

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.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Problem Gambling Awareness and Training and to Establish a Process for Gaming Facility Patron Self-Exclusion

I.D. No. SGC-12-16-00002-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 5300.1; and addition of Parts 5323-5324 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(2)(p), 1344, 1345, 1362 and 1363

Subject: Problem gambling awareness and training and to establish a process for gaming facility patron self-exclusion.

Purpose: To promote best responsible gaming practices and establish a process for gaming facility patron self exclusion.

Substance of proposed rule (Full text is posted at the following State website: www.gaming.ny.gov): The addition of Parts 5323-5324 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission (“Commission”) to prescribe rules that require a gaming facility licensee to develop programs and provide resources to its employees and patrons to help combat problem gambling. The proposed rules provide for the establishment of a problem gambling plan and a self-excluded persons list. The proposed rules also establish parameters to prevent gaming facilities from disseminating false, deceptive or misleading advertising.

Section 5323.1 sets forth the purpose and scope of the rules which is to ensure that the Commission and gaming facility licensees minimize harm

from casino gaming to individuals, families and communities and promote best responsible gaming practices. Section 5323.2 prescribes the contents of a problem gambling plan which each gaming facility licensee must submit to the Commission. The rule requires that the problem gambling plan include goals, procedures and a timetable for implementation as well as identify an individual responsible for implementing and overseeing the plan. Section 5323.3 requires that the problem gambling plan include an employee training program. Section 5323.4 requires quarterly and annual reporting to the Commission in regard to the gaming facility licensee’s problem gambling plan progress and results. Sections 5323.5 and 5323.6 set forth procedures and restrictions on gaming facility advertising and signage, including the content and placement of gambling assistance messages.

Part 5324 sets forth a process by which an individual can request to be excluded from participation in gaming activities. The rule requires that an individual file a request for self-exclusion which includes the length of exclusion sought (1 year, 5 year or lifetime) and release any claims that could arise from a failure by the State, Commission or gaming facility licensee to withhold or restore gaming privileges or from confiscation of the individual’s winnings. Section 5324.2 requires the commission to maintain an official list of self-excluded persons and to promptly notify a gaming facility licensee’s agents of any additions to or deletions from such list. The rules prescribe that a self-excluded person may not collect winnings or recover losses during the period of exclusion. Section 5324.3 requires that a gaming facility licensee establish procedures and training for its employees to identify and manage any self-excluded persons found to be present on the gaming floor or involved in gaming related activities. Section 5324.4 provides that an individual is removed from the self-exclusion list upon the conclusion of the 1 year or 5 year period of self-exclusion unless the individual requests that the Commission extend the term. Section 5324.5 provides exceptions to the prohibition against allowing self-excluded persons to be on the gaming floor or in areas where gaming activity is conducted. Section 5324.6 sets forth limitations on the disclosure of information related to persons on the self-exclusion list.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, Acting Secretary, New York State Gaming Commission, One Broadway Center, 6th floor, Schenectady, NY 12305, (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: Racing, Pari-Mutuel Wagering and Breeding Law (“Racing Law”) section 104(19) grants authority to the Gaming Commission (“Commission”) to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1307(2)(p) prescribes that the Commission adopt regulations to prevent deceptive gaming-related advertising by gaming facility licensees and their employees and agents.

Racing Law section 1344(1) and (2) prescribe that the Commission establish a list of persons self-excluded from gaming activities and establish procedures for placement on and removal from such list. In addition Racing Law section 1344(1) and (2) requires the Commission to establish procedures for transmitting identifying information about such persons to a gaming facility licensee and for preventing such persons from receiving gaming-related advertising from the gaming facility licensee.

Racing Law section 1345 prescribes that self-excluded persons forfeit winnings arising as a result of gaming activities and that any such winnings be deposited into the commercial gaming revenue fund.

Racing Law section 1362 prescribes prevention and outreach efforts that a gaming facility applicant and licensee must establish and maintain to combat compulsive and problem gambling.

Racing Law section 1363 prescribes restrictions intended to prevent gaming facilities from disseminating false, deceptive or misleading advertising.

2. **LEGISLATIVE OBJECTIVES:** The above referenced statutory provisions carry out the legislature's stated goal "to develop programs and resources to combat compulsive and problem gambling" as set forth in Racing Law section 1300(12). These provisions also enable the Commission to carry out the Upstate New York Gaming Economic Development Act of 2013 as embodied in Chapter 174 of the Laws of 2013 including to maintain the public confidence and trust in the credibility and integrity of legalized gaming activities in order to support the continued growth of the gaming industry that will contribute to economic development and job development in the state.

3. **NEEDS AND BENEFITS:** The proposed rules represent best practices in problem gambling awareness and prevention and are the result of input from (i) experts hosted by the Gaming Commission at numerous forums held throughout the state, including the New York Council on Problem Gambling, National Council on Problem Gambling and National Center on Responsible Gaming, among others; (ii) stakeholder and industry working groups; and (iii) other gambling jurisdiction best practices and regulation.

Best practices addressed in the proposed rules include requiring each gaming facility licensee to submit its problem gambling plan for Commission approval; establish an employee problem gambling training program; provide quarterly and annual reports to the Commission in regard to the progress and results of the problem gambling plan. The proposed rules also establish procedures and restrictions on gaming facility advertising and signage, including the content and placement of gambling assistance messages and the process by which an individual can request to be excluded from participation in gaming activities.

4. **COSTS:**

(a) Costs to the regulated parties for the implementation of and continuing compliance with the rule: One of the three gaming facility licensees has indicated that the anticipated costs of implementing and complying with the proposed regulations will be approximately \$100,000 per year.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The Commission currently operates problem gambling programs, including self-exclusion, in video lottery and horse racing. Based on that experience the Commission anticipates that the costs associated with the proposed rules would be negligible.

(c) The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission's experience regulating racing and gaming activities within the State.

5. **LOCAL GOVERNMENT:** There are no local government mandates associated with these rules.

