

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 Alcoholism and Substance Abuse Services

NOTICE OF WITHDRAWAL

Repeal Parts 309, 369, 829, 1000, 1034, 1050, 1070 and 1072 of Title 14 NYCRR

I.D. No. ASA-34-16-00001-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Action taken: Notice of proposed rule making, I.D. No. ASA-34-16-00001-P, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on August 24, 2016.

Subject: Repeal Parts 309, 369, 829, 1000, 1034, 1050, 1070 and 1072 of Title 14 NYCRR.

Reason(s) for withdrawal of the proposed rule: Comments received.

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-44-16-00001-P

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

Proposed Action: Amendment of 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 “Gaming Commission,” by adding thereto the position of Assistant Public Information Officer.

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-44-16-00002-P

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

Proposed Action: Amendment of 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 Audit and Control, by increasing the number of positions of Special Assistant 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

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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-44-16-00003-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify 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 Environmental Conservation, by increasing the number of positions of Special Assistant from 19 to 20.

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

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

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Regulatory Impact Statement

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Regulatory Flexibility Analysis

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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

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PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-44-16-00004-P

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

Proposed Action: Amendment of Appendices 1 and 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class and to delete a position from the non-competitive 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 Corrections and Community Supervision, by increasing the number of positions of Assistant Commissioner from 14 to 15; and

Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Corrections and Community Supervision, by decreasing the number of positions of Supervising Regional Director from 2 to 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-44-16-00005-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 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Family Assistance under the subheading "Office of Temporary and Disability Assistance," by deleting therefrom the position of Chief, Bureau of Program Development (1) and by increasing the number of positions of Associate Counsel from 5 to 6.

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-44-16-00006-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 Education Department, by increasing the number of positions of Assistant Commissioner from 13 to 14.

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-44-16-00007-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 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 "Commission of Correction," by adding thereto the position of Secretary.

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-44-16-00008-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 Mental Hygiene under the subheading "Office of Mental Health," by increasing the number of positions of Mental Health Program Manager 1 from 11 to 12.

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-44-16-00009-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 2 of Title 4 NYCRR.

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Health, by adding thereto the positions of Regional Representative Health Plan Marketplace (4).

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.

State Commission of Correction

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Annual Report of Pregnant Inmate Restraint

I.D. No. CMC-44-16-00022-P

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

Proposed Action: Addition of section 7001.1(e) to Title 9 NYCRR.

Statutory authority: Correction Law, section 45(6) and (15)

Subject: Annual report of pregnant inmate restraint.

Purpose: To prescribe a form and manner for local correctional facilities to submit a statutorily required annual report.

Text of proposed rule: A new subdivision (e) of section 7001.1 of Title 9 is added to read as follows:

(e) On or before the first day of February of each year, each sheriff, superintendent, commissioner, or other officer in charge of a local correctional facility shall submit a report to the Commission of Correction ("the Commission") detailing every use of restraints on a woman, reportable under section 611 of the Correction Law, which occurred during the preceding calendar year. Such report shall be submitted in a form and manner prescribed by the Chairperson of the Commission, and shall minimally include, for each individual use of restraints, the following:

- (1) the full name of the restrained woman;
- (2) the restrained woman's date of birth;
- (3) the date and time the restraint was applied;
- (4) the date and time the restraint was removed;
- (5) a description of the type(s) of restraint(s) used;
- (6) the intended transport destination;
- (7) the name and rank of the official or officer who authorized the restraint; and
- (8) a description of the facts and reasons justifying the use of restraints.

Text of proposed rule and any required statements and analyses may be obtained from: Deborah Slack-Bean, Senior Attorney, New York State Commission of Correction, Alfred E. Smith State Office Building, 80 S. Swan Street, 12th Floor, Albany, New York 12210, (518) 485-2346, email: Deborah.Slack-Bean@scoc.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:

Subdivision (6) of section 45 of the Correction Law authorizes the Commission to promulgate rules and regulations establishing minimum standards for the care, custody, correction, treatment, supervision, discipline, and other correctional programs for all persons confined in the correctional facilities of New York State. Subdivision (15) of section 45 of the Correction Law allows the Commission to adopt, amend or rescind such rules and regulations as may be necessary or convenient to the performance of its functions, powers and duties.

2. Legislative objectives:

By vesting the Commission with this rulemaking and oversight authority, the Legislature intended the Commission to enact regulations that ensure statutorily-required reports of local correctional facilities to the Commission are conveyed in a thorough and timely manner.

3. Needs and benefits:

Following recent amendments to Correction Law section 611, local correctional facilities are generally prohibited from utilizing any restraints on an inmate who is known by facility staff to be pregnant, on an inmate who is in labor, or on any inmate within eight (8) weeks after delivery or pregnancy outcome. Limited exceptions have been provided in the statute for instances where facility staff make a "finding of extraordinary circumstances," whereupon options are limited to wrist restraints in front of the body. Any such use of restraints are required by the statutory amendments to be documented in writing within 5 days of use, specifying the facts upon which the finding of extraordinary circumstances were based, the type of restraint used, and the length of time such restraints were applied.

Correction Law section 611(1)(e) further requires that each local correctional facility submit an annual report to the Commission detailing

every use of restraint on a woman, as governed by the statute. The Commission is thereafter required to include such reported information in its annual report, while excluding identifying information. The proposed regulatory addition is necessary to provide local correctional facilities a form and deadline for the annual report to the Commission.

4. Costs:

a. Costs to regulated parties for the implementation of and continuing compliance with the rule: Minimal. While the incarceration of a pregnant female inmate is a relatively infrequent occurrence in local correctional facilities, "extraordinary circumstances" necessitating the restraint of such inmates during transport is foreseen to be scarce. Should such a restraint be necessary, Correction Law section 611(1)(e) now requires local correctional facilities to document details and facts upon which the finding of extraordinary circumstances were based, and thereafter provide the Commission an annual report of all such determinations. Consequently, compliance with the proposed rule would result only in minimal costs associated with local correctional facility staff's annual compilation of restraint records, if any, into an annual report to the Commission.

b. Costs to the agency, the state and local governments for the implementation and continuation of the rule: None. The regulation does not apply to state agencies or governmental bodies. As set forth above in subdivision (a), any additional costs to local governments would be minimal.

c. This statement detailing the projected costs of the rule is based upon the Commission's oversight and experience relative to the operation and function of a local correctional facility.

5. Local government mandates:

As originally required by Correction Law § 611(1)(e), the proposed regulation directs each local correctional facility to submit an annual report to the Commission detailing every use of restraint on a woman, as governed by the statute.

6. Paperwork:

As set forth above, Correction Law section 611(1)(e) now requires local correctional facilities to document details and facts upon which a finding of extraordinary circumstances, necessary to restrain a pregnant inmate, were based, and thereafter provide the Commission an annual report of all such determinations. Consequently, compliance with the proposed rule would require each local correctional facility to annually compile such restraint records, if any, into an annual report to the Commission.

7. Duplication:

The rule does not duplicate any existing State or Federal requirement.

8. Alternatives:

The alternative, not providing a form and deadline for a statutorily-required annual report, was dismissed by the Commission due to foreseen delays in receiving comprehensive local correctional facility reports, thus delaying the Commission's annual report.

9. Federal standards:

There are no applicable minimum standards of the federal government.

10. Compliance schedule:

Each local correctional facility is expected to be able to achieve compliance with the proposed rule immediately upon its Notice of Adoption.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not required pursuant to subdivision three of section 202-b of the State Administrative Procedure Act because the rule does not impose an adverse economic impact on small businesses or local governments. The proposed rule seeks only to prescribe a form and manner for local correctional facilities to submit a statutorily required annual report regarding the restraint of pregnant inmates. Accordingly, it will not have an adverse impact on small businesses or local governments, nor impose any additional significant reporting, record keeping, or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not required pursuant to subdivision four of section 202-bb of the State Administrative Procedure Act because the rule does not impose an adverse impact on rural areas. The proposed rule seeks only to prescribe a form and manner for local correctional facilities to submit a statutorily required annual report regarding the restraint of pregnant inmates. Accordingly, it will not impose an adverse economic impact on rural areas, nor impose any additional significant record keeping, reporting, or other compliance requirements on private or public entities in rural areas.

Job Impact Statement

A job impact statement is not required pursuant to subdivision two of section 201-a of the State Administrative Procedure Act because the rule will not have a substantial adverse impact on jobs and employment opportunities, as apparent from its nature and purpose. The proposed rule seeks only to prescribe a form and manner for local correctional facilities to submit a statutorily required annual report regarding the restraint of pregnant

inmates. As such, there will be no impact on jobs and employment opportunities.

Education Department

EMERGENCY RULE MAKING

Teacher Certification in Career and Technical Education

I.D. No. EDU-26-16-00016-E

Filing No. 962

Filing Date: 2016-10-18

Effective Date: 2016-11-12

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

Action taken: Amendment of section 80-3.5 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207(not subdivided), 305(1), (2), 3001(2), 3004(1), 3006(1) and 3009

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

Specific reasons underlying the finding of necessity: The proposed amendment to section 80-3.5 is necessary to provide additional pathway options for a Transitional A certification in the CTE subjects for candidates who meet the requirements in one of the following pathway options:

- Option G. Have a minimum of two years of experience in the CTE subject area of certificate sought and hold an industry-related credential or pass an industry accepted examination as approved by the Department and an offer of employment from a school district
- Option H. Are enrolled in an approved CTE teacher preparation program and have either a minimum of one year of related work experience and/or take and pass an industry accepted examination
- Option I. Are currently certified 7-12 grade teachers in any subject area with two years of documented work experience or who hold industry-recognized credentials, where available, in the related CTE area

A Notice of Proposed Rule Making was published in the State Register on June 29, 2016. Since then the proposed amendment was revised and a Notice of Revised Rule Making will be published in the State Register on September 28, 2016. Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 30-day public comment period provided for in the State Administrative Procedure Act (SAPA) for a revised rulemaking, would be the November Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the November meeting, would be November 30, 2016, the date a Notice of Adoption would be published in the State Register. Therefore, emergency action is therefore necessary to allow those who do not meet the current requirements but who possess industry experience, credentials, or are in the process of completing certification, but meet one of the three proposed new pathways, to begin teaching at the grade 7-12 level as early as possible during the 2016-2017 school year and to ensure that the emergency rule adopted at the July Regents meeting, as revised, remains continuously in effect until it can be adopted as a permanent rule.

Subject: Teacher certification in career and technical education.

Purpose: Establishes a new pathway for Transitional A certificate.

Text of emergency rule: 1. The emergency taken at the July 2016 Regents meeting to add new paragraphs (5), (6) and (7) to section 80-3.5 of the Regulations of the Commissioner of Education, is rescinded, effective November 12, 2016.

2. Paragraph (2) of subdivision (b) of section 80-3.5 of the Regulations of the Commissioner of Education shall be amended, effective November 12, 2016, to read as follows:

(2) The candidate shall meet the requirements for the transitional A certificate by successfully completing the requirements in paragraph (1) [or (2)] through (7) of this subdivision.

3. New paragraphs (5), (6), and (7) are added to subdivision (b) of section 80-3.5 of the Regulations of the Commissioner of Education, effective November 12, 2016, to read as follows:

(5) *Option G: The requirements of this paragraph are applicable to candidates who seek an initial certificate and who hold an industry acceptable credential in a career and technical education subject and have at least two years of acceptable work experience in the certificate area to*

be taught or in a closely related subject area acceptable to the department. The candidate shall meet the requirements in each of the following subparagraphs:

(i) *Education.* The candidate shall complete at least two clock hours of course work or training regarding the identification and reporting suspected child abuse or maltreatment, in accordance with requirements of section 3004 of the Education Law. In addition, the candidate shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider, approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate who applies for the certificate shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 of the Education Law.

(ii) *Examination.* The candidate shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test(s) in the area of the certificate.

(iii) *Industry Related Credential or Industry Accepted Examination.* The candidate shall either:

(a) hold an industry related credential in the certificate area taught or in a closely related subject area acceptable to the department; or

(b) receive a passing score on an industry accepted career and technical examination that demonstrates mastery in the career and technical education subject for which a certificate is sought or a closely related area as approved by the department through a request for qualifications process.

(iv) *Experience.* The candidate shall have at least two years of satisfactory work experience in the career and technical education subject for which a certificate is sought or a closely related subject area, as determined by the Commissioner;

(v) *Employment and support commitment.* The candidate shall submit evidence of having a commitment for three years of employment as a teacher in grades 7 through 12 in a public or nonpublic school or BOCES, which shall include a mentored experience for the first year that will consist of daily supervision by an experienced teacher during the first 20 days of teaching, except that such mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 in a public or nonpublic school or BOCES.

(6) *Option H:* The requirements of this paragraph are applicable to candidates who seek an initial certificate and who are enrolled in an approved career and technical education program registered pursuant to section 52.21 of this Title, or its equivalent in the certificate area to be taught or in a closely related subject area acceptable to the department; and have either at least one year of satisfactory experience in the career and technical area to be taught or in a closely related area or receive a passing score on an industry accepted career and technical examination that demonstrates mastery in the career and technical education subject for which a certificate is sought or a closely related area as approved by the department through a request for qualifications process. The candidate shall meet the requirements in each of the following subparagraphs:

(i) *Education.*

(a) The candidate shall complete at least two clock hours of course work or training regarding the identification and reporting suspected child abuse or maltreatment, in accordance with requirements of section 3004 of the Education Law. In addition, the candidate shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider, approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 of the Education Law; and

(b) the candidate shall be enrolled in an approved career and technical education program registered pursuant to section 52.21 of this Title.

(ii) *Examination.* The candidate shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test(s) in the area of the certificate.

(iii) *Experience and/or Examination.* The candidate shall either:

(a) have at least one year of satisfactory work experience in the career and technical education subject for which a certificate is sought or a closely related area, as determined by the Commissioner; or

(b) receive a passing score on an industry accepted career and

technical examination that demonstrates mastery in the career and technical education subject for which a certificate is sought or a closely related area as approved by the department through a request for qualifications process.

(iv) *Employment and support commitment.* The candidate shall submit evidence of having a commitment for three years of employment as a teacher in grades 7 through 12 in a public or nonpublic school or BOCES, which shall include a mentored experience for the first year that will consist of daily supervision by an experienced teacher during the first 20 days of teaching, except that such mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 in a public or nonpublic school or BOCES.

(7) *Option I:* The requirements of this paragraph are applicable to candidates who seek an initial certificate and who are currently certified as a teacher in grades 7-12 in any subject area acceptable to the department, and who either: hold an industry related credential the career and technical education subject to be taught or in a closely related subject area acceptable to the department or have two years of satisfactory experience in the certificate area sought or a closely related subject area, as determined by the Commissioner. The candidate shall meet the requirements in each of the following subparagraphs:

(i) *Education.* The candidate shall complete at least two clock hours of course work or training regarding the identification and reporting suspected child abuse or maltreatment, in accordance with requirements of section 3004 of the Education Law. In addition, the candidate shall complete at least two clock hours of coursework or training in school violence prevention and intervention, as required by section 3004 of the Education Law, which is provided by a provider, approved or deemed approved by the department pursuant to Subpart 57-2 of this Title. A candidate who applies for the certificate on or after December 31, 2013, shall also complete at least six clock hours, of which at least three hours must be conducted through face-to-face instruction, of coursework or training in harassment, bullying and discrimination prevention and intervention, as required by section 14 of the Education Law.

