RULE MAKING ACTIVITIES

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

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

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

Office of Children and Family Services

NOTICE OF WITHDRAWAL

Casework Contact of Foster Children Placed Out of State

I.D. No. CFS-20-15-00004-W

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

Action taken: Notice of proposed rule making, I.D. No. CFS-20-15-00004-P, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on May 20, 2015.

Subject: Casework contact of foster children placed out of State.

Reason(s) for withdrawal of the proposed rule: OCFS received updated guidance from the federal Department of Health and Human Services, Administration for Children and Families.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Eligibility of Successor Guardians for Kinship Guardianship Assistance Payments

I.D. No. CFS-07-16-00012-P

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

Proposed Action: Amendment of sections 436.1, 436.3, 436.4, 436.5, 436.6, 436.8 and 436.10 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 458-a, 458-b, 458-d and 458-f

Subject: Eligibility of successor guardians for kinship guardianship assistance payments.

Purpose: To enact standards for the appointment and approval of a successor guardian upon the death or incapacity of a relative guardian.

Substance of proposed rule (Full text is posted at the following State website:ocfs.ny.gov): The proposed amendment of 18 NYCRR 436.1 would add definitions of the terms "successor guardian", "prospective successor guardian", and "incapacity".

The proposed addition of 18 NYCRR 436.3(b) would address the statutory requirement that the prospective successor guardian's financial status cannot be considered when determining eligibility for kinship guardianship assistance payments.

The proposed addition to 18 NYCRR 436.3(c)(3) would address the clearance requirements that must be completed prior to approving a prospective successor guardian to receive kinship guardianship assistance payments.

The proposed amendment to 18 NYCRR 436.3(c)(4) would implement the requirement that the prospective successor guardian must inform in writing the social services official that has entered into an agreement with the relative guardian for kinship guardianship payments of the death or incapacity of the relative guardian and of the prospective successor guardian's desire to enforce the provisions in the agreement that authorize kinship guardianship assistance payments to him or her in the event of the death or incapacity of the relative guardian.

The proposed amendment to 18 NYCRR 436.3(c)(5) would require that the clearances required by section 436.3(c)(3) on the successor guardian must be conducted by the social services official when the written communication regarding the relative guardian's death or incapacity is received.

The proposed amendment to 18 NYCRR 436.3(f) would allow a child to remain eligible for kinship guardianship assistance payments when a successor guardian assumes care and guardianship of the child.

The proposed amendments to 18 NYCRR 436.4(f) would allow the original kinship guardianship assistance agreement and any amendments made to the agreement to name an appropriate person to act as a successor guardian for the purpose of providing care and guardianship for a child in the event of the death or incapacity of the relative guardian. It clarifies that relative guardians are not required to name a prospective successor guardian as a condition for the approval of a kinship guardianship assistance agreement.

The proposed amendment to 18 NYCRR 436.4(g) would allow the amendment of the kinship guardianship assistance agreement in order to add or modify terms and conditions mutually agreeable to the relative guardian and the social services official, including the naming of an appropriate person to provide care and guardianship for a child in the event of death or incapacity of the relative guardian.

The proposed amendment to 18 NYCRR 436.4(h) would require the social services official to inform the relative guardian of the right to name an appropriate person to act as a successor guardian in the original kinship guardianship assistance agreement or through an amendment to such agreement.

The proposed amendments to 18 NYCRR 436.4(i) would address the conditions for the termination of a kinship guardianship assistance agreement between a relative guardian or a successor guardian and a social services official.

The proposed addition of 18 NYCRR 436.5(a)(2) would require that in the event of the death or incapacity of a relative guardian, a social services official must make monthly kinship guardianship assistance payments for the care and maintenance of a child to a successor guardian that has been approved pursuant to Part 436.

The proposed addition of 18 NYCRR 436.5(a)(3) would address the criteria for the approval of a prospective successor guardian following the death or incapacity of the relative guardian. Such criteria include, but are not limited to, that no approval can be issued unless the prospective suc-

cessor guardian has been awarded guardianship or permanent guardianship of the child by the court and the clearances required by section 436. 3 of this Part have been conducted.

The proposed addition of 18 NYCRR 436.5(a)(4) would address the standards for retroactive payments where a successor guardian assumes care of the child prior to being approved.

The proposed addition of 18 NYCRR 436.5(a)(5) would address the standards for the resumption of payments to the relative guardian following the end of the relative guardian's incapacity.

The proposed amendment of 18 NYCRR 436.5(5)(e) would include successor guardian(s) to the individuals who may receive kinship guardianship assistance payments until the child's 18th birthday or, up to the age of 21 if the child had attained 16 years of age before the kinship guardianship assistance agreement became effective and the successor guardian certifies and provides satisfactory documentation to the social services official that the child is: completing secondary education or a program leading to an equivalent credential; enrolled in an institution which provides post-secondary or vocational education; employed for at least 80 hours per month; participating in a program or activity designed to promote, or remove barriers to employment; or is incapable of any of such activities due to a medical condition, which incapacity is supported by regularly updated information in the child's case record.

The proposed amendment of 18 NYCRR 436.5(5)(f)(1) would address the circumstances in which no kinship guardianship assistance payments may be made by a social services official to a successor guardian to include when the child is removed from the home of the successor guardian, placed into foster care and the Family Court has approved a permanency planning goal for the child other than return to the home of the successor guardian or when the status of legal guardian is revoked, terminated, suspended or surrendered.

The proposed amendment of 18 NYCRR 436.5(5)(f)(2) would address the requirement that no kinship guardianship assistance payments may be made to a successor guardian if the social services official determines that the successor guardian is no longer legally responsible for the support of the child, including if the status of the successor guardian is terminated or the child is no longer receiving any support from such guardian. A successor guardian who has been receiving kinship guardianship assistance payments on behalf of a child under this Part must keep the social services official informed, on an annual basis, of any circumstances that would make the successor guardian ineligible for such payments or eligible for payments in a different amount.

The proposed amendment of 18 NYCRR 436.5(5)(f)(3)(i) would address the actions a social services district may take when it has reasonable cause to suspect that the successor guardian is either no longer legally responsible for the support of the child or is no longer providing any support for the child. The proposed regulation would also address the obligations of the successor guardian to cooperate and to reply to requests for documentation.

The proposed amendment of 18 NYCRR 436.5(5)(g) would require the successor guardian who has been receiving kinship guardianship assistance payments on behalf of a child to keep the social services official informed of any circumstances that would make the successor guardian ineligible for such payments or eligible for payments in a different amount, with written notification within 30 days of any such circumstance or event.

The proposed amendment of 18 NYCRR 436.5(5)(h) would address the requirement that the placement of the child with the successor guardian and any kinship guardianship assistance payments made on behalf of the child must be considered never to have been made when determining eligibility for adoption subsidy payments.

The proposed amendment of 18 NYCRR 436.6(a) would require the social services official to remind the successor guardian on an annual basis of their obligation to support the child and to notify the social services official if they are longer providing any support or are no longer legally responsible for the support of the child. Where the child is school age under the laws of the state in which the child resides, such notification must include a requirement that the successor guardian must certify and provide satisfactory documentation to the district that the child is a full-time elementary or secondary student or has completed secondary education.

The proposed amendment of 18 NYCRR 436.6(b)would require that where the child had attained the age of 16 years before the kinship guardianship assistance agreement became effective and is over the age or 18 but under 21 years of age, the successor guardian must certify and provide satisfactory documentation to the district that the child is: completing secondary education or a program leading to an equivalent credential; enrolled in an institution which provides post-secondary or vocational education; employed for at least 80 hours per month; participating in a program or activity designed to promote, or remove barriers to employment; or is incapable of any of such activities due to a medical condition, which incapacity is supported by regularly updated information in the child's case record.

The proposed amendment of 18 NYCRR 436.6(d) would require the successor guardian to certify to the district whether the child continues to reside in his or her home or, if not, the successor guardian must inform the district where the child currently resides.

The proposed amendment of 18 NYCRR 436.6(e) would require the successor guardian to return the certification referenced in this section along with required documentation to the social services official within 30 days of the receipt by the successor guardian.

The proposed amendment of 18 NYCRR 436.8(b) would address the requirement and standards when a social services official must make payments for the cost of care, services and supplies payable under the State's program of medical assistance for needy persons provided to any child for whom kinship guardianship assistance payments are being made who is not eligible for medical assistance and for whom the or successor guardian is unable to obtain medical coverage through any other available means, regardless of whether the child otherwise qualifies for medical assistance for needy persons.

The proposed amendments to 18 NYCRR 436.10(a) would add to the person entitled to fair hearings in regard to the kinship guardianship assistance program any person aggrieved by the failure of a social services district to agree to a prospective successor guardian being named in an agreement or to approve a prospective successor guardian pursuant to 18 NYCRR 436.5(a)(1), or the decision of a social services district to terminate an agreement pursuant to 18 NYCRR 436.4(i), to appeal to the office.

The proposed amendments to 18 NYCRR 436.10(b) would add to the issues that may be raised in a fair hearing to include whether the social services official has improperly denied an application to name a prospective successor guardian in the original kinship guardianship assistance agreement for payments pursuant to 18 NYCRR Part 436.

Text of proposed 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

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

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

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

Regulatory Impact Statement

1. Statutory authority:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Office of Children and Family Services (OCFS) to establish rules and regulations to carry out its powers and duties pursuant to the provisions of the SSL.

Section 34(3)(f) of the SSL requires the Commissioner of OCFS to establish regulations for the administration of public assistance and care within the State.

Part L of Chapter 56 of the Laws of 205 amended various provisions of the Social Services Law to authorize kinship guardianship assistance program (KinGap) payments for a former foster child to be made to a successor guardian upon the death or incapacity of the child's relative guardian, as required by the federal Preventing Sex Trafficking and Strengthening Families Act (P. L. 113-183).

2. Legislative objectives:

The proposed regulations would implement the provisions of Part L of Chapter 56 of the Laws of 2015 enacted on April 13, 2015.

3. Needs and benefits:

The proposed regulations would implement Part L of Chapter 56 of the Laws of 2015 by making conforming changes to New York State regulations. The amendments are necessary for New York to satisfy the requirements of the federal Preventing Sex Trafficking and Strengthening Families Act (P. L. 113-183) and for New York to continue to have a compliant Title IV-E State Plan, which is a condition for New York to receive federal funding for foster care, adoption assistance, KinGap and the administration of those programs.

The proposed regulations will enhance permanency of children in KinGap arrangements by allowing relative guardians to name a successor guardian who will continue to receive KinGap payments in the event of the relative guardian's death or incapacity.

4. Costs:

The proposed regulations would have no or minimal fiscal impact. This is based on the assumption that once a KinGap agreement becomes effective, it will continue until the child ages out. Since the proposed regulations allow for another person to be named at the discretion of the relative guardian as a successor guardian in the event of the death or incapacity of the relative guardian, the assumed number of payments would remain the same. The continuation of KinGap payments would be an incentive to persons assuming guardianship of the child upon the death or incapacity of the relative guardian reducing the potential of the child re-entering fos-

ter care with the corresponding maintenance and administrative costs of that program.

Costs incurred by social services districts in regard to successor guardianship KinGap cases that are Title IV-E eligible would receive 50% federal reimbursement. In addition, State reimbursement would be available under the foster care block grant in accordance with section 153-k of the SSL.

5. Local government mandates:

The proposed regulations would impose additional mandates on social services districts and social services officials. The social services official would be required to inform the prospective relative guardian or the relative guardian of the right to name an appropriate person to act as a successor guardian in the original kinship guardianship assistance agreement or through an amendment to such agreement.

After receiving written communication regarding the relative guardian's death or incapacity from the prospective successor guardian, the social services official must complete a national and state criminal history record check of the prospective successor guardian and any person over the age of 18 living in his or her home. The social services official must also inquire whether the prospective successor guardian and each person over the age of 18 living in his or her home has been, or is currently, the subject of an indicated report of child abuse or maltreatment on file with the Statewide Central Register of Child Abuse and Maltreatment. If the prospective successor guardian, or any person over the age of 18 residing in his or her home, resided in another state in the five years preceding the inquiry, the social services official must request child abuse and maltreatment information maintained by the child abuse and maltreatment registry from the child welfare agency in each state of previous residence.

If a successor guardian has been awarded guardianship or permanent guardianship of the child by the court and has been approved as successor guardian, the social services official must make monthly kinship guardianship assistance payments for the care and maintenance of the child. If the original relative guardian is subsequently awarded or resumes guardianship or permanent guardianship of such child or assumes care of such child after the incapacity ends, the social services official must resume monthly kinship guardianship assistance payments for the care and maintenance of the child to the relative guardian. Also, the social services official must make payments for the cost of care, services and supplies payable under the State's program of medical assistance for needy persons provided to any child for whom kinship guardianship assistance payments are being made who is not eligible for medical assistance and for whom the relative or successor guardian is unable to obtain medical coverage through any other available means, regardless of whether the child otherwise qualifies for medical assistance for needy persons.

Annually, the social services official must remind the successor guardian of his or her obligation to support the child and to notify the social services official if he or she is longer providing any support or is no longer legally responsible for the support of the child.

The proposed regulations also address fair hearings rights afforded to a prospective successor guardian and to a successor guardian.

6. Paperwork:

The requirements imposed by the proposed regulations will be recorded in the original kinship guardianship assistance agreement and any amendments made thereto.

7. Duplication:

The proposed regulations do not duplicate other state or federal requirements.

8. Alternatives:

No alternative approaches to implementing the changes to regulation were considered. These amendments are necessary to implement Part L of Chapter 56 of the Laws of 2015 and to conform to current federal law.

9. Federal standards:

The proposed regulations comply with applicable state and federal standards.

10. Compliance schedule:

Compliance with the proposed regulations would begin immediately upon final adoption.

Regulatory Flexibility Analysis

1. Effect on Small Businesses and Local Governments:

These proposed regulations will have an impact upon social service districts and authorized voluntary agencies. In New York State there are approximately 58 social service districts and 83 authorized voluntary agencies.

2. Compliance Requirements:

The proposed regulations would implement provisions set forth in Part L of Chapter 56 of the Laws of 2015 enacted on April 13, 2015. Part L amended various provisions of the Social Services Law to authorize kinship guardianship assistance program (KinGap) payments for a former foster child to be made to a successor guardian upon the death or incapacity of the child's relative guardian, as required by the federal Preventing Sex Trafficking and Strengthening Families Act (P. L. 113-183).

The proposed regulations would enact the standards for the appointment and approval of a successor guardian upon the death or incapacity of the relative guardian. Such standards would include the completion of criminal history record check, clearances through the Statewide Central Register of Child Abuse and Maltreatment and checks with certain out of state child abuse and maltreatment registers.

The proposed regulations would require a social services official to notify prospective relative guardians of their right, but not obligation, to name a prospective successor guardian in either the original kinship guardianship assistance agreement or any amendment thereto.

The proposed regulation would address when a social services official must make KinGap payments to a successor guardian, including when such payment must commence. The proposed regulations would address when the kinship guardianship assistance agreement will terminate and when KinGap payments to a successor guardian must end.

The proposed regulations would impose certain obligations on the prospective successor guardian and successor guardian in regard to notification to the social services official concerning changes in circumstances, and to cooperate with the social services official in regard to the production of required certifications and requested information involving the child.

The proposed regulations would address when a social services official must resume KinGap payments to the relative guardian if he or she resumes guardianship and care due to the end of the relative guardian's incapacity.

The proposed regulations would address when a social services official must make payments for the cost of care, services and supplies payable under the State's program of medical assistance for needy persons provided to any child for whom kinship guardianship assistance payments are being made who is not eligible for medical assistance and for whom the relative or successor guardian is unable to obtain medical coverage through any other available means, regardless of whether the child otherwise qualifies for medical assistance for needy persons.

The proposed regulations would address the fair hearing rights afforded to a prospective successor guardian and to a successor guardian.

3. Professional Services:

These proposed regulations do not create the need for additional professional services.

4. Compliance Costs:

The proposed regulations will have no or minimal fiscal impact. This is based on the assumption that once a KinGap agreement becomes effective, it will continue until the child ages out. Since the proposed regulations allow for another person to be named at the discretion of the relative guardian as a successor guardian in the event of the death or incapacity of the relative guardian, the assumed number of payments would remain the same. The continuation of KinGap payments would be an incentive to persons assuming guardianship of a child upon the death of incapacity of the relative guardian reducing the potential of the child re-entering foster care with the corresponding maintenance and administrative costs of that program.

Costs incurred by social services districts in regard to successor guardianship KinGap cases that are Title IV-E eligible would receive 50% federal reimbursement. In addition, State reimbursement would be available under the foster care block grant in accordance with section 153-k of the SSL.

5. Economic and Technological Feasibility:

These proposed regulations would not have an adverse economic impact on social service districts, and would not require the hiring of additional staff.

6. Minimizing Adverse Impact:

It is not anticipated that the proposed regulations will result in an adverse impact on local government agencies or small businesses.

7. Small Business and Local Government Participation:

The proposed regulations are a result of amendment to the Social Services Law enacted in Part F of Chapter 56 of the Laws of 2015. Local departments of social services have been briefed about the changes to the KinGap program by OCFS at public forums and in releases issued by OCFS. OCFS has received and responded to questions submitted by local departments of social services on the substance of the proposed regulations.

8. For Rules that Either Establish or Modify a Violation or Penalties:

These proposed regulations do not establish or modify a violation or penalty.

Rural Area Flexibility Analysis

1. Types and estimated number of rural areas:

The proposed regulations will affect the 44 social services districts and approximately 35 authorized voluntary agencies that are in rural areas.

2. Reporting, recordkeeping and other compliance requirements:

The proposed regulations would implement Part L of Chapter 56 of the Laws of 2015 enacted on April 13, 2015. Part L amended various provi-

sions of the Social Services Law to authorize kinship guardianship assistance program (KinGap) payments for a former foster child to be made to a successor guardian upon the death or incapacity of the child's relative guardian as required by the federal Preventing Sex Trafficking and Strengthening Families Act (P. L. 113-183).