6. **PAPERWORK:** These rules impose paperwork burdens on gaming facility licensees to establish, submit and maintain a problem gambling plan that is aimed to help identify and address problem and compulsive gambling through an employee training program, public and private treatment services and advertising. Gaming facility licensees will submit quarterly and annual reports to the Commission regarding the progress and results of problem gambling plans.

7. **DUPLICATION:** These rules do not duplicate, overlap or conflict with any existing State or federal requirements.

8. **ALTERNATIVES:** In developing the proposed rules the Commission consulted various experts in the field of problem gambling including the New York Council on Problem Gambling, National Council on Problem Gambling, and National Center on Responsible Gaming, among others. In addition, the Commission consulted stakeholders and industry working groups and reviewed other gambling jurisdiction best practices and regulation. The Commission is also required to promulgate these rules pursuant to Racing Law sections 1307(2)(p) and 1344(1) through (2).

9. **FEDERAL STANDARDS:** There are no federal standards applicable to the licensing of gaming facilities in New York; it is purely a matter of New York State law.

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

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

These rules will not have any adverse impact on small businesses, local governments, jobs or rural areas. These rules are intended to promote public confidence and trust in the credibility and integrity of casino gambling in New York State. The rules will ensure that licensed gaming facilities develop programs and provide resources to employees and patrons that will combat compulsive and problem gambling. The rules will provide for the establishment of a self-excluded persons list and prohibit licensed gaming facilities from creating and disseminating deceptive advertising.

These rules do not impact local governments or small businesses as it is not expected that any local government or small business will hold a gaming facility license.

These rules impose no adverse impact on rural areas. These rules apply uniformly throughout the state and solely apply to licensed gaming facilities.

These rules will have no adverse impact on job opportunities.

These rules will not adversely impact small businesses, local governments, jobs, or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis, and Job Impact Statement are not required and have not been prepared.

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

Consequences for Commission Licensees, Agents, and Other Regulated Parties Who Violate Prohibition on Underage Wagering

I.D. No. SGC-12-16-00009-P

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

Proposed Action: Amendment of sections 4003.39, 4122.6, 4404.10, 4602.1, 4622.2, 4622.3, 5001.27, 5007.5, 5007.13, 5013.3 and 5117.1 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104, 108 and 116; Tax Law, sections 1601, 1604, 1610 and 1612; General Municipal Law, sections 195-a and 486

Subject: Consequences for Commission licensees, agents, and other regulated parties who violate prohibition on underage wagering.

Purpose: To further enforce the age restriction laws for gambling by imposing fines, suspensions and/or license revocation.

Substance of proposed rule (Full text is posted at the following State website: www.gaming.ny.gov): The amendments to these sections will allow the New York State Gaming Commission ("Commission") to ensure that all lawful gaming and horse racing activity conducted in this State is of the highest integrity. In co-operation with the Responsible Play Partnership (a standing collaboration between the Commission, the Office of Alcohol and Substance Abuse Services and the New York Council on Problem Gambling) the amendments address problem gambling issues and awareness in New York State. Amendment of these regulations furthers such purpose by increasing the consequences for non-compliance with the legal gambling age requirements.

The amendments to sections 4003.39 and 4122.6 establish a penalty structure for a thoroughbred track operator and a Standardbred track operator, respectively, found to have allowed betting by minors. A track operator would be penalized by a fine of \$1,000 for a first violation, \$5,000 for a second violation within one year of a violation, \$10,000 for a third violation within one year of a violation and \$25,000 for a fourth or subsequent violation within one year of a violation, in addition to such further action as the commission may deem appropriate, which may include without limitation suspension or revocation of any license or privilege to operate or manage a track in this State.

The amendments to section 4404.10 provide that an off-track betting corporation is responsible for not permitting a person who is actually or apparently under 18 years of age to enter an off-track betting branch office (other than a simulcast theater) or directly or indirectly place a bet at a branch office (including a simulcast theater). The amendments establish a penalty structure for an off-track betting corporation found to have violated such provisions. An off-track betting corporation would be penalized by a fine of \$1,000 for a first violation, \$5,000 for a second violation within one year of a violation, \$10,000 for a third violation within one year of a violation and for a fourth or subsequent violation within one year of a violation, such further action as the commission may deem appropriate, which may include without limitation the revocation of approval of the corporation's plan of operation. A different penalty structure applies to branch offices operated by entities other than an off-track betting corporation (commonly referred to as EZ Bet or Quick Bet locations). Such branch offices would be penalized by a written warning for a first violation, \$500 for a second violation within one year of a violation, \$1,000 for a third violation within one year of a violation and \$25,000 for a fourth or subsequent violation within one year of a violation, such further action as the commission may deem appropriate, which may include without limitation the revocation of approval of the off-track betting corporation's plan of operation with respect to such branch office.

The amendments to 4602.1 establish a penalty structure for a charitable organization authorized to conduct raffles found to have allowed a minor

to play, operate or assist in any raffle. An organization would be penalized by a written warning for a first violation, \$500 for a second violation within one year of a violation, \$1,000 for a third violation within one year of a violation and for a fourth or subsequent violation within one year of a violation, such further action as the commission may deem appropriate, which may include without limitation the suspension or revocation of any license or privilege to conduct raffles in this State.

The amendments to sections 4622.2 and 4622.3 establish a penalty structure for a charitable organization authorized to conduct games of chance found to have allowed a minor to participate in the operation, assist in the conduct of or play of any game of chance. An organization would be penalized by a written warning for a first violation, \$500 for a second violation within one year of a violation, \$1,000 for a third violation within one year of a violation and for a fourth or subsequent violation within one year of a violation, such further action as the commission may deem appropriate, which may include without limitation the suspension or revocation of any license or privilege to conduct games of chance in this State.

The amendments to sections 5001.27, 5007.5, 5007.13 and 5013.3 establish a penalty structure for a lottery sales agent found to have sold a lottery ticket to a minor. A sales agent licensee would be penalized by a written warning for a first violation, \$500 for a second violation within one year of a violation, \$1,000 for a third violation within one year of a violation and for a fourth or subsequent violation within one year of a violation, such further action as the commission may deem appropriate, which may include without limitation the suspension or revocation of any license or privilege to sell lottery tickets.