(ii) *Examination.* The candidate shall submit evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination content specialty test(s) in the area of the certificate.

(iii) *Certification.* The candidate shall hold certification as a teacher in grades 7-12 in any certification area pursuant to Part 80 of this Title that is acceptable to the department.

(iv) *Experience or Industry Related Credential.* The candidate shall either:

(a) hold an industry related credential in the certificate area sought or in a related area, as determined by the Department; or

(b) have at least two years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought, or a related area, as determined by the Commissioner.

(v) *Employment and support commitment.* The candidate shall submit evidence of having a commitment for three years of employment as a teacher in grades 7 through 12 in a public or nonpublic school or BOCES, which shall include a mentored experience for the first year that will consist of daily supervision by an experienced teacher during the first 20 days of teaching, except that such mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 in a public or nonpublic school or BOCES.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-26-16-00016-EP, Issue of June 29, 2016. The emergency rule will expire December 16, 2016.

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

Regulatory Impact Statement

Since publication of a Notice of Proposed Rule Making in the State Register on June 29, 2016, the following substantial revisions were made to the proposed rule:

Section 80-3.5(b)(5)(v) was amended to clarify that mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 (not grades 5 through 12) in a public or nonpublic school or BOCES.

Section 80-3.5(b)(6)(iv) was amended to clarify that mentoring shall not be required if the candidate has two years of satisfactory employment as a teacher of students in grades 7 through 12 (not grades 5 through 12) in a public or nonpublic school or BOCES.

Section 80-3.5(b)(7) was amended to clarify that mentoring shall not be required if the candidate has two years of satisfactory employment as a

teacher of students in grades 7 through 12 (not grades 5 through 12) in a public or nonpublic school or BOCES and a further amendment was made to Option I to clarify that teachers in any subject area may pursue this pathway, not just teachers in any CTE subject area. This more accurately reflects the Department's intention to create a more flexible pathway option for individuals to pursue CTE certification.

The above revisions to the proposed rule require revisions to the Needs and Benefits section of the previously published Regulatory Impact Statement, as follows:

3. NEEDS AND BENEFITS: Currently, a Transitional A certificate in a specific career and technical subject is issued to permit the employment of an individual in a specific career and technical education title who does not meet the requirements for an initial certificate, but who possesses the requisite occupational experience. This certificate is valid for three years, and the candidate would complete the additional requirements for an initial certificate during the three years.

The three options available for a Transitional A certificate at this time are:

- Option A. Candidates who possess an associate's degree (or its equivalent) in the career and technical field in which the certificate is sought, and who have at least two years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought;
- Option B. Candidates who possess a high school diploma or its equivalent (but who do not possess an associate's degree or its equivalent in the certificate area), and who have at least four years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought; and
- Option C. Candidates who possess an associate's degree (or its equivalent) in the career and technical field in which the certificate is sought, and who have at least two years of documented and satisfactory teaching experience at the postsecondary level (excluding experience as a teaching assistant) in the career and technical education subject for which a certificate is sought.

All three Transitional A pathways described above also require:

(1) Coursework training in identification of and reporting of child abuse or maltreatment, school violence prevention and intervention, and harassment, bullying and discrimination prevention and intervention;

(2) Evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Exam Content Specialty Test in the area of the certificate, and

(3) An employment and support commitment—the candidate must submit evidence of having a commitment for three years of employment as a teacher in a public or nonpublic school or BOCES, which includes a mentored experience for the first year consisting of daily supervision by an experienced teacher during the first 20 days. However, the mentoring is not required if the candidate has two years of satisfactory employment as a teacher of students in grades 7-12 in a public or nonpublic school or BOCES.

In addition, at the May 2016 Board of Regents meeting, the Board adopted by Emergency action a new pathway option for those issued a full license to teach in licensed private career schools and who have two years of teaching experience under such license, to qualify for a Transitional A certificate. If adopted at the September 2016 Board of Regents meeting, this will allow those candidates to teach CTE during the 2016-2017 school year.

Proposed Amendment:

To provide additional certification pathways in CTE fields to address the immediate shortages in the field, the Department recommends establishing new pathway options G, H, and I for Transitional A certificates for candidates who meet one of the three requirements listed below:

- Option G. Have a minimum of two years of work experience in the CTE subject area of the certificate sought and hold an industry-related credential, where available, or pass an industry accepted examination as approved by the Department and have an employment and support commitment
- Option H. Are enrolled in an approved CTE teacher preparation program and have either a minimum of one year of related work experience and/or take and pass an industry accepted examination and have an employment and support commitment
- Option I. Are currently certified 7-12 grade teachers in any subject area with two years of documented work experience or who hold industry-recognized credentials, where available, in the related CTE area and have an employment and support commitment

The proposed amendment provides additional opportunities and flexibility for individuals with specific technical and career experience to obtain a Transitional A teaching certificate in their area of expertise, or a related area, thus allowing them to teach CTE subjects at the secondary school level. This will help to increase the supply of qualified, certified teachers in the career and technical education field in order to satisfy the increasing demand for those teachers.

Regulatory Flexibility Analysis

The above revisions to the proposed rule require that the Effect of Rule and the Compliance sections of the previously published Regulatory Flexibility Analysis be revised as follows:

1. EFFECT OF RULE:

If adopted by the Board of Regents at the September 2016 Board of Regents meeting, commencing with the 2016-2017 school year, the proposed amendment creates three new pathway options to address immediate shortage areas for candidates who meet one of the following three requirements:

To provide additional certification pathways in CTE fields to address the immediate shortages in the field, the Department recommends establishing new pathway options G, H, and I for Transitional A certificates for candidates who meet one of the three options for a Transitional A certificate listed below:

- Option G. Have a minimum of two years of work experience in the CTE subject area of the certificate sought and hold an industry-related credential, where available, or pass an industry accepted examination as approved by the Department and have an employment and support commitment
- Option H. Are enrolled in an approved CTE teacher preparation program and have either a minimum of one year of related work experience and/or take and pass an industry accepted examination and have an employment and support commitment
- Option I. Are currently certified 7-12 grade teachers in any subject area with two years of documented work experience or who hold industry-recognized credentials, where available, in the related CTE area and have an employment and support commitment

2. COMPLIANCE REQUIREMENTS:

Over the past several years, the Board of Regents has discussed the expansion of career and technical education (CTE) programs in school districts and BOCES generally and of integrated credit allowance which will in turn create a greater demand for teachers certified in CTE titles. At its November 2013 meeting, the Board of Regents was presented with recommendations that would support existing and anticipated demand for teachers certified in CTE titles.

Currently, a Transitional A certificate in a specific CTE subject is issued to permit the employment of an individual in a specific CTE education title who does not meet the requirements for an initial certificate, but who possesses the requisite occupational experience. This certificate is valid for three years, and the candidate would complete the additional requirements for an initial certificate during the three years.

The three options available for a Transitional A certificate prior to the May 2016 Board of Regents meeting were:

- Option A. Candidates who possess an associate's degree (or its equivalent) in the career and technical field in which the certificate is sought, and who have at least two years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought;
- Option B. Candidates who possess a high school diploma or its equivalent (but who do not possess an associate's degree or its equivalent in the certificate area), and who have at least four years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought; and
- Option C. Candidates who possess an associate's degree (or its equivalent) in the career and technical field in which the certificate is sought, and who have at least two years of documented and satisfactory teaching experience at the postsecondary level (excluding experience as a teaching assistant) in the career and technical education subject for which a certificate is sought.

All three Transitional A pathways described above also require:

(1) Coursework training in identification of and reporting of child abuse or maltreatment, school violence prevention and intervention, and harassment, bullying and discrimination prevention and intervention;

(2) Evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination Content Specialty Test in the area of the certificate; and

(3) An employment and support commitment. The candidate must submit evidence of having a commitment for three years of employment as a teacher in a public or nonpublic school or BOCES, which includes a mentored experience for the first year consisting of daily supervision by an experienced teacher during the first 20 days. However, the mentoring is not required if the candidate has two years of satisfactory employment as a teacher of students in grades 7-12 in a public or nonpublic school or BOCES.

Establishment of Additional Pathways

At its May 2016 Board of Regents meeting, the Board adopted by emergency action a proposed amendment to provide an additional opportunity for teachers to obtain a Transitional A certificate through a Pathway D Option. It is anticipated that this will be permanently adopted by the Board

at its September 2016 meeting. Candidates may be eligible for a Transitional A certificate if they hold a full private career school teacher license issued by the Department's Bureau of Proprietary School Supervision (BPSS) and have taught under that license for two years in a New York State licensed private career school and meet certain other requirements.

Currently, pursuant to Section 126.6 of the Commissioner's Regulations, there are three license levels (permit, provisional and full license) for teachers licensed by BPSS. To apply for a permit, provisional or full license, candidates must complete an application and provide BPSS with all necessary documentation required for the level and license area(s) in which the candidate wishes to be licensed in. Currently, the requirements for a full Private Career School Teacher License by BPSS are (for most CTE subject areas):

(1) To qualify for a full license, candidates must have completed a total of 90-clock hours in Professional Education, including methods of teaching or a total of 9 semester credits of college course work in Professional Education.

Full licenses are valid for 4 years and are renewable.

During the three years that a candidate has a Transitional A certificate, he/she may apply for and complete all requirements for an Initial Certificate. These requirements include completion of college coursework, receiving a passing score on the NYSTCE exams, and completion of a 40 day student teaching placement in the certificate area sought.

Proposed Amendment

To provide additional certification pathways in CTE fields to address the immediate shortages in the field, the Department recommends establishing new pathway options G, H, and I for Transitional A certificates for candidates who meet one of the three requirements listed below:

- Option G. Have a minimum of two years of work experience in the CTE subject area of the certificate sought and hold an industry-related credential, where available, or pass an industry accepted examination as approved by the Department and have an employment and support commitment

- Option H. Are enrolled in an approved CTE teacher preparation program and have either a minimum of one year of related work experience and/or take and pass an industry accepted examination and have an employment and support commitment

- Option I. Are currently certified 7-12 grade teachers in any subject area with two years of documented work experience or who hold industry-recognized credentials, where available, in the related CTE area and have an employment and support commitment

The proposed amendment provides additional opportunities and flexibility for individuals with specific technical and career experience to obtain a Transitional A teaching certificate in their area of expertise, or a related area, thus allowing them to teach CTE subjects at the secondary school level. This will help to increase the supply of qualified, certified teachers in the career and technical education field in order to satisfy the increasing demand for those teachers.

Rural Area Flexibility Analysis

The above revisions to the proposed rule require that the Reporting, Recordkeeping, and Other Compliance Requirements and Professional Services published Rural Area Flexibility Analysis be revised as follows:

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

Over the past several years, the Board of Regents has discussed the expansion of career and technical education (CTE) programs in school districts and BOCES generally and of integrated credit allowance which will in turn create a greater demand for teachers certified in CTE titles. At its November 2013 meeting, the Board of Regents was presented with recommendations that would support existing and anticipated demand for teachers certified in CTE titles.

Currently, a Transitional A certificate in a specific CTE subject is issued to permit the employment of an individual in a specific CTE education title who does not meet the requirements for an initial certificate, but who possesses the requisite occupational experience. This certificate is valid for three years, and the candidate would complete the additional requirements for an initial certificate during the three years.

The three options available for a Transitional A certificate prior to the May 2016 Board of Regents meeting were:

- Option A. Candidates who possess an associate's degree (or its equivalent) in the career and technical field in which the certificate is sought, and who have at least two years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought;

- Option B. Candidates who possess a high school diploma or its equivalent (but who do not possess an associate's degree or its equivalent in the certificate area), and who have at least four years of documented and satisfactory work experience in the career and technical education subject for which a certificate is sought; and

- Option C. Candidates who possess an associate's degree (or its equivalent)

alent) in the career and technical field in which the certificate is sought, and who have at least two years of documented and satisfactory teaching experience at the postsecondary level (excluding experience as a teaching assistant) in the career and technical education subject for which a certificate is sought.

All three Transitional A pathways described above also require:

(1) Coursework training in identification of and reporting of child abuse or maltreatment, school violence prevention and intervention, and harassment, bullying and discrimination prevention and intervention;

(2) Evidence of having achieved a satisfactory level of performance on the New York State Teacher Certification Examination Content Specialty Test in the area of the certificate; and

(3) An employment and support commitment. The candidate must submit evidence of having a commitment for three years of employment as a teacher in a public or nonpublic school or BOCES, which includes a mentored experience for the first year consisting of daily supervision by an experienced teacher during the first 20 days. However, the mentoring is not required if the candidate has two years of satisfactory employment as a teacher of students in grades 7-12 in a public or nonpublic school or BOCES.

Establishment of Additional Pathways

At its May 2016 Board of Regents meeting, the Board adopted by emergency action a proposed amendment to provide an additional opportunity for teachers to obtain a Transitional A certificate through a Pathway D Option. It is anticipated that this will be permanently adopted by the Board at its September 2016 meeting. Candidates may be eligible for a Transitional A certificate if they hold a full private career school teacher license issued by the Department's Bureau of Proprietary School Supervision (BPSS) and have taught under that license for two years in a New York State licensed private career school and meet certain other requirements.

Currently, pursuant to Section 126.6 of the Commissioner's Regulations, there are three license levels (permit, provisional and full license) for teachers licensed by BPSS. To apply for a permit, provisional or full license, candidates must complete an application and provide BPSS with all necessary documentation required for the level and license area(s) in which the candidate wishes to be licensed in. Currently, the requirements for a full Private Career School Teacher License by BPSS are (for most CTE subject areas):

(1) To qualify for a full license, candidates must have completed a total of 90-clock hours in Professional Education, including methods of teaching or a total of 9 semester credits of college course work in Professional Education.

Full licenses are valid for 4 years and are renewable.

During the three years that a candidate has a Transitional A certificate, he/she may apply for and complete all requirements for an Initial Certificate. These requirements include completion of college coursework, receiving a passing score on the NYSTCE exams, and completion of a 40 day student teaching placement in the certificate area sought.

Proposed Amendment

To provide additional certification pathways in CTE fields to address the immediate shortages in the field, the Department recommends establishing new pathway options G, H, and I for Transitional A certificates for candidates who meet one of the three requirements listed below:

- Option G. Have a minimum of two years of work experience in the CTE subject area of the certificate sought and hold an industry-related credential, where available, or pass an industry accepted examination as approved by the Department and have an employment and support commitment

- Option H. Are enrolled in an approved CTE teacher preparation program and have either a minimum of one year of related work experience and/or take and pass an industry accepted examination and have an employment and support commitment

- Option I. Are currently certified 7-12 grade teachers in any subject area with two years of documented work experience or who hold industry-recognized credentials, where available, in the related CTE area and have an employment and support commitment

The proposed amendment provides additional opportunities and flexibility for individuals with specific technical and career experience to obtain a Transitional A teaching certificate in their area of expertise, or a related area, thus allowing them to teach CTE subjects at the secondary school level. This will help to increase the supply of qualified, certified teachers in the career and technical education field in order to satisfy the increasing demand for those teachers.