The proposed regulations would enact the standards for the appointment and approval of the successor guardian upon the death or incapacitation of the relative guardian. Such standards would include the completion of criminal history checks, clearances through the Statewide Central Register of Child Abuse and Maltreatment and checks with certain out of state child abuse and maltreatment registers.

The proposed regulations would require the social services official to notify relative guardians of their right, but not obligation, to name a prospective successor guardian in either the original kinship guardianship assistance agreement or any amendment thereto.

The proposed regulations would address when a social services official must make KinGap payments to a successor guardian, including such payment must commence. The proposed regulations also address when a kinship guardianship agreement with the successor guardian must terminate and when KinGap payments to a successor guardian must end.

The proposed regulations would impose certain obligations on the prospective successor guardian and successor guardian in regard to notifications to the social services official about changes of circumstances, and cooperation with the social services official on the production of required certifications and requested information regarding the child.

The proposed regulations would address when a social services official must resume KinGap payment to the original relative guardian if the relative guardian resumes guardianship and care of the child due to his or her incapacitation ending.

The proposed regulations would address when a social services official must make payments for the cost of care, services and supplies payable under the State's program of medical assistance for needy persons provided to any child for whom kinship guardianship assistance payments are being made who is not eligible for medical assistance and for whom the relative or successor guardian is unable to obtain medical coverage through any other available means, regardless of whether the child otherwise qualifies for medical assistance for needy persons.

The proposed regulations address fair hearings rights afforded to a prospective successor guardian and to a successor guardian.

3. Costs:

The proposed regulations will have no or minimal fiscal impact. This is based on the assumption that once a KinGap agreement becomes effective, it will continue until the child ages out of the program. Since the proposed regulations allow for another person to be named at the discretion of the relative guardian as a successor guardian in the event of the death or incapacity of the relative guardian, the assumed number of payments would remain the same. The continuation of KinGap payments would be an incentive to persons assuming guardianship of the child upon the death or incapacity of the relative guardians reducing the potential of the child re-entering foster care.

Costs incurred by social services districts in regard to successor guardianship KinGap cases that are Title IV-E eligible would receive 50% federal reimbursement. In addition, State reimbursement would be available under the foster care block grant in accordance with section 153-k of the SSL.

4. Minimizing adverse impact:

It is not anticipated that the proposed regulations will result in an adverse impact on social service districts or small businesses that are in rural areas.

5. Rural area participation:

The proposed regulations are a result of amendments to the Social Services Law enacted in Part L of Chapter 56 of the Laws of 2015. Local departments of social services have been briefed about the changes to the KinGap program by OCFS at public forums and in releases issued by OCFS. OCFS received and responded to questions raised by local departments of social services on the substance of the proposed regulations.

Job Impact Statement

The proposed amendments to regulation will not have a negative impact on jobs or employment opportunities in either public or private child welfare agencies. A full job impact statement has not been prepared for the proposed regulations as it is assumed that the proposed regulations will not result in the loss of any jobs.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Casework Contacts for Foster Children

I.D. No. CFS-07-16-00014-P

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

Proposed Action: Amendment of sections 428.3, 430.11, 430.12 and 441.21 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 398(6)(a), 20(3)(d) and 34(3)(f)

Subject: Casework contacts for foster children.

Purpose: To implement federal standards which require monthly face-to-face, in person casework contact with foster children.

Text of proposed rule: Subparagraph (iv) of paragraph (2) of subdivision (b) of section 428.3 is repealed, subparagraph (v) is amended and renumbered as subparagraph (iv) and subparagraph (vi) is renumbered as subparagraph (v) as follows:

(iv) [if the child has been placed in foster care outside of the state, a report prepared every six months by a caseworker employed by either the authorized agency with case management and/or case planning responsibility for the child, the state in which the placement home or facility is located, or a private agency under contract with either the authorized agency or other state, documenting the caseworker's visit(s) with the child at his or her placement home or facility within the six-month period; and

(v)] the child's transition plan prepared in accordance with the standards set forth in section 430.12(j) of this Title[.]*; and*

[(vi)] *(v)* the foster child's consumer report provided in accordance with section 430.12(k)of this Title.

Subparagraph (x) of paragraph (2) of subdivision (c) of section 430.11 is repealed and subparagraphs (viii) and (ix) are amended to read as follows:

(viii) if the child has been placed in a foster care placement a substantial distance from the home of the parents of the child or in a state different from the state in which the parent's home is located, the uniform case record must contain documentation why such placement is in the best interests of the child; *and*

(ix) show in the uniform case record that efforts were made to keep the child in his or her current school, or where distance was a factor or the education setting was inappropriate, that efforts were made to seek immediate enrollment in a new school and to arrange for timely transfer of school records[; and

(x) if the child has been placed in foster care outside of the state in which the home of the parents of the child is located, the uniform case record must contain a report prepared every six months by a caseworker employed the authorized agency with case management and/or case planning responsibility over the child, the state in which the home is locate, or a private agency under contract with either the authorized agency or other state documenting the caseworker's visit to the child's placement within the six-month period].

Paragraph (3) of subdivision (c) of section 430.12 is amended to read as follows:

(3) Casework contacts. (i) Standard. Casework contacts with the child, the child's caretakers, the child's parents or relatives, if any, must adhere to the standards mandated in section *441.21* [431.16] of this Title. [Notwithstanding any other provisions of this paragraph, the standards concerning casework contacts with the child are deemed to be met by the district for any child] *When a foster child* [who has been] *is* placed in a facility operated or supervised by the Office of Mental Health, Office [of Mental Retardation and] *for People with* Developmental Disabilities*, Office of Alcoholism and Substance Abuse Services* or the Department of Health*, casework contacts required by this paragraph may be made by appropriate staff from the above referenced state agencies or by appropriate staff who perform like or similar functions under contract with such state agencies where such contacts otherwise satisfy the frequency, location and content requirements set forth in section 441.21 of this Title*.

(ii) Documentation. The progress notes shall show the extent to which these contacts are occurring pursuant to *section 441.21 of this Title* [department regulations], the location of the contacts and the content of the contacts. [Information concerning services which are provided to children in facilities operated or supervised by the Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities and which is forwarded by such facilities to the social services district responsible for maintaining the uniform case record shall be included in the uniform case record and shall be deemed to fulfill the documentation requirements of this subparagraph.] *If such contact is made by appropriate state or contract staff, in accordance with subparagraph (i) of this paragraph, information concerning the date, location, content of the contact and services provided to the foster child must be forwarded by such state or contract staff in the month the contact occurs to the social services district or the voluntary authorized agency case manager, case planner or case worker responsible for maintaining the foster child's uniform case record. This information must then be included in the foster child's uniform case record in accordance with Part 428 of this Title.*

Paragraph (2) of subdivision (c) of section 441.21 is amended and a new paragraph (3) is added to read as follows:

(2) During the first 30 days of placement, casework contacts are to be held with the child as often as is necessary to implement the services tasks in the family and children's services plan but must occur at least twice. At least one of the two contacts must be held at the child's placement location. The focus of the initial contacts with the child must include, but need not be limited to, determining the child's reaction to the separation and his/her adjustment to the out-of-home placement and arranging for services necessary to meet his/her needs. After the first 30 days of placement, casework contacts are to be held with the child at a minimum of once a month. At least two of the monthly contacts every 90 days must be at the child's placement location. [If the youth is age 18 or older and is attending an educational or vocational program 50 miles or more outside the local social services district, the casework contacts may be made by telephone or mail]

(3) (i) Where a foster child is placed in a home or facility located outside of the State of New York, the monthly casework contact requirements set forth in paragraph (2) of this subdivision apply to such child. Such contacts must be made either by the authorized agency with case management and/or case planning responsibility for the child, a public agency in the state in which the foster home or facility is located or a private agency under contract with either the authorized agency or the other public agency.

(ii) Casework contacts required by this paragraph must be recorded in the child's uniform case record in accordance the requirements of Part 428 of this Title.

Text of proposed 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

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

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

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

Regulatory Impact Statement

1. Statutory authority

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Office of Children and Family Services (OCFS) to establish rules and regulations to carry out its powers and duties pursuant to the provisions of the SSL.

Section 34(3)(f) of the SSL requires the Commissioner of OCFS to establish regulations for the administration of public assistance and care within the State.

Section 398(6)(a) of the SSL requires the local commissioners of social services to determine what assistance and care, supervision or treatment foster children require.

2. Legislative objectives

The proposed regulations are necessary in order for New York State to comply with federal statutory mandates relating to caseworker visits (contacts) with foster children, in particular foster children placed outside of New York State. The federal mandates are set forth in Title IV-B, subpart 1 of the Social Security Act (SSA), specifically in section 422(b)(17) and 424(f) of the SSA [42 USC §§ 622(b)(17) and 624(f)].

Enhanced casework contact standards support the overall legislative goal that children be served by the child welfare system in settings where they are safe and receiving appropriate care and supervision, and that such children reside in permanent homes as soon as reasonably can be accomplished. Frequent casework contacts with foster children are important to assess and maintain the children's safety and well-being.

3. Needs and benefits

The proposed regulations would impose new requirements on social services districts and voluntary authorized agencies in relation to making casework contacts for foster children who are placed outside of the State of New York. Currently, casework contacts with foster children placed out-of-state must be made every 6 months. The proposed regulations would require that casework contacts must be made on a monthly basis for all foster children who are placed out of state. The proposed regulations will adopt the current regulatory requirement for monthly casework contacts in place for foster children placed in a home or facility in the State of New York. Expanding the monthly casework contact requirements to include all foster children placed out-of-state will provide a consistent, statewide standard that reflects the generally accepted good child welfare practice regarding the frequency of such contacts.

Because of guidance recently received from the federal Administration for Children and Families of the Department of Health and Human Services (DHHS), the proposed regulations would repeal the current standard for casework contacts of foster children placed in-state who are over the age of 18 and who attend an educational or vocational program 50 miles or more outside the local social services district. Currently, such contacts may be made by telephone or mail. DHHS has informed the states that such contacts must be made face-to-face and in person.

DHHS has indicated that a correlation exists between the number of casework contacts and positive outcomes for foster children, including: achieving reunification or other permanent placements; preserving the foster child's connections and relationship with family members; and involving children and parents or relatives in case planning. In addition, the Child Welfare League of America recommends monthly visits as a protective measure.

4. Costs

The proposed regulation will assist New York State to avoid exposure to federal fiscal sanctions for non-compliance with federal caseworker visit (contact) requirements that impact the State's federal Title IV-B, subpart 1 funding. Although Title IV-B, subpart 1 funding does not support foster care costs, this is where DHHS has decided to assess the penalty.

The most recent Title IV-B, subpart 1 grant award received by New York is for the fiscal FFY 2015-2016 in the amount of $11,778,784. Using this amount, the penalties for non-compliance with the federal casework contact requirements would be as follows:

Percentage	Funding Reduction
1 Percent	$117,784
3 Percent	$353,351
5 Percent	$588,918

5. Local government mandates

The social services districts or voluntary authorized agencies that are not already conducting or arranging for monthly casework contacts with foster children placed out-of-state will have to increase these contacts or arrange for these contact requirements to be met by comparable staff in the state where the foster child is placed. As of September 30, 2015, there were 345 foster children placed out-of-state. Monthly face to face contacts will also have to be made for in-state placements of foster care youth over the age of 18.

6. Paperwork

All casework contacts must be documented in the child's Uniform Case Record in accordance with 18 NYCRR Part 428. The proposed regulations would allow comparable staff in the state where the foster child is placed to make the contact, record the information about such contact and send it to the responsible social services district or voluntary authorized agency where the child's case manager, case planner or foster child's caseworker is employed. Such documentation must be recorded electronically in the Progress Notes dialog in CONNECTIONS.

7. Duplication

The proposed regulations do not duplicate other State requirements.

8. Alternatives

The proposed regulations are necessary to improve the health, safety and well-being of foster children, to meet the requirements of federal statute and to avoid penalties imposed by the federal statute, as described below. Therefore, there are no alternatives to the proposed regulations.

9. Federal standards

As a condition to receive federal Tile IV-B, subpart 1 funding, New York State must have a State Plan that satisfies the requirements of section 422 of the SSA. One of the conditions is that New York State must describe the standards for the content and frequency of caseworker visits (contacts) with foster children which, at a minimum, must be monthly. Section 424 of the SSA addresses the standards for payment of federal Title IV-B, subpart 1 funds to the States. Section 424(f) of the SSA requires that States must stake steps to ensure that effective federal fiscal year 2015 the total number of caseworker visits (contacts) is not less than ninety-five percent of the total number of such visits during the fiscal year, with at least fifty present occurring in the residence of the foster child. DHHS issued a Program Instruction ACYF-CB-PI-12-01 on January 6, 2012 clarifying federal policy that the Title IV-B caseworker visit standards noted above applies to foster children placed out of state. Recently, DHHS informed the states that, while the states were not required to report caseworker visit on foster children 18 years of age or older, federal Title IV-B casework contact requirements apply to all foster children placed out of state, including those who are 18 years of age of older. Finally, all casework contacts must be in person and face-to-face.

10. Compliance schedule

Compliance with the proposed regulations must begin immediately upon final adoption.

Regulatory Flexibility Analysis

1. Effect of Rule

The proposed regulations will affect the 58 social services districts and the St. Regis Mohawk Tribe, which is authorized by sections 39 and 371(10)(b) of the Social Services Law (SSL) to provide child welfare services pursuant to its State/Tribal Agreement with the Office of Children

and Family Services (OCFS). Voluntary authorized agencies also will be affected by the proposed regulations. There are approximately 111 such agencies.

2. Compliance Requirements

The proposed regulations would impose new requirements on social services districts and voluntary authorized agencies in relation to making casework contacts with foster children who are placed out-of-state. These compliance requirements stem from sections 422(b)(17) and 424(f) of the Social Security Act (SSA) [42 USC §§ 622(b)(17) and 624(f)] and guidance received from the federal Department of Health and Human Services (DHHS) relating to caseworker visits (contacts) with foster children. Federal law requires that in order to continue to receive Title IV-B, subpart 1 funding, New York State must annually provide to DHHS data on the percentage of foster children who were visited on a monthly basis and the percentage of visits that occurred in the residence of the child. New York State, in consultation with DHHS, established an outline of the steps to be taken to so that beginning by October 1, 2011 at least ninety percent of children in foster care are visited on a monthly basis and that the majority of the visits occur in the residence of the child. Effective federal fiscal year 2012, at least fifty percent of the monthly caseworker visits (contacts) must occur in the residence of the foster child. Effective federal fiscal year 2015 and thereafter, the total number of caseworker visits (contacts) made on a monthly basis to children in foster care during the fiscal year must not be less than at least ninety-five percent of the total number of such visits that would occur during the fiscal year if each such child were so visited one every month while in care.

If DHHS determines that the above referenced percentages are not achieved, the following penalties will be assessed:

- Percentage not met by less than 10%, Title IV B, subpart 1 funds are reduced by 1%;
- Percentage not met by between 10 and 20%, Title IV-B, subpart 1 funds are reduced by 3%;
- Percentage not met by 20% or more, Title IV-B subpart 1 funds are reduced by 5%.

OCFS regulations currently meet the above referenced federal monthly casework contact requirement except for foster children who are placed out-of-state and certain in-state placements.

Current OCFS regulations require contact with a foster child placed in a home or facility outside of the State of New York every 6 months. Following the enactment of the federal Act, New York State directly inquired of DHHS regarding the applicability of the standards noted above to foster children placed outside of the State of New York, including foster children over the age of 18. This was done because of an apparent conflict between the monthly casework contact requirements of Title IV-B (sections 422(b)(17) and 424(f) of the SSA) and a Title IV-E casework contact requirement that specifically references out-of-state placements (section 475(5)(A)(ii) of the SSA) that imposes a six month casework contact requirement. DHHS issued a Policy Instruction, ACYF-CB-PI-12-01 on January 6, 2012 which confirmed that the federal monthly caseworker visit (contact) standards applied to foster children placed out of state. DHHS also informed the states that, at this time, DHHS was not requiring states to report caseworker visits of foster children who are 18 years of age or older. However, recently, DHHS confirmed that the above referenced monthly casework contact provisions of Tile IV-B applied to all out-of-state foster care placements, including foster children who are 18 years of age or older.

Based on these responses, the proposed regulations would expand to monthly the frequency of casework contacts for all foster children who are placed out-of-state. As of September 30, 2015, there were 345 foster children placed out-of-state.

DHHS also informed the states in section 7.3 of the federal Child Welfare Policy Manual that casework contacts must be made face-to-face and in person. Video conferencing or other forms of electronic communication are not federally acceptable. As a result, the proposed regulations would repeal the current provision in 18 NYCRR 441.21(c)(2) that allows for contacts by mail or telephone for certain foster care youth who are 18 years of age or older.

3. Professional Requirements

It is expected that most social services districts and voluntary authorized agencies will not have to hire additional staff to implement the proposed regulations as the requirement will be met by comparable staff in the state where the child is placed. Caseworkers will have to enter the casework contacts required by the proposed regulations into the Progress Notes dialog in the CONNECTIONS system. They have been comprehensively trained to use the system.

4. Compliance Costs

New York State must implement the proposed regulations to avoid penalties for non-compliance with the federal monthly caseworker visit requirements that would that impact the State's federal Title IV-B, Subpart 1 funding. Although Title IV-B, subpart 1 funding does not support foster care costs, this is where the federal Department of Health and Human Services has decided to assess the penalty.

The most recent Title IV-B, Subpart 1 grant award received by New York is for FFY 2015-2016 in the amount of $11,778,784. Using this amount, the penalty for non-compliance with federal casework contact requirements would be as follows:

Percentage	Funding Reduction
1 Percent	$117,784
3 Percent	$353,351
5 Percent	$588,918

5. Economic and Technological Feasibility

Those social services districts that are not already conducting or arranging for monthly casework contacts with foster children who are placed out-of-state will have to increase these contacts or arrange for these contact requirements to be met by comparable staff in the state where the foster child is placed. The proposed regulations also require face-to-face casework contacts for all foster children placed in New York. Social services districts and voluntary authorized agencies will not need additional computers to perform these regulatory functions beyond those they already have.