The amendments to section 5117.1 establish a penalty structure for a video lottery agent found to have permitted a minor to participate as a player or be present on the gaming floor without the escort of a licensed video lottery facility employee or for longer than necessary to reach a destination that is not on the gaming floor. A video lottery licensee found to have permitted a minor to participate as a player would be penalized by a fine of \$5,000 for a first violation, \$20,000 for a second violation within one year of a violation, \$25,000 for a third violation within one year of a violation and for a fourth or subsequent violation within one year of a violation, a fine of \$25,000 and such further action as the commission may deem appropriate, which may include without limitation the suspension or revocation of the occupational license of any key employee found to be responsible for the violation. A video lottery licensee found to have permitted a minor to be present on the gaming floor without the escort of a licensed video lottery facility employee or for longer than necessary to reach a destination that is not on the gaming floor would be penalized by a fine of \$1,000 for a first violation, \$5,000 for a second violation within one year of a violation, \$10,000 for a third violation within one year of a violation and for a fourth or subsequent violation within one year of a violation, a fine of \$25,000 and such further action as the commission may deem appropriate, which may include without limitation the suspension or revocation of the occupational license of any key employee found to be responsible for the violation.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, 1 Broadway Center, P.O. Box 7500, Schenectady NY 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: Pursuant to the authority conferred in New York State Tax Law Sections 1601, 1604, 1610 and 1612, Racing, Pari-Mutuel Wagering and Breeding Law Sections 104, 108 and 116 and General Municipal Law Sections 195-a and 486, the following amendments shall take effect upon publication of a Notice of Adoption in the State Register. Section 1601 of the Tax Law states the purpose of Article 34 of the Tax Law is to carry out the constitutional mandate to establish a lottery operated by the State. Section 1604 of the Tax Law provides for the New York State Gaming Commission's (the "Commission") authority to promulgate rules and regulations governing the Lottery. Sections 1610 and 1612 provide the legal age restrictions for purchasing a Lottery ticket. Subdivision 19 of Section 104 of the Racing, Pari-Mutuel Wagering and Breeding Law authorizes the Commission to promulgate rules and regulations necessary to carry out its responsibilities. Subdivision 2 of Section 108 of the Racing, Pari-Mutuel Wagering and Breeding Law provides the legal age restriction for wagering upon gaming. Section 116 of the Racing, Pari-Mutuel Wagering and Breeding Law authorizes the Commission to assess civil penalties upon a Commission licensee for any violation of the conditions of a license or the Racing, Pari-Mutuel Wagering and Breeding Law. Sections 195-a and 486 of the General Municipal Law provide the legal age restrictions for participating in charitable gaming.

2. Legislative objectives: The New York State Gaming Commission regulates all aspects of gaming and gambling activity in the state, including horse racing and pari-mutuel wagering, Class III Indian Gaming, the state lottery (including video lottery terminals) and charitable gaming. The Commission's purpose is to ensure that all lawful gaming and horse racing activity conducted in this State is of the highest integrity. In cooperation with the Responsible Play Partnership, (a standing collaboration between the Commission, the Office of Alcohol and Substance Abuse Services and the New York Council on Problem Gambling) the amendments address problem gambling issues and awareness in New York State. Amendment of these regulations forwards such purpose by increasing the consequences for non-compliance with the legal gambling age requirements.

3. Needs and benefits: The New York State Gaming Commission has regulations that govern Commission licensees, agents and other regulated parties who violate prohibitions on underage play. The amendments are necessary to enhance the existing regulations by implementing a graduated penalty structure for infractions. Similar to state enforcement efforts that prevent alcoholic beverage sales to underage buyers, the Responsible Play Partnership plans to help to enforce the age restriction for gaming.

4. Costs:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: There are no costs to stakeholders if they comply with the legal age limits for gambling. A violation by a Commission licensee of the legal age limits for gambling could result in a fine or other disciplinary action against the licensee.

b. Costs to the agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated, since funds originally appropriated for the expenses of enforcing the existing rules are expected to be sufficient to support these amendments.

c. Sources of cost evaluations: The foregoing cost evaluations are based on the Gaming Commission's experience in regulating wagering activity.

5. Local government mandates: The proposed amendment does not impose any new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district or other special district.

6. Paperwork: There are no changes in paperwork requirements.

7. Duplication: There are no relevant State programs or regulations which duplicate, overlap or conflict with the proposed amendment.

8. Alternatives: The alternative to amending the Commission's regulations is to continue the currently effective regulations and not enhance the Commission's oversight of compliance with the legal age limits for gambling.

9. Federal standards: The proposed amendment does not exceed any minimum standards imposed by the Federal government.

10. Compliance schedule: The amendment will be effective upon publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

1. Effect of rule: This rule making will affect the more than 18,000 retail sales agents of traditional lottery tickets in the State, the more than 100 off-track betting remote locations (sometimes known as EZ Bet, Fast Track, Qwik Bet or self-service locations, often at restaurants) and the more than 18,000 organizations conducting charitable gaming. This rule making will not affect local governments.

2. Compliance requirements: The rule making requires no compliance beyond compliance with existing laws prohibiting underage gaming.

3. Professional services: It is not anticipated that any small business or local government would need professional services in order to comply with the proposed rules.

4. Compliance costs: There are no initial capital costs anticipated for a regulated business or industry or local government to comply with the proposed rules, nor are there any anticipated annual costs for continuing compliance with the proposed rules.

5. Economic and technological feasibility: The proposed rules require compliance with existing law. No technology or additional expenditures is required for compliance.