Job Impact Statement

Since publication of a Notice of Proposed Rule Making in the State Register on June 29, 2016, the proposed rule was revised as set forth in the Revised Regulatory Impact Statement herewith.

The above revisions to the proposed rule require revisions do not require any revisions to the published Job Impact Statement.

Assessment of Public Comment

Since publication of a Notice of Proposed Rule Making in the State Register on June 29, 2016, the State Education Department (SED) received the following comment:

1. COMMENT:

One commenter raised the concern that the proposed pathways for CTE certification are a “patchwork approach” and that a broader discussion of CTE certification, including a more comprehensive and system-wide approach to CTE teacher certification is required moving forward. The commenter suggested that NYSED convene a work group to look at a more comprehensive approach to CTE certification and to re-convene the CTE Content Advisory Panel to discuss future changes to advance the CTE certification pathways. However, the commenter also expressed appreciation that the Department is recognizing the value of work experience and industry-credentials within the proposed amendment.

The commenter also expressed concern over the requirement that the amendment requires an employment and support commitment on the part of the candidate, and that districts and BOCES do not have the ability to connect with candidates as the need for a CTE teacher arises.

DEPARTMENT RESPONSE:

SED agrees that a more comprehensive approach to the CTE teacher certification pathways is needed, and is currently in the process of working with the field to further revise the regulations relating to CTE teacher certification. However, the proposed amendment seeks to address the immediate concerns raised by the field relating to shortages in CTE teachers by providing an additional pathway to obtain a Transitional A teaching certificate.

In response to the request to convene a work group to look at a more comprehensive approach to CTE certification, the Department will take this under advisement, and will work to address this concern in the most appropriate way given the understaffing of the Department.

With respect to the concerns relating to the need for employment and support commitment, this is required for all candidates seeking a Transitional A certificate and therefore the Department does not believe a revision to the regulations is needed. Moreover, the purpose behind the employment and support commitment is to ensure that the teacher has the needed supports and mentoring when he/she enters the classroom.

EMERGENCY RULE MAKING

Community School Grants

I.D. No. EDU-32-16-00002-E

Filing No. 957

Filing Date: 2016-10-18

Effective Date: 2016-10-24

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

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

Statutory authority: Education Law, sections 207(not subdivided), 305(1), (2), 211-f, as added by L. 2015, ch. 56, subpart H, part EE; L. 2016, ch. 53

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

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

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

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

in effect until it can be adopted as a permanent rule. The emergency rule adopted at the July meeting expires on October 23, 2016. Therefore, emergency action is necessary to ensure that the emergency rule adopted at the July meeting does not expire before it is permanently adopted on November 2, 2016.

Subject: Community School Grants.

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

Text of emergency rule: 1. A new subdivision (k) is added to section 100.19 of the Regulations of the Commissioner of Education, effective October 24, 2016, as follows:

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

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

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

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

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

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

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

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

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

(i) *If a designated school has additional unused capacity after making such services available to all enrolled students and their families (e.g., not all available times for health or dental screenings have been filled on a particular day after all students enrolled in the school have been given an opportunity for an appointment, or not all seats in a parent-ing workshop have been filled by parents of students who attend the school), the school may offer such services to students who attend feeder*

schools and their families so as to maximize effective and efficient use of available resources and/or students who are alumni of the school and their families in order to provide continuity of services.

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

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

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

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

(iii) providing early childhood education programs;

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

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

(vi) creating a steering committee to provide feedback and guidance. Such steering committee shall be made up of various school and community stakeholders, which shall include but need not be limited to, the school principal, parents of or persons in parental relation to students attending the school, teachers and other school staff assigned to the school, and students attending the school; provided that, in the case of a

designated school that does not serve students in grade seven or above, the steering committee need not include students; provided further that a community engagement team established pursuant to this section may also serve as the steering committee; and

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

2. Paragraph (8) of subdivision (a) of section 100.19 of the Regulations of the Commissioner of Education is amended, effective October 24, 2016, to read as follows:

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

(i) addressing social service, health and mental health needs of students in the school and their families in order to help students arrive and remain at school ready to learn;

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

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

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

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

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

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

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

3. Subparagraph (ii) of paragraph (8) of subdivision (f) of section 100.19 of the Regulations of the Commissioner of Education is amended, effective October 24, 2016, to read as follows:

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

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-32-16-00002-EP, Issue of August 10, 2016. The emergency rule will expire December 16, 2016.

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

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

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

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

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

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

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

2. LEGISLATIVE OBJECTIVES:

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

3. NEEDS AND BENEFITS:

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

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

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

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

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

4. COSTS:

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

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

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

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

5. LOCAL GOVERNMENT MANDATES:

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

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

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

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

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

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

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

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

6. PAPERWORK:

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

7. DUPLICATION:

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

8. ALTERNATIVES:

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

9. FEDERAL STANDARDS:

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

10. COMPLIANCE SCHEDULE:

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

Regulatory Flexibility Analysis

Small Businesses:

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

Local Government:

1. EFFECT OF RULE:

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

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

2. COMPLIANCE REQUIREMENTS:

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

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

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

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

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

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

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

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

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

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

- providing early childhood education programs;

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

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

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

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

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

3. PROFESSIONAL SERVICES:

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

4. COMPLIANCE COSTS:

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

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

Economic feasibility is addressed in the Costs section above.

6. MINIMIZING ADVERSE IMPACT:

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

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

7. LOCAL GOVERNMENT PARTICIPATION:

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

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

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

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

Rural Area Flexibility Analysis**1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:**

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

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

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

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

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

- holding public meetings with parents, teachers and community members at least quarterly during the school year to provide information and solicit input regarding the planning, implementation and operations of the community school. Such meetings shall be held in accordance with the requirements of subparagraph (c)(1)(iii) of this section;
- providing written notices and communications regarding the planning, implementation and operations of the community school to parents, teachers, other school personnel, and community members as often as practicable through means that shall include but need not be limited to email and posting on the district's internet website, if one exists. All such notices and communications shall be provided in English and translated, to the extent practicable, into the recipient's native language or mode of communication;
- ensuring that such meetings, notices, and communications provide parents, teachers, and community members with meaningful opportunities to provide input and feedback by providing a variety of widely accessible methods of communication, such as email, telephone, and/or access to the community school site coordinator and/or the steering committee; and
- submitting quarterly written reports to the Commissioner in a form and format prescribed by the Commissioner containing specific informa-

tion about the progress of the planning, implementation, and operations of the community schools grant and the requirements of this subdivision.

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

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

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

school has already been conducted, such needs assessment may be used for this purpose;

- creating a steering committee to provide feedback and guidance. Such steering committee shall be made up of various school and community stakeholders, which shall include but need not be limited to, the school principal, parents of or persons in parental relation to students attending the school, teachers and other school staff assigned to the school, and students attending the school; provided that, in the case of a designated school that does not serve students in grade seven or above, the steering committee need not include students; provided further that a community engagement team established pursuant to section 100.19 may also serve as the steering committee; and
- constructing or renovating spaces within such school buildings to serve as health suites, adult education spaces, guidance suites, resource rooms, remedial rooms, parent/community rooms, and career and technical education classrooms, plus any other capital costs necessary to implement a community school.

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

3. COMPLIANCE COSTS:

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

4. MINIMIZING ADVERSE IMPACT:

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

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

5. RURAL AREA PARTICIPATION:

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

Job Impact Statement

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

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

Assessment of Public Comment

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

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Teacher Certification Examination Requirements

I.D. No. EDU-44-16-00013-EP

Filing No. 958

Filing Date: 2016-10-18

Effective Date: 2016-10-18

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

Proposed Action: Amendment of section 80-1.5 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207(not subdivided), 305(1), (2), 3001(2), 3004(1), 3006(1) and 3009

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

Specific reasons underlying the finding of necessity: Despite the high pass rates on the new and revised certification examinations by candidates who have completed preparation programs and have been recommended for certification, the field has expressed concern about the pass rates for candidates who have not completed a preparation program and have not yet been recommended for certification. In response to concerns from the field regarding the upcoming release of a new set of Content Specialty Tests in November 2016, the Department has presented emergency regulations to revise the current safety nets for all of the revised Content Specialty Tests to eliminate the requirement that these candidates take and fail the revised CSTs before passing the predecessor content specialty examination. For those Content Specialty Tests currently operational prior to this amendment, the revised safety net will expire on June 30, 2017. For those revised Content Specialty Tests to be released in November 2016, the safety net will expire on June 30, 2019.

Because the Board of Regents meets at scheduled intervals, the earliest the proposed amendment could be presented for regular (non-emergency) adoption, after publication in the State Register and expiration of the 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 202(1) and (5), is the January 2017 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed amendment, if adopted at the January 2017 Regents meeting is January 25, 2017, the date a Notice of Adoption would be published in the State Register. However, emergency action is needed to ensure that candidates who take one of the revised CSTs are aware of the changes to the existing safety option for the CST—i.e., that candidates can take either the predecessor CST or the CST until June 30, 2017 for those CSTs already operational, and until June 30, 2019 for those CSTs which will become operational in November 2016.

It is anticipated that the emergency rule will be presented to the Board of Regents for adoption as a permanent rule at the January 2017 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period mandated by the State Administrative Procedure Act for proposed rulemakings.

Subject: Teacher certification examination requirements.

Purpose: To establish additional safety nets for the content specialty examinations.

Text of emergency/proposed rule: 1. Subdivision (c) of section 80-1.5 of the Regulations of the Commissioner of Education shall be amended, effective October 18, 2016, to read as follows:

(c) [Notwithstanding] *Except as otherwise prescribed in this subdivision, notwithstanding any applicable provisions of Subparts 80-1, 80-3, 80-4 and 80-5 of this Part or any other provision of rule or regulation to the contrary, a candidate who applies for and meets all the requirements for a certificate on or before June 30, 2018, except that such candidate does not achieve a satisfactory level of performance on one or more of the new certification examinations (the academic literacy skills test and/or the teacher performance assessment) or the revised content specialty examination(s), as prescribed by the Commissioner, that is/are required for the certificate title sought, [and such examination(s) was/were taken and failed on or after September 1, 2013 through June 30, 2017] may instead use one or more of the following safety net options, in lieu of taking, retaking one or more of such new and/or revised certification examinations:*

(1) . . .

(2) . . .

[(3) . . .]

(3) *Content Specialty Test.*

(i) *Except as otherwise provided in subparagraphs (ii), (iii) and (iv) of this paragraph, a candidate who takes and fails to achieve a satisfactory level of performance on any of the revised content specialty examinations from May 1, 2015 through October 17, 2016, in the candidate's certification area, may, in lieu of retaking such revised content specialty test:*

(a) *receive a satisfactory score on the predecessor content specialty examination after receipt of his/her failing score on the revised content specialty test; or*

(b) *pass the predecessor content specialty examination on or before the new certification examination requirements become operational.*

(ii) *A candidate who applies for certification on or after October 18, 2016 and/or who has a pending application for certification on file with the Office of Teaching Initiatives on October 18, 2016, as determined by the Department, may receive a satisfactory passing score on either the revised content specialty test or the predecessor content specialty exam (even if the candidate took and passed the predecessor examination on or before October 18, 2016) until June 30, 2017.*

(iii) For revised content specialty tests that become operational on or after October 18, 2016, a candidate may take and receive a satisfactory passing score on either the revised content specialty test or the predecessor content specialty exam until June 30, 2019.

[(iii)] (iv) A candidate who takes and fails to achieve a satisfactory level of performance on part two of the new multi-subject: secondary teachers grade 7 - grade 12 content specialty test, if required for the certificate area sought and he/she received a satisfactory level of performance on parts one and three of such test on or after September 1, 2014 through [June 30, 2017] June 30, 2018, may, in lieu of retaking part two of such examination:

(a) present the Department with sufficient evidence of satisfactory completion of the mathematics tutorial approved by the Department prior to June 30, [2017] 2018; and

(b) submit an attestation on or before June 30, [2017] 2018, on a form prescribed by the Commissioner, attesting that the candidate has:

(i) demonstrated comparable mathematical skills to what is required by part two of the multi-subject (7-12) content specialty examination through course completion by completing a minimum of three semester hours in mathematics coursework satisfactory to the commissioner; and

(ii) received a cumulative grade of a 3.0 or higher, or the substantial equivalent, in such coursework.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire January 15, 2017.

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

Data, views or arguments may be submitted to: Peg Rivers, State Education Department, Office of Higher Education, Room 979 EBA, 89 Washington Ave., Albany, NY 12234, (518) 486-3633, email: regcomments@nysed.gov

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Education Law § 101(not subdivided) charges the Department with the general management and supervision of the educational work of the State.

Education Law § 207(not subdivided) grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law § 215 authorizes the Commissioner to require reports from schools under State educational supervision.

Education Law § 3001 establishes the qualifications of teachers in the classroom.

Education Law § 3004(1) authorizes the Commissioner to prescribe, subject to approval of the Regents, regulations governing the examination and certification of teachers.

Education Law § 3006(1) authorizes the Commissioner to issue teaching certificates.

Education Law § 3009 prohibits school district money from being used to pay the salary of an unqualified teacher.

2. LEGISLATIVE OBJECTIVES:

The proposed amendments to section 80-1.5 of the Regulations of the Commissioner of Education creates a new safety net that will allow candidates to take and pass either the revised content specialty test or the predecessor content specialty test for certification, for both the currently operational redeveloped CSTs and the newly operational CSTs. The safety net for the newly operational CSTs will expire on June 30, 2019, and the safety net for the currently operational CSTs will expire on June 30, 2017. The proposed amendment also extends the current safety net for the Multi-Subject 7-12 Part Two: mathematics CST until June 30, 2018.

3. NEEDS AND BENEFITS:

Current Safety Net Requirements:

Section 80-1.5 of the Commissioner's regulations currently requires candidates to take and fail the redeveloped CST (where one is available) before qualifying for the safety net, which allows candidates to take and pass the predecessor CST in lieu of passing the revised CST for certification. The current safety net for all required teacher certification exams expires on June 30, 2017.

Proposed Amendment:

Safety Net for Newly Operational single subject CSTs:

For the 14 CSTs that will be released in November 2016, the Department is proposing a new safety net that will allow candidates to take and pass either the revised CST or the predecessor CST for certification. Based

on concerns from the field, the Department believes this will provide teacher education programs with additional time to prepare for the revised CSTs. This policy serves to help relieve some of the financial burden on candidates because they will not be required to take and fail the revised CST before taking the predecessor CST. This safety net will expire on June 30, 2019.

Currently Operational Redeveloped single subject CSTs:

In making the change to the safety net for the newly operational CSTs (those being released in November 2016), the Department also proposes making conforming changes to the existing safety nets for the currently operational revised CSTs (those CSTs that became operational in September 2014 or 2015) to allow candidates who apply for certification on or after October 18, 2016 or who have a pending certification application with the Department to take and pass either the revised CST or the predecessor CST for certification (even if the candidate took and passed the predecessor examination on or before October 18, 2016). This safety net for those currently operational CSTs will expire on June 30, 2017. These safety nets will expire before the safety net for the newly revised tests (those being released in November 2016) because those students and institutions have already had time to prepare for the revised exams since those examinations will have been operational for over two years before the safety net expires.

