge and understanding of the expected outcomes of treatment with pubertal suppressants and cross-sex hormones, as well as the medical and social risks and benefits of sex reassignment;*

(b) *treatment with cross-sex hormones for patients who are sixteen years of age and older, based upon a determination of medical necessity made by a qualified medical professional; patients who are under eighteen years of age must meet the applicable criteria set forth in clause (a).*

(ii) *Notwithstanding the requirement in clause (b) of subparagraph (i) of this paragraph that an individual be sixteen years of age or older, payment for cross-sex hormones for patients under sixteen years of age who otherwise meet the requirements of clause (b) of subparagraph (i) of this paragraph shall be made in specific cases if medical necessity is demonstrated and prior approval is received.*

(3)(i) Gender reassignment surgery [may] *shall* be covered for an individual who is 18 years of age or older and has letters from two qualified New York State licensed health professionals who have independently assessed the individual and are referring the individual for the surgery. One of these letters must be from a psychiatrist, psychologist, [or] psychiatric nurse practitioner, *or licensed clinical social worker* with whom the individual has an established and ongoing relationship. The other letter may be from a [licensed] psychiatrist, psychologist, physician, psychiatric nurse practitioner, or licensed clinical social worker acting within the scope of his or her practice, who has only had an evaluative role with the individual. Together, the letters must establish that the individual:

[(i)](a) has a persistent and well-documented case of gender dysphoria;

[(ii)](b) has received hormone therapy appropriate to the individual's gender goals, which shall be for a minimum of 12 months in the case of an individual seeking genital surgery, unless such therapy is medically contraindicated or the individual is otherwise unable to take hormones;

[(iii)](c) has lived for 12 months in a gender role congruent with the individual's gender identity, and has received mental health counseling, as deemed medically necessary, during that time;

[(iv)](d) has no other significant medical or mental health conditions that would be a contraindication to gender reassignment surgery, or if so, that those are reasonably well-controlled prior to the gender reassignment surgery; and

[(v)](e) has the capacity to make a fully informed decision and to consent to the treatment.

(ii) *Notwithstanding subparagraph (i) of this paragraph, payment for gender reassignment surgery, services, and procedures for patients under eighteen years of age may be made in specific cases if medical necessity is demonstrated and prior approval is received.*

[(4)] Payment will not be made for the following services and procedures:

(i) cryopreservation, storage, and thawing of reproductive tissue, and all related services and charges;

(ii) reversal of genital and/or breast surgery;

(iii) reversal of surgery to revise secondary sex characteristics; and

(iv) reversal of any procedure resulting in sterilization.

(5) Payment will not be made for any surgery, services, or procedures that are performed solely for the purpose of improving an individual's appearance (cosmetic procedures). The following surgery, services, and procedures will be presumed to be cosmetic and will not be covered, unless justification of medical necessity is provided and prior approval is received:

(i) abdominoplasty, blepharoplasty, neck tightening, or removal of redundant skin;

(ii) breast augmentation, unless the individual has completed a minimum of 24 months of hormone therapy during which time breast growth has been negligible, or hormone therapy is medically contraindicated or the individual is otherwise unable to take hormones;

(iii) breast, brow, face, or forehead lifts;

(iv) calf, cheek, chin, nose, or pectoral implants;

(v) collagen injections;

(vi) drugs to promote hair growth or loss;

(vii) electrolysis, unless required for vaginoplasty or phalloplasty;

(viii) facial bone reconstruction, reduction, or sculpturing, including jaw shortening and rhinoplasty;

(ix) hair transplantation;

(x) lip reduction;

(xi) liposuction;

(xii) thyroid chondroplasty; and

(xiii) voice therapy, voice lessons, or voice modification surgery.]

(4) *For individuals meeting the requirements of paragraph (3) of this subdivision, Medicaid coverage will be available for the following gender reassignment surgeries, services, and procedures, based upon a determination of medical necessity made by a qualified medical professional:*

(i) *mastectomy, hysterectomy, salpingectomy, oophorectomy, vaginectomy, urethroplasty, metoidioplasty, phalloplasty, scrotoplasty, penectomy, orchiectomy, vaginoplasty, labiaplasty, clitoroplasty, and/or placement of a testicular prosthesis and penile prosthesis;*

(ii) *breast augmentation, provided that: the patient has completed a minimum of 24 months of hormone therapy, during which time breast growth has been negligible; or hormone therapy is medically contraindicated; or the patient is otherwise unable to take hormones;*

(iii) *electrolysis when required for vaginoplasty or phalloplasty; and*

(iv) *such other surgeries, services, and procedures as may be specified by the Department in billing guidance to providers.*

[(6)] (5) [For purposes of this subdivision, cosmetic surgery, services, and procedures refers to anything solely directed at improving an individual's appearance.] *For individuals meeting the requirements of paragraph (3) of this subdivision, surgeries, services, and procedures in connection with gender reassignment not specified in paragraph (4) of this subdivision, or to be performed in situations other than those described in such paragraph, including those done to change the patient's physical appearance to more closely conform secondary sex characteristics to those of the patient's identified gender, shall be covered if it is demonstrated that such surgery, service, or procedure is medically necessary to treat a particular patient's gender dysphoria, and prior approval is received. Coverage is not available for surgeries, services, or procedures that are purely cosmetic, i.e., that enhance a patient's appearance but are not medically necessary to treat the patient's underlying gender dysphoria.*

[(7)] (6) All legal and program requirements related to providing and

claiming reimbursement for sterilization procedures must be followed when transgender care involves sterilization.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 505.2(l)(3)(i), (4) and (5).