6. Minimizing Adverse Impact

The revisions to the casework contact requirements included in the proposed regulations are necessary to better promote the health, safety and well-being of foster children. To minimize potential adverse impact on the social services districts and voluntary authorized agencies, the proposed regulations allow comparable staff in the state where the foster child is placed to make the contact and record the information about such contact and send it to the responsible social services district or voluntary authorized agency where the child's case manager, case planner or foster child's caseworker is employed.

7. Small Business and Local Government Participation

OCFS has distributed information about the federal requirements concerning casework contacts with foster children reflected in the proposed regulations to social services districts and voluntary authorized agencies.

Rural Area Flexibility Analysis

1. Effect on Rural Areas

The proposed regulations will affect the 44 social services districts that are in rural areas. The St. Regis Mohawk Tribe is authorized by sections 39 and 371(10)(b) of the Social Services Law (SSL) as a social services district to provide child welfare services pursuant to its State/Tribal Agreement with the Office of Children and Family Services (OCFS). Those voluntary authorized agencies in rural areas contracting with social services districts to provide foster care and adoption services also will be affected by the proposed regulations. Currently, there are approximately 35 agencies.

2. Reporting, Recordkeeping and Compliance Requirements

The proposed regulations would bring New York State into compliance with federal standards relating to caseworker visits (contacts) with foster children placed out of state and reflect existing federal policy on caseworker visits of foster children. The federal compliance requirements are set forth in sections 422(b)(17) and 424(f) of the Social Security Act (SSA). Federal law requires that in order to continue to receive Title IV-B, subpart 1 funding, New York State must annually provide data to the federal Department of Health and Human Services (DHHS) on the percentage of foster children who were visited on a monthly basis and the percentage of visits that occurred in the residence of the child. New York State, in consultation with DHHS, established an outline of the steps to be taken to so that by October 1, 2011, at least ninety percent of children in foster care are visited on a monthly basis and that the majority of the visits occur in the residence of the child. Effective with federal fiscal year 2012, at least fifty percent of the monthly caseworker visits (contacts) must occur in the residence of the foster child. Effective federal fiscal year 2015 and thereafter, the total number of caseworker visits (contacts) made on a monthly basis to children in foster care during the fiscal year must not be less that ninety-five percent of the total number of visit during the fiscal year.

If DHHS determines that the above referenced percentages are not achieved, the following penalties will be assessed:

- Percentage not met by less than 10%, Title IV B, subpart 1 funds are reduced by 1%;
- Percentage not met by between 10 and 20%, Title IV-B, subpart 1 funds are reduced by 3%;
- Percentage not met by 20% or more, Title IV-B, subpart 1 funds are reduced by 5%.

OCFS regulations currently meet the above referenced federal monthly

casework contact requirement except for foster children who are placed out-of-state and certain in state placements.

Regarding out of state placements, current regulations require contact with a foster child placed in a home or facility outside of the State of New York every 6 months. Following the enactment of the federal Act, New York State directly inquired of DHHS regarding the applicability of the standards noted above to foster children placed outside of the State of New York. This was done because of an apparent conflict between the monthly casework contact requirements of Title IV-B (sections 422(b)(17) and 424(f) of the SSA) and a Title IV-E casework contact requirement that specifically references out-of-state placements (section 475(5)(A)(ii) of the SSA) that imposes a six month casework contact requirement.

DHHS issued Policy Instruction, ACYF-CB-PI-12-01 on January 6, 2012 which confirmed that the federal monthly caseworker visit (contact) standards applied to foster children placed out of state. Also, DHHS informed the States that, at this time, DHHS was not requiring States to report caseworker visits of foster children who are 18years of age or older. However, recently, DHHS confirmed that the above referenced monthly casework contact provisions of Title IV-B applied to all out-of-state placements of foster children, including foster children who are 18 years of age or older.

Based on these responses, the proposed regulations would expand the casework contact requirements for all foster children placed out-of-state. As of September 30, 2015, there were 345 foster children placed out-of-state.

DHHS also informed the states in section 7.3 of the federal Child Welfare Policy Manual that casework contacts must be done face-to-face and in person. Video conferencing or other forms of electronic conferencing is not federally compliant. Therefore, the proposed regulations would repeal the current provision in 18 NYCRR 441.21(c)(2) that allows contacts by mail or telephone for certain foster care youth who are 18 years of age or older.

It is expected that most social services districts and voluntary authorized agencies will not have to hire additional staff to implement the proposed regulations as the requirement will be met by comparable staff in the state where the child is placed. Caseworkers will have to enter the casework contacts required by the proposed regulations into the Progress Notes dialog in the CONNECTIONS system. They have been comprehensively trained to use the system.

3. Professional Services

It is anticipated that most social services districts and voluntary authorized agencies will not have to hire additional staff to implement the proposed amendments to regulations.

4. Compliance Costs

New York State must implement the proposed regulations to avoid penalties for non-compliance with the federal monthly caseworker visit standards that impact the State's federal Title IV-B, subpart 1 funding. Although Title IV-B, subpart 1 funding does not support foster care costs, this is where the federal Department of Health and Human Services has decided to assess the penalty.

The most recent Title IV-B, subpart 1 grant award received by New York is for FFY 2015-2016 in the amount of $11,778,350. Using this amount, the penalties for non-compliance with the federal casework contact requirements would be as follows:

Percentage	Funding Reduction
1 Percent	$117,784
3 Percent	$353,351
5 Percent	$588,918

5. Minimizing Adverse Impact

The revisions to the casework contact requirements included in the proposed regulations are necessary to better promote the health, safety and well-being of foster children. To minimize potential adverse impact on the social services districts and voluntary authorized agencies, the proposed regulations allow comparable staff in the state where the foster child is placed to make the contact and record the information about such contact and send it to the responsible social services district or voluntary authorized agency where the child's case manager, case planner or foster child's caseworker is employed.

6. Rural Area Participation

OCFS has distributed information about the federal requirements concerning casework contacts with foster children reflected in the proposed regulations to social services districts and voluntary authorized agencies.

Job Impact Statement

The proposed regulations will not have a negative impact on jobs or employment opportunities in either public or private child welfare agencies. A full job impact statement has not been prepared for the proposed regulations as it is assumed that the proposed regulations will not result in the loss of any jobs.

Department of Civil Service

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-07-16-00005-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Environmental Conservation, by decreasing the number of positions of Assistant Commissioner from 6 to 4 and by increasing the number of positions of Deputy Commissioner from 3 to 7.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-07-16-00006-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified

Service, listing positions in the exempt class, in the Executive Department under the subheading "Office for the Aging," by increasing the number of positions of Special Assistant from 2 to 3.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-07-16-00007-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Environmental Conservation, by adding thereto the position of øDirector Division of Marine Resources (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-07-16-00008-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Family Assistance under the subheading "Office of Children and Family Services," by adding thereto the position of Call Center Director (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-07-16-00009-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Mental Hygiene under the subheading "Office of Mental Health," by increasing the number of positions of Assistant Counsel from 7 to 8.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-07-16-00010-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Education Department, by deleting therefrom the position of Chief Scientist (Geology) (1) and by adding thereto the position of øChief Scientist (Geology) (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-02-16-00003-P, Issue of January 13, 2016.

Department of Economic Development

NOTICE OF ADOPTION

Employee Training Incentive Program

I.D. No. EDV-49-15-00002-A
Filing No. 162
Filing Date: 2016-02-02
Effective Date: 2016-02-17

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

Action taken: Addition of Part 250 to Title 5 NYCRR.

Statutory authority: Economic Development Law, section 444(1); L. 2015, ch. 59

Subject: Employee Training Incentive Program.

Purpose: Establish procedures for the implementation of the Employee Training Incentive Program.

Text or summary was published in the December 9, 2015 issue of the Register, I.D. No. EDV-49-15-00002-EP.

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

Text of rule and any required statements and analyses may be obtained from: Phillip Harmonick, New York State Department of Economic Development, 625 Broadway, Albany, NY 12207, (518) 292-5112, email: Phillip.Harmonick@esd.ny.gov

Revised Regulatory Impact Statement

No changes were made to the previously published rule. Accordingly, no changes are required to the previously published Regulatory Impact Statement.

Revised Regulatory Flexibility Analysis

No changes were made to the last published rule. Accordingly, no revisions to the previously published Statement in Lieu of Regulatory Flexibility Analysis for small businesses and local governments are necessary.

Revised Rural Area Flexibility Analysis

No changes were made to the last published rule. Accordingly, no revisions to the previously published Statement in Lieu of Rural Area Flexibility Analysis are required.

Revised Job Impact Statement

No changes were made to the last published rule. Accordingly, no revisions to the previously published Statement in Lieu of Job Impact Statement are required.

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.

Department of Environmental Conservation

EMERGENCY
RULE MAKING

Chemical Bulk Storage (CBS)

I.D. No. ENV-07-16-00004-E
Filing No. 156
Filing Date: 2016-01-27
Effective Date: 2016-01-27

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

Action taken: Amendment of section 597.3 of Title 6 NYCRR.

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

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

Specific reasons underlying the finding of necessity: The New York State Department of Health (DOH) has requested that the New York State Department of Environmental Conservation (DEC) list perfluorooctanoic acid (PFOA), CAS number 335-67-1, as a hazardous substance under 6 NYCRR Part 597. Due to its environmental presence, persistence and toxicity, the improper treatment, storage, transport, and disposal of PFOA pose a threat to public health in New York State.

There is also a substantial concern across the globe regarding the human toxicity of PFOA. The United State Environmental Protection Agency, the United States Agency for Toxic Substances and Disease Registry, Health Canada, the European Food Safety Authority, the European Chemical Agency, and the States of New Jersey, Minnesota, and Maine have all conducted comprehensive evaluations of the human health effects of PFOA. These evaluations show associations between PFOA exposure and an increased risk for several health effects.

In light of the public health concerns associated with PFOA it is essential to list it as a hazardous substance under 6 NYCRR Part 597, making it a hazardous waste pursuant to ECL Section 27-1301, in order to enable DEC to expend funds from the Hazardous Waste Remedial Fund to clean up the contaminate where it poses a significant public health threat. For example the Town of Hoosick is currently experiencing exposure to elevated levels of PFOA. This emergency regulation will provide DEC with authority to take immediate action to protect the public health. Furthermore, to the extent elevated levels of PFOA are identified elsewhere in the state, DEC needs the authority to act expeditiously to protect public health.

Subject: Chemical Bulk Storage (CBS).

Purpose: To amend section 597.3 of the CBS regulations to add perfluorooctanoic acid (CAS number 335-67-1) to Table 1 and Table 2.

Text of emergency rule: Section 597.3 is amended to add perfluorooctanoic acid (CAS number 335-67-1) to Table 1 and Table 2.

Substance Added to Part 597 Table 1

CASRN	*Substance*	*RQ Air*	*RQ Land/ Water*	*Notes*
335-67-1	*Perfluorooctanoic acid*	*1*	*1*	

Substance Added to Part 597 Table 2

CASRN	*Substance*	*RQ Air*	*RQ Land/ Water*	*Notes*
335-67-1	*Perfluorooctanoic acid*	*1*	*1*	

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire April 25, 2016.

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

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

A Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not submitted, but will be published in the *Register* within 30 days of the rule's effective date.

NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the Department of Environmental Conservation publishes a new notice of proposed rule making in the NYS *Register.*

Regulations Governing the Recreational Harvest of Winter Flounder

I.D. No.	Proposed	Expiration Date
ENV-04-15-000006–P	January 28, 2015	January 28, 2016

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Use of Cellular Telephones and Electronic Communication Devices in the Paddock

I.D. No. SGC-07-16-00001-P

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

Proposed Action: Amendment of section 4104.14 of Title 9 NYCRR.

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

Subject: Use of cellular telephones and electronic communication devices in the paddock.

Purpose: To allow cellular telephones and other communication devices in designated areas of a harness race track paddock.

Text of proposed rule: Subdivision (c) of 4104.14 of Title 9E NYCRR is deleted as follows:

4104.14. Use of cellular telephones and electronic communication devices.

The use of cellular telephones or any other electronic communication device, including devices that are capable of sending or receiving text messages or e-mails, by any person while in the paddock or receiving barn is restricted to use in an area designated by the Paddock Judge.

(a) Notwithstanding the provisions of Rule 4104.11, a sign shall be posted prominently at the entrance of the paddock or receiving barn stating that the use of a cellular telephone or an electronic communication device by any person while in the paddock is restricted to an area designated by the Paddock Judge, and identified by a sign that reads "Designated Cell Telephone Area."

(b) Nothing contained in this rule shall diminish the right of any track to adopt or implement more restrictive procedures concerning the use of cellular telephones and other electronic devices.

[(c) This section shall continue for one year after the date that it goes into effect.]

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, One Broadway Center, Suite 600, Schenectady, New York, (518) 388-3407, email: gamingrules@gaming.ny.gov

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

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

Regulatory Impact Statement

(a) Statutory authority. Racing, Pari-Mutuel Wagering and Breeding Law sections 104(1), 104(19) and 301(1). Section 104(1) of the Racing, Pari-Mutuel Wagering and Breeding Law grants the Gaming Commission general jurisdiction over all gaming activities within the state and over the corporations, associations and person engaged therein. Section 104(19) grants the Gaming Commission the authority to promulgate any rules and regulations that it deems necessary to carry out its responsibilities. Section 301(1) grants the Gaming Commission the authority to supervise generally all harness race meetings in New York State at which pari-mutuel betting is conducted and the authority to adopt rules accordingly.

(b) Legislative objectives. To enable the Gaming Commission to ensure that all gaming activity conducted in this state will be of the highest integrity, credibility and quality.

(c) Needs and benefits. This rule is needed to permit trainers, drivers, owners and groom the ability to communicate fully while in the paddock area.

Paddock personnel will be able to communicate during the long period of time they are required to remain in the paddock. Commission Rule 4104.8(a) requires trainers and/or assistant trainers to report to the paddock at least one hour prior to post time. A driver, trainer or groom, once admitted to the paddock may not leave the paddock until the horse to which he or she is assigned shall have completed its race, returned to the paddock, and the race is declared official. If these persons have multiple horses racing, they may be required to spend many hours in the paddock. During that time, they may need to make and receive telephone calls and electronic messages.

The cell phone paddock rule, 9 NYCRR § 4104.14, was adopted originally on January 30, 2012 and included subdivision (c), which stated that "this section shall continue for one year after the date that it goes into affect," allowing the rule to be implemented on a trial basis. The Gaming Commission re-adopted the rule on August 6, 2013. The Gaming Commission, with this proposal, intends to omit the sunset clause and make the rule permanent.

(d) Costs. There are no projected costs to regulated persons or state and local governments associated with the adoption of this rule. The elimination of subdivision (c) will reduce agency costs to the Gaming Commission by eliminating the need to prepare and submit a rulemaking package to continue experimentation with the rule. State and local governments are not affected by this rule.

(e) Paperwork. There will be no new paperwork created by this amendment. Adoption of the amendment will reduce the paperwork required for annual re-adoption of Section 4104.14 by the Gaming Commission.

(f) Local government mandates. Because the Gaming Commission is solely responsible for the regulations of pari-mutuel wagering activities in the State of New York, there is no program, service, duty or responsibility imposed by the rule upon any county, city, town, village, school district, fire district or other special district.

(g) Duplication. There are no relevant rules or legal requirements of the state and federal governments that duplicate, overlap or conflict with the amendment of Section 4104.14.

(h) Alternative approaches. No alternative approaches were considered for this rulemaking because it was previously implemented in January 2012 and August 2013 on an experimental basis and there were no problems encountered with the rule.

(i) Federal standards. There are no federal standards for pari-mutuel wagering on harness races in New York State.

(j) Compliance schedule. The rule would be effective immediately upon publication of a Notice of Adoption in the State Register.

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

This proposal does not require a Regulatory Flexibility Statement, Rural Area Flexibility Statement or Job Impact Statement as the amendment re-adopts a rule that was originally adopted on January 31, 2012 and re-adopted on August 6, 2013 which allows the use of cellular telephones and electronic communications devices within the paddock or receiving barn at a licensed harness race track. This amendment is different from the January 2012 and August 2013 adoption in that it removes an annual sunset clause, removing the need for the Gaming Commission to re-adopt the rule every year. The rule proposal requires Paddock Judges, who are employees of the New York State Gaming Commission, to designate areas where track personnel may use their cellular telephones or electronic communication devices, prominently post signs regarding the restricted use of cell phones in the paddock and other signs that identify the cellular phone use area. This rule has been in affect at New York State harness racetracks since January 2012 and will not add any new requirements. Consequently, the rule does not adversely affect small business, local governments, jobs nor rural areas. This amendment will not have an impact upon a small business pursuant to such definition in the State Administrative Procedure Act § 102(8). Nor does it negatively affect employment. The proposal will not impose adverse economic impact on reporting, recordkeeping or other compliance requirements on small businesses in rural or urban areas nor on employment opportunities. The rule does not impose any technological changes on the industry either.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Thoroughbred Pick-Four, Pick-Five and Pick-Six Wagers

I.D. No. SGC-07-16-00011-P

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

Proposed Action: Amendment of sections 4011.23 and 4011.26; renumbering of section 4011.24 to 4011.23; and addition of section 4011.25 to Title 9 NYCRR.

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

Subject: Thoroughbred pick-four, pick-five and pick-six wagers.

Purpose: To standardize and improve the pick-four, pick-five and pick-six wagers in thoroughbred racing.

Substance of proposed rule (Full text is posted at the following State website:https://www.gaming.ny.gov) Section 4011.23. Pick-six pools.