Safety Net for the Multi-subject CSTs:

For MSTs B-2, 1-6, and 5-9, the Board of Regents enacted regulations for candidates who take and fail one or more parts of the MST B-2, 1-6, and 5-9, on or before June 30, 2017, to take and pass the predecessor Multi-Subject exam. The proposed amendment allows a candidate on or after October 18, 2016 through June 30, 2017, to receive either a satisfactory passing score on the revised MST B-2, 1-6, and 5-9 or the predecessor MST B-2, 1-6, and 5-9. This safety net will expire on June 30, 2017.

Safety Net for the Multi-Subject: Secondary Teachers Grade 7- grade 12 Specialty Test

In order to be eligible for the Multi-Subject: secondary teachers 7-12 (mathematics) safety net, a candidate must pass Part One (Literacy and English Language Arts) and Part Three (Arts and Sciences) of the Multi-Subject: Secondary Teachers Grade 7 - Grade 12 CST and then take and fail Part Two (Mathematics) of the CST and then complete a mathematics tutorial that will be provided to candidates who qualify. The tutorial is intended to review mathematics lessons aligned to the New York State Learning Standards for mathematics comparable to the content on Part Two of the Multi-Subject: Secondary Teachers Grade 7 - Grade 12 test. The tutorial also prompts candidates to answer certain questions to review the skills needed to prepare them for the math portion of the Multi-Subject: Secondary Teachers Grade 7 - Grade 12.

Upon completion of the mathematics tutorial, candidates must then submit an attestation and transcript, attesting that they have completed at least one college mathematics course (3 semester hours) and received a grade of 3.0 or higher or the substantial equivalent in that course.

The Department is currently bringing together a team of educators to review Part II (the math component) of this examination to determine if it is of appropriate rigor. While the educator panel reviews this portion of the examination, the Department recommends extending this safety net until June 30, 2018.

4. COSTS:

a. Costs to State government: The amendment does not impose any costs on State government, including the State Education Department, beyond those costs imposed by the statute.

b. Costs to local government: The amendment does not impose any costs on local government, including school districts and BOCES, and teacher certification candidates. In fact, the proposed amendment may result in a cost savings to candidates because they will no longer be required to take and fail (and pay for) the revised CST before qualifying to take the predecessor safety net exam (and paying again to take the safety net exam).

c. Costs to private regulated parties: The amendment does not impose any costs on private regulated parties.

d. Costs to regulating agency for implementation and continued administration: See above.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment does not impose any additional program, service, duty or responsibility upon any local government.

6. PAPERWORK:

The amendment does create any additional paperwork requirements on candidates seeking to take the teacher certification exams affected by the proposed changes.

7. DUPLICATION:

The rule does not duplicate existing State or Federal requirements.

8. ALTERNATIVES:

The amendments seek to provide programs additional time to prepare their students for the content specialty tests. The safety net for the newly

operational CSTs expires on June 30, 2019. In making the change to the safety net for the newly operational CSTs, the amendment also makes conforming changes to the existing safety nets for the currently operational CSTs to allow candidates who apply for certification on or after October 18, 2016 or who have a pending certification application with the Department to take and pass either the revised CST or the predecessor CST for certification (even if the candidate took and passed the predecessor examination on or before October 18, 2016). The conforming changes to the existing safety nets were proposed in order to create alternatives for the candidates, such that they may choose to take either the revised or the predecessor CST. There are no additional alternatives to this amendment.

9. FEDERAL STANDARDS:

There are no applicable Federal standards directly relating to the exam requirements for teacher certification.

10. COMPLIANCE SCHEDULE:

It is anticipated that the proposed amendment will be adopted by the Board of Regents as an emergency action at its October 2016 meeting, effective October 18, 2016. It is anticipated that the proposed amendment would come before the Board of Regents for permanent adoption at its January 2017 meeting. If adopted at the January 2017 meeting, the proposed amendment would then become effective as a permanent rule on January 25, 2017.

Regulatory Flexibility Analysis

The purpose of the proposed amendment is to address concerns that programs have not had adequate time to prepare students for the new and revised certification exams—specifically the newly operational (November 2016) content specialty tests (CSTs). The proposed amendment allows TEACHING candidates to take and pass either the revised CST or the predecessor CST for certification, for all currently operational redeveloped CSTs and newly operational CSTs. The safety net for the newly operational CSTs will expire on June 30, 2019, and the safety net for the currently operational CSTs will expire on June 30, 2017. The proposed amendment also extends the current safety net for the Multi-Subject 7-12 Part Two: mathematics CST until June 30, 2018.

The proposed rule does not impose any reporting, recordkeeping or other compliance requirements, and will not have an adverse economic impact, on small businesses or local governments. Because it is evident from the nature of the amendment that it does not affect small businesses or local governments, no further steps were needed to ascertain that fact and one was taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required and one has not been prepared.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed amendment applies to all candidates applying for teacher certification who take the content specialty tests (CSTs) between October 18, 2016 and June 30, 2017 (for currently operational CSTs) and until June 30, 2019 (for newly operational examinations), and those candidates who took and passed the predecessor CSTs on or before October 18, 2016, including those located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

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

Current Safety Net Requirements:

Section 80-1.5 of the Commissioner's regulations currently requires candidates to take and fail the redeveloped CST (where one is available) before qualifying for the safety net, which allows candidates to take and pass the predecessor CST in lieu of passing the revised CST for certification. The current safety net for all required teacher certification exams expires on June 30, 2017.

Proposed Amendment:

Safety Net for Newly Operational single subject CSTs:

For the 14 CSTs that will be released in November 2016, the Department is proposing a new safety net that will allow candidates to take and pass either the revised CST or the predecessor CST for certification. Based on concerns from the field, the Department believes this will provide teacher education programs with additional time to prepare for the revised CSTs. This policy serves to help relieve some of the financial burden on candidates because they will not be required to take and fail the revised CST before taking the predecessor CST. This safety net will expire on June 30, 2019.

Currently Operational Redeveloped single subject CSTs:

In making the change to the safety net for the newly operational CSTs (those being released in November 2016), the Department also proposes making conforming changes to the existing safety nets for the currently operational revised CSTs (those CSTs that became operational in September 2014 or 2015) to allow candidates who apply for certification on or after October 18, 2016 or who have a pending certification application with

the Department to take and pass either the revised CST or the predecessor CST for certification (even if the candidate took and passed the predecessor examination on or before October 18, 2016). This safety net for those currently operational CSTs will expire on June 30, 2017. These safety nets will expire before the safety net for the newly revised tests (those being released in November 2016) because those students and institutions have already had time to prepare for the revised exams since those examinations will have been operational for over two years before the safety net expires.

Safety Net for the Multi-subject CSTs:

For MSTs B-2, 1-6, and 5-9, the Board of Regents enacted regulations for candidates who take and fail one or more parts of the MST B-2, 1-6, and 5-9, on or before June 30, 2017, to take and pass the predecessor Multi-Subject exam. The proposed amendment allows a candidate on or after October 18, 2016 through June 30, 2017, to receive either a satisfactory passing score on the revised MST B-2, 1-6, and 5-9 or the predecessor MST B-2, 1-6, and 5-9. This safety net will expire on June 30, 2017.

Safety Net for the Multi-Subject: Secondary Teachers Grade 7- grade 12 Specialty Test

In order to be eligible for the Multi-Subject: 7-12 Part Two: mathematics safety net, a candidate must pass Part One (Literacy and English Language Arts) and Part Three (Arts and Sciences) of the Multi-Subject: 7-12 and then take and fail Part Two (Mathematics) of the CST and then complete a mathematics tutorial that will be provided to candidates who qualify. The tutorial is intended to review mathematics lessons aligned to the New York State Learning Standards for mathematics comparable to the content on Part Two of the Multi-Subject: 7-12 test. The tutorial also prompts candidates to answer certain questions to review the skills needed to prepare them for the math portion of the Multi-Subject: 7-12.

Upon completion of the mathematics tutorial, candidates must then submit an attestation and transcript, attesting that they have completed at least one college mathematics course (3 semester hours) and received a grade of 3.0 or higher or the substantial equivalent in that course.

The Department is currently bringing together a team of educators to review Part Two (the math component) of this examination to determine if it is of appropriate rigor. While the educator panel reviews this portion of the examination, the Department recommends extending this safety net until June 30, 2018. No professional services are needed to comply with the proposed amendment.

3. COSTS:

The proposed amendment does not impose any costs on State government or local governments, including those located in rural areas of the State, beyond those imposed by statute.

4. MINIMIZING ADVERSE IMPACT:

The amendments seek to provide programs additional time to prepare their students for the CSTs. The safety net for the newly operational CSTs expires on June 30, 2019. In making the change to the safety net for the newly operational CSTs, the amendment also makes conforming changes to the existing safety nets for the currently operational CSTs to allow candidates who apply for certification on or after October 18, 2016 or who have a pending certification application with the Department to take and pass either the revised CST or the predecessor CST for certification (even if the candidate took and passed the predecessor examination on or before October 18, 2016). The conforming changes to the existing safety nets were proposed in order to create alternatives for the candidates, such that they may choose to take either the revised or the predecessor CST. There are no additional alternatives to this amendment.

5. RURAL AREA PARTICIPATION:

The Department has sent a copy of the proposed amendment to the Rural Advisory Committee for comment.

Job Impact Statement

The purpose of the proposed amendment is to address concerns that programs have not had adequate time to prepare students for the new and revised certification exams—specifically the newly operational (November 2016) content specialty tests (CSTs). The proposed amendment allows candidates to take and pass either the revised CST or the predecessor CST for certification, for all currently operational redeveloped CSTs and newly operational CSTs. The safety net for the newly operational CSTs will expire on June 30, 2019, and the safety net for the currently operational CSTs will expire on June 30, 2017. The proposed amendment also extends the current safety net for the Multi-Subject 7-12 Part Two: mathematics CST until June 30, 2018. While the proposed rule may increase the number of qualified certified teachers to fill jobs in New York State, it will have no impact on the number of jobs or employment opportunities in New York State beyond those imposed by statute. No further steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

**NOTICE OF EMERGENCY
ADOPTION
AND REVISED RULE MAKING
NO HEARING(S) SCHEDULED**

Superintendent Determination As to Academic Proficiency for Certain Students with Disabilities to Graduate with a Local Diploma

I.D. No. EDU-27-16-00002-ERP

Filing No. 964

Filing Date: 2016-10-18

Effective Date: 2016-11-02

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

Action Taken: Amendment of section 200.4(d)(2)(ix); and addition of section 100.5(d)(12) to Title 8 NYCRR.

Statutory authority: Education Law, sections 101(not subdivided), 207(not subdivided), 208(not subdivided), 209(not subdivided), 305(1), (2), 308(not subdivided), 309(not subdivided), 3204(3) and (4)

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

Specific reasons underlying the finding of necessity: All students with disabilities must be held to high expectations and be provided meaningful opportunities to participate and progress in the general education curriculum to prepare them to graduate with a regular high school diploma. The majority of students with disabilities can meet the State's learning standards for graduation. However, there are some students who, because of their disabilities, are unable to demonstrate their proficiency on standard State assessments, even with testing accommodations. For these students, the proposed amendment, which was adopted by the Board of Regents at its June 2016 meeting, provides a superintendent review option in order for certain students with disabilities to graduate with a local diploma, beginning with students graduating in June 2016.

The proposed amendment was readopted as a second emergency measure, effective September 18, 2016, to ensure that the emergency rule adopted at the June Regents meeting remained continuously in effect until it could be adopted as a permanent rule.

The proposed amendment has now been substantially revised in response to public comment. For instance, section 100.5(d)(12)(iii) of the proposed amendment has been added to provide that on or after October 18, 2016 a superintendent may only make a determination whether a student has met the requirements for graduation through the superintendent determination pathway option upon receipt of a written request from an eligible student's parent or guardian. In order to ensure appropriate transition planning, section 200.4 has also been amended to require that the development of transition goals and services must include a discussion with the student's parents of the student's progress toward receiving a diploma and that parents be provided with information explaining graduation requirements, including eligibility criteria and process for requesting the superintendent determination.

It is anticipated that the revised rule will be presented for adoption as a permanent rule at the December 2016 Regents meeting, which is the first scheduled meeting after expiration of the 30 day public comment period prescribed in the State Administrative Procedure Act for State agency rule makings. A third emergency adoption is necessary to immediately adopt the revisions made in response to public comment and to otherwise ensure that the rule remains continuously in effect until the effective date of its adoption as a permanent rule, and thereby ensure that certain students with disabilities who are graduating from high school and their parents are aware that if they do not meet the graduation standards through the existing appeal and safety net options, that the student's parent may request that the superintendent make a determination as to whether the student has met the academic standards and is eligible for a diploma if the student meets the requirements of the proposed amendment. It is also necessary to ensure that superintendents are on notice that upon receipt of a written request from an eligible student's parent, they must make a determination as to whether certain students with disabilities are eligible for local diploma if the student meets the requirements of the proposed amendment.

Subject: Superintendent determination as to academic proficiency for certain students with disabilities to graduate with a local diploma.

Purpose: To expand the safety net options for students with disabilities to graduate with local diplomas when certain conditions are met.

Text of emergency/revised rule: 1. The emergency action taken at the September 2016 Regents meeting to add a new paragraph (12) to subdivi-

sion (d) of section 100.5 of the Regulations of the Commissioner of Education, is rescinded, effective October 17, 2016.

2. A new paragraph (12) shall be added to subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education, effective October 18, 2016, to read as follows:

(12) Superintendent determination pathway for certain students with disabilities for eligibility for a local diploma.

(i) For purposes of this paragraph only, superintendent shall mean the superintendent of a school district or the principal, head of school, or their equivalent, of a charter school or nonpublic school, as applicable.

(ii) School districts, registered nonpublic high schools and charter schools shall ensure that every student who is identified as a student with a disability as defined in Education Law section 4401(1) and section 200.1(zz) of this Title and who does not meet the assessment requirements for graduation through the existing appeal options, including the compensatory score option or the 55-64 low pass safety net option available under this section but who is otherwise eligible to graduate in June 2016 and thereafter shall be considered for a local diploma through the superintendent determination pathway in accordance with the requirements of this paragraph, provided that the student:

(a) has a current individualized education program and is receiving special education programs and/or related services pursuant to Education Law section 4402 and section 200.4 of this Title; and

(b) took the English Regents examination required for graduation pursuant to this section and achieved a minimum score of 55 or successfully appealed a score of between 52 and 54 on such examination pursuant to paragraph (7) of this subdivision; and

(c) took a mathematics Regents examination required for graduation pursuant to this section and achieved a minimum score of 55 or successfully appealed a score of between 52 and 54 on such examination pursuant to paragraph (7) of this subdivision; and

(d) participated in the remaining Regents examinations required for graduation pursuant to clauses (c), (d), (e) and (f) of subparagraph (a)(5)(i) of this section, but was unable to achieve a minimum score of 55 on one or more of the remaining assessments required for graduation or did not initiate an appeal of a score of between 52 and 54 on one or more such examinations pursuant to paragraph (7) of this subdivision, or was unable to use the compensatory score option for one or more such examinations pursuant to clause (b)(7)(vi)(c) of this section; and

(e) has earned the required course credits pursuant to this section and passed, in accordance with district policy, all courses required for graduation.