6. Minimizing adverse impact: The proposed rules will have no adverse economic impact to small businesses that comply with existing laws prohibiting underage gaming. There would be economic impact, in the form of fines and other sanctions, on those that do not comply with laws prohibiting underage gaming. This result creates the deterrence effect that the proposed rules are designed to promote. The impact on small businesses is accounted for in the severity of the proposed sanctions for violations. There are less severe sanctions for violations committed by lottery retail sales agents, remote off-track betting locations and organizations that conduct charitable gaming (including written warnings for first violations, in lieu of fines) than there are for larger businesses, such as agents operating video lottery gaming facilities, racetracks, off-track betting corporations, which would be fined more substantially than small

businesses, including fines for first violations. The proposed rules set forth only performance standards. Public health safety and general welfare would not be served by exemptions from coverage by the rule for small businesses, but the circumstances of small businesses and charitable organizations are accounted for by the smaller prescribed sanctions, which include smaller fines and written warnings in lieu of fines for first violations within prescribed time periods.

7. Small business and local government participation: The Gaming Commission will send to affected regulated parties a notice apprising them of the proposed rulemaking and inviting them to comment.

8. For rules that either establish or modify a violation or penalties associated with a violation: The proposed rules contain no cure period because compliance with underage gaming laws is mandatory and there is no opportunity to cure once a violation occurs. The deterrence effect that the proposed rules are designed to promote would not be best served by excusing noncompliance, but the interests of small businesses are accounted for with smaller fines and the availability of a written warning as a sanction for a first violation within a prescribed time period.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not required for this proposal because the proposal will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on rural areas. This proposal amends the rules regulating consequences for Commission licensees, agents and other regulated parties who violate prohibition on underage wagering.

Job Impact Statement

A job impact statement is not submitted because this proposed rule will have no adverse impact on jobs or employment opportunities. This proposal amends the regulations governing the consequences for Commission licensees, agents and other regulated parties who violate prohibitions on underage wagering.

Division of Homeland Security and Emergency Services

NOTICE OF ADOPTION

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

I.D. No. HES-32-15-00002-A

Filing No. 265

Filing Date: 2016-03-02

Effective Date: 2016-03-23

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

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

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

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

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

Text or summary was published in the August 12, 2015 issue of the Register, I.D. No. HES-32-15-00002-EP.

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

Revised rule making(s) were previously published in the State Register on January 20, 2016.

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

Initial Review of Rule

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

Assessment of Public Comment

The agency received no public comment.

Department of Motor Vehicles

NOTICE OF ADOPTION

Use of the Vehicle Electronic Reassignment and Integrated Facility Inventory System

I.D. No. MTV-03-16-00005-A

Filing No. 270

Filing Date: 2016-03-08

Effective Date: 2016-03-23

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

Action taken: Amendment of section 78.9 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a) and 415

Subject: Use of the Vehicle Electronic Reassignment and Integrated Facility Inventory system.

Purpose: To require dealers to use the Vehicle Electronic Reassignment and Integrated Facility Inventory system.

Text or summary was published in the January 20, 2016 issue of the Register, I.D. No. MTV-03-16-00005-P.

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

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

Assessment of Public Comment

Comment: Dealertrack Technologies commented that, "we commend the DMV for advancing this initiative. It is an innovative and thoughtful approach to automate DMV regulatory and compliance functions, increase dealer efficiencies and advance consumer protection. We are aware of no other state that has gone to this level of detailed automation and thoughtful consideration for all stakeholders. As a New York State company, we are happy that this type of innovation is happening in New York."

Response: The Department of Motor Vehicles is appreciative of Dealertrack Technologies' support of the proposed regulation.

Office of Parks, Recreation and Historic Preservation

NOTICE OF ADOPTION

Adding Windsurfing, Sailboarding and Paddleboarding to the List of Activities Regulated by OPRHP

I.D. No. PKR-47-15-00001-A

Filing No. 266

Filing Date: 2016-03-03

Effective Date: 2016-03-23

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

Action taken: Amendment of sections 375.1 and 377.1 of Title 9 NYCRR.

Statutory authority: Parks, Recreation and Historic Preservation Law, sections 3.09(8) and 13.13

Subject: Adding windsurfing, sailboarding and paddleboarding to the list of activities regulated by OPRHP.

Purpose: To authorize the regulated activity by the public of windsurfing, and stand-up paddleboarding.

Text or summary was published in the November 25, 2015 issue of the Register, I.D. No. PKR-47-15-00001-P.

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

Text of rule and any required statements and analyses may be obtained from: Shari Calnero, Associate Counsel, Office of Parks, Recreation and Historic Preservation, OPRHP, Albany, NY 12238 (For USPS mailing),

625 Broadway, Albany, NY 12207 (for physical delivery), (518) 486-2921, email: rule.making@parks.ny.gov

Initial Review of Rule

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

Assessment of Public Comment

The agency received no public comment.

Office for People with Developmental Disabilities

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Pathway to Employment Changes

I.D. No. PDD-12-16-00001-P

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

Proposed Action: Amendment of Subpart 635-10 of Title 14 NYCRR.

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

Subject: Pathway to Employment Changes.

Purpose: To make changes to requirements for the delivery and reimbursement of the Pathway to Employment service.

Text of proposed rule: Subdivision 635-10.4(h) is amended as follows:

(h) Pathway to employment is a person-centered, comprehensive career/vocational employment planning and support service that provides assistance for individuals to obtain, maintain, or advance in competitive *integrated* employment or self-employment. This service combines an individualized career/vocational planning process that identifies the individual’s support needs, with the provision of services that will strengthen the skills needed to obtain, maintain, or advance in competitive *integrated* employment or *self-employment*. It engages individuals in identifying a career/vocational direction, provides instruction and training in pre-employment skills, and develops a path for achieving *self-employment* or competitive[.] *integrated* employment at or above the *state or federal* [New York State] minimum wage.