This section is renumbered as § 4011.26, changes in style are made, new subdivisions (b), (c), (d), (e), (i), (k), (n) (o), (p) and (x) are added and other amendments are made, often to conform the structure of the section to the sections governing the pick-four and pick-five rules. A new subdivision (a) defines the wager and requires written approval from the commission concerning scheduling of pick-six contests, the designation of the method used and the amount of any cap to be set on the carryover. The subdivision also requires that any changes to the approved pick-six format require prior approval from the commission. A new subdivision (b) sets forth that the pick-six wager is separate from other types of wagers. A new subdivision (c) prohibits the re-sale of pick-six tickets. A new subdivision (d) requires the clear designation of which races are part of pick-six wagering. A new subdivision (e) requires a distinguishing design for pick-six tickets. A new subdivision (f) (formerly subdivision (g)) provides that should a programmed starter be scratched or declared a nonstarter in any pick-six race before the start of the first pick-six race, affected bettors may select another betting interest or cancel the wager before the start of the first pick-six race, or else a designated horse will be substituted for the scratched or nonstarting horse. In the new subdivision (g) (formerly subdivision (b)), the amendments make it possible for a bettor to win the major pool, by correctly selecting the winner in all six races, when there has been a surface transfer from turf in more than one of the pick-six races. The amendment allows for as many as three surface transfer races, which are deemed a win for all bettors ("all win"), when the bettor correctly selects all the other races. In subdivision (h), if a designated race is cancelled for pari-mutuel wagering before the first pick-six race is made official, then the pick-six wagers are deemed cancelled and the gross pool will be refunded to the bettors. A new subdivision (i) is added for when there are surface transfers in one or more designated races in the pick-six pool. The former subdivision (f) is redesignated as subdivision (j). A new subdivision (k) is added in regard to carryovers. The former subdivision (d) is redesignated as subdivision (l) and stylistic changes are made. The former subdivision (e) is redesignated as subdivision (m) and stylistic changes are made. A new subdivision (n) concerns suspension of pick-six wagering, with the prior approval of the commission. A new subdivision (o) concerns prohibition of display of will-pays. A new subdivision (p) concerns distribution occurrences not encompassed within the explicit provisions of section 4011.26. The former subdivision (j) is redesignated as subdivision (q) and stylistic changes are made. The former subdivision (n) is redesignated as subdivision (r) and stylistic changes are made. The former subdivision (o) is deleted, as the substance of it is superseded by the new subdivision (p). The former subdivision (m) is redesignated as subdivision (s) and stylistic changes are made. The former subdivision (l) is redesignated as subdivision (t) and stylistic changes are made. The former subdivision (q) is redesignated as subdivision (u) and stylistic changes are made. The former subdivision (k) is redesignated as subdivision (v) and stylistic changes are made. The former subdivision (i) is redesignated as subdivision (w) and stylistic changes are made. The new subdivision (x) requires the track to make copies of section 4011.26 available to the public free of charge in the public betting area of the track.

Section 4011.24. WIN-3. This section is renumbered as § 4011.23.

Section 4011.25. Pick-five pools.

A new section 4011.25 is added, called pick-five pools. The section was reserved. The provisions for this wager are generally consistent with those for pick-six pools except that there is no minor pool. The pick-five requires a bettor to select the winner of five designated races. Provisions are made for dead heats, final or other designated distributions at a race meeting, scratched horses, cancelled races and surface transfers. The retention rate for the pick-five pool is 15 percent.

Section 4011.26. Pick-four pools.

This section is renumbered as § 4011.24, changes in style are made, new subdivisions (h), (i), (p) and (r) are added and other amendments are made. Subdivision (a) defines the wager and requires written approval from the commission concerning scheduling of pick-four contests and the designation of the method used. The subdivision also provides that any changes to the approved pick-six format require prior approval from the commission. Stylistic changes are made in subdivisions (b), (c), (d) and (e). In subdivision (f), the designated substitute wager, should a betting entry or field be scratched from a pick-four race, when there is a tie among remaining horses for most money wagered on the horse in the win pool, is defined as the horse among those tied that has the lowest program number rather than on which the most money is wagered in the place pool. Also, an affected bettor is authorized to choose between cancelling a wager or selecting another horse when a horse selected to win a designated race is scratched before the first race of the pick-four, and otherwise the wager for such race is construed as a bet on a different horse, determined by rule, for such race. Stylistic changes are made in subdivision (g) and paragraph (5) is redesignated as a new subdivision (i) and amended to specify that bettors who select the winners in the greatest number of races run on the originally scheduled surface will share the net pool when there is a surface change in one or more of the designated races in the pick-four, and if there

are no such winners then the entire pool for such program is refunded. A new subdivision (h) is added for when there are cancellations in the designated races in the pick-four pool. The new rules specify when a pick-four with race cancellations will result in a distribution of the net pool or in a cancellation of the pick-four pool and a refund of wagers. The former subdivision (h) is redesignated as subdivision (j). Subdivisions (k) through (o) would be reserved, in order to further consistency in the designation of similar subdivisions across the pick-four, pick-five and pick-six rules. The former subdivision (i) is redesignated as subdivision (p) and stylistic changes are made. A new subdivision (q) concerns posting of winning combinations. A new subdivision (r) concerns non-transferability of pick-four tickets. Subdivisions (s) through (w) would be reserved, in order to further consistency in the designation of similar subdivisions across the pick-four, pick-five and pick-six rules.

The former subdivision (j) would be redesignated as subdivision (x).

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

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

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

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate these rules pursuant to Racing Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2) and 104 (1, 19). Under Section 103(2), the Commission is responsible for supervising, regulating and administering all horse racing and pari-mutuel wagering activities in the State. Subdivision (1) of Section 104 confers upon the Commission general jurisdiction over all such gaming activities within the State and over the corporations, associations and persons engaged in such activities. Subdivision (19) of Section 104 authorizes the Commission to promulgate any rules and regulations that it deems necessary to carry out its responsibilities.

2. Legislative objectives: To enable the Commission to preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government.

3. Needs and benefits: This rule making proposes to amend the Commission's thoroughbred pick-four and pick-six wagering rules to be more consistent and attractive to bettors, and to add a thoroughbred pick-five type of wager that is only incorporated by reference under current rules. This should result in more wagering activity, more entertainment for racing fans, and greater revenue for government.

The proposal would set forth how special circumstances (cancelled races, scratched horses, and surface changes) affect each of these wagers. It would increase a bettor's chances of winning under some circumstances that currently result in a cancellation of the pool, and make such wagers more attractive to bettors by returning the full amount wagered when appropriate in unusual cases. The proposal will put a full description of the pick-five wager in the Commission rules. Finally, the proposal would reorganize these wagers into serial order and make changes in style to make the rules more clear.

The WIN-3 pool, currently 9 NYCRR § 4011.24, would be renumbered section 4011.23. No other amendments are proposed to the WIN-3 pool.

The pick-four pool, section 4011.26, would be renumbered section 4011.24. Subdivision (f) of the rule would be amended to simplify the designation of a substitute wager, when a horse is scratched before a pick-four race. When a betting entry or field is scratched in a pick-four race, the rule designates the favorite horse in the win pool as a substitute wager for the bettors whose horse was scratched. Currently, if two or more horses were tied for most money wagered in the win pool, the tie-breaker is the most money wagered on such horses in the place pool. The amendment will replace the place-pool tie-breaker by designating the substitute wager as the horse, from among those tied in the win pool, with the lowest program number. This will be easier to understand and administer, should such a situation arise, and be consistent with the rule for pick-six wagers. Subdivision (f) would also be amended to provide a bettor with the choice, should such a scratch occur before the first race of the pick-four pool, to select a different substitute horse or to surrender the ticket and receive a refund. If neither option is exercised before the first race, then the bettor will be given a substitute horse as described above. This amendment will give bettors more control and generate greater interest in the pick-four wager.

Paragraph (5) of subdivision (g) would be renumbered subdivision (i) for pick-four surface transfers. A new subdivision (h) for race cancellations would also be added. Both subdivisions would be amended to improve pick-four wagers. When a pick-four race is changed from the turf to another racing surface, it results in all pick-four bettors being credited with a win ("all win") in such race. The proposal would require that winning bettors must pick at least one horse that wins in a race run on the originally scheduled surface to share in the net pool (amount bet less takeout). If none does, then the gross pool (total amount wagered for such program) will be refunded. Currently, when the only wins are an "all win" race, the bettors share the net pool. The proposal would also provide that when a pick-four race is cancelled before the first race of the pick-four pool, or more than two pick-four races are cancelled, the pick-four wager will be cancelled and the gross pool refunded. Under the current rule, even if only one race is not cancelled the net pool would be paid to bettors rather than a refund of the gross pool. These amendments will make the pick-four rule more attractive to bettors and consistent with the pick-five and pick-six wagers.

A new section 4011.25, currently a reserved rule number, would be added for pick-five pools. The pick-five wager is currently conducted as an "additional authorized wager" under section 4011.28, which cross-references an outside document (a December 1996 national model rule), together with modifications approved by the stewards. A pick-five wager requires the correct selection of the winning horses in every designated race. The pick-six wager also has a minor pool for bettors who select five of six winners. The pick-four wager sometimes pays bettors who select the greatest number of winners. Thus, the pick-five is easier to win (by picking five winners) than a pick-six wager, and the pick-five has carry-overs that can generate very large prizes unlike a pick-four wager. The pick-five has provisions for when a bettor's selected horse is scratched, a race is changed from the turf to another surface, or a pick-five race is cancelled. This type of wager has been recently offered at thoroughbred tracks and has generated greater fan interest than the pick-four or pick-six, and the wager would now be included in the body of the Commission rules.

The pick-six pool, currently in section 4011.23, would be renumbered section 4011.26. Subdivision (b) would be amended to change the major pool winners when there has been a surface transfer that changes every wager on that race into a winner ("all-win"). Currently, the major pool is paid to bettors who win the six designated races with either one "all-win" or no surface transfers. The proposal would amend this by allowing as many as three "all wins." This will make the pick-six wager more attractive to bettors because when there are surface transfers during a race day with a pick-six wager, it is common for more than one race to be changed, with the result under the current rule that no bettors can win the pick-six major pool even when the other races are correctly selected. (Under the current and amended rules, should no bettor win the major pool it is carried over and added to the major pool in the next scheduled pick-six wagering pool.)

Subdivision (g) would be amended to provide bettors the choice, should a scratch of their selected horse occur before the pick-six races begin, of accepting the designated substitute horse or, before the first race of the pick-six pool is run, selecting a different substitute horse or surrendering the ticket for a refund. This amendment will allow such bettors to continue to play this wager. Under the current rule, the racetrack operator would refund such pick-six wagers.

The proposal would amend subdivision (h) to apply to race cancellations, providing that the pick-six pool wagers will be cancelled when a pick-six race is cancelled before any such races begin, and a new subdivision (i) would be added for surface transfers. The proposal would make similar amendments to those for the pick-four and pick-five wagers. This subdivision replaces paragraph (2) of subdivision (h), which provides only that surface transfer races are considered "all wins." These amendments will create an easier set of rules for the wagering public.

Finally, the proposal makes various changes in style to clarify the rules.

4. Costs:

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

(b) Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The amendments will not add any new costs. There will be no costs to local government because the Commission is the only governmental entity authorized to regulate pari-mutuel harness racing.

(c) The information, including the source(s) of such information and the methodology upon which the cost analysis is based: N/A.

5. Local government mandates: None. The Commission is the only governmental entity authorized to regulate pari-mutuel thoroughbred racing activities.

6. Paperwork: There will be no additional paperwork.

7. Duplication: No relevant rules or other legal requirements of the state and/or federal government exist that duplicate, overlap or conflict with this rule.

8. Alternatives: The Commission considered no other alternatives. The proposed rule changes were drafted in consultation with wagering of-

ficials at the New York Racing Association, Inc. ("NYRA") and are supported by NYRA.

9. Federal standards: There are no minimum standards of the Federal government for this or a similar subject area.

10. Compliance schedule: The Commission believes that regulated persons will be able to achieve compliance with the rule upon adoption of this rule.

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

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas, or jobs.

This proposal revises the Commission's pari-mutuel wagering rules in regard to the pick-four, pick-five and pick-six wagers on thoroughbred horse races to make the wagers more attractive to bettors and easier to understand. Such regulation will serve the best interests of thoroughbred racing by improving the wagering opportunities that racetrack operators may offer to the wagering public. This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

Office of General Services

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Outdoor Lighting Standards

I.D. No. GNS-07-16-00013-P

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

Proposed Action: Addition of Part 312 to Title 9 NYCRR.

Statutory authority: Executive Law, section 200; and Public Buildings Law, section 143(4)

Subject: Outdoor lighting standards.

Purpose: To provide lighting standards that will help state agencies comply with Public Buildings Law section 143.

Text of proposed rule: A new Part 312 is added to read as follows:

PART 312

Restrictions on the Luminous Power of Lighting Fixtures

§ 312.1 Purpose.

The purpose of this Part is to implement the provisions of Section 143 of the Public Buildings Law by setting forth the relevant industry standards with which State agencies must comply when installing new or replacement permanent outdoor lighting fixtures.

§ 312.2 Definitions.

(a) Direct light means light emitted by a fixture from the lamp, from a reflector, or through a refractor.

(b) Facade lighting means permanent outdoor fixtures that are specifically intended to illuminate the exterior surfaces of buildings or structures.

(c) Fully shielded fixture means a fixture that allows no direct light from the fixture above a horizontal plane through the fixture's lowest light-emitting part, in its mounted position.

(d) Fixture lumens means total lumens emitted by a fixture.

(e) Glare means light emitted by a fixture that causes discomfort or reduced visibility.

(f) Illuminance means the luminous power incident per unit area of a surface.

(g) Lamp means a light bulb or other component of a fixture that changes electricity into visible light.

(h) Light trespass means light that falls beyond the property it is intended to illuminate.

(i) Lumen means a standard unit of measurement of the quantity of light emitted from a lamp.

(j) Fixture means a complete lighting unit, including a lamp together with the parts designed to distribute the light, to position and protect the lamp and to connect the lamp to the power supply.

(k) Ornamental roadway lighting means a roadway lighting fixture that serves a decorative function in addition to a roadway lighting function, having an historical period appearance or decorative appearance.

(l) Parking-lot lighting means permanent outdoor fixtures specifically intended to illuminate uncovered vehicle parking areas.

(m) Permanent outdoor fixture means a fixture for use in an exterior environment installed with mounting not intended for relocation.

(n) Roadway lighting means permanent outdoor fixtures specifically intended to illuminate public roadways.

(o) Sky glow means a condition caused by light directed upwards or sideways reducing one's ability to view the night sky.

(p) State agency means any State department, office, board, commission, agency, or a public authority or public benefit corporation at least one of whose members is appointed by the governor.

§ 312.3 Restrictions and Exemptions.

(a) No State agency operating in the State shall install or cause to be installed any new or replacement permanent outdoor fixture unless the following conditions are met:

(1) In the case of roadway lighting or parking-lot lighting, whether mounted to poles, buildings or other structures, the fixture is fully shielded.

(2) In the case of building-mounted fixtures not specifically intended for roadway lighting, parking-lot lighting, or facade lighting, the fixture is fully shielded when its initial fixture lumens is greater than 3,000 lumens.

(3) In the case of facade lighting, the fixture is shielded to reduce glare, sky glow, and light trespass to the greatest extent possible.

(4) In the case of ornamental roadway lighting fixtures, the fixture allows no more than 700 lumens from the fixture above a horizontal plane through the fixture's lowest light emitting part.

(5) For illumination by new permanent outdoor fixtures for applications described in paragraph (1), (2), (3) or (4) of this subdivision, only illuminance levels that are no greater than those required for the intended purpose may be used, in accordance with the industry standards set forth in Section 312.4.

(6) In the case of roadway lighting unassociated with intersections of two or more streets or highways, the Department of Transportation has determined that the purpose of the lighting installation or replacement cannot be achieved by installation of reflectorized roadway markers, lines, warnings or informational signs, or other passive means.

(b) This Part shall not apply:

(1) if a federal law, rule or regulation preempts State law;

(2) if the outdoor lighting fixture is used temporarily by emergency personnel requiring additional illumination for emergency procedures or temporarily used by repair personnel for road repair;

(3) to navigational lighting systems and other lighting necessary for aviation and nautical safety;

(4) to lighting for athletic playing areas; provided, however, that all such lighting shall be selected and installed to shield the lamp or lamps from direct view and to minimize upward lighting and glare to the greatest extent possible;

(5) if the State agency determines a safety or security need exists that cannot be addressed by any other method;

(6) to the replacement of a previously installed permanent outdoor fixture that is destroyed, damaged or inoperative, has experienced electrical failure due to failed components, or requires standard maintenance;

(7) to lighting intended for tunnels and roadway underpasses; or

(8) if the combined cost of acquiring and operating a fixture complying with paragraphs (1), (2), and (3) of subdivision (a) of this section is more than 15% greater than the cost of acquiring and operating comparable non-compliant fixtures over the life of the lighting system and if a written determination with findings has been made that no compliant fixture exists that would meet the cost limitation.

§ 312.4 Industry Standards.

When installing new or replacement permanent outdoor lighting fixtures, State agencies shall comply with the following industry standards contained within the following publications:

(a) Roadway lighting: Any of the industry standards listed in paragraphs (1), (2), or (3) of this subdivision may be used provided the standard contains a guideline for the relevant type of roadway lighting application.

(1) American Association of State Highway and Transportation Officials (AASHTO) – Roadway Lighting Design Guide 6th ed. (October 2005)

(2) Approved American National Standards Institute (ANSI)/ Illuminating Engineering Society (IES) – RP-8-14 Roadway Lighting

(3) IES – DG-19-08 Design Guide for Roundabout Lighting

(b) Parking-lot lighting: IES – RP-20-14 Lighting for Parking Facilities

(c) Building facade lighting: IES – The Lighting Handbook, 10th Edition

(d) Building-mounted fixtures not specifically intended for roadway lighting, parking-lot lighting or building facade lighting: The Lighting Handbook, 10th Edition

Whenever a State agency uses any of the IES standards identified in this section, such agency shall also refer to The Lighting Handbook, 10th Edition in order to properly interpret such IES standards.