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, 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 Revised RIS, RFA, RAFA and JIS.

Assessment of Public Comment

The proposed regulation would, among other things: provide coverage of medically necessary treatments for gender dysphoria in individuals under 18 years of age; specify gender reassignment surgeries, services, and procedures that the Medicaid program will cover without the need for the practitioner to obtain prior approval; reiterate that Medicaid will cover other surgeries, services, and procedures if it is demonstrated that such surgery, service, or procedure is medically necessary to treat a particular patient's GD, and prior approval is received; and add licensed clinical social workers to the list of licensed NYS health professionals, with whom an individual has an established and ongoing relationship, who can provide a letter referring the individual for gender reassignment surgery (GRS). In short, the proposed changes would make Medicaid coverage of transgender care and services available, regardless of an individual's age, whenever such care and services are medically necessary to treat the individual's gender dysphoria.

Comments on the proposed rulemaking were received from a State senator (who was strongly supportive of the regulation and did not recommend any further revisions), a community health center with experience in transgender health care, a network of federally qualified health centers (FQHCs), a law firm representing a managed care organization, the LGBT Rights Committee of the New York City Bar Association, two legal aid organizations and a law firm commenting jointly, and 61 individuals.

Comment: Two commenters were opposed to Medicaid covering services for the treatment of gender dysphoria. One objected generally to medical intervention for a "delusion." The other contended that gender dysphoria does not meet the criteria set forth in Social Services Law section 365-a, which provides for Medicaid coverage of "medical, dental and remedial care, services and supplies. . . which are necessary to prevent, diagnose, correct or cure conditions in the person that cause acute suffering, endanger life, result in illness or infirmity, interfere with such person's capacity for normal activity, or threaten some significant handicap."

Response: No changes were made to the proposed regulation as a result of these comments. Gender dysphoria is a condition recognized by the American Psychiatric Association in its Diagnostic and Statistical Manual of Mental Disorders. The Manual describes the condition, in part, as one which causes clinically significant distress or impairment in social, occupational, or other important areas of functioning. Therefore, the Department interprets the language of section 365-a of the Social Services Law (SSL) as encompassing the condition of gender dysphoria.

From the Department's standpoint, the question is not whether Medicaid should pay for treatment of gender dysphoria, but instead what treatments are medically necessary and what standards should such treatment meet in order to qualify for Medicaid reimbursement.

Sections 363 and 364 of the SSL make clear that the primary purpose of the Medicaid program is to ensure the availability of uniform, high-quality medical care to all New Yorkers. Section 363-a of the SSL designates the Department as the single State agency charged with the responsibility to supervise the administration of the Medicaid State plan in New York. Section 364 of the SSL further authorizes the Department to establish and maintain standards for medical care reimbursed through the program.

In this rulemaking, and in prior rulemakings, the Department has established standards intended to ensure Medicaid pays for high-quality care that is not medically contraindicated, is medically necessary to treat an individual's gender dysphoria, and is undertaken with the informed consent of the individual.

Comment: A commenter noted that although the Department indicates in the Regulatory Impact Statement for the proposed rulemaking that licensed clinical social workers are being added to the list of licensed NYS health professionals, with whom an individual has an established and ongoing relationship, who can provide a letter referring the individual for GRS, this is not reflected in the text of the regulation.

Response: The Department thanks the commenter for pointing out this oversight. The Department has added an explicit reference to licensed clinical social workers in the text of the regulation, as was intended.

Comment: The community health center and the FQHC network both expressed support for the proposed expansion of coverage to treatment of

individuals under age 18, and the addition of licensed clinical social workers to the list of health professionals who can provide a letter referring an individual for GRS. However, they recommended that the list of referring professionals be further expanded to include licensed therapists, physician assistants, nurse practitioners, and family nurse practitioners.

Response: The list of health professionals who can supply referral letters for GRS strikes a balance between enabling access to services and ensuring that Medicaid coverage of GRS is based on determinations of medical necessity made by individuals qualified to make such determinations. The Department does not believe its policy will prevent transgender individuals from accessing necessary care, and is a valid exercise of the discretion granted to it as the single State Medicaid agency responsible for establishing standards to ensure high quality Medicaid services.

Comment: The community health center and the FQHC network also recommended that the following services be covered by Medicaid for the treatment of gender dysphoria, without the need to obtain prior approval: breast, brow, face, and forehead lifts; drugs to promote hair growth or loss; electrolysis for the entire body; facial bone reconstruction, reduction, or sculpturing; hair transplantation; vocal surgeries and coaching; and thyroid chondroplasty. The community health center went on in its comment to state that “these surgeries are all medically-necessary for an individual seeking gender affirmation.”

Response: Not all individuals seek the full range of potential treatments for the symptoms of gender dysphoria, which belies the commenter’s statement that all of the listed surgeries are medically necessary procedures for any individual seeking to transition. Whether one or more of the listed surgeries is medically necessary for an individual will depend on the circumstances of the particular case. Therefore the Department, as the single State agency charged with the responsibility of supervising the administration of the Medicaid program, finds it appropriate to require prior approval, based on a showing of medical necessity by the health practitioner in a particular case, as a prerequisite to payment for these services.

Comment: The bar association LGBT committee objected, among other things, to: requiring prior approval for hormone treatments provided to individuals under age 16 and surgical interventions undertaken prior to age 18; requiring two letters from health care practitioners referring an individual for GRS, rather than one; and requiring prior approval for any transition-related treatments, which the commenter contends is equivalent to labeling such treatments as “presumptively cosmetic.” Instead, the commenter urges that the regulation be revised to simply state that any and all treatments for gender dysphoria consistent with contemporary standards of care must be covered.