• Clause 635-10.4(h)(1)(i)(l) is amended and a new clause 635-10.4(h)(1)(i)(r) is added as follows:

(l) *obtaining and assistance in obtaining a minimum of three* community experiences through volunteer opportunities, paid or unpaid internships, mentorships, apprenticeships, job clubs, work site visits, job placement, or other job exploration modalities (Note: individuals participating in paid internships must be paid at least the minimum wage for the type of employment or self-employment sought through the internship opportunity);

(p) customized job development; [and]

(q) planning for self-employment, including identifying skills that could be used to start a business, and identifying business training and technical assistance that could be utilized in achieving self-employment goals[.]; and

(r) *travel time (transportation) to and from pathway to employment activities with an individual or group. Transportation to another Medicaid Waiver service that includes transportation in the rate may not be billed under pathway to employment services.*

• New clauses 635-10.4(h)(1)(ii)(e) – (j) are added as follows:

(e) *review of an individual’s records and other documentation that provides information to assist in quality career assessment, job development, job coaching, and job retention supports (e.g. ISP, school records, employment history, psychological reports, medical documentation, program service plans, and notes);*

(f) *communication with family or other members of the individual’s circle of support to discuss and address coordination of pathway to employment, progress, issues and challenges;*

(g) *meetings and communication with staff providing other OPWDD approved services and clinicians that impact an individual’s ability to successfully achieve pathway to employment service goals;*

(h) *documentation of and to support the delivery of pathway to employment services;*

(i) *travel time (transportation) to and from pathway to employment activities, without the individual/group present, while the staff is being paid for work hours by the provider;*

(j) *other activities, as authorized by OPWDD.*

• Paragraph 635-10.4(h)(3) is amended as follows:

(3) The number of individuals receiving pathway to employment services simultaneously from a service provider staff shall be limited to no more than *four* [three] individuals, *with the exception of job readiness training which shall be limited to no more than ten individuals.*

• A new paragraph 635-10.4(h)(4) is added as follows and existing paragraphs are renumbered accordingly:

(4) *Individuals receiving pathway to employment services who participate in community experiences specified in clause 635-10.4(h)(1)(i)(l) of this subdivision must be involved in a minimum of three different community experiences prior to the completion of the service. If an individual disenrolls from pathway to employment services prior to completion, the allowable services may be billable. The agency must document the services in the form and format specified by OPWDD.*

• New subparagraph 635-10.4(h)(6) is amended as follows:

(6) Pathway to employment career/vocational plan. The service provider shall develop a pathway to employment career/vocational plan for each individual receiving the service.

(i) The career/vocational plan shall:

(a) identify and focus on the individual’s career/vocational and employment goals, employment needs, talents, and natural supports; and

(b) serve as the individual’s detailed career/vocational plan for guiding his or her employment supports.

(ii) *The pathway to employment provider must complete the career/vocational plan in the form and format specified by OPWDD to include interviews, action steps, career development activities, community-based volunteer experiences, work experiences, and recommendations for future employment related services.*

(a) *The career/vocational plan must be submitted to OPWDD.*

(b) *The service provider must share the career/vocational plan with the New York State Education Department- Adult Career and Continuing Education Services (ACCES-VR).*

(iii) Unless OPWDD authorizes an extension in accordance with paragraph 635-10.5(ad)(5) of this subpart that specifies a later timeframe for the completion of the plan, the pathway to employment provider shall develop the career/vocational plan no later than 12 months after the date the individual started receiving the service, or the date as of which the individual received 278 hours of the service, whichever occurs first. The pathway to employment provider shall give the career/vocational plan to the individual upon completion of the service.

• A new paragraph 635-10.4(h)(7) is added:

(7) *Pathway to employment providers shall not provide pathway to employment services in day training programs/sheltered workshops.*

• Paragraph 635-10.4(k)(4) is amended as follows:

(4) Effective July 1, 2015, there shall be no new enrollments into site based prevocational services in day training programs/sheltered workshops.

• Subparagraph 635-10.5(ad)(3)(ii) is amended as follows:

(ii) The number of individuals being served simultaneously - Individual (1) or Group (serving two or [three] *four* individuals; *or, for job readiness training, ten individuals*). Group size shall be limited to no more than [three] *four* individuals, *with the exception of job readiness training, which can include up to ten individuals.*

• Paragraph 635-10.5(ad)(4) is deleted and the remaining paragraphs are renumbered accordingly:

[(4) Fee schedule. The hourly fees for the pathway to employment service are as follows:]

	[Pathway to Employment—Fee is hourly per person]	
[Region	Individual Fee	Group Fee
Region 1	\$43.04	\$37.68
Region 2	\$41.92	\$35.64
Region 3	\$39.70	\$33.74]

• A new subparagraph 635-10.5(ad)(7)(iii) is added as follows:

(iii) *Pathway to employment billable service time for job readiness training specified in clause 635-10.4(h)(1)(i)(a) of this Subpart shall be limited to 20 hours of billable service time.*

• New subparagraph 635-10.5(ad)(8)(i) is amended as follows:

(i) The service provider shall maintain documentation that the individual receiving pathway to employment services has received the services in accordance with the individual’s ISP and pathway to employment service delivery plan (see section 635-10.4(h)(3)(5) of this Subpart).

• New subparagraph 635-10.5(ad)(8)(iv) is deleted and a new (iv) is added as follows:

(iv) *The service provider must maintain a copy of the Letter of Agreement between OPWDD and the NYS Education Department related to pathway to employment services.*

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

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

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

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

Regulatory Impact Statement

1. Statutory Authority:

a. OPWDD has the statutory responsibility to provide and encourage the provision of appropriate programs, supports and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with developmental disabilities, as stated in the New York State (NYS) Mental Hygiene Law Section 13.07.

b. OPWDD has the authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the NYS Mental Hygiene Law Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerning the operation of programs and the provision of services, as stated in the NYS Mental Hygiene Law Section 16.00.

d. Services for which an operating certificate is required pursuant to NYS Mental Hygiene Law Section 16.03 shall be in accordance with the terms of the operating certificate and OPWDD regulations.

2. Legislative Objectives: The proposed amendments further the legislative objectives embodied in sections 13.07, 13.09, 16.00, and 16.03 of the Mental Hygiene Law. The proposed amendments make changes to requirements for delivery and reimbursement of the Pathway to Employment service, which is a Home and Community-Based Services (HCBS) Waiver service.