(iii) For each eligible student under this paragraph, the superintendent shall conduct a review to determine whether the student has otherwise demonstrated proficiency in the knowledge, skills and abilities in the subject area(s) where the student was not able to demonstrate his/her proficiency of the State's learning standards as measured by the corresponding Regents examination(s) and document such determination in accordance with the following procedures:

(a) the superintendent shall consider evidence that the student attained a grade for the course that meets or exceeds the required passing grade by the school for the subject area(s) under review and such grade is recorded on the student's official transcript with grades achieved by the student in each quarter of the school year. Such evidence may include, but need not be limited to, the student's final course grade, student work completed throughout the school year and/or any interim grades on homework, class work, quizzes and tests; and

(b) the superintendent shall consider the evidence that demonstrates that the student actively participated in the Regents examination(s) for the subject area(s) under review; and

(c) the superintendent shall, as soon as practicable, in a form and manner prescribed by the commissioner, document the evidence reviewed for an eligible student with disability under this paragraph and make a determination as to whether the student met the requirements for issuance of a local diploma pursuant to this paragraph and certify that the information provided is accurate; and

(d) the superintendent shall, as soon as practicable, provide each student and parent or person in parental relation to the student with a copy of the completed form and written notification of the superintendent's determination, and place a copy of the completed form in the student's record.

(1) Where the superintendent determines that the student has not met the requirements for graduation pursuant to this paragraph, the written notice shall inform the student and parent or person in parental relation to the student that the student has the right to attend school until receipt of a local or Regents diploma or until the end of the school year in which the student turns age 21, whichever shall occur first.

(2) Where the superintendent determines that the student has met the requirements for graduation pursuant to this paragraph, the parent shall receive prior written notice pursuant to the requirements of sec-

tion 200.5(a)(5)(ii) of this Title indicating that the student is not eligible to receive a free appropriate public education after graduation with the receipt of the local diploma pursuant to this paragraph; and

(e) the superintendent shall, no later than August 31 of each year, provide the commissioner with a copy of the completed form for each student; and

(f) the commissioner may conduct audits of compliance with the requirements of this paragraph.

(iv) On or after October 18, 2016, a superintendent shall only make a determination under this paragraph upon receipt of a written request from an eligible student's parent or guardian. Such request shall be submitted in writing to the student's school principal or chairperson of the district's committee on special education. A written request received by the school principal, chairperson of the district's committee on special education, or any other employee of the school as applicable, shall be forwarded to school superintendent immediately upon its receipt.

2. Clause (c) of subparagraph (i) of paragraph (7) of subdivision (d) of section 100.5 of the Regulations of the Commissioner is amended, effective October 18, 2016, 2016, as follows:

(c) A student who is otherwise eligible to graduate in January 2016 or thereafter, is identified as a student with a disability as defined in section 200.1(zz) of this Title, and fails, after at least two attempts, to attain a score of 55 or above on up to two of the required Regents examinations for graduation shall be given an opportunity to appeal such score in accordance with the provisions of this paragraph for purposes of graduation with a local diploma, provided that the student:

(1) has scored within three points of a score of 55 on the required Regents examination under appeal and has attained at least a 65 course average in the subject area of the Regents examination under appeal; and

(2) has met the criteria specified in subclauses (a)(2)-(4) of this subparagraph.

[Notwithstanding the provisions of this clause, a student with a disability who makes use of the compensatory option in clause (b)(7)(vi)(c) of this section to obtain a local diploma may not also appeal a score below 55 on the English language arts or mathematics Regents examinations pursuant to this clause.]

3. Subparagraph (ix) of paragraph (2) of subdivision (d) of section 200.4 of the Regulations of the Commissioner is amended, effective October 18, 2016, as follows:

(ix) Transition services. (a) For those students beginning not later than the first IEP to be in effect when the student is age 15 (and at a younger age, if determined appropriate), and updated annually, the IEP shall, under the applicable components of the student's IEP, include:

- [(a)] (1) ...
- [(b)] (2) ...
- [(c)] (3) ...
- [(d)] (4) ...
- [(e)] (5) ...

(b) To ensure appropriate transition planning for the student, the development of transition goals and services pursuant to subclause (a) of this clause, shall include a discussion with the student's parents of:

(1) the graduation requirements that apply to the student depending upon the year in which he or she first enters grade nine;

(2) how the student is progressing toward receipt of a diploma including:

(i) the courses the student has passed and the number of credits the student has earned as required for graduation;

(ii) the assessments required for graduation that the student has taken and passed; and

(3) the appeal, safety net and superintendent determination pathway options that may be available to the student through section 100.5 of this Title to allow the student to meet the graduation assessment requirements.

(c) At the CSE meeting in which transition services will be discussed, the student's parents shall be provided with written information explaining the graduation requirements. Such information must include the eligibility criteria and processes for seeking an appeal to graduate with a lower score on a Regents examination and for requesting that a student be considered for a local diploma through the superintendent determination pathway pursuant to section 100.5 of this Title. Parents shall also be informed that graduation from high school with a local diploma or Regents diploma shall terminate their child's entitlement to a free public education pursuant to Education Law section 3202(1) and their eligibility for special education services pursuant to this Part.

This notice is intended to serve as both a notice of emergency adoption and a notice of revised rule making. The notice of proposed rule making was published in the *State Register* on July 6, 2016, I.D. No. EDU-27-16-00002-EP. The emergency rule will expire December 16, 2016.

Emergency rule compared with proposed rule: Substantial revisions were made in sections 100.5(d)(12) and 200.4(d)(2).

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

Data, views or arguments may be submitted to: Angelica Infante, New York State Education Department, 89 Washington Avenue, Albany, NY 12234, (518) 474-5915, email: p12@nysed.gov

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

Revised Regulatory Impact Statement

1. STATUTORY AUTHORITY:

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

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

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

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

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

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

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

Education Law 3204(3) and (4) sets forth the course of study and requires students with disabilities to receive a free appropriate public education.

2. LEGISLATIVE OBJECTIVES:

The proposed rule is consistent with the authority conferred by the above statutes and is necessary to implement policy enacted by the Regents relating to a superintendent review option for students with disabilities to graduate with a local diploma.

3. NEEDS AND BENEFITS:

It is essential that we have high expectations for what students with disabilities can learn and to provide reasonable accommodations for them to demonstrate that they have reached the standards. With these high expectations for students, we must also have high expectations for teaching with appropriate opportunities, supports, services and instruction provided to students with disabilities.

Superintendent's Review

The proposed amendment to the Commissioner's regulations was adopted to ensure that students with disabilities have demonstrated that they have met the State's learning standards. The proposed amendment requires superintendents (or the principal/head of school of a registered nonpublic school or charter school, as applicable) to review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma. Based on public comment, the proposed amendment was revised at the October 2016 Regents meeting to require that on or after October 18, 2016 (the effective date of the revised rule), a superintendent may only make a determination whether an eligible student has met the requirements for graduation through the superintendent determination pathway option upon receipt of a written request from an eligible student's parent or guardian.

The conditions of the review are detailed below:

Applicability

This option is open to students with disabilities with a current Individualized Education Program (IEP) only.

Process

Under this pathway, a school superintendent has the responsibility to determine if a student with a disability has otherwise met the standards for graduation with a local diploma when such student has not been success-

ful, because of his/her disability, at demonstrating his/her proficiency on the Regents exams required for graduation.

Conditions

1. The student has a current IEP and is receiving special education programs and/or related services.

2. The student did not meet the graduation requirements through the low pass (55-64) safety net option¹ or the compensatory option² [section 100.5(b)(7)(vi)(c) and (d)(7)].

3. The student must have earned the required course credits and have passed, in accordance with district policy, all courses required for graduation, including the Regents courses to prepare for the corresponding required Regents exam areas (ELA, math, social studies, and science).

4. The student must have received a minimum score of 55 on both the Regents ELA and math exams or a successful appeal of a score between 52 and 54.

5. There must be evidence that the student participated in the other exams required for graduation pursuant to section 100.5(a)(5), but has not passed one or more of these as required for graduation.

6. In a subject area where the student was not able to demonstrate his/her proficiency of the State's learning standards through the corresponding Regents assessment required for graduation, there must be evidence that the student has otherwise demonstrated graduation level proficiency in the subject area.

Review and Documentation

In conducting a review to ensure the student has met the academic standards, the superintendent must consider evidence that demonstrates that the student:

1. Passed courses culminating in the exam required for graduation, in accordance with the grading policies of the district.

2. Actively participated in the exam required for graduation.

The superintendent must sign an assurance on the form that certifies that the information is accurate and the superintendent attests that the student has met graduation requirements. A copy of the form must be placed in the student's record and a copy must be submitted to the Department no later than by August 31st following the student's graduation.

Decision

A determination by the superintendent is final.

Audit

The Commissioner shall periodically audit the determinations granted by superintendents to ensure that conditions described above are being met.

Allowance of Low Pass Appeal in Addition to Compensatory Option

Prior to the adoption of the emergency rule at the June Regents meeting, students with disabilities who made use of the compensatory option described above were not eligible to also make use of the low pass appeal wherein they are able to appeal scores of 52-54. The amendment adopted in June removes this prohibition.

The proposed amendment also requires that the student and the parent of the student receive written notice of the superintendent's determination with the copy of the completed superintendent's determination form and, where the superintendent determines that the student has met the requirements for graduation, the district must provide prior written notice that the student is not eligible to receive a free appropriate public education after graduation with a local diploma. Where the superintendent determines that the student has not met the requirements for graduation, the written notice shall inform the student and his/her parent that the student has the right to attend school until receipt of a local or Regents diploma or until the end of the school year in which the student turns age 21, whichever shall occur first.

In addition, in order to ensure appropriate transition planning, amendments to section 200.4(d)(2)(ix) are proposed to require that, for students of transition age, the development of transition goals and services at a CSE meeting must include a discussion with the student's parents of the student's progress toward receiving a diploma and that parents be provided with information explaining graduation requirements, including eligibility criteria and process for requesting the superintendent determination.

4. COSTS:

(a) Costs to State: None.

(b) Costs to local governments: There may be costs associated with extending the population of students with disabilities that can earn a local diploma. School districts, BOCES and registered non-publics may also incur costs for the superintendent review and with recording the evidence reviewed and the decision rendered by the superintendent in these reviews.

However, these costs are anticipated to be minimal and capable of being absorbed by districts using existing staff and resources.

In the long term, the proposed amendment is expected to be a cost-saving measure in that it will boost the graduation rate, allowing more students to access higher education or enter the workforce with a high school diploma. Both of these outcomes will in turn stimulate workforce productivity and economic performance in local communities.

(c) Costs to private regulated parties: See (b) above.

(d) Costs to regulating agency for implementation and continued administration of this rule: None.

5. LOCAL GOVERNMENT MANDATES:

The proposed amendment requires the school principal and superintendent to review, document and provide a written certification/assurance that there is evidence that a student eligible for superintendent review has otherwise met the standards for graduation with a local high school diploma. This only applies to students with disabilities with a current Individualized Education Program (IEP) only. On or after October 18, 2016 (the effective date of the revised rule), a superintendent may only make a determination whether an eligible student has met the requirements for graduation through the superintendent determination pathway option upon receipt of a written request from an eligible student's parent or guardian.

The proposed amendment further requires that the student and the parent of the student receive written notice of the superintendent's determination with the copy of the completed superintendent's determination form and, where the superintendent determines that the student has met the requirements for graduation, the district must provide prior written notice that the student is not eligible to receive a free appropriate public education after graduation with a local diploma. Where the superintendent determines that the student has not met the requirements for graduation, the written notice shall inform the student and his/her parent that the student has the right to attend school until receipt of a local or Regents diploma or until the end of the school year in which the student turns age 21, whichever shall occur first.

In order to ensure appropriate transition planning, the proposed amendments to section 200.4(d)(2)(ix) also require that, for students of transition age, the development of transition goals and services at a CSE meeting must include a discussion with the student's parents of the student's progress toward receiving a diploma and that parents be provided with information explaining graduation requirements, including eligibility criteria and process for requesting the superintendent determination.

6. PAPERWORK:

The proposed rule does not impose any significant paperwork requirements, upon local government, including school districts or BOCES. However, when a superintendent makes a determination that a student has met the requirements for a local diploma, he/she must sign an assurance certifying that the information is accurate and attesting that the student has met graduation requirements. A copy of the form must be placed in the student's record and a copy must be submitted to the Department no later than by August 31st following the student's graduation.

Also, see Section 5 Local Government Mandates for additional paperwork requirements.

7. DUPLICATION:

The proposed rule does not duplicate any existing State or federal requirements.

8. ALTERNATIVES:

There were no significant alternatives and none were considered. The proposed rule is necessary to implement Regents policy relating to safety net options for students with disabilities to graduate with a local diploma.

9. FEDERAL STANDARDS:

There are no related federal standards in this area.

10. COMPLIANCE SCHEDULE:

Beginning with students with disabilities who are otherwise eligible to graduate in June 2016 and thereafter, a school superintendent (or the principal of a registered nonpublic school or charter school, as applicable) has the responsibility to determine if a student with a disability has otherwise met the standards for graduation with a local diploma when such student has not been successful, because of his/her disability, at demonstrating his/her proficiency on the Regents exams required for graduation. On or after October 18, 2016 (the effective date of the revised rule), a superintendent may only make a determination whether an eligible student has met the requirements for graduation through the superintendent determination pathway option upon receipt of a written request from an eligible student's parent or guardian.

¹ A student also has the option to appeal a score of 52-54 on up to two Regents exams pursuant to section 100.5(b)(7)(vi)(c). While the appeal option exists, it is not required in order for a student to be considered for the superintendent's determination option.

² A student also has the option to appeal the ELA and/or math scores pursuant to section 100.5(d)(7). While the appeal option exists, it is not required in order for a student to be considered for the superintendent's determination option.

Revised Regulatory Flexibility Analysis

(a) Small businesses:

The proposed amendment is necessary to implement policy enacted by

the Board of Regents relating to a the expansion of the available safety net options for students with disabilities to graduate with a local diploma upon the determination of the superintendent that such student has met certain other conditions for graduation. The proposed amendment requires the school principal and superintendent to review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma. Because ELA and math are foundation skills for which there must be a standardized measure of achievement, this option does require a minimum score on the ELA and math Regents exams. However, for the other three exams required for graduation, this option allows review of other documentation of proficiency when the student cannot pass one or more of these exams.

Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

(b) Local governments:

1. EFFECT OF RULE:

The proposed amendment applies to each of the 689 public school districts in the State, and to charter schools and nonpublic schools that are authorized to issue regular high school diplomas with respect to State assessments and high school graduation and diploma requirements.

2. COMPLIANCE REQUIREMENTS:

Superintendent's Review

The proposed amendment to the Commissioner's regulations was adopted to ensure that students with disabilities have demonstrated that they have met the State's learning standards. The proposed amendment requires superintendents (or the principal/head of school of a registered nonpublic school or charter school, as applicable) to review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma. Based on public comment, the proposed amendment was revised at the October 2016 Regents meeting to require that on or after October 18, 2016 (the effective date of the revised rule), a superintendent may only make a determination whether an eligible student has met the requirements for graduation through the superintendent determination pathway option upon receipt of a written request from an eligible student's parent or guardian.