Response: Decisions on discrete aspects of the coverage policy (prerequisites for Medicaid coverage of hormone therapy or GRS; two referral letters for GRS versus one; when and if prior approval is required) are appropriately made by the Department in its role as the single State Medicaid agency. The commenter suggested alternative policies, in order to give individuals with gender dysphoria maximum access to the services they seek. However, the Department’s statutory obligation is not simply to provide access to desired services, but to make sure that Medicaid pays only for high-quality and medically necessary services. The Department believes the policy determinations it has made promote the receipt of high quality, medically necessary care by Medicaid recipients, are reasonable, and are fully within the discretion afforded to it by the Legislature when the Department was designated as the single State Medicaid agency.

The Department disagrees that the proposed regulation labels any services as presumptively cosmetic. Rather, the prior approval requirements in the proposed regulation reflect the Department’s recognition that not all transition-related services will be medically necessary for every individual with gender dysphoria. As the commenter itself observed, citing the Standards of Care of the World Professional Association for Transgender Health, “what constitutes medically necessary treatment, is a highly individualized process that can vary significantly from one person to another. For some transgender people, hormones provide adequate treatment for gender dysphoria. For many others, surgery is essential and medically necessary to treat their gender dysphoria. What surgery is required will depend on the clinical needs and overall health of a particular person.”

The commenter’s suggestion that the criteria for Medicaid coverage of transgender services be any of multiple standards of care propounded by individual practitioners, medical societies, and advocacy organizations, is untenable. It would create uncertainty among providers and recipients as to what Medicaid does and does not cover, and would be an abdication of the Department’s responsibility to establish standards for the care, services, and supplies eligible for Medicaid reimbursement. No changes were made to the proposed regulation as a result of these comments.

Comment: One of the prerequisites for coverage of hormone therapy is that the individual does not suffer from psychiatric comorbidity that interferes with the diagnostic work-up or treatment. The managed care organization recommends that the language be revised to refer to an

untreated psychiatric comorbidity, based on its understanding that coverage of transgender care should be available if the psychiatric comorbidity has been addressed and the individual is stable.

Response: The Department disagrees with the commenter’s assumption that undergoing treatment for a psychiatric comorbidity necessarily means that it has been addressed and that the individual is stable. The proposed regulatory language, which is identical to language in the Endocrine Society’s standard of care, is intended to avoid transgender care being provided when an existing psychiatric comorbidity prevents or interferes with making a definitive diagnosis of gender dysphoria or with obtaining informed consent for transgender treatment. The fact that the individual is receiving treatment is not, by itself, dispositive as to whether the existing psychiatric comorbidity raises these concerns. No changes were made to the proposed regulation as a result of this comment.

Approximately 57 of the comments followed a common template and were virtually identical. These commenters expressed strong support for the proposed regulation to the extent that it: expands Medicaid coverage of pubertal suppressants and cross-sex hormones; includes licensed clinical social workers in the list of health professionals who can provide a letter referring an individual for GRS; and continues to recognize that hormone therapy may be medically contraindicated for some individuals and is not part of every individual’s transition. These commenters also expressed concerns about the proposed rulemaking, summarized below.

Comment: The proposed regulation contains a definition of “cosmetic services” that is different than the definition used elsewhere. The definition in the proposed regulation is “not accessible,” “exclusionary,” and will invite incorrect denials of care.

Response: The Department does not agree that there is any significance to slight differences in wording in references to cosmetic procedures in its regulations and policies. As the Department has stressed in previous rulemakings amending section 505.2(1), the language in question is intended to ensure that Medicaid pays only for medically necessary care, services, and supplies. The Medicaid program is statutorily constrained to do so, and therefore is prohibited from paying for care, services, or supplies whose purpose is not medical but cosmetic. No changes were made to the proposed regulation as a result of this comment.

Comment: The proposed regulation provides for the coverage of breast augmentation, without the requirement of obtaining prior approval, if an individual has completed 24 months of hormone therapy, during which time breast growth has been negligible. The term “negligible” is vague and undefined, may be used by insurance companies against persons with gender dysphoria, and does not affirm the need of many individuals to receive this care. A separate commenter suggested replacing negligible breast growth with “insufficient breast growth in proportion to the patient’s body type such that it has failed to alleviate the patient’s gender dysphoria as determined by the treating medical or mental health professional.”

Response: The regulation intends to distinguish between a situation in which hormone therapy has failed to achieve the goal of conforming this sex characteristic to that of the individual’s identified gender, and a situation where it has succeeded. In the former situation, breast augmentation will be covered, without the need to obtain prior approval, based on the reasonable judgment of the medical practitioner that breast growth has been negligible. In the latter, a question exists as to whether further, surgical augmentation is medically necessary to treat the individual’s gender dysphoria, or is instead being sought for solely cosmetic reasons; therefore, breast augmentation will be covered only if medical necessity is demonstrated and prior approval received.

The Department shares the commenters’ interest in clear Medicaid coverage standards and will take their comments under advisement in crafting billing guidance for providers and considering future amendments to the regulation.

Comment: The Department should continue to review the current medical consensus with respect to the treatment of gender dysphoria, and be cognizant of any changing opinions of leading medical professional organizations such as the Endocrine Society or the World Professional Association for Transgender Health.

Response: The Department will propose future amendments to the regulation if necessitated by an evolving medical consensus on medically necessary treatment of gender dysphoria.