§ 312.5 Incorporation of Certain Industry Standards by Reference.

(a) The following standard of the American Association of State Highway and Transportation Officials (AASHTO) is hereby incorporated by reference, with the same force and effect as if fully set forth at length herein: Roadway Lighting Design Guide 6th ed. (October 2005). This publication is available for public inspection and copying at the New York State Office of General Services, Design & Construction Unit, Corning Tower, Empire State Plaza, Albany, NY 12242. The standard is published by AASHTO and is also available for purchase from AASHTO, 444 North Capitol Street N.W., Suite 249 Washington, DC 20001, (202) 624-5800, or http://www.transportation.org.

(b) The following standards of the Illuminating Engineering Society (IES) are hereby incorporated by reference, with the same force and effect as if fully set forth at length herein: RP-8-14 Roadway Lighting; DG-19-08 Design Guide for Roundabout Lighting; RP-20-14 Lighting for Parking Facilities; and The Lighting Handbook, 10th Edition. These publications are available for public inspection and copying at the New York State Office of General Services, Design & Construction Unit, Corning Tower, Empire State Plaza, Albany, NY 12242. The standards are published by IES and are also available for purchase from IES, 120 Wall Street, Floor 17, New York, New York 10005-4001, (212) 248-5000, or http://www.ies.org/.

Text of proposed rule and any required statements and analyses may be obtained from: Paula B. Hanlon, Esq., NYS Office of General Services, 41st Floor, Corning Tower, GNAR Empire State Plaza, Albany, New York 12242, (518) 474-5607, email: RegsReceipt @ogs.ny.gov

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

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

Regulatory Impact Statement

1. Statutory authority: New York State Executive Law § 200 establishes the Office of General Services ("OGS") and grants the Commissioner of General Services (the "Commissioner") the authority to adopt, amend or rescind rules and regulations relating to the discharge of her functions, powers and duties and those of OGS as prescribed by law. Chapter 512 of the Laws of 2014 adds a new § 143 to the Public Buildings Law, which requires certain restriction on the luminous power of lighting fixtures installed or maintained by State agencies and requires OGS to establish rules and regulations to implement the provisions of the statute, in consultation with the New York State Department of Transportation (DOT) and the New York State Energy Research and Development Authority (NYSERDA), while giving due consideration to lighting industry standards and practices.

2. Legislative objectives: By adopting industry-recognized standards for restricting the luminous power of lighting fixtures, this proposal will fulfill the Legislature's objective when it enacted Public Buildings Law § 143 to limit misdirected and excessive outdoor illumination from lighting fixtures installed or maintained by State agencies.

3. Needs and benefits: OGS proposes this rule in order to comply with Chapter 512 of the Laws of 2014, which directs OGS to adopt regulations implementing the provisions of the new Public Buildings Law § 143, in consultation with DOT and NYSERDA. The new law restricts the luminous power of new or replacement permanent outdoor lighting fixtures installed and maintained by the State. These regulations will assist State agencies in complying with the new statutory requirements by providing a uniform set of acceptable standards. As directed by Chapter 512 of the Laws of 2014, OGS consulted with DOT and NYSERDA in establishing this proposed rule, and they agreed that the standards referenced are appropriate.

4. Costs: a. Costs for implementation of, and continuing compliance with, the rule to the regulated parties. The proposed rule simply provide references to standards that State agencies must use in complying with the requirements Public Buildings Law § 143 when installing new or replacement permanent outdoor lighting fixtures. Although in some cases, the use of shielded fixtures may increase costs, the statute and the rule contain a "circuit breaker" that limits the cost of compliance. A State agency is not obligated to use fixtures that would comply with the proposed rule if the combined cost of acquiring and operating compliant fixtures is more than 15% greater than the cost of acquiring and operating comparable non-compliant fixtures over the life of the lighting system. Consequently, the proposed rule is not expected to significantly increase costs of State agencies.

b. Costs for implementation of, and continued administration of, the rule to the State and its local governments. As noted above, the proposed rule is not expected to significantly increase costs of State agencies. The proposed rule does not apply to local governments and therefore does not impose any costs on local governments.

c. The information, including the source or sources of such information, and the methodology upon which the cost analysis is based. OGS has significant experience in designing and constructing buildings, including lighting systems, for itself and other State agencies. The cost analysis is based on the experience of OGS in complying with similar statutory requirements.

5. Local government mandates: The subject regulations do not impose any program, service duty or responsibility upon any local government.

6. Paperwork: The proposed rule simply provides references to standards that will assist State agencies in complying with the requirements of Public Buildings Law § 143. The proposed rule does not provide any additional paperwork requirements.

7. Duplication: The proposed rule does not duplicate other existing federal or State requirements.

8. Alternatives: A no-action alternative was not considered because Chapter 512 of the Laws of 2014 expressly requires OGS to adopt regulations to implement Public Buildings Law § 143.

Because the Illuminating Engineering Society (IES) is the preeminent organization for lighting standards, there was no question that the regulations would refer to IES publications. In addition to the IES standards referenced in the proposed rule, OGS also considered referencing RP-33-14 Lighting for Exterior Environments and TM-11-00 Light Trespass: Research, Results and Recommendations, but ultimately determined that those standards do not add much benefit since the concepts covered therein are also covered in The Lighting Handbook, 10th Edition.

With respect to roadway lighting, OGS considered referencing other documents such as DOT's "Policy on Highway Lighting" and "Highway Design Manual" and the Federal Highway Administration (FHWA) Lighting Handbook. The "Policy on Highway Lighting" has not been updated since 1979, and while it provides a general discussion of factors that make lighting a given area warranted, it gives no specific guidance on the amount of light that should be used, other than making a few references to the AASHTO An Informational Guide for Roadway Lighting (which later became the AASHTO Roadway Lighting Design Guide). Similarly, the "Highway Design Manual" does not cover specifics on lighting levels, although it does provide greater detail on fixture placement, spacing, appropriateness of locating specific wattage lamps, etc. Because it references IES and AASHTO documents for lighting level standards, OGS determined that there was no need to reference the "Highway Design Manual." The FHWA Lighting Handbook does not specifically discuss lighting levels, but it points to the AASHTO Roadway Lighting Design Guide and the RP-8 IES document for specific guidance for engineers and lighting designers on designing appropriate lighting. The FHWA Lighting Handbook also briefly references standards of the International Commission on Illumination (CIE), which is another organization devoted to lighting, but the use of CIE standards was rejected because those standards are more focused on the international market than those of IES and AASHTO, which are based in the U.S. With the approval of DOT, OGS ultimately determined to reference both AASHTO and IES standards for roadway lighting.

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

10. Compliance schedule: OGS anticipates that the State agencies subject to this regulation will be able to achieve compliance immediately upon adoption of the regulation.

Regulatory Flexibility Analysis

This regulation will not impose any adverse economic impact or reporting, record keeping or other compliance requirements on small businesses or local governments. The subject regulation simply provides standards to assist State agencies in complying with the requirements set forth in Public Buildings Law § 143. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required and one has not been prepared.

Rural Area Flexibility Analysis

This action will not impose any adverse impact, reporting, record keeping or other compliance requirements on public or private entities in rural areas. The subject regulation simply provides standards to assist State agencies in complying with the requirements set forth in Public Buildings Law § 143. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

Job Impact Statement

The Office of General Services projects there will be no substantial adverse impact on jobs or employment opportunities in the State of New York as a result of this rule. The subject regulation simply provides standards to assist State agencies in complying with the requirements established in Public Buildings Law § 143. Since nothing in the proposed regulations will increase or decrease the number of jobs in New York State or have an adverse impact on any specific region in New York State, and since no adverse impact is anticipated on jobs in New York State, no further steps were needed to ascertain these facts and none were taken.

Accordingly, a job impact statement is not required and one has not been prepared.

Department of Health

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Supplementary Reports of Certain Birth Defects for Epidemiological Surveillance; Filing

I.D. No. HLT-08-15-00003-RP

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

Proposed Action: Amendment of sections 22.3 and 22.9 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 206(1)(d), 225(5)(t) and 2733

Subject: Supplementary Reports of Certain Birth Defects for Epidemiological Surveillance; Filing.

Purpose: To increase maximum age of reporting certain birth defects to the Birth Defect Registry.

Text of revised rule: Pursuant to the authority vested in the Public Health and Health Planning Council by sections 206(1)(d), 225(5)(t), and 2733 of the Public Health Law, sections 22.3 and 22.9 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

§ 22.3 - Supplementary reports of certain *birth defects* [congenital anomalies] for epidemiological surveillance; filing.

(a) Every physician*, nurse practitioner authorized to diagnose birth defects, physician assistant authorized to diagnose birth defects, midwife,* and hospital *as defined in Article 28 of the Public Health Law,* [in attendance on an individual diagnosed within two years of birth] *providing health care to a pregnant woman or a child under two years of age, who diagnoses an embryo, fetus or child* as having one or more of the *birth defects* [congenital anomalies] listed in *Table 1 of* this section shall file a supplementary report with the State Commissioner of Health within 10 days of diagnosis thereof.

(b) Every physician, nurse practitioner authorized to diagnose birth defects, physician assistant authorized to diagnose birth defects, midwife, and hospital as defined in Article 28 of the Public Health Law, providing health care to a pregnant woman or a child under ten years of age, who diagnoses an embryo, fetus or child as having one or more of the birth defects listed in Table 2 of this section shall file a supplementary report with the State Commissioner of Health within 10 days of diagnosis thereof.

(c) Every clinical laboratory that conducts diagnostic testing on New York State residents to detect or confirm the diagnosis of genetic or chromosomal anomalies listed in Tables 1 and 2 shall, upon detecting or confirming such a genetic anomaly, file a supplementary report with the State Commissioner of Health within 30 days of detection or confirmation.

(d) Such report shall be on such forms*, which may include electronic forms,* as may be prescribed by the commissioner to facilitate epidemiological investigation and surveillance.

[Anencephalus and similar anomalies
Spina bifida
Congenital anomalies of the nervous system
Congenital anomalies of the eye
Congenital anomalies of ear, face, neck
Congenital anomalies of heart
Congenital anomalies of circulatory system
Congenital anomalies of respiratory system
Cleft palate and cleft lip
Congenital anomalies of upper alimentary tract
Congenital anomalies of digestive system
Congenital anomalies of urinary system
Congenital anomalies of genital organs
Congenital anomalies of limbs
Congenital musculoskeletal deformities
Other congenital musculoskeletal anomalies
Congenital anomalies of the integument
Congenital anomalies of the spleen
Congenital anomalies of the adrenal gland
Congenital anomalies of other endocrine glands
Multiple congenital anomalies
anomaly, multiple NOS
deformity, multiple NOS]

TABLE 1 – BIRTH DEFECTS AND GENETIC DISEASES FOR WHICH REPORTING IS REQUIRED TO AGE 2

Malignant neoplasm of kidney
Malignant neoplasm of eye
Malignant neoplasm of brain
Malignant neoplasm of other endocrine systems
Congenital leukemia
Hemangioma
Neurofibromatosis
Teratoma
Congenital hypothyroidism
Disorders of thyroid, congenital and hereditary
Diabetes Mellitus, neonatal
Disorders of the pituitary gland, congenital and hereditary
Adrenogenital syndrome
Testicular dysfunction, congenital and hereditary
Dwarfism
Other congenital endocrine disorders
Metabolic and Immunity Disorders, congenital and hereditary
Hereditary Hemolytic anemias
Aplasic anemias, congenital and hereditary
Coagulation defects, congenital and hereditary
Primary thrombocytopenia, congenital and hereditary
Diseases of white cells, congenital and hereditary
Methemoglobinemia, congenital and hereditary
Hereditary diseases of the central nervous system
Extrapyramidal disease and abnormal movement disorders, congenital and hereditary
Spinocerebellar Disease, congenital and hereditary
Anterior horn cell disease, congenital and hereditary
Infantile cerebral palsy
Infantile spasms
Cerebral cysts, congenital
Multiple cranial nerve palsies, congenital
Hereditary peripheral neuropathy
Hereditary muscular dystrophies and other myopathies
Hereditary optic atrophy
Duane's syndrome
Endocardial fibroelastosis
Wolf-Parkinson-White syndrome
Major anomalies of jaw size
Inguinal hernia
Femoral hernia
Nephrotic syndrome, congenital
Nephrogenic diabetes insipidus, congenital
Dyschromia, congenital
Anencephalus and similar anomalies
Spina bifida
Birth defects of the nervous system
Birth defects of the eye
Birth defects of the ear, face, neck
Birth defects of the heart
Birth defects of the circulatory system
Birth defects of the respiratory system
Cleft palate and cleft lip
Birth defects of the upper alimentary tract
Birth defects of the digestive system
Birth defects of the urinary system
Birth defects of the genital organs
Birth defects of the limbs
Congenital musculoskeletal deformities
Other congenital musculoskeletal anomalies
Birth defects of the integument
Birth defects of the spleen
Birth defects of the adrenal gland
Birth defects of other endocrine glands
Multiple birth defects
Anomaly, multiple, Not Otherwise Specified
Deformity, multiple, Not Otherwise Specified
Genetic anomalies
Chromosomal anomalies
Fetal Alcohol Syndrome
Situs Inversus
Conjoined twins
Hamartoses
Birth defect syndromes affecting multiple systems

Noxious influences affecting the fetus via placenta
Amniotic band syndrome
Infections specific to the perinatal period
Hemolytic disease due to RH isoimmunization
Neonatal hepatitis
TABLE 2 – BIRTH DEFECTS AND GENETIC DISEASES FOR WHICH REPORTING IS REQUIRED TO AGE 10
Hereditary muscular dystrophies and other myopathies
Birth defects of the heart
Genetic anomalies
Chromosomal anomalies
Fetal Alcohol Syndrome
§ 22.9 – Reports: place of filing
All reports required by *Section 22.3 of* this Part shall be filed with the Director of the Bureau of Environmental [Epidemiology] and Occupational *Epidemiology, Center for Environmental* Health, [Division of Epidemiology,] New York State Department of Health, Empire State Plaza, *Corning* Tower [Building], Albany, NY 12237.

Revised rule compared with proposed rule: Substantive revisions were made in section 22.3(a), (b) and (d).

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

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

Public comment will be received until: 30 days after publication of this notice.

Summary of Revised Regulatory Impact Statement

Statutory Authority:

Section 206(1)(d) of the Public Health Law (PHL) authorizes the Commissioner to investigate the causes of diseases, epidemics, and the sources of mortality in New York State. PHL § 225(5)(t) provides that the State Sanitary Code may facilitate epidemiological research into the prevention of environmentally related diseases and require reporting of such diseases by physicians, medical facilities and clinical laboratories. PHL § 2733 requires that birth defects and genetic diseases be reported by physicians, hospitals, and persons in attendance at birth in a manner prescribed by the Commissioner. Information collected pursuant to such reports shall be kept confidential pursuant the Personal Privacy Protection Act.

Legislative Objectives:

PHL § 206(1)(d) established the Commissioner's broad authority to investigate the causes of disease in New York State. As reflected in the Declaration of Policy, the Legislature enacted PHL § 2733 and related statutes to ensure that the Department maintains a central and comprehensive responsibility for developing and administering the State's policy with respect to scientific investigations and research concerning the causes, prevention, treatment and cure of birth defects and genetic and allied diseases. Finally, in enacting PHL § 225(5)(t), the Legislature directed that the State Sanitary Code contain regulations that facilitate epidemiological research into the prevention of environmental diseases, by pathological conditions of the body or mind resulting from contact with toxins, mutagens or teratogens and by requiring the reporting of such diseases or suspected cases of such diseases to the Department.

To these ends, the Department maintains the Congenital Malformation Registry (CMR) and has issued regulations requiring the reporting of structural, functional or biochemical abnormalities determined genetically or induced during gestation, and which are not due to birthing events.

Needs and Benefits:

The Department's proposal seeks to extend the case capture periods for certain diseases. Currently, health regulations require physicians and hospitals to report birth defects that are diagnosed within two years of a child's birth, yet many birth defects are not diagnosed until after age two. By extending the capture period for certain diseases listed below, the Department's proposal will enhance its epidemiologic surveillance and advance its understanding of birth defects and their environmental causes.

Fetal alcohol syndrome (FAS) is a serious but preventable birth defect that results from heavy maternal intake of alcohol during pregnancy. FAS is not uncommon, with national estimates of 5–20 cases per 10,000 live births. The annual prevalence of FAS reported by the CMR is about 10-fold less than national estimates. Studies indicate that FAS is more easily diagnosed from ages two to ten years.

Hereditary muscular dystrophies and other myopathies are a family of diseases that cause progressive and steady muscle weakness and wasting. The most common muscular dystrophy is Duchenne MD, followed by Becker MD. A recent US study indicated the prevalence of boys age 5 to 24 with Duchenne and Becker MD was 1.3 to 1.8 per 10,000 males. However, the CMR indicated an annual birth prevalence of only 0.08 per 10,000 live births. One study reported a mean age of diagnosis of 5 years for boys with Duchenne MD.

Congenital heart defects (CHDs) are the most common organ system malformations, and they remain the leading cause of infant deaths from birth defects. Approximately 1 out of every 115 to 150 babies is born with a heart defect. Minor defects are often not detected until later in life and can have serious consequences. One study indicates that 3% of children with CHDs are diagnosed from ages three to ten years old.

Genetic and Chromosomal Anomalies. The CMR was established prior to the sequencing of the human genome and the associated advances in the scientific community's understanding of the role genetics plays in causing birth defects. Because the field of genetics and birth defects is so new, there is little or no documentation about diagnostic timing for many of these syndromes. However, genetic and chromosomal anomalies are often not recognized until after two years of age, because it can require several years to observe a child prior to diagnosis.