The conditions of the review are detailed below:

Applicability

This option is open to students with disabilities with a current Individualized Education Program (IEP) only.

Process

Under this pathway, a school superintendent has the responsibility to determine if a student with a disability has otherwise met the standards for graduation with a local diploma when such student has not been successful, because of his/her disability, at demonstrating his/her proficiency on the Regents exams required for graduation.

Conditions

1. The student has a current IEP and is receiving special education programs and/or related services.

2. The student did not meet the graduation requirements through the low pass (55-64) safety net option¹ or the compensatory option² [section 100.5(b)(7)(vi)(c) and (d)(7)].

3. The student must have earned the required course credits and have passed, in accordance with district policy, all courses required for graduation, including the Regents courses to prepare for the corresponding required Regents exam areas (ELA, math, social studies, and science).

4. The student must have received a minimum score of 55 on both the Regents ELA and math exams or a successful appeal of a score between 52 and 54.

5. There must be evidence that the student participated in the other exams required for graduation pursuant to section 100.5(a)(5), but has not passed one or more of these as required for graduation.

6. In a subject area where the student was not able to demonstrate his/her proficiency of the State's learning standards through the corresponding Regents assessment required for graduation, there must be evidence that the student has otherwise demonstrated graduation level proficiency in the subject area.

Review and Documentation

In conducting a review to ensure the student has met the academic standards, the superintendent must consider evidence that demonstrates that the student:

1. Passed courses culminating in the exam required for graduation, in accordance with the grading policies of the district.

2. Actively participated in the exam required for graduation.

The superintendent must sign an assurance on the form that certifies that the information is accurate and the superintendent attests that the

student has met graduation requirements. A copy of the form must be placed in the student's record and a copy must be submitted to the Department no later than by August 31st following the student's graduation.

Decision

A determination by the superintendent is final.

Audit

The Commissioner shall periodically audit the determinations granted by superintendents to ensure that conditions described above are being met.

Allowance of Low Pass Appeal in Addition to Compensatory Option

Prior to the adoption of the emergency rule at the June Regents meeting, students with disabilities who made use of the compensatory option described above were not eligible to also make use of the low pass appeal wherein they are able to appeal scores of 52-54. The amendment adopted in June removes this prohibition.

The proposed amendment also requires that the student and the parent of the student receive written notice of the superintendent's determination with the copy of the completed superintendent's determination form and, where the superintendent determines that the student has met the requirements for graduation, the district must provide prior written notice that the student is not eligible to receive a free appropriate public education after graduation with a local diploma. Where the superintendent determines that the student has not met the requirements for graduation, the written notice shall inform the student and his/her parent that the student has the right to attend school until receipt of a local or Regents diploma or until the end of the school year in which the student turns age 21, whichever shall occur first.

In addition, in order to ensure appropriate transition planning, amendments to section 200.4(d)(2)(ix) are proposed to require that, for students of transition age, the development of transition goals and services at a CSE meeting must include a discussion with the student's parents of the student's progress toward receiving a diploma and that parents be provided with information explaining graduation requirements, including eligibility criteria and process for requesting the superintendent determination.

3. PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional services requirements on local governments.

4. COMPLIANCE COSTS:

There may be costs associated with extending the population of students with disabilities that can earn a local diploma. School districts, BOCES and registered non-publics may also incur costs for the superintendent review and with recording the evidence reviewed and the decision rendered by the superintendent in these reviews. However, these costs are anticipated to be minimal and capable of being absorbed by districts using existing staff and resources.

In the long term, the proposed amendment is expected to be a cost-saving measure in that it will boost the graduation rate, allowing more students to access higher education or enter the workforce with a high school diploma. Both of these outcomes will in turn stimulate workforce productivity and economic performance in local communities.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed amendment does not impose any new technological requirements on school districts or charter schools. Economic feasibility is addressed in the Costs section above.

6. MINIMIZING ADVERSE IMPACT:

The proposed amendment is necessary to implement Regents policy relating to the expansion of the available safety net options for students with disabilities to graduate with a local diploma upon the determination of the superintendent that such student has met certain other conditions for graduation.

Because the Regents policy upon which the proposed amendment is based applies to all school districts in the State, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt school districts from coverage by the proposed amendment. The proposed amendment does not directly impose any additional compliance requirements or costs on school districts. It is anticipated that any indirect costs associated with the proposed amendment will be minimal and capable of being absorbed using existing school resources.

7. LOCAL GOVERNMENT PARTICIPATION:

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

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

Pursuant to State Administrative Procedure Act section 207(1)(b), the State Education Department proposes that the initial review of this rule shall occur in the fifth calendar year after the year in which the rule is adopted, instead of in the third calendar year. The justification for a five year review period is that the proposed rule is necessary to implement long-range Regents policy providing for an additional safety net option for

students with disabilities to graduate with a local diploma when certain conditions are met. Accordingly, there is no need for a shorter review period. The Department invites public comment on the proposed five year review period for this rule. Comments should be sent to the agency contact listed in item 10 of the Notice of Emergency Adoption published here-with, and must be received within 45 days of the State Register publication date of the Notice.

¹ A student also has the option to appeal a score of 52-54 on up to two Regents exams pursuant to section 100.5(b)(7)(vi)(c). While the appeal option exists, it is not required in order for a student to be considered for the superintendent’s determination option.

² A student also has the option to appeal the ELA and/or math scores pursuant to section 100.5(d)(7). While the appeal option exists, it is not required in order for a student to be considered for the superintendent’s determination option.

Revised Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed amendment applies to each of the 689 public school districts in the State, charter schools, and registered nonpublic schools in the State, to the extent that they offer instruction in the high school grades, including those located in the 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less. At present, there is one charter school located in a rural area that is authorized to issue Regents diplomas.

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

Superintendent’s Review

The proposed amendment to the Commissioner’s regulations was adopted to ensure that students with disabilities have demonstrated that they have met the State’s learning standards. The proposed amendment requires superintendents (or the principal/head of school of a registered nonpublic school or charter school, as applicable) to review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma. Based on public comment, the proposed amendment was revised at the October 2016 Regents meeting to require that on or after October 18, 2016 (the effective date of the revised rule), a superintendent may only make a determination whether an eligible student has met the requirements for graduation through the superintendent determination pathway option upon receipt of a written request from an eligible student’s parent or guardian.

The conditions of the review are detailed below:

Applicability

This option is open to students with disabilities with a current Individualized Education Program (IEP) only.

Process

Under this pathway, a school superintendent has the responsibility to determine if a student with a disability has otherwise met the standards for graduation with a local diploma when such student has not been successful, because of his/her disability, at demonstrating his/her proficiency on the Regents exams required for graduation.

Conditions

1. The student has a current IEP and is receiving special education programs and/or related services.

2. The student did not meet the graduation requirements through the low pass (55-64) safety net option¹ or the compensatory option² [section 100.5(b)(7)(vi)(c) and (d)(7)].

3. The student must have earned the required course credits and have passed, in accordance with district policy, all courses required for graduation, including the Regents courses to prepare for the corresponding required Regents exam areas (ELA, math, social studies, and science).

4. The student must have received a minimum score of 55 on both the Regents ELA and math exams or a successful appeal of a score between 52 and 54.

5. There must be evidence that the student participated in the other exams required for graduation pursuant to section 100.5(a)(5), but has not passed one or more of these as required for graduation.

6. In a subject area where the student was not able to demonstrate his/her proficiency of the State’s learning standards through the corresponding Regents assessment required for graduation, there must be evidence that the student has otherwise demonstrated graduation level proficiency in the subject area.

Review and Documentation

In conducting a review to ensure the student has met the academic standards, the superintendent must consider evidence that demonstrates that the student:

1. Passed courses culminating in the exam required for graduation, in accordance with the grading policies of the district.

2. Actively participated in the exam required for graduation.

The superintendent must sign an assurance on the form that certifies that the information is accurate and the superintendent attests that the student has met graduation requirements. A copy of the form must be placed in the student’s record and a copy must be submitted to the Department no later than by August 31st following the student’s graduation.

Decision

A determination by the superintendent is final.

Audit

The Commissioner shall periodically audit the determinations granted by superintendents to ensure that conditions described above are being met.

Allowance of Low Pass Appeal in Addition to Compensatory Option

Prior to the adoption of the emergency rule at the June Regents meeting, students with disabilities who made use of the compensatory option described above were not eligible to also make use of the low pass appeal wherein they are able to appeal scores of 52-54. The amendment adopted in June removes this prohibition.

The proposed amendment also requires that the student and the parent of the student receive written notice of the superintendent’s determination with the copy of the completed superintendent’s determination form and, where the superintendent determines that the student has met the requirements for graduation, the district must provide prior written notice that the student is not eligible to receive a free appropriate public education after graduation with a local diploma. Where the superintendent determines that the student has not met the requirements for graduation, the written notice shall inform the student and his/her parent that the student has the right to attend school until receipt of a local or Regents diploma or until the end of the school year in which the student turns age 21, whichever shall occur first.

In addition, in order to ensure appropriate transition planning, amendments to section 200.4(d)(2)(ix) are proposed to require that, for students of transition age, the development of transition goals and services at a CSE meeting must include a discussion with the student’s parents of the student’s progress toward receiving a diploma and that parents be provided with information explaining graduation requirements, including eligibility criteria and process for requesting the superintendent determination.

3. COMPLIANCE COSTS:

There may be costs associated with extending the population of students with disabilities that can earn a local diploma. School districts, BOCES and registered non-publics may also incur costs for the superintendent review and with recording the evidence reviewed and the decision rendered by the superintendent in these reviews. However, these costs are anticipated to be minimal and capable of being absorbed by districts using existing staff and resources.

In the long term, the proposed amendment is expected to be a cost-saving measure in that it will boost the graduation rate, allowing more students to access higher education or enter the workforce with a high school diploma. Both of these outcomes will in turn stimulate workforce productivity and economic performance in local communities.

4. MINIMIZING ADVERSE IMPACT:

There were no significant alternatives and none were considered. The proposed rule is necessary to implement Regents policy relating to safety net options for students with disabilities to graduate with a local diploma.

5. RURAL AREA PARTICIPATION:

The proposed rule was submitted for review and comment to the Department’s Rural Education Advisory Committee, which includes representatives of school districts in rural areas.

¹ A student also has the option to appeal a score of 52-54 on up to two Regents exams pursuant to section 100.5(b)(7)(vi)(c). While the appeal option exists, it is not required in order for a student to be considered for the superintendent’s determination option.

² A student also has the option to appeal the ELA and/or math scores pursuant to section 100.5(d)(7). While the appeal option exists, it is not required in order for a student to be considered for the superintendent’s determination option.

Revised Job Impact Statement

All students with disabilities must be held to high expectations and be provided meaningful opportunities to participate and progress in the general education curriculum to prepare them to graduate with a regular high school diploma. The majority of students with disabilities can meet the State’s learning standards for graduation. However, there are some students who, because of their disabilities, are unable to demonstrate their proficiency on standard State assessments, even with testing accommodations. For these students, the proposed amendment requires a superintendent review option for eligible students to graduate with a local diploma. On or after October 18, 2016, a superintendent (or the principal/head of school of a registered nonpublic school or charter school, as ap-

plicable) shall only make a determination under this paragraph upon receipt of a written request from an eligible student's parent or guardian. The proposed amendment requires the school principal and superintendent to review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma. Because ELA and math are foundation skills for which there must be a standardized measure of achievement, this option does require a minimum score on the ELA and math Regents exams. However, for the other three exams required for graduation, this option allows review of other documentation of proficiency when the student cannot pass one or more of these exams.

In addition, in order to ensure appropriate transition planning, amendments are proposed to require that, for students of transition age, the development of transition goals and services at a CSE meeting must include a discussion with the student's parents of the student's progress toward receiving a diploma and that parents be provided with information explaining graduation requirements, including eligibility criteria and process for requesting the superintendent determination.

Because it is evident from the nature of the proposed rule that it will have no impact on the number of jobs or employment opportunities in New York State, no further steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Assessment of Public Comment

Since publication of a Notice of Proposed Rule Making in the State Register on July 6, 2016, the State Education Department (SED) received the following comments on the proposed amendment.

1. COMMENT:

Additional graduation pathway for students with disabilities is welcome policy change. Pleased SED and Board of Regents (BOR) continue discussing graduation pathways providing students with disabilities flexibility to satisfy graduation requirements. Appreciate district responsibility for eligibility determinations; families are not aware of different/confusing exam appeal options. Number of commenters supported proposal and multiple pathways, which recognizes some students' inability to demonstrate proficiency on high-stakes tests, but recommended modifications. Creates opportunity for students with individualized education programs (IEPs) to earn local diploma.

DEPARTMENT RESPONSE:

Comments generally supportive; no response necessary.

2. COMMENT:

Power rests with uninformed superintendent and allows superintendent to make subjective determination. Forcing early graduation does not allow students to become independent members of society. May inadvertently open door to prematurely push students with disabilities out of system as cost savings or remove challenging students; limits student's work toward IEP goals by denying entitlement to free appropriate public education (FAPE); may impact classification rate and increase due process regarding eligibility or declassification if parents view special education as increasing likelihood of graduation.

DEPARTMENT RESPONSE:

Rule has been revised to require that the superintendent only consider whether a student is eligible for a local diploma through the superintendent pathway option upon written request of the parent. A student may only be awarded a local diploma using this option if there is evidence that he/she has otherwise met the standards for graduation.

3. COMMENT:

Proposal endorses lower standards, undermines objectives for students to leave school prepared for independence, post-secondary education and employment and ignores district's policies for college-readiness. BOR documented lack of college/career readiness of students awarded local diplomas based on higher standards than superintendent determination. Students face remedial courses, tuition debt, reduced chances of completing degree; and minimal employment opportunities. State University of New York predicts college readiness by scores of 75 on English Language Arts (ELA) and 80 on math Regents exams and is proposing to eliminate remedial programs. Reducing passing rate creates situations where students cannot function in college and will not have access to remedial support.

DEPARTMENT RESPONSE:

SED does not agree proposal will lower education standards or result in students not being college/career ready. Rule was developed to ensure students with disabilities meet State's learning standards for graduation, while recognizing the particular challenges some students face in passing Regents exams. Because ELA and math are foundation skills for which there must be standardized measures of achievement, this option requires 55 minimum score on these Regents exams. For other three required exams, superintendent must review, document and provide written certification/assurance that a student has otherwise met graduation standards for a local diploma.

4. COMMENT:

Proposal removes parents/students/committee on special education (CSE), who know child best, from process and right of individual with disability to choose path. Does not: provide families opportunity to review determination and confirm exiting is in student's best interests; require CSE review student's IEP before receiving diploma [see OSERS Letter to Richards, IDELR 288]; or include consideration of student's IEP goals/transition plan. Require CSE convene to review IEP/pertinent documents related to IEP/transition plan prior to determination. CSE discussion would inform students/parents of implications of graduation with local versus Regents diploma. Replace superintendent with CSE recommendation regarding proposed graduation. Require CSE recommendation and that superintendent review and consider CSE's recommendation and student's IEP and transition needs/goals when making determination. Allow parent and/or staff initiation. Without family's consent, students' rights under Individuals with Disabilities Education Act (IDEA) and to FAPE can be denied. Families should be consulted throughout process and have equal say in child's educational needs; not decided just by superintendent. Require family notification once potential eligibility is identified and student opportunity to accept or forgo/defer pathway and remain in school until 21; not having this right is unfair and has long-term impact on student's future. Allow parents to accept diploma but decline termination of services. Suggest form contain statement that student accepts determination. Require districts inform parents/students of option and parent and/or student request superintendent's review. Have review initiated by student, parent/guardian, teacher/principal, or CSE, similar to appeals process. Add limited resolution period to dispute determination while meeting August 31 SED submission timeline.