Office for People with Developmental Disabilities

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Agency Name Change Terminology Update

I.D. No. PDD-49-16-00001-P

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

Proposed Action: This is a consensus rule making to amend Part 622 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, section 13.09(b)

Subject: Agency Name Change Terminology Update.

Purpose: To update the agency name in Title 14 NYCRR Part 622 regulations.

Text of proposed rule: Section 622.1 is amended as follows:

- Paragraphs (a)(2) and (3)
(2) ... [of Mental Retardation and] *for People With ...* [(OMRDD)] (OPWDD) ...

- Paragraph (a)(3) ... [(OMRDD)] OPWDD ... [(OMRDD)] OPWDD ...

- Subparagraphs (a)(3)(i) and (ii)
(i) ... [(OMRDD)] OPWDD ...
(ii) ... [(OMRDD)] OPWDD ...

- Paragraph (a)(4)
(4) [of Mental Retardation and] *for People With ...*

Section 622.2 is amended as follows:

- Paragraphs (a)(2) and (3)
(2) ... [(OMRDD)] OPWDD ... [(OMRDD)] OPWDD ...
(3) ... [(OMRDD)] OPWDD ... [(OMRDD)] OPWDD ...

Section 622.3 is amended as follows:

- Paragraph (a)(1)
(1) ... [(OMRDD)] OPWDD ... [(OMRDD)] OPWDD ...

Section 622.4 is amended as follows:

- Paragraph (a)(1)
(1) ... [(OMRDD)] OPWDD ...
- Clause (a)(2)(i)(a)
(a) ... [(OMRDD)] OPWDD ...
- Subparagraph (a)(2)(ii)
(ii) ... [(OMRDD)] OPWDD ...
- Clause (a)(4)(i)(b)
(b) ... [(OMRDD)] OPWDD ...

Section 622.99 is amended as follows:

- Subdivision (a)
(a) ... [(OMRDD)] OPWDD ...
- Subparagraphs (a)(1)(i), (ii) and (iii)
(i) ... [(OMRDD)] OPWDD ...
(ii) ... [(OMRDD)] OPWDD ...
(iii) ... [(OMRDD)] OPWDD ...
- Paragraphs (a)(2) and (3)
(2) [(OMRDD)] OPWDD ...
(3) ... [(OMRDD)] OPWDD ...
- Subdivisions (c), (d), (e), (h), (i), (k) and (o)
(c) ... [(OMRDD)] OPWDD ...
(d) ... [(OMRDD)] OPWDD ...
(e) ... [(OMRDD)] OPWDD ... [(OMRDD)] OPWDD ...
(h) ... [of Mental Retardation and] *for People With ...*
(i) ... [(OMRDD)] OPWDD ...
(k) [(OMRDD)] OPWDD ... [of Mental Retardation and] *for People With ...*

- Paragraph (o) ... [(OMRDD)] OPWDD ...

Text of proposed rule and any required statements and analyses may be obtained from: Office of Counsel, Bureau of Policy and Regulatory Affairs, Office for People With Developmental Disabilities (OPWDD), 44 Holland Avenue, 3rd Floor, Albany, NY 12229, (518) 474-7700, email: rau.unit@opwdd.ny.gov

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

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

Additional matter required by statute: Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has

determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

Consensus Rule Making Determination

In conformance with Mental Hygiene Law, OPWDD is updating the existing regulation in Title 14 Part 622 NYCRR to change the agency's name from "Office of Mental Retardation (OMRDD)" to "Office for People With Developmental Disabilities (OPWDD)."

OPWDD has determined that due to the nature and purpose of these amendments, and the support for these amendments from individuals with developmental disabilities, family members, and other interested parties, no person is likely to object to the rule as written.

Job Impact Statement

OPWDD is not submitting a Job Impact Statement for this proposed rulemaking because this rulemaking will not have a substantial adverse impact on jobs or employment opportunities.

The proposed regulation updates terminology found in Title 14 NYCRR Part 622 regulations to change the agency's name from "Office of Mental Retardation (OMRDD)" to "Office for People With Developmental Disabilities (OPWDD)." The amendments make technical, conforming changes that will not result in any increased costs (including staffing costs) or compliance activities. Consequently, the proposed regulation will not have a substantial adverse impact on jobs or employment opportunities.

Public Service Commission

NOTICE OF WITHDRAWAL

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

The following rule makings have been withdrawn from consideration:

| I.D. No. | Publication Date of Proposal |
|-------------------|------------------------------|
| PSC-34-97-00009-P | August 27, 1997 |
| PSC-22-03-00020-P | June 4, 2003 |
| PSC-34-03-00019-P | August 27, 2003 |
| PSC-35-03-00009-P | September 3, 2003 |
| PSC-04-15-00010-P | January 28, 2015 |
| PSC-04-15-00011-P | January 28, 2015 |
| PSC-26-15-00014-P | July 1, 2015 |
| PSC-28-15-00006-P | July 15, 2015 |
| PSC-31-15-00007-P | August 5, 2015 |
| PSC-32-15-00005-P | August 12, 2015 |
| PSC-42-15-00013-P | October 21, 2015 |
| PSC-19-16-00012-P | May 11, 2016 |
| PSC-38-16-00005-P | September 21, 2016 |
| PSC-38-16-00009-P | September 21, 2016 |

NOTICE OF ADOPTION

Tariff Amendments to SC No. 1—Residential, Contained in P.S.C. No. 220—Electricity

I.D. No. PSC-01-14-00017-A

Filing Date: 2016-11-21

Effective Date: 2016-11-21

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

Action taken: On 11/17/16, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff amendments to Service Classification (SC) No. 1—Residential, contained in P.S.C. No. 220—Electricity.