The Department's proposal would also require reporting of birth defects diagnosed or identified during pregnancy. This reporting requirement is important due to the increase in routine prenatal screening. For many diseases, the CMR data suggests a prevalence rate in New York that is far below the expected range.

The proposed amendment also allows reporting by qualified health care professionals other than physicians—specifically, nurse practitioners and physician assistants. Over the past several years, a growing number of national, state and specialty-specific studies indicate that the physician workforce in the United States is facing current and future shortages. Moreover, the shortage of family physicians will be most acute in rural and underserved populations. These trends highlight the need to allow reporting by nurse practitioners and physician assistants. Indeed, anecdotal reports indicate that nurse practitioners and physician assistants are already filling this role because of the burden on physicians.

The regulation would also clarify the requirement that clinical laboratories performing diagnostic testing for birth defects must report to the CMR. This requirement is not new. In 1978, Commissioner Whalen issued a blanket order directing that all laboratories report birth defects to the Department pursuant to PHL § 2733. However, many clinical laboratories are not aware of the reporting requirement.

The Department's proposal adds granularity to the list of reportable diseases. Many diseases currently reported fall under broad categories, thereby limiting the Department's ability to receive information concerning the individual diseases within the category. For example, congenital leukemia and lymphangiomas are both currently reported under the broad classification of "congenital anomalies of the circulatory system." The Department's proposal lists these and other defects as separate reportable conditions.

Finally, the proposal replaces the term "congenital malformation" in favor of the term "birth defect" and renames the CMR the "Birth Defect Registry." In a nationally representative survey conducted in 2007, respondents were asked what their first choice would be to describe problems at birth that can result in physical or mental disabilities. The preferred term was "birth defects". This term was chosen over congenital malformations and congenital anomalies, among other choices. Using the term that is preferred by the public will enable positive engagement with affected families and improve the Department's communication with the public.

Costs to Regulated Parties:

The Department anticipates that, for the entire State, the regulatory changes will require annual reporting of an approximate additional 900 live born children by physicians, nurse practitioners, physician assistants, midwives, and hospitals (FAS: 100-200 cases; muscular dystrophy: 100 cases; cardiac heart defects in children past age two: 200 cases; genetic or chromosomal anomalies: 400 cases).

Approximately 160 New York hospitals and their associated physicians, nurse practitioners, physician assistants and midwives will be affected by this change. The Department anticipates that the costs to these parties will be minimal, primarily because the number of additional birth defects to be reported annually through hospitals (five to six cases per year, on average) will be small, relative to the number or reports already being submitted. Hospitals already report cases to the CMR electronically. The additional hospital staff time to enter six to seven additional cases per year may require 20-30 minutes annually. Alternatively, a hospital can incorporate the additional diagnoses into a monthly batch file. Hospitals are already familiar with the process of modifying batch files.

Reporting by smaller, community-based health care facilities and individual providers will result in some costs primarily because, while physicians have always been required to report birth defects, this requirement has not been enforced for providers who are not associated with New York hospitals. The Department has minimized the administrative costs associated with the reporting requirement by integrating the reporting process with technologies that healthcare providers already utilize. Healthcare providers currently rely on the Department's Health Commerce System (HCS) for communication and reporting to the Department. Within the

HCS, the Department is implementing a comprehensive web-based reporting system known as the Child Health Information Integration (CHI^2) project to be used as the central website to report and track newborn screening, immunizations, lead and newborn hearing screening. Reporting of birth defects will become a component of the CHI^2 system in order to reduce the reporting burden of community-based healthcare facilities and providers.

Providers will be required to spend 3-5 minutes entering case information for each child or fetus diagnosed with a birth defect that is newly reportable under the updated CMR regulations. Statistically, this should involve very few cases for such providers. Because most providers already use and have free access to the online electronic reporting system, the proposed regulation will not impose any additional equipment or technology costs. The only costs will be in the amount of time required to use the CHI2 to report additional birth defects, which is expected to be negligible. The Department will assist any providers that currently do not have access to the web based reporting system.

With regards to extending the CMR reporting requirements to nurse practitioners, physician assistants and midwives, the Department does not expect that regulated parties will incur any associated direct costs. Rather, the Department expects that this change will relieve physicians and hospitals from being the only classes of healthcare providers authorized to submit a report when a child is diagnosed with a birth defect.

For clinical laboratories, the Department anticipates the regulatory change will require annual reporting of approximately 6,600 additional genetic or chromosomal anomalies recognized during pregnancy, and approximately 400 reports related to children diagnosed between the ages of 2 and 10 years old, for a total of 7,000 additional reports annually. The Department anticipates the ongoing costs to the roughly 50 clinical cytogenetic laboratories providing diagnostic testing for genetic and chromosomal anomalies to be minimal because these laboratories will report using the Electronic Clinical Laboratory Reporting System (ECLRS) as many already do. The Department estimates that the additional number of reports that these labs will make to ECLRS will cost approximately $1,400. Clinical laboratories may experience a one-time expense related to modifying the laboratory's software to identify the additional cases that must be reported, which the Department estimates will require a maximum of 16 hours of work by a computer specialist at an estimated rate of pay of $100/hour.

Costs to the Regulatory Agency:

The Department has been using a web-based electronic reporting system in place since 2006. Currently, the CMR receives and processes about 12,000 reports annually. Thus, annual cost to DOH to receive and process the additional 1,000-1,200 cases will be minimal.

Costs to the State Government:

There will be no costs to state government. For the last ten years, reporting to the CMR has been conducted electronically. Currently, the Department uses the Health Commerce System to receive CMR reports. Reporters upload cases individually or in batch reports. The electronic reporting system already includes automated processes to match and combine reports for the same child, to ensure de-duplication of data reported from multiple reporters. Additional data quality control processes are built into the system.

Costs to Local Government:

Hospitals owned by local governments would be affected but, as discussed above, the costs will be minimal because the additional reporting requirement is relatively small.

Local Government Mandates:

There are no mandates on local governments, other than the additional reporting requirements that would apply to hospitals owned by a local government.

Paperwork:

This change will generate very little physical paperwork because reporting will be performed electronically as is described under "Costs to Regulated Parties."

Duplication:

This change does not involve any duplication in laws. In terms of duplication of effort, the reporting software will prevent the repeated reporting of the same birth defect for a particular child.

Alternatives:

If no changes are made to this regulation, the Department will continue to collect incomplete reporting for birth defects, and prevalence estimates will remain inaccurate. This will impede the Department's ability to detect and quantify environmental exposures that negatively impact the health of embryos and fetuses in New York State.

Concerning FAS, in particular, failure to change the reporting requirement will hamper prevention efforts and may cost New York more in the long-term. One study placed the nationwide annual cost of treating birth defects associated with FAS at $1.6 billion. Another study used a societal perspective and generated nationwide cost estimates of $9.69 billion. These costs included estimates of the value of productivity lost as a result of cognitive disabilities, as well as the cost of treatment and residential care. In addition to improving outcomes for affected children, early diagnosis and appropriate interventions are likely to generate significant costs savings over time.

Federal Standards:

There are no federal mandates for state-level reporting of birth defects. However, several of the 36 state birth defect surveillance programs require reporting of these birth defects past the age of 2 years, including Hawaii, Texas, Washington State and Colorado. At least eleven states receive reports of birth defects that occur during pregnancy.

Compliance Schedule:

Regulations will take effect immediately upon filing. The Department will continue its efforts to make reporting easier and more efficient, while simultaneously conducting outreach to understand and address any concerns that may arise.

Revised Regulatory Flexibility Analysis

Effect of Rule:

This amended rule will have limited impact on small businesses providing health care because many of these businesses are affiliated with a general hospital. These small businesses include community-based healthcare providers (pediatricians, family practitioners and maternal-fetal medicine specialists) and some laboratories with small offices.

The amended rule will have a small impact on those healthcare facilities that are owned by local governments and that also diagnose birth defects and genetic diseases. These healthcare facilities will be required to make additional reports to the CMR based on the updated list of reportable birth defects and genetic diseases. Although the Department does not maintain a listing of local government-owned facilities that would be required to report, the Greater NY Hospital Association estimated that the number is relatively few. Further, the Department reasonably expects the burden on such facilities to be small—only 3-5 minutes per additional case. The number of cases will vary depending on the size of the facility, but the Department estimates that such facilities will report an average of 5-6 newly reportable cases per year, per facility.

Compliance Requirements:

Because healthcare providers and facilities are transitioning to electronic record-keeping systems, reporting and record keeping are expected to be simple and require very little time. The Department publishes a CMR guide to assist hospitals with reporting. A guide will also be developed for other healthcare providers as well as clinical laboratories.

Professional Services:

No additional professional services are required under the amended rule.

Compliance Costs:

Staff working in small community-based healthcare providers and small clinical laboratories will need to learn how to report with the updated CMR requirements.

Economic and Technological Feasibility:

The amended rule is economically and technologically feasible because local governments and small businesses that are affected will continue submitting reports using their free access to the Department's electronic reporting system.

Minimizing Adverse Impact:

By offering free access to the electronic reporting system, the Department has minimized the costs and impact on local governments and small businesses operating in New York State.

Small Business and Local Government Participation:

The Department has reached out to the healthcare community to gather feedback on the proposed amended rule. Those contacted include: NYS American Academy of Pediatrics, NYS Academy of Family Physicians, Nurse Practitioner Association of NYS, NYS Nurses Association, NYS Society of Physician Assistants, NY Health Information Management Association, Greater NY Hospital Association, Healthcare Association of NYS, NYS March of Dimes, NYS Clinical Geneticists, Genetic Counselors, Midwives, Neurologists, Neuromuscular Specialists, and Pediatric Cardiologists. Additionally, the Department contacted other NYS agencies and programs which provide services to children affected by these birth defects, specifically fetal alcohol syndrome.

The Department received comments from two organizations that represent health care providers. The President of the New York State Society of Physician Assistants stated, "After soliciting input from our leadership, we wholeheartedly support this suggested regulatory change." No concern was expressed about costs. Greater New York Hospital Association (GNYHA), representing nearly 150 voluntary, not-for-profit, and public hospitals expressed concern that "raising the maximum reporting age to 10 … could potentially create an administrative burden for health care providers … already contending with a wide range of such requirements." GNYHA strongly recommended that the DOH work closely with providers to develop and implement a reporting system that places the least pos-

sible amount of administrative burden on those impacted by this potential regulatory change.

The Department also received positive support for these regulatory changes from non-profit organizations and other State agencies, including the NYS Council on Children and Families, the NYS Office of Alcoholism and Substance Abuse Services, the NY State Education Department's Office of Special Education, and the Long Island Council on Alcoholism and Drug Dependence. These organizations view the proposed regulatory change as positive steps for meeting the needs of children and families affected by these devastating birth defects.

The Department asked several maternal-fetal medicine practices for input concerning the proposed changes and received replies from three practices (Hudson Valley Perinatal Consulting, Harrison, NY; University GYN/OB, Inc, at Women and Children's Hospital of Buffalo, Buffalo, NY; and Fetal Testing Unit of Mercy Hospital Buffalo South, Buffalo, NY). As for access to the Department's web based reporting system, one had access, one did not, and the third was uncertain. All three expressed concerns about time required to report and assurances of patient confidentiality.

The Department reached out to the NYS Association of Licensed Midwives, who supported the amendment. In a survey sent to midwives, all respondents supported the regulatory amendment. The most common concern was the time required to comply, which the Department will minimize through its electronic reporting.

Public Health Law § 206(1)(j) ensures that diagnoses reported to the Birth Defect Registry shall be kept confidential and shall be used solely for the purposes of the Department's scientific research. The statute further provides that such records are not admissible as evidence in a court of law. Regarding time to report, the Department expects that some of these practices may not actually have to report separately but that their associated institution or hospital will be able to assume that responsibility, thus reducing the anticipated burden.

The Department is committed to minimizing the administrative burden of these new reporting requirements. By using the CHI^2 system as a reporting tool, the administrative burden will not be significant.

The Department will continue to communicate with stakeholders throughout the regulatory process. Prior to adoption of the rule, all amendments will appear in the New York State Register for public comment.

Revised Rural Area Flexibility Analysis and Job Impact Statement

Changes made to the last published rule do not necessitate revision to the previously published RAFA and JIS.

Assessment of Public Comment

Comment:

The New York City Department of Health and Mental Hygiene ("NYCDOHMH") commented that the categories of healthcare professionals required to report to the Registry should be expanded to include midwives and genetic counselors.

Response:

Upon receiving this comment, the Department surveyed midwives and contacted the New York Licensed Midwives Association. The Association supported expanding the regulation to include midwives, as did virtually all of the midwives surveyed. Some midwives who supported this change also expressed concern with the time that it would take to report. The Department believes that the electronic reporting system will facilitate ease of reporting. Accordingly, the regulatory language was revised to include midwives.

The Department declined to expand the regulation to include genetic counselors. Genetic counselors are not a profession that is regulated under the New York State Education Law. Accordingly, a requirement that genetic counselors report to the Registry would be difficult to implement and enforce. The Department also believes that requiring reporting from physicians, hospitals, nurse practitioners, physician assistants, and midwives is sufficient to achieve the intent of this regulation.

Higher Education Services Corporation

EMERGENCY RULE MAKING

New York State Get on Your Feet Loan Forgiveness Program

I.D. No. ESC-07-16-00002-E
Filing No. 131
Filing Date: 2016-01-27
Effective Date: 2016-01-27

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

Action taken: Addition of section 2201.15 to Title 8 NYCRR.

Statutory authority: Education Law, sections 653, 655 and 679-g

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

Specific reasons underlying the finding of necessity: This statement is being submitted pursuant to subdivision (6) of section 202 of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making seeking to add a new section 2201.15 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This regulation implements a statutory student financial aid program providing for awards to be made to students who receive their undergraduate degree from a college or university located in New York State in December 2014 and thereafter. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible applicants. The statute provides for student loan relief to such college graduates who continue to live in New York State upon graduation, earn less than $50,000 per year, participate in either the federal Pay as You Earn (PAYE) or Income Based Repayment (IBR) program, which cap a federal student loan borrower's payments at 10 percent of discretionary income, and apply for this program within two years after graduating from college. Eligible applicants will have up to twenty-four payments made on their behalf towards their federal income-based repayment plan commitment. For those students who graduated in December 2014, their first student loan payment will become due upon the expiration of their grace period in June 2015. Therefore, it is critical that the terms of this program as provided in the regulation be effective immediately in order for HESC to process applications so that timely payments can be made on behalf of program recipients. To accomplish this mandate, the statute further provides for HESC to promulgate emergency regulations to implement the program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: New York State Get on Your Feet Loan Forgiveness Program.

Purpose: To implement the New York State Get on Your Feet Loan Forgiveness Program.

Text of emergency rule: New section 2201.15 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.15 New York State Get on Your Feet Loan Forgiveness Program.

(a) Definitions. As used in section 679-g of the education law and this section, the following terms shall have the following meanings:

(1) "Adjusted gross income" shall mean the income used by the U.S. Department of Education to qualify the applicant for the federal income-driven repayment plan.

(2) "Award" shall mean a New York State Get on Your Feet Loan Forgiveness Program award pursuant to section 679-g of the education law.

(3) "Deferment" shall have the same meaning applicable to the William D. Ford Federal Direct Loan Program as set forth in 34 CFR Part 685.

(4) "Delinquent" shall mean the failure to pay a required scheduled payment on a federal student loan within thirty days of such payment's due date.

(5) "Forbearance" shall have the same meaning applicable to the William D. Ford Federal Direct Loan Program as set forth in 34 CFR Part 685.

(6) "Income" shall mean the total adjusted gross income of the applicant and the applicant's spouse, if applicable.

(7) "Program" shall mean the New York State Get on Your Feet Loan Forgiveness Program.

(8) "Undergraduate degree" shall mean an associate or baccalaureate degree.

(b) Eligibility. An applicant must satisfy the following requirements:

(1) have graduated from a high school located in the State or attended an approved State program for a State high school equivalency diploma and received such diploma. An applicant who received a high school diploma, or its equivalent, from another state is ineligible for a Program award;

(2) have graduated and obtained an undergraduate degree from a college or university located in the State in or after the two thousand fourteen-fifteen academic year;

(3) apply for this program within two years of obtaining such undergraduate degree;

(4) not have earned a degree higher than an undergraduate degree at the time of application;

(5) be a participant in a federal income-driven repayment plan whose payment amount is generally ten percent of discretionary income;

(6) have income of less than fifty thousand dollars;

(7) comply with subdivisions three and five of section 661 of the education law;

(8) work in the State, if employed. A member of the military who is on active duty and for whom New York is his or her legal state of residence shall be deemed to be employed in NYS;

(9) not be delinquent on a federal student loan or in default on a student loan made under any statutory New York State or federal education loan program or repayment of any New York State award; and

(10) be in compliance with the terms of any service condition imposed by a New York State award.

(c) Administration.

(1) An applicant for an award shall apply for program eligibility at such times, on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility.

(2) A recipient of an award shall:

(i) request payment at such times, on such forms and in a manner as prescribed by the corporation;

(ii) confirm he or she has adjusted gross income of less than fifty thousand dollars, is a resident of New York State, is working in New York State, if employed, and any other information necessary for the corporation to determine eligibility at such times prescribed by the corporation. Said submissions shall be on forms or in a manner prescribed by the corporation;

(iii) notify the corporation of any change in his or her eligibility status including, but not limited to, a change in address, employment, or income, and provide the corporation with current information;

(iv) not receive more than twenty four payments under this program; and

(v) provide any other information or documentation necessary for the corporation to determine compliance with the program's requirements.

(d) Amounts and duration.

(1) The amount of the award shall be equal to one hundred percent of the recipient's established monthly federal income-driven repayment plan payment whose payment amount is generally ten percent of discretionary income and whose payment is based on income rather than loan debt.

(2) In the event the established monthly federal income-driven repayment plan payment is zero or the applicant is otherwise not obligated to make a payment, the applicant shall not qualify for a Program award.