3. Needs and Benefits: On July 1, 2014, OPWDD established the Pathway to Employment service. Pathway to Employment is a person-centered, comprehensive employment planning and support service that assists individuals with developmental disabilities in obtaining competitive employment. Existing regulations in 14 NYCRR Subpart 635-10 outline the requirements for service delivery and reimbursement. Upon monitoring and evaluating the Pathway to Employment service since its implementation, OPWDD has determined that the proposed amendments are necessary in order to promote and achieve its vision for the service.

The proposed amendments make changes to the allowable activities under the Pathway to Employment service. For example, existing regulations allow for community experiences through volunteer opportunities, paid or unpaid internships, mentorships, apprenticeships, job clubs, work site visits, job placement, or other job exploration modalities. The proposed amendments require involvement in a minimum of three different types of these experiences prior to completion of the service in order for such experiences to be counted as allowable activities. Through experiencing different types of work activities and environments, individuals are able to explore their interests and are better positioned to make decisions about their career paths. A new allowable activity is the review of an individual's records and other documentation that provides information to assist in quality career assessment, job development, job coaching and job retention supports. The review of this information will be helpful to providers in accommodating the individual's needs, skills, abilities, and preferences, and will promote person-centered service delivery. Other indirect allowable activities are added to facilitate communication between individuals, family members, staff and clinicians, and to clarify the parameters for when travel time is billable. These additions will improve service delivery.

The proposed amendments carve out an exception to the group size requirement to allow for up to ten individuals for job readiness training, and add a requirement that limits billable service time for job readiness training to twenty hours for the duration of the service. Job readiness training consists of classes that are focused on resume building, mock job interviews, goal setting, work ethics and behaviors, basic computer skills, workplace communication and dressing for success. Information on these topics is generally universally applicable to all individuals seeking employment and, therefore, presenting this information to larger groups of up to ten individuals will maximize efficiency in service delivery. Further, participation in classroom environments where ideas are exchanged and

experiences are shared will enrich learning experiences. Additionally, the amendments limit billable service time for these classes to twenty hours. This will discourage unnecessary expenditures and motivate providers to provide services and supports in an efficient manner in accordance with the needs and preferences of individuals. The amendments also change the group size from three to four to be in line with the Department of Health's reimbursement schedule for this service.

The proposed amendments add new requirements concerning the career/vocational plan. The individual's career/vocational plan must be submitted to OPWDD in the form and format specified by OPWDD, including a summary of interviews, action steps, career development activities, community-based volunteer experiences, work experiences and recommendations for future employment related services. The provider must share the career vocational plan with the New York State Education Department- Adult Career and Continuing Education Services (ACCESS-VR). Through developing the plan in the required format, providers will be prompted to monitor and evaluate the progress of individuals receiving the service and make adjustments to an individual's service delivery, if needed, in order to better meet the needs of the individual. Through sharing the report with NYS ACCESS-VR, providers will position individuals to take the next step toward competitive employment after completion of the Pathway to Employment service.

The proposed amendments clarify the prohibition of the delivery of the Pathway to Employment service in sheltered workshops, which are certified by OPWDD as day training programs. By not funding the delivery of Pathway to Employment in sheltered workshops, OPWDD is encouraging individuals receiving services to explore options in integrated settings.

The proposed amendments clarify existing regulations that require providers to maintain documentation in compliance with applicable federal requirements related to the Pathway to Employment service. The amendments reflect the applicable federal requirement, which is to maintain a copy of the Letter of Agreement between OPWDD and the NYS Education Department related to Pathway to Employment. OPWDD considers that by reflecting the specific applicable federal requirement in its regulations, providers will be better positioned to comply with this requirement.

Lastly, the proposed amendments make minor non-substantive changes to the description of the service to ensure consistent usage of terminology throughout OPWDD regulations and to clarify that prevocational services are prohibited in sheltered workshops, which are certified by OPWDD as day training programs. Additionally, the regulations remove the Pathway to Employment fees as authority for establishing service fees in regulation has been transferred to the Department of Health.

4. Costs:

a. Costs to the Agency and to the State and its local governments: OPWDD anticipates that the proposed amendments will be cost neutral to the State in its role in paying for Medicaid costs. The amendments may result in an increase in reimbursement to providers by adding more allowable activities under the Pathway to Employment service, and increasing the group size limit for job readiness training. However, OPWDD expects that the proposed amendments will improve service delivery, and by increasing the effectiveness of Pathway to Employment services, individuals will be better positioned to obtain and maintain competitive employment, which will result in savings to the State in the long term. Further, job readiness training is limited to 20 hours which caps the amount of reimbursement allowed for this activity.

The proposed amendments will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

It is expected that the amendments will be cost neutral for OPWDD as a provider of Pathway to Employment services. OPWDD as a provider may incur costs through providing more allowable activities, increasing group size, and providing the service in locations other than sheltered workshops. However, OPWDD as a provider will be reimbursed by the Medicaid program for costs associated with the provision of this service.

Conversely, the proposed amendments could result in some savings for OPWDD as provider. Increasing the group size limit for the job readiness training should promote efficiency in service delivery. Providers that opt to increase the group size for this activity will expend less resources while providing services to more individuals.

b. Costs to private regulated parties: There are no initial capital costs. The fiscal impact will be the same for regulated parties as outlined in section (a) for OPWDD as a provider of services.

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village; or school, fire, or other special district.

6. Paperwork: The proposed amendments may result in an increase in paperwork for providers. Providers will be required to provide specific in-

formation in career/vocational plans. However, as stated earlier, OPWDD considers that the prescribed information is necessary to monitor and evaluate the progress of individuals receiving the service and make adjustments to an individual's service delivery, if needed, in order to better meet the needs of the individual.

7. Duplication: The proposed amendments do not duplicate any existing State or Federal requirements that are applicable to these services.

8. Alternatives: The proposed amendments require a minimum of three community experiences prior to completion of the Pathway to Employment service in order for such experiences to be counted as an allowable activity. OPWDD considered requiring involvement in these three experiences prior to the 12 month and 278 hour time limit for the service, which can be extended under certain circumstances. However, OPWDD determined that implementing such a time limit would be unrealistic since it is possible that individuals would not complete the service before the 12 month/278 hour time limit. Also, in light of its goal to promote person-centered service delivery, OPWDD considered that it is important to allow individuals flexibility in cases when an extension is granted and individuals receive the service beyond the 12 month/278 hour time hour limit.