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

Subject: Tariff amendments to SC No. 1—Residential, contained in P.S.C. No. 220—Electricity.

Purpose: To approve National Grid's tariff amendments to SC No. 1—Residential, contained in P.S.C. No. 220—Electricity.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's tariff amendments to Service Classification No. 1 – Resi-

dential, contained in P.S.C. No. 220 – Electricity, establishing voluntary time-of-use rates, 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.
(12-E-0201SA4)

NOTICE OF ADOPTION

Modifications to Two Electric Economic Development Programs

I.D. No. PSC-18-15-00004-A

Filing Date: 2016-11-18

Effective Date: 2016-11-18

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

Action taken: On 11/17/16, the PSC adopted an order accepting Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) proposal for modifications to two electric Economic Development Programs.

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

Subject: Modifications to two electric Economic Development Programs.

Purpose: To accept National Grid's proposal for modifications to two electric Economic Development Programs.

Substance of final rule: The Commission, on November 17, 2016, adopted an order accepting Niagara Mohawk Power Corporation d/b/a National Grid's proposal for modifications to two electric Economic Development Programs; Building Ready Upstate and Main Street Revitalization, 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.
(12-E-0201SA7)

NOTICE OF ADOPTION

New Gas Economic Development Program

I.D. No. PSC-18-15-00007-A

Filing Date: 2016-11-18

Effective Date: 2016-11-18

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

Action taken: On 11/17/16, the PSC adopted an order accepting Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) proposal for a new gas Economic Development Program.

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

Subject: New gas Economic Development Program.

Purpose: To accept National Grid's proposal for a new gas Economic Development Program.

Substance of final rule: The Commission, on November 17, 2016, adopted an order accepting Niagara Mohawk Power Corporation d/b/a National Grid's proposal for a new gas Economic Development Program; Natural Gas Manufacturing Productivity, 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.
(12-G-0202SA5)

NOTICE OF ADOPTION

Reimbursement for Trenching Costs

I.D. No. PSC-47-15-00012-A

Filing Date: 2016-11-18

Effective Date: 2016-11-18

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

Action taken: On 11/17/16, the PSC adopted an order approving Megnin Farms at Poolsbrooke, LLC (Megnin) and North Ridge, LLC's (North Ridge) petition for reimbursement by Niagara Mohawk Power Corporation d/b/a National Grid for trenching costs.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Reimbursement for trenching costs.

Purpose: To approve Megnin and North Ridge's petition to be reimbursed for trenching costs.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving Megnin Farms at Poolsbrooke, LLC (Megnin) and North Ridge, LLC's (North Ridge) petition for reimbursement by Niagara Mohawk Power Corporation d/b/a National Grid, in the amount of \$29,925 for Megnin and \$53,802 for North Ridge, for trenching costs, 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-0646SA1)

NOTICE OF ADOPTION

Transfer of Ownership of Joint Use Poles

I.D. No. PSC-50-15-00008-A

Filing Date: 2016-11-18

Effective Date: 2016-11-18

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

Action taken: On 11/17/16, the PSC adopted an order approving, with modifications, Orange and Rockland Utilities, Inc.'s (O&R) petition to transfer the ownership of 1,064 joint use poles to Frontier Communications Corporation (Frontier).

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

Subject: Transfer of ownership of joint use poles.

Purpose: To approve O&R's petition, with modifications, to transfer the ownership of 1,064 joint use poles to Frontier.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving, with modifications, Orange and Rockland Utilities, Inc.'s petition to transfer the ownership of 1,064 joint use poles to Frontier Communications Corporation for a purchase price of \$1,665,179, 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-M-0687SA1)

NOTICE OF ADOPTION**Modifications to Seven Electric Economic Development Programs**

I.D. No. PSC-51-15-00011-A

Filing Date: 2016-11-18

Effective Date: 2016-11-18

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

Action taken: On 11/17/16, the PSC adopted an order accepting Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) proposal for modifications to seven electric Economic Development Programs.

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

Subject: Modifications to seven electric Economic Development Programs.

Purpose: To accept National Grid's proposal for modifications to seven electric Economic Development Programs.

Substance of final rule: The Commission, on November 17, 2016, adopted an order accepting Niagara Mohawk Power Corporation d/b/a National Grid's proposal for modifications to seven electric Economic Development Programs; Capital Investment Incentive, Agri-Business Productivity, Main Street Revitalization, 3-Phase Power Incentive, Urban Center/Commercial District Revitalization, Power Quality Enhancement and Targeted Financial Assistance, 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.

(12-E-0201SA8)

NOTICE OF ADOPTION**Tariff Amendments**

I.D. No. PSC-04-16-00010-A

Filing Date: 2016-11-21

Effective Date: 2016-11-21

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

Action taken: On 11/17/16, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff amendments to Service Classification (SC) No. 14, contained in P.S.C. No. 219—Gas.

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

Subject: Tariff amendments.

Purpose: To approve National Grid's tariff amendments to SC No. 14, contained in P.S.C. No. 219—Gas.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff amendments to Service Classification (SC) No. 14 – Gas Transportation Service for Dual Fuel Electric Generators, contained in P.S.C. No. 219 – Gas, adding and clarifying provisions related to electric generators that take transportation under SC No. 14 and align the provisions with National Grid's two downstate companies, KeySpan Gas East Corporation d/b/a National Grid (KEDLI) and The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), 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-G-0759SA1)

NOTICE OF ADOPTION**Tariff Amendments**

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

Filing Date: 2016-11-21

Effective Date: 2016-11-21

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

Action taken: On 11/17/16, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) supplemental tariff amendments to Service Classification (SC) No. 14, contained in P.S.C. No. 219—Gas.