DEPARTMENT RESPONSE:

It is important that parents be engaged as meaningful partners in the special education process and education of their child, including transition planning. Rule has been revised to only allow a superintendent to make a determination as to whether an eligible student with a disability has met the requirements for a local diploma upon written request of the parent. To ensure appropriate transition planning, rule has also been revised to require that for students of transition age, CSE discuss the student's progress toward receiving a diploma and parents be provided with information explaining graduation requirements, including eligibility criteria and process for requesting the superintendent determination. Under federal and State law/regulations, graduation with a regular diploma ends a student's entitlement to a free public education under Education Law section 3202(1) and eligibility for special education services; therefore, once a student is determined eligible for a local or Regents diploma, parents and students do not have the right to decline such diploma.

5. COMMENT:

Procedure to provide parent with prior written notice (PWN) regarding pending change in placement when district intends to graduate student before age 21 [See 34 CFR section 300.102(a)(3)(iii)] not incorporated into regulations. Require parent receive legally sufficient PWN regarding superintendent determination, providing clear explanation for decision. Clarify when parents must receive notice of superintendent's determination. Concerned determination is final and there is no recourse/appeal mechanism. Due process demands student's right to challenge superintendent's unilateral, subjective determination as graduation with local diploma is change in placement. Graduation subject to stay-put provisions; parent can invoke due process and student remains eligible for special education services until proceedings conclude.

DEPARTMENT RESPONSE:

Under Commissioner's Regulations section 200.5(a)(5)(ii), districts are required to provide PWN to parent prior to student's graduation with local or Regents diploma in a reasonable timeframe before it proposes to graduate student. Notice must indicate student is no longer eligible to receive FAPE. Notice of superintendent's determination should be provided at same time district provides parent PWN. As with any district proposal to change educational program/ placement of a student with a disability, parents may seek to resolve disagreement with proposal to graduate student through all appropriate means, including mediation and due process hearing proceedings.

6. COMMENT:

Requiring students to only actively participate in exams may send message students do not have to try to pass exams. Unlikely students can demonstrate graduation level proficiency yet not minimal proficiency on State assessments. Limit range of failing scores acceptable for superintendent determination. Provide students with extremely low scores (i.e., 0-35) option for continued eligibility for FAPE.

DEPARTMENT RESPONSE:

Proposal recognizes there are some students who, because of their disabilities, are unable to demonstrate their proficiency on examinations required for graduation, even with testing accommodations, but are able to demonstrate graduation level proficiency of State's learning standards and

pass courses culminating in the required graduation examinations. We decline to limit scores student would need to graduate through superintendent determination pathway.

7. COMMENT:

Reevaluate students prior to terminating services.

DEPARTMENT RESPONSE:

Under section 200.4(c)(4) of Commissioner’s regulations, reevaluation is not required before termination of student’s eligibility due to graduation with local or Regents diploma.

8. COMMENT:

Eliminate requirement that students participate in exams other than ELA and math required for graduation; they can be demoralizing, discouraging and result in undue stress.

DEPARTMENT RESPONSE:

Rule was developed to ensure students with disabilities meet State’s learning standards for graduation; therefore, for other three required exams, superintendent must review, document and provide written certification/assurance there is evidence student has otherwise met graduation standards for local diploma.

9. COMMENT:

Charter schools are only required to meet same health/safety, civil rights, and student assessment requirements applicable to public schools; because superintendent determination does not fit these categories, BOR does not have statutory authority to mandate charter schools consider this option. Charter School Act does not provide BOR regulatory power regarding graduation safety nets; charter schools have option to grant diploma created by BOR but are not required to. Only amendment to Charter Schools Act or schools charter could mandate this. Clarify that charter schools can choose to utilize new safety net option procedures but are not required to do mandatory review. Request that “Charter school” be removed from superintendent determination regulations.

DEPARTMENT RESPONSE:

Under Education Law § 2854(1)(b) and (d), charter schools shall meet the same student assessment requirements applicable to other public schools and may grant regents and local diplomas to the same extent as other public schools. In a charter school the “superintendent” equivalent in a district school would be the charter school’s head of school or other such school leader as designated by charter school’s board of trustees.

10. COMMENT:

To be equitable, extend superintendent determination to all students, including students with Section 504 Accommodation Plans, declassified students, multilingual learners Students with IEPs are not the only students struggling with Regents exams; no student should be penalized for not demonstrating mastery of NYS standards on high-stakes standardized tests. Pathway operates with one-size-fits-all framework, unfairly penalizing students struggling with high-stakes standardized tests. Create multiple instructional/assessment pathways to diploma (e.g., performance- and project-based assessments) for students unable to demonstrate proficiency on State assessments; hold all students to high expectations. Hold Statewide hearings/listening tour regarding Regents exam requirements and alternative diploma pathways. Diploma path should not be tied to standardized written exams; graduation exit exams not required in over 60% of states. Reevaluate mindset that local diploma is “less than” diploma. Policy should acknowledge students are able to show achievement in ways besides standardized tests. Overemphasis on passing Regents exams detracts from well-rounded education.

DEPARTMENT RESPONSE:

The majority of students, including students with IEPs and 504 plans, declassified students and multilingual learners, can meet State’s learning standards for graduation. Proposal recognizes there are certain students with disabilities with an IEP who, because of their disability, are unable to demonstrate proficiency on standard State assessments.

BOR will continue to discuss multiple diploma pathways for all students and alternative ways to assess proficiency toward State’s learning standards for purposes of graduation.

11. COMMENT:

Having separate local diploma for students with disabilities is discriminatory [See Letter to White, OSEP, 63 IDELR 230 (7/2/14)] and discloses disability to potential colleges/employers. Depriving students opportunity to earn Regents diploma, benefit nondisabled peers enjoy, is discriminatory and violates Section 504 of the Rehabilitation Act and Americans with Disabilities Act. Permit local diploma for all students.

DEPARTMENT RESPONSE:

This is not separate type of diploma. Local diploma is currently available to all students, not just students with disabilities, who satisfactorily appeal two Regents test scores. Nothing in revised rule precludes a student with a disability from working toward a Regents diploma.

12. COMMENT:

Concerned earning CDOS credential is not available with Superintendent Determination.

DEPARTMENT RESPONSE:

Nothing in proposed rule prohibits students from earning the credential as supplement to local diploma through superintendent determination pathway or using credential for 5th assessment for local diploma (see 100.5[d][11]).

13. COMMENT:

Proposal passed without sufficient opportunity for thoughtful review and public comment. SED publicized regulations during summer when stakeholders are less connected to school issues and did not conduct hearings. Public largely unaware of proposal; comment period is very short and should be lengthened.

DEPARTMENT RESPONSE:

In accordance with State Administrative Procedure Act (SAPA) requirements, proposed rule was published in NYS Register and comment was accepted for 45 days. Additional guidance for schools/parents on superintendent determination is posted on SED’s website (<http://www.p12.nysed.gov/specialed/publications/superintendent-determination-of-graduation-with-a-local-diploma.htm>).

14. COMMENT:

Reopen consortium school application process to allow all high schools to apply using successful model of authentic project-based assessments.

DEPARTMENT RESPONSE:

Comment beyond scope of proposed rulemaking.

NOTICE OF ADOPTION

Social Studies Regents Examinations

I.D. No. EDU-27-16-00004-A

Filing No. 963

Filing Date: 2016-10-18

Effective Date: 2016-11-02

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

Action taken: Amendment of section 100.5(a)(5) of Title 8 NYCRR.

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

Subject: Social Studies Regents examinations.

Purpose: To provide additional pathway options for passing the social studies Regents examinations for a diploma.

Text or summary was published in the July 6, 2016 issue of the Register, I.D. No. EDU-27-16-00004-EP.

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

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

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, 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.

NOTICE OF ADOPTION

Community School Grants

I.D. No. EDU-32-16-00002-A

Filing No. 956

Filing Date: 2016-10-18

Effective Date: 2016-10-24

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

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

Statutory authority: Education Law, sections 207(not subdivided), 305(1), (2), 211-f, as added by L. 2015, ch. 56, subpart H, part EE and L. 2016, ch. 53

Subject: Community School Grants.

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

Text or summary was published in the August 10, 2016 issue of the Register, I.D. No. EDU-32-16-00002-EP.

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

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

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, 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.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Education Requirements for Occupational Therapists and Occupational Therapy Assistants

I.D. No. EDU-44-16-00012-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 76.1 and 76.7 of Title 8 NYCRR.

Statutory authority: Education Law, sections 207(not subdivided), 6504(not subdivided), 6507(2)(a), 7904(2), 7904-a(b); and L. 2016, ch. 124

Subject: Education requirements for Occupational Therapists and Occupational Therapy Assistants.

Purpose: Provides that licenses may be granted to applicants who have completed education exceeding current requirements for licensure.

Text of proposed rule: 1. Section 76.1 of the Regulations of the Commissioner of Education is amended, effective November 18, 2016, as follows:

To meet the professional education requirement for licensure in this State, the applicant shall present evidence of:

(a) *at least a bachelor's or master's degree in occupational therapy from a program registered by the department or accredited by a national accreditation agency which is satisfactory to the department, or its equivalent, as determined by the department;* or

[(b) a certificate in occupational therapy from a program registered by the department or accredited by a national accreditation agency which is satisfactory to the department following the completion of a bachelor's degree from an institution acceptable to the department; or

(c)] *(b) completion of a program satisfactory to the department of not less than four years of postsecondary study which includes the professional study of occupational therapy and which culminates in the degree or diploma accepted by the civil authorities of the country in which the studies were completed as preparation in occupational therapy in that country.*

2. Subdivision (b) of section 76.7 of the Regulations of the Commissioner of Education is amended, effective November 18, 2016, as follows:

To qualify for licensure as an occupational therapy assistant pursuant to section 7904-a of the Education Law, an applicant shall fulfill the following requirements:

(a) . . .

[(b) have received an education as follows:

(1)] *(b) complete[ion of] at least a two-year associate degree program for occupational therapy assistants registered by the department or accredited by a national accreditation agency which is satisfactory to the department, or its equivalent, as determined by the department[; or*

(2) completion of a postsecondary program of at least two years duration that has been determined by the Board of Regents pursuant to Education Law section 6506(5) to substantially meet the requirements of Education Law section 7904-a(b)];

(c) . . .

(d) . . .

(e) . . .

(f) . . .

(g) . . .

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

Data, views or arguments may be submitted to: Office of the Professions,

Office of the Deputy Commissioner, State Education Department, State Education Building 2M, 89 Washington Ave., Albany, NY 12234, (518) 486-1765, email: opdepcom@nysed.gov

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Section 207 of the Education Law grants general rule-making authority to the Board of Regents to carry into effect the laws and policies of the State relating to education.

Section 6504 of the Education Law authorizes the Board of Regents to supervise the admission to and regulation of the practice of the professions.

Subparagraph (a) of subdivision (2) of section 6507 of the Education Law authorizes the Commissioner of Education to promulgate regulations in administering the admission to the practice of the professions.

Subdivision (2) of section 7904 of the Education Law, as amended by Chapter 124 of the Laws of 2016, allows an applicant for licensure as an occupational therapist to satisfy the education requirement by completing a baccalaureate or master's degree program or greater, or its equivalent, as determined by the Department.

Subdivision (b) of section of 7904-a of the Education Law, as amended by Chapter 124 of the Laws of 2016, allows an applicant for licensure as an occupational therapy assistant to satisfy the education requirement by completing an associate degree program or greater, or its equivalent, as determined by the Department.

2. LEGISLATIVE OBJECTIVES:

The proposed amendment carries out the intent of the aforementioned statutes that the Department shall supervise the regulation of the practice of the professions for the benefit of the public. The proposed amendment will conform the Regulations of the Commissioner of Education to Chapter 124 of the Laws of 2016, which amended Article 156 of the Education Law, by amending the education requirements for occupational therapists and occupational therapy assistants to provide the Department with the flexibility to grant licenses to applicants who have completed an education, or its equivalent, that exceeds the current requirements for licensure as either an occupational therapist or occupational therapy assistant.

The proposed amendment to section 76.1 of the Regulations of the Commissioner of Education provides that to meet the professional education requirement for licensure as an occupational therapist, the applicant must present evidence of: (1) at least a bachelor's or master's degree in occupational therapy from a program registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, or its equivalent, as determined by the Department; or (2) completion of a program satisfactory to the Department of not less than four years of postsecondary study which includes the professional study of occupational therapy and which culminates in the degree or diploma accepted by the civil authorities of the country in which the studies were completed as preparation in occupational therapy in that country.

The proposed amendment to subdivision (b) of section 76.7 of the Regulations of the Commissioner of Education provides that to meet the professional education requirement for licensure as an occupational therapy assistant, an applicant must complete at least a two-year associate degree program for occupational therapy assistants registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, or its equivalent, as determined by the Department.

Chapter 124 of the Laws of 2016 further authorizes the Department to develop regulations necessary to implement it.

3. NEEDS AND BENEFITS:

Currently, pursuant to Education Law § 7904(2), the education requirement for occupational therapy licensure requires applicants to have satisfactorily completed an approved occupational therapy curriculum in a baccalaureate or master's program, or a certificate program satisfactory to the Department which is substantially equivalent to a baccalaureate degree program, in accordance with the Commissioner's Regulations. Additionally, pursuant Education Law § 7904-a(b), the current education requirement for occupational therapy assistant licensure requires applicants to have received an education consisting of the completion of a two-year associate degree program for occupational therapy assistants registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department.

However, the nationally recognized accrediting agency for the profession of occupational therapy, the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), has determined that occupational therapist education programs may grant either a master's degree or a doctoral degree. Additionally,

ACOTE has determined that occupational therapy assistant education programs may grant either an associate degree or a baccalaureate degree.

Chapter 124 of the Laws of 2016, which takes effect on November 18, 2016, was enacted to amend the Education Law's education requirements for licensure as an occupational therapist and occupational therapy assistant to provide the Department with the flexibility to grant licenses to applicants who have completed an education that exceeds the current requirements for licensure as either an occupational therapist or occupational therapy assistant, in recognition of the changes made to the national accreditation standards.

The proposed rule amends section 76.1 and subdivision (b) of section 76.7 of the Regulations of the Commissioner of Education to provide the Department with the flexibility to grant licenses to applicants who have completed an education, or its equivalent, that exceeds the current requirements for licensure as either an occupational therapist or occupational therapy assistant.

The proposed amendment is necessary to conform the Regulations of the Commissioner of Education to Chapter 124 of the Laws of 2016.

4. COSTS:

(a) Costs to State government: The proposed rule implements statutory requirements and will not impose any additional costs on State government beyond those imposed by the statutory requirements.