(3) Disbursements shall be made to the entity that collects payments on the federal student loan or loans on behalf of the recipient on a monthly basis.

(4) A maximum of twenty-four payments may be awarded, provided the recipient continues to satisfy the eligibility requirements set forth in section 679-g of the education law and the requirements set forth in this section.

(e) Disqualification. A recipient shall be disqualified from receiving further award payments under this program if he or she fails to satisfy any of the eligibility requirements or fails to respond to any request for information by the corporation.

(f) Renewed eligibility. A recipient who has been disqualified pursuant to subdivision (e) may reapply for this program and receive an award if he or she satisfies all of the eligibility requirements set forth in section 679-g of the education law and the requirements set forth in this section.

(g) Repayment. A recipient who is not a resident of New York State at the time a payment is made under this program shall be required to repay such payment or payments to the corporation. In addition, at the corporation's discretion, a recipient may be required to repay to the corporation any payment made under this program that, at the time payment was made, should have been disqualified pursuant to subdivision (e). If a recipient is required to repay any payment or payments to the corporation, the following provisions shall apply:

(1) Interest shall begin to accrue on the day such payment was made on behalf of the recipient. In the event the recipient notifies the corporation of a change in residence within 30 days of such change, interest shall begin to accrue on the day such recipient was no longer a New York State resident.

(2) The interest rate shall be fixed and equal to the rate established in section 18 of the New York State Finance Law.

(3) Repayment must be made within five years.

(4) Where a recipient has demonstrated extreme hardship as a result of a disability, labor market conditions, or other such circumstances, the corporation may, in its discretion, waive or defer payment, extend the repayment period, or take such other appropriate action.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire April 25, 2016.

Text of rule and any required statements and analyses may be obtained from: Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1325, Albany, New York 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

Regulatory Impact Statement

Statutory authority:

The New York State Higher Education Services Corporation's ("HESC") statutory authority to promulgate regulations and administer the New York State Get on Your Feet Loan Forgiveness Program ("Program") is codified within Article 14 of the Education Law. In particular, Part C of Chapter 56 of the Laws of 2015 created the Program by adding a new section 679-g to the Education Law. Subdivision 4 of section 679-g of the Education Law authorizes HESC to promulgate emergency regulations for the purpose of administering this Program.

Pursuant to Education Law § 652(2), HESC was established for the purpose of improving the post-secondary educational opportunities of eligible students through the centralized administration of New York State financial aid programs and coordinating the State's administrative effort in student financial aid programs with those of other levels of government.

In addition, Education Law § 653(9) empowers HESC's Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation including the promulgation of rules and regulations.

HESC's President is authorized, under Education Law § 655(4), to propose rules and regulations, subject to approval by the Board of Trustees, governing, among other things, the application for and the granting and administration of student aid and loan programs, the repayment of loans or the guarantee of loans made by HESC; and administrative functions in support of state student aid programs. Also, consistent with Education Law § 655(9), HESC's President is authorized to receive assistance from any Division, Department or Agency of the State in order to properly carry out his or her powers, duties and functions. Finally, Education Law § 655(12) provides HESC's President with the authority to perform such other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of HESC.

Legislative objectives:

The Education Law was amended to add a new section 679-g to create the "New York State Get on Your Feet Loan Forgiveness Program" (Program). The objective of this Program is to ease the burden of federal student loan debt for recent New York State college graduates.

Needs and benefits:

More than any other time in history, a college degree provides greater opportunities for graduates than is available to those without a postsecondary degree. However, financing that degree has also become more challenging. According to a June 9, 2014 Presidential Memorandum issued by President Obama, over the past three decades, the average tuition at a public four-year college has more than tripled, while a typical family's income has increased only modestly. More students than ever are relying on loans to pay for college. Today, 71 percent of those earning a bachelor's degree graduate with debt, which averages $29,400. Many of these students feel burdened by debt, especially as they seek to start a family, buy a home, launch a business, or save for retirement. To ensure that student debt is manageable, the federal government enacted income-driven repayment plans, such as the Pay as You Earn (PAYE) plan, which caps a federal student loan borrower's payments at 10 percent of income.

Although New York's public colleges and universities offer among the lowest tuition in the nation, currently the average New York student graduates from college with a four-year degree saddled with more than $25,000 in student loans. Mounting student debt makes it difficult for recent graduates to deal with everyday costs of living, which often increases the amount of credit card and other debt they must take on in order to survive. To help

mitigate the disparate growth in the cost of financing a postsecondary education, this Program offers financial aid relief to recent college graduates by providing up to twenty-four payments towards an eligible applicant's federal income-based student loan repayment plan commitment. Students who receive their undergraduate degree from a college or university located in New York State in December 2014 and thereafter, who continue to live in New York State upon graduation, earn less than $50,000 per year, participate in either the federal Pay as You Earn (PAYE) or applicable federal Income Based Repayment (IBR) program, and apply for this Program within two years after graduating from college are eligible for this Program.

Costs:

a. It is anticipated that there will be no new costs to the agency for the implementation of, or continuing compliance with this rule.

b. The maximum cost of the program to the State is $5.2 million in the first year based upon budget estimates.

c. It is anticipated that there will be no costs to local governments for the implementation of, or continuing compliance with, this rule.

d. The source of the cost data in (b) above is derived from the New York State Division of the Budget.

Local government mandates:

No program, service, duty or responsibility will be imposed by this rule upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

This proposal will require applicants to file an electronic application for eligibility and payment together with supporting documentation.

Duplication:

No relevant rules or other relevant requirements duplicating, overlapping, or conflicting with this rule were identified.

Alternatives:

The proposed regulation is the result of HESC's outreach efforts to the U.S. Department of Education with regard to this Program. Several alternatives were considered in the drafting of this regulation. For example, several alternatives were considered in defining terms used in the regulation as well as the administration of the Program. Given the statutory language as set forth in section 679-g of the Education Law, a "no action" alternative was not an option.

Federal standards:

This proposal does not exceed any minimum standards of the Federal Government. Since this Program is intended to supplement federal repayment programs, efforts were made to align the Program with the federal programs.

Compliance schedule:

The agency will be able to comply with the regulation immediately upon its adoption.

Regulatory Flexibility Analysis

This statement is being submitted pursuant to subdivision (3) of section 202-b of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making, seeking to add a new section 2201.15 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse economic impact on small businesses or local governments. HESC finds that this rule will not impose any compliance requirement or adverse economic impact on small businesses or local governments. Rather, it has potential positive economic impacts inasmuch as it implements a statutory student financial aid program that eases the burden of federal student loan debt for recent New York State college graduates who continue to live in the State. Providing students with direct financial assistance will encourage students to attend college in New York State and remain in the State following graduation, which will provide an economic benefit to the State's small businesses and local governments as well.

Rural Area Flexibility Analysis

This statement is being submitted pursuant to subdivision (4) of section 202-bb of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's Emergency Rule Making, seeking to add a new section 2201.15 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse impact on rural areas. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that eases the burden of federal student loan debt for recent New York State college graduates who continue to live in the State. Providing students with direct financial assistance will encourage students to attend college in New York State and remain in the State following graduation, which benefits rural areas around the State as well.

This agency finds that this rule will not impose any reporting, record-keeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

This statement is being submitted pursuant to subdivision (2) of section 201-a of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's Emergency Rule Making seeking to add a new section 2201.15 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not have any negative impact on jobs or employment opportunities. Rather, it has potential positive economic impacts inasmuch as it implements a statutory student financial aid program that eases the burden of federal student loan debt for recent New York State college graduates who continue to live in the State. Providing students with direct financial assistance will encourage students to attend college in New York State and remain in the State following graduation, which benefits the State as well.

EMERGENCY RULE MAKING

New York State Achievement and Investment in Merit Scholarship (NY-AIMS)

I.D. No. ESC-07-16-00003-E

Filing No. 132

Filing Date: 2016-01-27

Effective Date: 2016-01-27

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

Action taken: Addition of section 2201.16 to Title 8 NYCRR.

Statutory authority: Education Law, sections 653, 655 and 669-g

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

Specific reasons underlying the finding of necessity: This statement is being submitted pursuant to subdivision (6) of section 202 of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making seeking to add a new section 2201.16 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This regulation implements a statutory student financial aid program providing for awards to be made to students beginning with the fall 2015 term, which generally starts in August. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible scholarship applicants. The statute provides New York high school graduates who excel academically with merit-based scholarships to support their cost of attendance at any college or university located in New York State. Five thousand awards, of $500 each, will be granted annually in 2015-16 and 2016-17. Decisions on applications for this Program are made prior to the beginning of the term. Therefore, it is critical that the terms of this program as provided in the regulation be effective immediately so that students can make informed choices and in order for HESC to process scholarship applications in a timely manner. To accomplish this mandate, the statute further provides for HESC to promulgate emergency regulations to implement the program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: New York State Achievement and Investment in Merit Scholarship (NY-AIMS).

Purpose: To implement The New York State Achievement and Investment in Merit Scholarship (NY-AIMS).

Text of emergency rule: New section 2201.16 is added to Title 8 of the New York Code, Rules and Regulations to read as follows:

Section 2201.16 The New York State Achievement and Investment in Merit Scholarship (NY-AIMS).

(a) Definitions. As used in section 669-g of the Education Law and this section, the following terms shall have the following meanings:

(1) "Good academic standing" shall have the same meaning as set forth in section 665(6) of the education law.

(2) "Grade point average" shall mean the student's numeric grade calculated on the standard 4.0 scale.

(3) "Program" shall mean The New York State Achievement and Investment in Merit Scholarship codified in section 669-g of the education law.

(4) "Unmet need" for the purpose of determining priority shall mean

the cost of attendance, as determined for federal Title IV student financial aid purposes, less all federal, State, and institutional higher education aid and the expected family contribution based on the federal formula.

(b) Eligibility. An applicant must:

(1) have graduated from a New York State high school in the 2014-15 academic year or thereafter; and

(2) enroll in an approved undergraduate program of study in a public or private not-for-profit degree granting post-secondary institution located in New York State beginning in the two thousand fifteen-sixteen academic year or thereafter; and

(3) have achieved at least two of the following during high school:

(i) Graduated with a grade point average of 3.3 or above;

(ii) Graduated with a "with honors" distinction on a New York State regents diploma or receive a score of 3 or higher on two or more advanced placement examinations; or

(iii) Graduated within the top fifteen percent of their high school class, provided that actual class rank may be taken into consideration; and

(4) satisfy all other requirements pursuant to section 669-g of the education law; and

(5) satisfy all general eligibility requirements provided in section 661 of the education law including, but not limited to, full-time attendance, good academic standing, residency and citizenship.

(c) Distribution and priorities. In each year, new awards made shall be proportionate to the total new applications received from eligible students enrolled in undergraduate study at public and private not-for-profit degree granting institutions. Distribution of awards shall be made in accordance with the provisions contained in section 669-g(3)(a) of the education law within each sector. In the event that there are more applicants who have the same priority than there are remaining scholarships or available funding, awards shall be made in descending order based on unmet need established at the time of application. In the event of a tie, distribution shall be made by means of a lottery or other form of random selection.

(d) Administration.

(1) Applicants for an award shall apply for program eligibility at such times, on forms and in a manner prescribed by the corporation. The corporation may require applicants to provide additional documentation evidencing eligibility.

(2) Recipients of an award shall:

(i) request payment annually at such times, on forms and in a manner specified by the corporation;

(ii) receive such awards for not more than four academic years of undergraduate study, or five academic years if the program of study normally requires five years as defined by the commissioner pursuant to Article 13 of the education law; and

(iii) provide any information necessary for the corporation to determine compliance with the program's requirements.

(e) Awards.

(1) The amount of the award shall be determined in accordance with section 669-g of the education law.

(2) Disbursements shall be made annually to institutions on behalf of recipients.

(3) Awards may be used to offset the recipient's total cost of attendance determined for federal Title IV student financial aid purposes or may be used in addition to such cost of attendance.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire April 25, 2016.

Text of rule and any required statements and analyses may be obtained from: Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1325, Albany, New York 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

Regulatory Impact Statement

Statutory authority:

The New York State Higher Education Services Corporation's ("HESC") statutory authority to promulgate regulations and administer The New York State Achievement and Investment in Merit Scholarship (NY-AIMS), hereinafter referred to as "Program", is codified within Article 14 of the Education Law. In particular, Part Z of Chapter 56 of the Laws of 2015 created the Program by adding a new section 669-g to the Education Law. Subdivision 6 of section 669-g of the Education Law authorizes HESC to promulgate emergency regulations for the purpose of administering this Program.

Pursuant to Education Law § 652(2), HESC was established for the purpose of improving the post-secondary educational opportunities of eligible students through the centralized administration of New York State financial aid programs and coordinating the State's administrative effort in student financial aid programs with those of other levels of government.

In addition, Education Law § 653(9) empowers HESC's Board of Trustees to perform such other acts as may be necessary or appropriate to carry out the objects and purposes of the corporation including the promulgation of rules and regulations.

HESC's President is authorized, under Education Law § 655(4), to propose rules and regulations, subject to approval by the Board of Trustees, governing, among other things, the application for and the granting and administration of student aid and loan programs, the repayment of loans or the guarantee of loans made by HESC; and administrative functions in support of state student aid programs. Also, consistent with Education Law § 655(9), HESC's President is authorized to receive assistance from any Division, Department or Agency of the State in order to properly carry out his or her powers, duties and functions. Finally, Education Law § 655(12) provides HESC's President with the authority to perform such other acts as may be necessary or appropriate to carry out effectively the general objects and purposes of HESC.

Legislative objectives:

The Education Law was amended to add a new section 669-g to create The New York State Achievement and Investment in Merit Scholarship (NY-AIMS). The objective of this Program is to grant merit-based scholarship awards to New York State high school graduates who achieve academic excellence.

Needs and benefits:

The cost to attain a postsecondary degree has increased significantly over the years; alongside this growth, the financing of that degree has become increasingly challenging. According to a June 9, 2014 Presidential Memorandum issued by President Obama, over the past three decades, the average tuition at a public four-year college has more than tripled, while a typical family's income has increased only modestly. All federal student financial aid and a majority of state student financial aid programs are conditioned on economic need. Despite stagnant growth in household incomes, there continues to be far fewer academically-based financial aid programs, which are awarded to students regardless of assets or income. This has resulted in more limited financial aid options for those who are ineligible for need-based aid. Concurrently, greater numbers of students are relying on loans to pay for college. Today, 71 percent of those earning a bachelor's degree graduate with student loan debt averaging $29,400. Many of these students feel burdened by their college loan debt, especially as they seek to start a family, buy a home, launch a business, or save for retirement.

This Program cushions the disparate growth in the cost of a postsecondary education by providing New York State high school graduates who excel academically with merit-based scholarships to support their cost of attendance at any college or university located in the State for up to four years of undergraduate study (or five years if enrolled in a five-year program). Five thousand awards, of $500 each, will be granted annually in 2015-16 and 2016-17.

Costs:

a. It is anticipated that there will be no new costs to the agency for the implementation of, or continuing compliance with this rule.

b. The maximum cost of the program to the State is $2.5 million in the first year based upon budget estimates.

c. It is anticipated that there will be no costs to local governments for the implementation of, or continuing compliance with, this rule.

d. The source of the cost data in (b) above is derived from the New York State Division of the Budget.

Local government mandates:

No program, service, duty or responsibility will be imposed by this rule upon any county, city, town, village, school district, fire district or other special district.

Paperwork:

This proposal will require applicants to file an electronic application for eligibility and payment together with supporting documentation.

Duplication:

No relevant rules or other relevant requirements duplicating, overlapping, or conflicting with this rule were identified.

Alternatives:

The proposed regulation is the result of HESC's outreach efforts to financial aid professionals with regard to this Program. Several alternatives were considered in the drafting of this regulation. For example, several alternatives were considered in defining terms used in the regulation as well as the administration of the Program. Given the statutory language as set forth in section 669-g of the Education Law, a "no action" alternative was not an option.

Federal standards:

This proposal does not exceed any minimum standards of the Federal Government and efforts were made to align it with similar federal subject areas as evidenced by the adoption of the federal definitions/methodology concerning unmet need, expected family contribution, and cost of attendance.

Compliance schedule:

The agency will be able to comply with the regulation immediately upon its adoption.

Regulatory Flexibility Analysis

This statement is being submitted pursuant to subdivision (3) of section 202-b of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making, seeking to add a new section 2201.16 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse economic impact on small businesses or local governments. HESC finds that this rule will not impose any compliance requirement or adverse economic impact on small businesses or local governments. Rather, it has potential positive economic impacts inasmuch as it implements a statutory student financial aid program that provides merit-based scholarships to students who pursue their undergraduate degree at any college or university located in New York State. Providing students with direct financial assistance will encourage them to attend college in New York State, which will provide an economic benefit to the State's small businesses and local governments as well.

Rural Area Flexibility Analysis

This statement is being submitted pursuant to subdivision (4) of section 202-bb of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's Emergency Rule Making, seeking to add a new section 2201.16 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not impose an adverse impact on rural areas. Rather, it has potential positive impacts inasmuch as it implements a statutory student financial aid program that provides merit-based scholarships to students who pursue their undergraduate degree at any college or university located in New York State. Providing students with direct financial assistance will encourage them to attend college in New York State, which benefits rural areas around the State as well.

This agency finds that this rule will not impose any reporting, record-keeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

This statement is being submitted pursuant to subdivision (2) of section 201-a of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's Emergency Rule Making seeking to add a new section 2201.16 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

It is apparent from the nature and purpose of this rule that it will not have any negative impact on jobs or employment opportunities. Rather, it has potential positive economic impacts inasmuch as it implements a statutory student financial aid program that provides merit-based scholarships to students who pursue their undergraduate degree at any college or university located in New York State. Providing students with direct financial assistance will encourage them to attend college in New York State and possibly seek employment opportunities in the State as well, which will benefit the State.