Statutory authority: Public Service Law, section 66

Subject: Tariff amendments.

Purpose: To approve National Grid's supplemental tariff amendments to SC No. 14, contained in P.S.C. No. 219—Gas.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) supplemental tariff amendments to Service Classification (SC) No. 14 – Gas Transportation Service for Dual Fuel Electric Generators, contained in P.S.C. No. 219 – Gas, specifying requirements for customers to be eligible to subscribe to the new proposed Daily Balancing Service and to clarify the definitions of Daily Gas Purchase Price and Daily Gas Sales Price, 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-G-0759SA2)

NOTICE OF ADOPTION**Low-Income Energy Efficiency Program**

I.D. No. PSC-33-16-00004-A

Filing Date: 2016-11-21

Effective Date: 2016-11-21

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

Action taken: On 11/17/16, the PSC adopted an order approving Massena Electric Department's (Massena) proposal to implement the Low-Income Efficiency Program.

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

Subject: Low-Income Energy Efficiency Program.

Purpose: To approve Massena's proposal to implement the Low-Income Efficiency Program.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving Massena Electric Department's proposal to implement the Low-Income Efficiency Program, 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-0307SA2)

NOTICE OF ADOPTION

Sources and Mechanisms of Funding Related to the Clean Energy Standard

I.D. No. PSC-37-16-00008-A

Filing Date: 2016-11-17

Effective Date: 2016-11-17

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

Action taken: On 11/17/16, the PSC adopted an order approving New York State Energy Research and Development Authority's (NYSERDA) petition for administrative cost recovery, standardized agreements and backstop principles.

Statutory authority: Public Service Law, sections 4(1), 5(1), (2), 66(2); New York Energy Law, section 6-104(5)(b)

Subject: Sources and mechanisms of funding related to the Clean Energy Standard.

Purpose: To promote and maintain renewable and zero-emission electric energy resources.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving New York State Energy Research and Development Authority's (NYSERDA) petition (1) for a reduced Zero-Emission Credit (ZEC) adder for the recovery of ZEC administrative costs; (2) other Renewable Energy Credit (REC) and ZEC administrative costs, reduced from the amounts initially projected by NYSEDA, to be recovered by NYSEDA from existing fund balances; (3) the form and content of standard ZEC and REC agreements to govern REC and ZEC transactions between NYSEDA and the Load-Serving Entities (LSEs); (4) principles for the electric distribution companies to provide a customer funded financial backstop guarantee mechanism to ensure payments will be made to REC and ZEC generators; and (5) to direct electric distribution companies to collaborate with NYSEDA and Staff of the Department of Public Service to develop an implementation process to effectuate the backstop mechanism, 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-0302SA6)

NOTICE OF ADOPTION

Transfer of Nuclear Power Plant and Continued Lightened Regulation

I.D. No. PSC-37-16-00009-A

Filing Date: 2016-11-17

Effective Date: 2016-11-17

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

Action taken: On 11/17/16, the PSC adopted an order approving Entergy Nuclear FitzPatrick, LLC (FitzPatrick) and Exelon Generation Company, LLC's (ExGen) petition to transfer the FitzPatrick Facility and related assets to ExGen.

Statutory authority: Public Service Law, section 70

Subject: Transfer of nuclear power plant and continued lightened regulation.

Purpose: To approve FitzPatrick and ExGen's petition to transfer the FitzPatrick Facility to ExGen.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving Entergy Nuclear FitzPatrick, LLC (FitzPatrick) and Exelon Generation Company, LLC's (ExGen) petition to transfer the James A. FitzPatrick Nuclear Power Plant Facility (FitzPatrick Facility) and related assets from FitzPatrick to ExGen. The lightened regulatory regime applicable to the FitzPatrick Facility will continue unchanged after the transfer to ExGen, 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-0472SA1)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-37-16-00011-A

Filing Date: 2016-11-21

Effective Date: 2016-11-21

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

Action taken: On 11/17/16, the PSC adopted an order approving KeySpan Gas East Corporation d/b/a National Grid's (National Grid LI) tariff amendments to P.S.C. No. 1—Gas.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments.

Purpose: To approve National Grid LI's tariff amendments to P.S.C. No. 1—Gas.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving KeySpan Gas East Corporation d/b/a National Grid's tariff amendments to revise certain tariff provisions related to service provided to temperature controlled and interruptible customers, contained in P.S.C. No. 1 – Gas, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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-G-0485SA1)

NOTICE OF ADOPTION

Sources and Mechanisms of Funding Related to the Clean Energy Standard

I.D. No. PSC-37-16-00012-A

Filing Date: 2016-11-17

Effective Date: 2016-11-17

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

Action taken: On 11/17/16, the PSC adopted an order approving New York State Energy Research and Development Authority's (NYSERDA) petition for administrative cost recovery, standardized agreements and backstop principles.

Statutory authority: Public Service Law, sections 4(1), 5(1), (2), 66(2); New York Energy Law, section 6-104(5)(b)

Subject: Sources and mechanisms of funding related to the Clean Energy Standard.