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

10. Compliance Schedule: OPWDD is planning to adopt the proposed amendments as soon as possible within the timeframes mandated by the State Administrative Procedure Act. OPWDD will be mailing a notice of the proposed amendments to providers approximately three months in advance of the effective date. However, OPWDD expects that by the time these regulations are promulgated, providers will already be in compliance with the proposed requirements through guidance and training.

Regulatory Flexibility Analysis

1. Effect on Small Business: OPWDD has determined, through a review of the certified cost reports, that most OPWDD-funded services are provided by non-profit agencies which employ more than 100 people overall. However, some smaller agencies which employ fewer than 100 employees overall would be classified as small businesses. Currently, there are approximately 211 providers of Pathway to Employment services. OPWDD is unable to estimate the portion of these agencies that may be considered to be small businesses.

The proposed amendments have been reviewed by OPWDD in light of their impact on small businesses. The proposed amendments make changes to requirements for the delivery and reimbursement of the Pathway to Employment service, which is a newly established Home and Community-Based Services (HCBS) waiver service.

2. Compliance Requirements: The proposed amendments will impose some additional compliance requirements on providers of the Pathway to Employment service. Providers will be responsible for providing more allowable activities including a minimum of three community experiences, conducting a review of individuals' records and increasing communication among staff and individuals. Providers will also be responsible for providing specific information in the individual's career vocational plan and submitting this plan to OPWDD and the New York State Education Department- Adult Career and Continuing Education Services (ACCES-VR). Lastly, the amendments clarify that providers are prohibited from providing the Pathway to Employment service in a sheltered workshop.

OPWDD considers that the compliance requirements in the proposed amendments will improve service delivery and align implementation of the service with its vision for the service. The amendments will also ensure proper use of federal and state public funds. Further, OPWDD provided training to providers on how to implement the Pathway to Employment service, including most of the new requirements in the proposed amendments, in the summer and fall of 2014, and therefore, OPWDD expects that most providers will already be in compliance with most of the proposed requirements at the time of their effective date.

The amendments will have no effect on local governments.

3. Professional Services: There are no additional professional services required as a result of these amendments and the amendments will not add to the professional service needs of local governments.

4. Compliance Costs: OPWDD expects that the amendments will be cost neutral. Providers may incur costs through providing more allowable activities, increasing the group size for this service, and providing the service in locations other than sheltered workshops. However, providers will be reimbursed by the Medicaid program for costs associated with the provision of this service.

5. Economic and Technological Feasibility: The proposed amendments do not impose the use of any new technological processes on regulated parties.

6. Minimizing Adverse Impact: The purpose of these proposed amendments is to improve the Pathway to Employment service. The amendments will result in additional costs to providers, including those providers that are small businesses. However, OPWDD does not expect that such

costs will result in an adverse impact to providers as providers will be reimbursed by the Medicaid program for costs associated with the provision of the Pathway to Employment service.

OPWDD provided training to providers on how to implement the Pathway to Employment service, including most of the new requirements in the proposed amendments, in the summer and fall of 2014, and therefore, OPWDD expects that most providers will already be in compliance with the proposed requirements at the time of their effective date.

OPWDD has reviewed and considered the approaches for minimizing adverse impact as suggested in section 202-b(1) of the State Administrative Procedure Act (SAPA). However, since the documentation, quality standards and other compliance provisions in the amendments are needed to ensure the proper use of federal and state public funds, OPWDD did not establish different compliance, reporting requirements or timetables on small business providers or local governments or exempt small business providers or local governments from these requirements and timetables.

7. Small Business Participation: The proposed regulations were discussed with representatives of providers, including those members of the Interagency Council (IAC), and New York State Rehabilitation Association, Inc. (NYSRA) who have fewer than 100 employees, on March 16, 2015. OPWDD conducted approximately 26 trainings to providers on most of the amendments during the period of June through October 2014. OPWDD also plans to inform all providers, including small business providers, of the proposed amendments approximately three months in advance of their scheduled effective date.

Rural Area Flexibility Analysis

1. Types and Estimated Number of Rural Areas: OPWDD services are provided in every county in New York State. 44 counties have a population of less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. 9 counties with certain townships have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga and Orange.

The proposed amendments have been reviewed by OPWDD in light of their impact on entities in rural areas. The proposed amendments make changes to requirements for the delivery and reimbursement of the Pathway to Employment service, which is a newly established Home and Community-Based Services (HCBS) waiver service.

2. Compliance Requirements: The proposed amendments will impose some additional compliance requirements on providers of the Pathway to Employment service. Providers will be responsible for providing more allowable activities including a minimum of three community experiences, conducting a review of individuals' records and increasing communication among staff and individuals. Providers will also be responsible for providing specific information in the individual's career vocational plan and submitting this plan to OPWDD and the New York State Education Department- Adult Career and Continuing Education Services (ACCES-VR). Lastly, the amendments clarify that providers are prohibited from providing the Pathway to Employment service in a sheltered workshop.

OPWDD considers that the compliance requirements in the proposed amendments will improve service delivery and align implementation of the service with its vision for the service. The amendments will also ensure proper use of federal and state public funds. Further, OPWDD provided training to providers on how to implement the Pathway to Employment service, including most of the new requirements in the proposed amendments, in the summer and fall of 2014, and therefore, OPWDD expects that most providers will already be in compliance with the proposed requirements at the time of their effective date.

The amendments will have no effect on local governments.

3. Professional Services: There are no additional professional services required as a result of these amendments and the amendments will not add to the professional service needs of local governments.

4. Compliance Costs: OPWDD expects that the amendments will be cost neutral. Providers may incur costs through providing more allowable activities, increasing the group size for this service, and providing the service in locations other than sheltered workshops. However, providers will be reimbursed by the Medicaid program for costs associated with the provision of this service.