Public Service Commission

NOTICE OF ADOPTION

Joint Petition for Transfer of Assets

I.D. No. PSC-24-14-00004-A

Filing Date: 2016-01-28

Effective Date: 2016-01-28

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

Action taken: On 1/21/16, the PSC adopted an order denying Heritage Hills Water Corp. (Heritage Hills) and Community Utilities of New York Inc.'s (CUNY) joint petition for the transfer of assets.

Statutory authority: Public Service Law, section 89-h

Subject: Joint petition for transfer of assets.

Purpose: To deny Heritage Hills and CUNY's joint petition for transfer of assets.

Substance of final rule: The Commission, on January 21, 2016, adopted an order denying Heritage Hills Water Corp. (Heritage Hills) and Community Utilities of New York Inc.'s (CUNY) joint petition for the transfer of assets of Heritage Hills to CUNY, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(14-W-0178SA1)

NOTICE OF ADOPTION

Arteche's Medium Voltage Transformers

I.D. No. PSC-15-15-00005-A

Filing Date: 2016-01-28

Effective Date: 2016-01-28

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

Action taken: On 1/21/16, the PSC adopted an order approving Arteche USA's (Arteche) petition to use their medium voltage transformers in New York State.

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

Subject: Arteche's medium voltage transformers.

Purpose: To approve the use of Arteche's medium voltage transformers.

Substance of final rule: The Commission, on January 21, 2016, adopted an order approving Arteche USA's petition to use medium voltage transformers models; CRH-36, URS-36, URS-52, VRJ-17, VRS-36 and VRU-52 in New York State, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(14-E-0548SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-25-15-00010-A

Filing Date: 2016-01-28

Effective Date: 2016-01-28

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

Action taken: On 1/21/16, the PSC adopted an order authorizing 250 West Street Condominium (250 West Street) to submeter electricity at 250 West Street, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To authorize 250 West Street to submeter electricity at 250 West Street, New York, New York.

Substance of final rule: The Commission, on January 21, 2016, adopted an order authorizing 250 West Street Condominium to submeter electricity at 250 West Street, New York, New York, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three Empire State Plaza, Albany, New York 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(15-E-0287SA1)

NOTICE OF ADOPTION

Revocation of Eligibility for Violations of the UBP

I.D. No. PSC-35-15-00012-A

Filing Date: 2016-01-27

Effective Date: 2016-01-27

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

Action taken: On 1/21/16, the PSC adopted an order revoking the eligibility of Spectrum Gas and Electric, LLC (Spectrum) to operate in New York State for violations of the Uniform Business Practices (UBP).

Statutory authority: Public Service Law, sections 4 and 66

Subject: Revocation of eligibility for violations of the UBP.

Purpose: To revoke the eligibility of Spectrum for violations of the UBP.

Substance of final rule: The Commission, on January 21, 2016, adopted an order revoking the eligibility of Spectrum Gas and Electric, LLC to operate in New York State for violations of the Uniform Business Practices, 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-0260SA1)

NOTICE OF ADOPTION

Revocation of Eligibility for Violations of the UBP

I.D. No. PSC-35-15-00013-A

Filing Date: 2016-01-27

Effective Date: 2016-01-27

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

Action taken: On 1/21/16, the PSC adopted an order revoking the eligibility of Energy Your Way, LLC (Energy Your Way) to operate in New York State for violations of the Uniform Business Practices (UBP).

Statutory authority: Public Service Law, sections 4 and 66

Subject: Revocation of eligibility for violations of the UBP.

Purpose: To revoke the eligibility of Energy Your Way for violations of the UBP.

Substance of final rule: The Commission, on January 21, 2016, adopted an order revoking the eligibility of Energy Your Way, LLC to operate in New York State for violations of the Uniform Business Practices, 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-0247SA1)

NOTICE OF ADOPTION

Revocation of Eligibility for Violations of the UBP

I.D. No. PSC-35-15-00015-A

Filing Date: 2016-01-27

Effective Date: 2016-01-27

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

Action taken: On 1/21/16, the PSC adopted an order revoking the eligibility of National Power and Gas, Inc. (National Power) to operate in New York State for violations of the Uniform Business Practices (UBP).

Statutory authority: Public Service Law, sections 4 and 66

Subject: Revocation of eligibility for violations of the UBP.

Purpose: To revoke the eligibility of National Power for violations of the UBP.

Substance of final rule: The Commission, on January 21, 2016, adopted an order revoking the eligibility of National Power and Gas, Inc. to operate in New York State for violations of the Uniform Business Practices, 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-0261SA1)

NOTICE OF ADOPTION

Revocation of Eligibility for Violations of the UBP

I.D. No. PSC-35-15-00017-A

Filing Date: 2016-01-27

Effective Date: 2016-01-27

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

Action taken: On 1/21/16, the PSC adopted an order revoking the eligibility of Ipsum Solutions, Inc. (Ipsum) to operate in New York State for violations of the Uniform Business Practices (UBP).

Statutory authority: Public Service Law, sections 4 and 66

Subject: Revocation of eligibility for violations of the UBP.

Purpose: To revoke the eligibility of Ipsum for violations of the UBP.

Substance of final rule: The Commission, on January 21, 2016, adopted an order revoking the eligibility of Ipsum Solutions, Inc. to operate in New York State for violations of the Uniform Business Practices, 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-0262SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-36-15-00025-A
Filing Date: 2016-01-28
Effective Date: 2016-01-28

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

Action taken: On 1/21/16, the PSC adopted an order authorizing 42 West Broad Developers LLC (42 West Broad) to submeter electricity at 42 Broad Street West, Mount Vernon, New York 10552.

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

Subject: Submetering of electricity.

Purpose: To authorize 42 West Broad to submeter electricity at 42 Broad Street West, Mount Vernon, New York 10552.

Substance of final rule: The Commission, on January 21, 2016, adopted an order authorizing 42 West Broad Developers LLC to submeter electricity at 42 Broad Street West, Mount Vernon, New York 10552, 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-0467SA1)

NOTICE OF ADOPTION

Amendments to Programs Contained in P.S.C. No. 10 and No. 12 — Electricity

I.D. No. PSC-41-15-00012-A
Filing Date: 2016-01-27
Effective Date: 2016-01-27

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

Action taken: On 1/21/16, the PSC adopted an order approving Consolidated Edison Company of New York, Inc.'s (Con Ed) amendments to programs contained in P.S.C. No. 10 and No. 12 — Electricity.

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

Subject: Amendments to programs contained in P.S.C. No. 10 and No. 12 — Electricity.

Purpose: To approve Con Ed's amendments to programs contained in P.S.C. No. 10 and No. 12 — Electricity.

Substance of final rule: The Commission, on January 21, 2016, adopted an order approving Consolidated Edison Company of New York, Inc.'s amendments to revise the Commercial Demand Response Program contained in P.S.C. No. 10 — Electricity and conforming revisions to Charge for Demand Management Programs contained in P.S.C. No. 12 — Electricity, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: 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-0570SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-42-15-00008-A
Filing Date: 2016-01-28
Effective Date: 2016-01-28

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

Action taken: On 1/21/16, the PSC adopted an order authorizing 560 West 24th Street Condominium (560 West 24th Street) to submeter electricity at 552 West 24th Street, New York, NY 10011.

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

Subject: Submetering of electricity.

Purpose: To authorize 560 West 24th Street to submeter electricity at 552 West 24th Street, New York, NY 10011.

Substance of final rule: The Commission, on January 21, 2016, adopted an order authorizing 560 West 24th Street Condominium to submeter electricity at 552 West 24th Street, New York, NY 10011, 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-0513SA1)

NOTICE OF ADOPTION

Assignment of Anniversary Dates to Net Metered Solar Customers

I.D. No. PSC-42-15-00009-A
Filing Date: 2016-01-27
Effective Date: 2016-01-27

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

Action taken: On 1/21/16, the PSC adopted an order directing Joint Utilities to advise residential solar customers that are net metered in writing of the option to select an anniversary date as of the time the first net metered bill is issued to a customer.

Statutory authority: Public Service Law, sections 5(1)(b) and 66-j

Subject: Assignment of anniversary dates to net metered solar customers.

Purpose: To direct Joint Utilities to advise net metered solar customers about anniversary date options.

Substance of final rule: The Commission, on January 21, 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 advise residential solar customers that are net metered in writing of the option to select an anniversary date as of the time the first net metered bill is issued to a customer, 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-0572SA1)

NOTICE OF ADOPTION

Tariff Amendments to P.S.C. No. 19 — Electricity

I.D. No. PSC-44-15-00022-A
Filing Date: 2016-01-27
Effective Date: 2016-01-27

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

Action taken: On 1/21/16, the PSC adopted an order approving Rochester Gas and Electric Corporation's (RG&E) tariff amendments to P.S.C. No. 19 — Electricity to add components to its Supply Charge to recover NY Transco, LLC costs.

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

Subject: Tariff amendments to P.S.C. No. 19 — Electricity.

Purpose: To approve RG&E's tariff amendments to P.S.C. No. 19 — Electricity.

Substance of final rule: The Commission, on January 21, 2016, adopted an order approving Rochester Gas and Electric Corporation's tariff amendments to P.S.C. No. 19 — Electricity to add components to its Supply Charge to recover NY Transco, LLC 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-0582SA1)

NOTICE OF ADOPTION

Tariff Amendments to P.S.C. No. 120 — Electricity

I.D. No. PSC-44-15-00023-A
Filing Date: 2016-01-27
Effective Date: 2016-01-27

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

Action taken: On 1/21/16, the PSC adopted an order approving New York State Electric and Gas Corporation's (NYSEG) tariff amendments to P.S.C. No. 120 — Electricity to add components to its Supply Charge to recover NY Transco, LLC costs.

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

Subject: Tariff amendments to P.S.C. No. 120 — Electricity.

Purpose: To approve NYSEG's tariff amendments to P.S.C. No. 120 — Electricity.

Substance of final rule: The Commission, on January 21, 2016, adopted an order approving New York State Electric and Gas Corporation's tariff amendments to P.S.C. No. 120 — Electricity to add components to its Supply Charge to recover NY Transco, LLC 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-0581SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

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

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

Proposed Action: The Public Service Commission is considering the Notice of Intent, filed by 20 Lafayette LLC, to submeter electricity at 286 Ashland Place, Brooklyn, New York.

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

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent of 20 Lafayette LLC to submeter electricity at 286 Ashland Place, Brooklyn, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by 20 Lafayette LLC on January 13, 2016, to submeter electricity at 286 Ashland Place, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(16-E-0016SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Use of the Electro Industries Shark 200 Electric Submeter in Residential Applications

I.D. No. PSC-07-16-00016-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 filed by Electro Industries/GaugeTech, Inc. on January 20, 2016, to use the Shark 200 meter in residential submetering applications.

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

Subject: Use of the Electro Industries Shark 200 electric submeter in residential applications.

Purpose: To consider the use of the Electro Industries Shark 200 submeter.

Substance of proposed rule: The Public Service Commission is considering a petition filed by Electro Industries/GaugeTech, Inc. on January 20, 2016, to use the Shark 200 meter in residential submetering applications. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement
Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(16-E-0024SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

To Modify the Retail Access Program Under SC No. 8 — Seller Services

I.D. No. PSC-07-16-00017-P

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

Proposed Action: The Commission is considering a proposal filed by KeySpan Gas East Corp. dba Brooklyn Union of L.I. to make various changes to the rates, charges, rules and regulations contained in its Schedule for Gas Services, P.S.C. No. 1 — Gas.

Statutory authority: Public Service Law, sections 65 and 66

Subject: To modify the retail access program under SC No. 8 — Seller Services.

Purpose: To consider changes to the retail access program to implement Tier 2A — Storage Capacity Release and other tariff revisions.

Substance of proposed rule: The Public Service Commission is considering whether to approve, modify or reject, in whole or in part, a tariff filing by KeySpan Gas East Corp. dba Brooklyn Union of L.I. (the Company) made in compliance with Commission Order issued October 23, 2014 in Case 14-G-0330, et al. The Company proposes to further amend the tariff provisions of its retail access program under Service Classification No. 8 – Seller Service to implement changes to core monthly balanced transportation. The tariff revisions will implement Tier 2A – Storage Capacity Release, in which storage capacity assets and related storage transportation assets are to be released to Sellers starting May 1, 2016. In conjunction with the storage capacity release, the tariff revisions provide that the Company will transfer gas inventory that remains in storage as of May 1, 2016 to Sellers at the Company's weighted average storage inventory price. The existing retail access storage service which bundles storage capacity with inventory will be renamed Tier 2B – Retail Access Storage and will continue to be provided to Sellers in lieu of a physical capacity release of storage assets that are not releasable. The tariff revisions will also effectuate a weather true-up adjustment each day to account for any difference between actual and forecasted weather on each Seller's daily delivery quantity. The weather true-up adjustment will be applied to each Seller's available Tier 2B – Retail Access Storage inventory balance. The proposed amendments have an effective date of May 1, 2016. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement
Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(14-G-0330SP3)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Use of the Open Way Centron 3.5 Commercial Meter, with 4G LTE Cellular or Modem Communications for Electric Metering

I.D. No. PSC-07-16-00018-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 filed by Itron, Inc. on January 15, 2016 for approval to use the Itron OpenWay Centron 4G Commercial Meter, with cellular or modem communications in electric metering applications.

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

Subject: Use of the Open Way Centron 3.5 commercial meter, with 4G LTE cellular or modem communications for electric metering.

Purpose: To consider the use of the Itron Open Way Centron 3.5 meter.

Substance of proposed rule: The Public Service Commission is considering a petition filed by Itron, Inc. on January 15, 2016 for approval to use the Itron OpenWay Centron 4G Commercial Meter, with cellular or modem communications in electric metering applications. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement
Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(16-E-0023SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Conversion of P.S.C. No. 1 to an Electronic Format and Add a Provision to Its Service Classification No.1

I.D. No. PSC-07-16-00019-P

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

Proposed Action: The Commission is considering a proposal filed by Heritage Springs Water Works, Inc. to convert its paper tariff schedule P.S.C. No. 1 to an electronic format and to add a provision to its Service Classification No. 1.

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

Subject: Conversion of P.S.C. No. 1 to an electronic format and add a provision to its Service Classification No.1.

Purpose: To consider conversion of P.S.C. No. 1 to an electronic format and add a provision to its Service Classification No.1.

Substance of proposed rule: The Commission is considering a proposal filed by Heritage Springs Water Works, Inc. (The Company), requesting to convert its tariff P.S.C. No. 1 – Water to an electronic format (P.S.C. No. 2 – Water), and to add a provision to its Service Classification No. 1 Applicable to use for Service for Residential, Commercial, and General Use; specifically the provision would add rates through meter sizes 1–1/2, 2, and 3 inches with an effective date of June 1, 2016. Each meter size would have a minimum quarterly allowance and charge. The Commission may adopt, reject or modify, in whole or in part, the relief sought by the Company and may also 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-0022SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

To Modify the Retail Access Program Under SC No. 19—Seller Transportation Aggregation Service

I.D. No. PSC-07-16-00020-P

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

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

Statutory authority: Public Service Law, sections 65 and 66

Subject: To modify the retail access program under SC No. 19—Seller Transportation Aggregation Service.

Purpose: To consider changes to the retail access program to implement Tier 2A – Storage Capacity Release and other tariff revisions.

Substance of proposed rule: The Public Service Commission is considering whether to approve, modify or reject, in whole or in part, a tariff filing by The Brooklyn Union Gas Company d/b/a National Grid NY (the Company) made in compliance with Commission Order issued October 23, 2014 in Case 14-G-0330, et al. The Company proposes to further amend the tariff provisions of its retail access program under Service Classification No. 19 – Seller Transportation Aggregation Service to implement changes to core monthly balanced transportation. The tariff revisions will implement Tier 2A – Storage Capacity Release, in which storage capacity assets and related storage transportation assets are to be released to Sellers starting May 1, 2016. In conjunction with the storage capacity release, the tariff revisions provide that the Company will transfer gas inventory that remains in storage as of May 1, 2016 to Sellers at the Company's weighted average storage inventory price. The existing retail access storage service which bundles storage capacity with inventory will be renamed Tier 2B – Retail Access Storage and will continue to be provided to Sellers in lieu of a physical capacity release of storage assets that are not releasable. The tariff revisions will also effectuate a weather true-up adjustment each day to account for any difference between actual and forecasted weather on each Seller's daily delivery quantity. The weather true-up adjustment will be applied to each Seller's available Tier 2B – Retail Access Storage inventory balance. The proposed amendments have an effective date of May 1, 2016. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(14-G-0331SP3)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

NYSEG's Request to Collect Funding for Natural Gas Energy Efficiency Portfolio Standard Programs

I.D. No. PSC-07-16-00021-P

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

Proposed Action: The Commission is considering a petition by New York State Electric & Gas Corporation (NYSEG) to collect previously ordered System Benefits Charge funding for natural gas Energy Efficiency Portfolio Standard programs for 2012 through 2018.

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

Subject: NYSEG's request to collect funding for natural gas Energy Efficiency Portfolio Standard programs.

Purpose: To consider NYSEG's request to collect funding for natural gas Energy Efficiency Portfolio Standard programs.

Substance of proposed rule: The Public Service Commission is considering the petition filed on January 26, 2016 by New York State Electric & Gas Corporation (NYSEG). The petition seeks approval to collect previously ordered System Benefits Charge (SBC) funding for natural gas Energy Efficiency Portfolio Standard (EEPS) programs for 2012 through 2018. NYSEG's states that its SBC collections match the Commission's October 2011 Order Authorizing Efficiency Programs, Revising Incentive Mechanism, and Establishing a Surcharge Schedule (October 2011 Order). However NYSEG did not increase SBC collections in accordance with a subsequent errata notice issued on June 18, 2012 (Errata). NYSEG requests approval to collect $4.9 million as part of the SBC surcharge over a 48 month period beginning June 1, 2016. The collection would match additional funds specified in the Errata. The Commission may adopt, reject or modify, in whole or in part, the relief requested 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.

(07-M-0548SP82)