Purpose: To promote and maintain renewable and zero-emission electric energy resources.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving New York State Energy Research and Development Authority's (NYSERDA) petition (1) for a reduced Zero-Emission Credit (ZEC) adder for the recovery of ZEC administrative costs; (2) other Renewable Energy Credit (REC) and ZEC administrative costs, reduced from the amounts initially projected by NYSEDA, to be recovered by NYSEDA from existing fund balances; (3) the form and content of standard ZEC and REC agreements to govern REC and ZEC transactions between NYSEDA and the Load-Serving Entities (LSEs); (4) principles for the electric distribution companies to provide a customer funded financial backstop guarantee mechanism to ensure payments will be made to REC and ZEC generators; and (5) to direct electric distribution companies to collaborate with NYSEDA and Staff of the Department of Public Service to develop an implementation process to effectuate the backstop mechanism, 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-0302SA7)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-37-16-00013-A

Filing Date: 2016-11-21

Effective Date: 2016-11-21

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

Action taken: On 11/17/16, the PSC adopted an order approving The Brooklyn Union Gas Company d/b/a National Grid NY's (National Grid NY) tariff amendments to P.S.C. No. 12—Gas.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments.

Purpose: To approve National Grid NY's tariff amendments to P.S.C. No. 12—Gas.

Substance of final rule: The Commission, on November 17, 2016, adopted an order approving The Brooklyn Union Gas Company d/b/a National Grid NY's tariff amendments to revise certain tariff provisions related to service provided to temperature controlled and interruptible customers, contained in P.S.C. No. 12 – Gas, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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-G-0486SA1)

NOTICE OF ADOPTION

Tariff Amendments to Establish Net Energy Metering Limits of Farm Waste Electric Generating Equipment

I.D. No. PSC-38-16-00008-A

Filing Date: 2016-11-17

Effective Date: 2016-11-17

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

Action taken: On 11/17/16, the PSC adopted an order directing the major electric utilities to file tariff amendments to establish the 2 Megawatt (MW) limit for net energy metering of farm waste electric generating equipment.

Statutory authority: Public Service Law, sections 5(1)(b), 64, 65(1), 66(1), (5), (9), (10), (12) and 66-j

Subject: Tariff amendments to establish net energy metering limits of farm waste electric generating equipment.

Purpose: To direct the major electric utilities to file tariff amendments establishing net energy metering limits.

Substance of final rule: The Commission, on November 17, 2016, adopted an order directing Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric and Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation to file tariff amendments to effectuate changes to Public Service Law § 66-j, establishing a 2 Megawatt limit for net energy metering of farm waste electric generating equipment, and the Standardized Interconnection Requirements to implement the new statutory provisions, 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-0497SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Transfer of Certain Street Lighting Facilities Located in the Town of Ramapo

I.D. No. PSC-49-16-00002-P

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

Proposed Action: The Commission is considering a petition filed by Orange and Rockland Utilities, Inc. to transfer certain street lighting facilities to the Town of Ramapo, located in the Town of Ramapo, Rockland County, New York.

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

Subject: Transfer of certain street lighting facilities located in the Town of Ramapo.

Purpose: To consider the transfer of certain street lighting facilities from Orange and Rockland Utilities, Inc. to the Town of Ramapo.

Substance of proposed rule: The Public Service Commission is considering a petition, filed November 10, 2016, by Orange and Rockland Utilities, Inc. (Company) for authorization to transfer certain street lighting facilities (Facilities) to the Town of Ramapo, a New York municipal corporation. The Facilities consist of luminaries, lamps, mast arms, their associated wiring, electrical connections, and appurtenances. The purchase price for these Facilities is \$435,740, plus any accrued taxes as set forth in the agreement attached to the petition. The Company proposes to defer 100 percent of the net after-tax proceeds on the sale of the Facilities, plus accrued interest at the Commission-approved other customer provided capital rate, for the future benefit of the Company's electric customers. 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, 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-0636SP1)

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

Stock Acquisition

I.D. No. PSC-49-16-00003-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 a petition to transfer all S&S Rhinebeck Water—Works Corporation stock from The Stop & Shop Supermarket Company, LLC to RIC Rhinebeck Associates, LLC and MHMG-KM Rhinebeck, LLC.

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

Subject: Stock Acquisition.

Purpose: To consider the transfer of all S&S Rhinebeck Water-Works Corporation stock to RIC Rhinebeck and MHMG-KM Rhinebeck.

Text of proposed rule: The Public Service Commission is considering a petition filed October 3, 2016 by The Stop & Shop Supermarket Company, LLC (Stop & Shop), RIC Rhinebeck Associates, LLC (RIC), MHMG-KM Rhinebeck, LLC (MHMG-KM), and S&S Rhinebeck Water-Works Corporation (the Corporation) for the transfer of all outstanding shares of the Corporation from Stop & Shop equally to RIC and MHMG-KM for no consideration pursuant to section 89-h of the Public Service Law. The Corporation provides water for domestic and firefighting service to three customers in the Town of Rhinebeck, Dutchess County. 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-0557SP1)

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

Waiver of Certain Rules and Requirements Pertaining to Cable Television Franchise

I.D. No. PSC-49-16-00004-P

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

Proposed Action: The Commission is considering a petition for certain

waivers filed by Citizens Telecommunications Company of New York, Inc. in connection with a cable television franchise for the Town of Deerpark.

Statutory authority: Public Service Law, sections 215, 216 and 221

Subject: Waiver of certain rules and requirements pertaining to cable television franchise.

Purpose: To determine whether to waive any regulations.