5. Minimizing Adverse Impact: The purpose of these proposed amendments is to improve the Pathway to Employment service. The amendments will result in additional costs to providers, including providers in rural areas. However, OPWDD does not expect that such costs will result in an adverse impact to providers as providers will be reimbursed by the Medicaid program for costs associated with the provision of the Pathway to Employment service.

OPWDD provided training to providers on how to implement the Pathway to Employment service, including most of the new requirements in the proposed amendments, in the summer and fall of 2014, and, therefore, OPWDD expects that most providers will already be in compliance with the proposed requirements at the time of their effective date.

OPWDD has reviewed and considered the approaches for minimizing adverse impact as suggested in section 202-bb(2)(b) of the State Administrative Procedure Act (SAPA). However, since the documentation, quality standards and other compliance provisions in the amendments are needed to ensure the proper use of federal and state public funds, OPWDD did not establish different compliance, reporting requirements or timetables on providers in rural areas or local governments or exempt providers in rural areas or local governments from these requirements and timetables.

6. Participation of Public and Private Interests in Rural Areas: The proposed regulations were discussed with representatives of providers, including those members of NYSARC and CP Association of NYS, which represent providers in rural areas, on March 16, 2015. OPWDD conducted approximately 26 trainings to providers on most of the amendments during the period of June through October 2014. OPWDD also plans to inform all providers, including providers in rural areas, of the proposed amendments approximately three months in advance of their scheduled effective date.

Job Impact Statement

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

The proposed amendments make changes to requirements for the delivery and reimbursement of the Pathway to Employment service, which is a Home and Community-Based Services (HCBS) waiver service. OPWDD expects that providers will incur costs, including potential staff costs, through providing more allowable activities, increasing the group size, and providing the service in locations other than sheltered workshops. If additional staff are needed to implement the proposed amendments, there could be a positive impact on jobs and increased employment opportunities. In the long term, OPWDD expects that the proposed amendments will improve service delivery, and better position individuals to obtain and maintain competitive employment, which will also result in increased job opportunities.

Consequently, these amendments will not have a substantial adverse impact on jobs or employment opportunities.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Use of the GE Energy Low Voltage Transformers

I.D. No. PSC-12-16-00003-P

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

Proposed Action: The Public Service Commission is considering a petition filed by GE Energy on February 1, 2016 for approval to use JAB-0S, JAD-0S, JAK-0S, and JCT-0S low voltage transformers.

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

Subject: Use of the GE Energy low voltage transformers.

Purpose: To consider the use of the GE Energy low voltage transformers.

Substance of proposed rule: The Public Service Commission is considering a petition filed by GE Energy on February 1, 2016 for approval to use the GE Energy JAB-0S, JAD-0S, JAK-0S, and JCT-0S transformers. 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-0117SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Option to Opt Out of Using an AMR Device, and Substitute an Electro-Mechanical Meter, at no Additional Charge

I.D. No. PSC-12-16-00004-P

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

Proposed Action: The Commission is considering a filing by Woodstock Town Board allowing customers of Central Hudson Gas & Electric Corporation to opt out of using an Automatic Meter Reading (AMR) device by having an electro-mechanical meter installed.

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

Subject: Option to opt out of using an AMR device, and substitute an electro-mechanical meter, at no additional charge.

Purpose: To consider the option to opt out of using an AMR device, and substitute an electro-mechanical meter, at no additional charge.

Substance of proposed rule: The Commission is considering a petition filed by the Woodstock Town Board, which proposes to allow customers of Central Hudson Gas and Electric Corporation to opt out of using an Automatic Meter Reading (AMR) device, and electing to have the Company install and maintain an Electro-Mechanical Meter at their premises, and manually read their meters, at no additional charge. 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-M-0196SP3)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-12-16-00005-P

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

Proposed Action: The Public Service Commission is considering the Notice of Intent, filed by 3475 Third Avenue Owner Realty LLC, to submeter electricity at 3475 Third Avenue, Bronx, 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 3475 Third Avenue Owner Realty LLC to submeter electricity at 3475 Third Avenue, Bronx, NY.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by 3475 Third Avenue Owner Realty LLC on February 24, 2016, to submeter electricity at 3475 Third Avenue, Bronx, 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-0123SP1)

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

Use of Artech Transformers in Commercial Applications

I.D. No. PSC-12-16-00006-P

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

Proposed Action: The Public Service Commission is considering a petition filed by Artech, Inc. on February 19, 2016 to use the Artech CRF-36, UCE-17, URL-17, and VCE-17 transformers in commercial applications.

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

Subject: Use of Artech transformers in commercial applications.

Purpose: To consider the use of Artech transformers.

Substance of proposed rule: The Public Service Commission is considering a petition filed by Artech, Inc. on February 19, 2016 for approval to use the Artech CRF-36, UCE-17, URL-17, and VCE-17 electric transformers in commercial 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-0119SP1)

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

Deferral of Incremental Costs Incurred in 2015 Associated With Increased Gas Leak Response and Repair Activities

I.D. No. PSC-12-16-00007-P

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

Proposed Action: The Commission is considering a petition filed by Consolidated Edison Company of New York, Inc. (Con Edison) to defer incremental costs incurred in 2015 associated with increased gas leak response and repair activities.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Deferral of incremental costs incurred in 2015 associated with increased gas leak response and repair activities.

Purpose: To consider a petition by Con Edison to defer certain incremental costs associated with gas leak response and repair activities.

Substance of proposed rule: The Public Service Commission is considering the petition of Consolidated Edison Company of New York, Inc., pursuant to Public Service Law Section 66, to defer \$35 million of incremental costs incurred in 2015 associated with increased gas leak response and repair activities. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(16-G-0084SP1)

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

Notice of Intent to Submeter Electricity

I.D. No. PSC-12-16-00008-P

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

Proposed Action: The Public Service Commission is considering the Notice of Intent, filed by Promenade Global LLC, to submeter electricity at 150 West 225th Street, Bronx, 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 Promenade Global LLC to submeter electricity at 150 West 225th Street, Bronx, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by Promenade Global LLC on February 25, 2016, to submeter electricity at 150 West 225th Street, Bronx, 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-0125SP1)