Substance of proposed rule: The Commission is considering a petition filed by Citizens Telecommunications Company of New York, Inc. d/b/a/ Frontier Communications of New York, for certain waivers in connection with its proposed cable television franchise agreement with the Town of Deerpark. Frontier requests full or partial waivers of 16 NYCRR § § 890, 895 with respect to build out requirements, installation intervals, system description, and public, educational and governmental access availability. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. 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-V-0645SP1)

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

Waiver of Certain Rules and Requirements Pertaining to Cable Television Franchise

I.D. No. PSC-49-16-00005-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 petition for certain waivers filed by Frontier Telephone of Rochester, Inc. in connection with a cable television franchise for the Town of Gates.

Statutory authority: Public Service Law, sections 215, 216 and 221

Subject: Waiver of certain rules and requirements pertaining to cable television franchise.

Purpose: To determine whether to waive any regulations.

Substance of proposed rule: The Commission is considering a petition filed by Frontier Telephone of Rochester, Inc., for certain waivers in connection with its proposed cable television franchise agreement with the Town of Gates. Frontier requests full or partial waivers of 16 NYCRR § § 890, 895 with respect to build out requirements, installation intervals, system description, and public, educational and governmental access availability. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. 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-V-0656SP1)

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

Waiver of Certain Rules and Requirements Pertaining to Cable Television Franchise

I.D. No. PSC-49-16-00006-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 petition for certain waivers filed by Frontier Communications of New York, Inc. in connection with a cable television franchise for the Town of Goshen.

Statutory authority: Public Service Law, sections 215, 216 and 221

Subject: Waiver of certain rules and requirements pertaining to cable television franchise.

Purpose: To determine whether to waive any regulations.

Substance of proposed rule: The Commission is considering a petition filed by Frontier Communications of New York, Inc., for certain waivers in connection with its proposed cable television franchise agreement with the Town of Goshen. Frontier requests full or partial waivers of 16 NYCRR § § 890, 895 with respect to build out requirements, installation intervals, system description, and public, educational and governmental access availability. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. 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-V-0575SP1)

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

Waiver of Certain Rules and Requirements Pertaining to Cable Television Franchise

I.D. No. PSC-49-16-00007-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 a petition for certain waivers filed by Citizens Telecommunications Company of New York, Inc. in connection with a cable television franchise for the City of Port Jervis.

Statutory authority: Public Service Law, sections 215, 216 and 221

Subject: Waiver of certain rules and requirements pertaining to cable television franchise.

Purpose: To determine whether to waive any regulations.

Substance of proposed rule: The Commission is considering a petition filed by Citizens Telecommunications Company of New York, Inc. d/b/a Frontier Communications of New York, for certain waivers in connection with its proposed cable television franchise agreement with the City of Port Jervis, Orange County. Specifically, Frontier requests full or partial waivers of 16 NYCRR § § 890, 895 with respect to build out requirements, installation intervals, system description, and public, educational and governmental access availability. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. 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-V-0668SP1)

**Office of Temporary and
Disability Assistance**

NOTICE OF ADOPTION

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

I.D. No. TDA-39-16-00010-A

Filing No. 1062

Filing Date: 2016-11-22

Effective Date: 2016-12-07

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

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

Statutory authority: Social Services Law, sections 17(a)-(b), (j), 20(3)(d), 95; 7 United States Code section 2014(e)(6)(C); and 7 Code of Federal Regulations section 273.9(d)(6)(iii)

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

Purpose: These regulatory amendments set forth the federally mandated and approved SUAs as of 10/1/16.

Text or summary was published in the September 28, 2016 issue of the Register, I.D. No. TDA-39-16-00010-EP.

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

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

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

**Triborough Bridge and Tunnel
Authority**

**PROPOSED RULE MAKING
HEARING(S) SCHEDULED**

Proposal to Establish a New Crossing Charge Schedule for Use of Bridges and Tunnels Operated by TBTA

I.D. No. TBA-49-16-00008-P

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

Proposed Action: Repeal of Part 1021.1; and addition of new Part 1021.1 to Title 21 NYCRR.

Statutory authority: Public Authorities Law, section 553(5)

Subject: Proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA.

Purpose: Proposal to raise additional revenue.

Public hearing(s) will be held at: 5:00 p.m., Dec. 5, 2016 at York College, 94-20 Guy Brewer Blvd., Jamaica, NY; 5:00 p.m., Dec. 6, 2016 at College of Staten Island, 2800 Victory Blvd., Staten Island, NY; 5:00 p.m., Dec. 7, 2016 at Hilton Long Island, 598 Broad Hollow Rd., Melville, NY; 5:00 p.m., Dec. 8, 2016 at Baruch College, 17 Lexington Ave., Manhattan, NY; 5:00 p.m., Dec. 13, 2016 at Hostos Center for the Arts and Culture, Main Theater, 450 Grand Concourse at 149th St., Bronx, NY; 5:00 p.m., Dec. 15, 2016 at Crowne Plaza Suffern, Montebello Ballroom, Three Executive Blvd., Suffern, NY; 6:00 p.m., Dec. 19, 2016 at Brooklyn College, Walt Whitman Theater, 2900 Campus Rd. (near the junction of Norstrand Ave. and Ave. H), Brooklyn, NY; 5:00 p.m., Dec. 20, 2016 at New York Power Authority, Jaguar Rm., 123 Main St., White Plains, NY.

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.

Text of proposed rule: See Appendix in the back of this issue.

Text of proposed rule and any required statements and analyses may be obtained from: M. Margaret Terry, Esq., Triborough Bridge and Tunnel Authority, 2 Broadway, 24th Floor, New York, New York 10004, (646) 252-7619, email: mterry@mtabt.org

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, 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.