(b) Costs to local government: The proposed rule does not impose any additional costs on local government.

(c) Costs to private regulated parties: The proposed rule does not impose any additional costs to regulated parties.

(d) Costs to the regulatory agency: The proposed rule does not impose any additional costs to the Department beyond those imposed by statute.

5. LOCAL GOVERNMENT MANDATES:

The proposed rule implements the requirements of Chapter 124 of the Laws of 2016, by providing the Department with the flexibility to grant licenses to applicants who have completed an education, or its equivalent, that exceeds the current requirements for licensure as either an occupational therapist or occupational therapy assistant. It does not impose any program, service, duty or responsibility upon local governments.

6. PAPERWORK:

The proposed rule imposes no new reporting or other paperwork requirements beyond those imposed by the statute.

7. DUPLICATION:

The proposed rule is necessary to implement Chapter 124 of the Laws of 2016. There are no other State or federal requirements on the subject matter of this proposed rule. Therefore, the proposed rule does not duplicate other existing State or federal requirements.

8. ALTERNATIVES:

The proposed rule is necessary to conform the Regulations of the Commissioner of Education to Chapter 124 of the Laws of 2016. There are no significant alternatives to the proposed rule and none were considered.

9. FEDERAL STANDARDS:

Since there are no applicable federal standards regarding the education requirements for occupational therapists and occupational therapy assistants, the proposed rule does not exceed any minimum federal standards for the same or similar subject areas.

10. COMPLIANCE SCHEDULE:

The proposed amendment is necessary to conform the Regulations of the Commissioner of Education to Chapter 124 of the Laws of 2016. The proposed rule will become effective on November 18, 2016, which is the effective date of the statute. The proposed amendment does not impose any compliance schedules on regulated parties or local governments beyond the November 18, 2016 effective date.

Regulatory Flexibility Analysis

On July 21, 2016, Chapter 124 of the Laws of 2016 was enacted to amend the education requirements for occupational therapists and occupational therapy assistants to provide the Department with the flexibility to grant licenses to applicants who have completed an education that exceeds the current requirements for licensure as either an occupational therapist or occupational therapy assistant.

The proposed amendment to the Regulations of the Commissioner of Education is necessary to implement the provisions of Chapter 124 of the Laws of 2016. The proposed amendment to section 76.1 of the Regulations of the Commissioner of Education provides that to meet the professional education requirement for licensure as an occupational therapist, the applicant must present evidence of: (1) at least a bachelor's or master's degree in occupational therapy from a program registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, or its equivalent, as determined by the Department; or (2) completion of a program satisfactory to the Department of not less than four years of postsecondary study which includes the professional study of occupational therapy and which culminates in the degree or diploma accepted by the civil authorities of the country in which the studies were completed as preparation in occupational therapy in that country.

The proposed amendment to subdivision (b) of section 76.7 of the Regulations of the Commissioner of Education provides that to meet the professional education requirement for licensure as an occupational therapy assistant, an applicant must have completed at least a two-year associate degree program for occupational therapy assistants registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, or its equivalent, as determined by the Department.

The statutory education requirements for applicants for licensure as either an occupational therapist or occupational therapy assistant, which the proposed amendment implements, are comparable to the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE)'s education requirements for occupational therapist and occupational therapy assistant education programs. ACOTE is the nationally recognized accrediting agency for the profession of occupational therapy. Pursuant to ACOTE's standards, occupational therapist education programs may grant either a master's degree or a doctoral degree and occupational therapy assistant education programs may grant either an associate degree or a baccalaureate degree. Chapter 124 was enacted to amend the Education Law's educational requirements for licensure as an occupational therapist and occupational therapy assistant, in recognition of ACOTE's standards.

The proposed amendment will not impose any new reporting, record-keeping, or other compliance requirements, or any adverse economic impact, on small businesses or local governments. Because it is evident from the nature of the proposed amendment that it will not adversely affect small businesses or local governments, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses and local governments is not required, and one has not been prepared.

Rural Area Flexibility Analysis

Currently, pursuant to Education Law § 7904(2), the education requirement for licensure as an occupational therapist requires applicants to have satisfactorily completed an approved occupational therapy curriculum in a baccalaureate or master's program, or a certificate program satisfactory to the Department which is substantially equivalent to a baccalaureate degree program, in accordance with the Commissioner's Regulations. Additionally, pursuant Education Law § 7904-a(b), the current education requirement for licensure as an occupational therapy assistant requires applicants to have received an education consisting of the completion of a two-year associate degree program for occupational therapy assistants registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department.

However, the nationally recognized accrediting agency for the profession of occupational therapy, the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), has determined that occupational therapist education programs may grant either a master's degree or a doctoral degree. Additionally, ACOTE has determined that occupational therapy assistant education programs may grant either an associate degree or a baccalaureate degree.

Chapter 124 of the Laws of 2016, which takes effect on November 18, 2016, was enacted to amend the Education Law's education requirements for licensure as an occupational therapist and occupational therapy assistant to provide the Department with the flexibility to grant licenses to applicants who have completed an education that exceeds the current requirements for licensure as either an occupational therapist or occupational therapy assistant, in recognition of the changes made to the national accreditation standards.

Chapter 124 amends Education Law § 7904(2) to allow an applicant for licensure as an occupational therapist to satisfy the education requirement by having a baccalaureate or master's degree or greater, or its equivalent as determined by the Department.

Chapter 124 amends Education Law § 7904-a(b) to allow an applicant for licensure as an occupational therapy assistant to satisfy the education requirement by having an associate degree or greater, or its equivalent as determined by the Department.

The proposed amendment to section 76.1 of the Regulations of the Commissioner of Education provides that to meet the professional education requirement for licensure as an occupational therapist, the applicant must present evidence of: (1) at least a bachelor's or master's degree in occupational therapy from a program registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, or its equivalent, as determined by the Department; or (2) completion of a program satisfactory to the Department of not less than four years of postsecondary study which includes the professional study of occupational therapy and which culminates in the degree or diploma accepted by the civil authorities of the country in which the studies were completed as preparation in occupational therapy in that country.

The proposed amendment to subdivision (b) of section 76.7 of the Regulations of the Commissioner of Education provides that to meet the

professional education requirement for licensure as an occupational therapy assistant, an applicant must have completed at least a two-year associate degree program for occupational therapy assistants registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, or its equivalent, as determined by the Department.

The proposed amendment is only applicable to applicants for licensure as either an occupational therapist or an occupational therapy assistant in New York State. The proposed amendment will not impose any adverse impact on rural areas and would not impose any new reporting, recordkeeping, or other compliance requirements, on entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural area flexibility analysis is not required, and one has not been prepared.

Job Impact Statement

The proposed rule is required to implement Chapter 124 of the Laws of 2016, which amends the education requirements for occupational therapists and occupational therapy assistants to provide the Department with the flexibility to grant licenses to applicants who have completed an education that exceeds the current requirements for licensure as either an occupational therapist or occupational therapy assistant. Chapter 124 amends Education Law § 7904(2) to allow an applicant for licensure as an occupational therapist to satisfy the education requirement by having a baccalaureate or master's degree or greater, or its equivalent as determined by the Department. In addition, Chapter 124 amends Education Law § 7904-a(b) to allow an applicant for licensure as an occupational therapy assistant to satisfy the education requirement by having an associate degree or greater, or its equivalent as determined by the Department. The proposed amendment to section 76.1 of the Regulations of the Commissioner of Education provides that to meet the professional education requirement for licensure as an occupational therapist, the applicant must present evidence of: (1) at least a bachelor's or master's degree in occupational therapy from a program registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, or its equivalent, as determined by the Department; or (2) completion of a program satisfactory to the Department of not less than four years of post-secondary study which includes the professional study of occupational therapy and which culminates in the degree or diploma accepted by the civil authorities of the country in which the studies were completed as preparation in occupational therapy in that country. The proposed amendment to subdivision (b) section 76.7 of the Regulations of the Commissioner of Education provides that to meet the professional education requirement for licensure as an occupational therapy assistant, an applicant must have completed at least a two-year associate degree program for occupational therapy assistants registered by the Department or accredited by a national accreditation agency which is satisfactory to the Department, or its equivalent, as determined by the Department.

Although the proposed rule may increase the number of individuals who may be eligible for licensure as either an occupational therapist or occupational therapy assistant, it is not anticipated that the proposed rule will increase or decrease the number of jobs to be filled.

The amendment will not have a substantial adverse impact on jobs and employment opportunities. Because it is evident from the nature of the proposed amendment that it will not affect job and employment opportunities, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required, and one has not been prepared.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Posting of Child Abuse Hotline Number and Instructions to Use Office of Children and Family Services Website

I.D. No. EDU-44-16-00023-P

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

Proposed Action: Addition of section 100.2(nn) to Title 8 NYCRR.

Statutory authority: Education Law, sections 101 (not subdivided), 207 (not subdivided) and 409-II, as added by L. 2016, ch. 105

Subject: Posting of Child Abuse Hotline Number and Instructions to Use Office of Children and Family Services Website.

Purpose: To implement the requirements of chapter 105 of the Laws of 2016.

Text of proposed rule: 1. A new subdivision (nn) shall be added to section 100.2 of the Regulations of the Commissioner of Education, effective January 25, 2017, as follows:

(nn) Posting of child abuse telephone hotline number and directions for accessing the New York State Office of Children and Family Services website. Each public school and charter school shall post in English and Spanish the toll-free telephone number (1-800-342-3720) operated by the New York State Office of Children and Family Services (OCFS) to receive reports of child abuse or neglect and directions for accessing the OCFS website at <http://ocfs.ny.gov/main/cps/>. The Department also recommends that each public school and charter school post such information in the most common languages of the school community. The school must post such information in clearly visible locations so that it is readily accessible for students and employees by:

- (1) posting such information on the district and/or school's website(s), if such a website exists; and
- (2) posting such information in highly-visible areas of school buildings; and
- (3) making such information available at the district and school building-level administrative offices, where applicable; and
- (4) providing such information to parents and persons in parental relation at least once per school year in a manner as determined by the school, including, but not limited to, through electronic communication and/or sending such information home with students; and
- (5) providing each teacher and administrator in the school with such information.

Text of proposed rule and any required statements and analyses may be obtained from: Kirti Goswami, New York State Education Department, 89 Washington Avenue, Room 138, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

Data, views or arguments may be submitted to: Renee Rider, Acting Deputy Commissioner for P12 I, New York State Education Department, 2M West, Albany, NY 12234, (518) 474-5510, email: regcomments@nysed.gov

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY:

Education Law 101(not subdivided) charges the Department with the general management and supervision of the educational work of the State.

Education Law 207(not subdivided) grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies.

Section 305(2) provides the Commissioner with general supervision over schools and authority to advise and guide school district officers in their duties and the general management of their schools.

Education Law 409-I, as added by Chapter 105 of the Laws of 2016, which requires that each public school, including charter schools, post the child abuse hotline number and ensure that it is clearly visible in a location that is readily accessible for students.

2. LEGISLATIVE OBJECTIVES:

The proposed rule implements Chapter 105 of the Laws of 2016, by requiring that each public school, including charter schools, post the child abuse hotline number and ensure that it is clearly visible in a location that is readily accessible for students pursuant to the Commissioner's regulations.

3. NEEDS AND BENEFITS:

On July 21, 2016, the Governor signed Chapter 105 of the Laws of 2016, which added a new section 409-I to the Education law to require that each public school, including charter schools, post the child abuse hotline number and ensure that it is clearly visible in a location that is readily accessible for students. Specifically, the new law requires every public school, including charter schools, to post in English and in Spanish the toll-free telephone number operated by the New York State Office of Children and Family Services (OCFS) to receive reports of child abuse or neglect and directions for accessing the OCFS website.

The proposed amendment implements Education Law § 409-I by requiring: each public school, including charter schools, to post in English and in Spanish the toll-free telephone number (1-800-342-3720) operated by OCFS to receive reports of child abuse or neglect and the following website link to access the OCFS website: <http://ocfs.ny.gov/main/cps/>. The Department also recommends that each public school and charter school post such information in the most common languages of the school community. Each school must post such information in clearly visible locations so that it is readily accessible for students and faculty by: posting such information on the district and schools' website(s), where one exists; posting such information in highly-visible areas of school buildings; and making such information available at the district and school building-level

administrative offices, where applicable; and providing such information to parents and persons in parental relation at least once per school year in a manner as determined by the school including, but not limited to, through electronic communication and/or sending such information home with students; and providing each teacher and administrator in the school with such information.

4. COSTS:

a. Costs to State government: The amendment does not impose any costs on State government, including the State Education Department.

b. Costs to local government: The amendment does not impose any costs on local government, including school districts and BOCES.

c. Costs to private regulated parties: The amendment does not impose any costs on private regulated parties.

d. Costs to regulating agency for implementation and continued administration: See above.

5. LOCAL GOVERNMENT MANDATES:

The new law requires each public school, including charter schools, to post in English and in Spanish the toll-free telephone number (1-800-342-3720) operated by OCFS to receive reports of child abuse or neglect and the following website link to access the OCFS website: <http://ocfs.ny.gov/main/cps/>. Each school must post such information in clearly visible locations so that it is readily accessible for students and faculty by: posting such information on the district and schools' website(s), where one exists; posting such information in highly-visible areas of school buildings; and making such information available at the district and school building-level administrative offices, where applicable; and provide such information to parents and persons in parental relation at least once per school year in a manner as determined by the school including, but not limited to, through electronic communication and/or sending such information home with students; and providing each teacher and administrator in the school with such information.

6. PAPERWORK:

The proposed amendment requires school districts and charter schools to provide such information to parents and persons in parental relation at least once per school year in a manner as determined by the school including, but not limited to, through electronic communication and/or sending such information home with students; and providing each teacher and administrator in the school with such information.

7. DUPLICATION:

The rule does not duplicate existing State or Federal requirements.

8. ALTERNATIVES:

The proposed amendment was added in response to concerns raised by the Board of Regents. No alternatives were considered.

9. FEDERAL STANDARDS:

There are no applicable Federal standards related to the amendment.

10. COMPLIANCE SCHEDULE:

It is anticipated that the parties will be able to comply by its stated effective date.

Regulatory Flexibility Analysis

(a) Small businesses:

The proposed amendment revises sections 30-3.4(c)(3) and 30-3.5(c)(3) of the Rules of the Board of Regents to provide further flexibility to allow the City School District of the City of New York to calculate scores and ratings for SLOs pursuant to a methodology approved by the Commissioner in guidance. The New York City School District is the largest school district in the State of New York and the United States, serving more than 1.1 million students in over 1,800 schools. Given this size, the proposed flexibility is needed to allow the NYCDOE to use a standardized growth model to ensure an objective, consistent, district-level expectation for growth.

The amendment does not impose any new recordkeeping or other compliance requirements, and will not have an adverse economic impact, on small business. Because it is evident from the nature of the rule that it does not affect small businesses, no further steps were needed to ascertain that fact and one were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

(b) Local governments:

1. EFFECT OF RULE:

The City School District of the City of New York will be required to comply with the proposed amendment.

2. COMPLIANCE REQUIREMENTS:

The proposed amendment implements Education Law § 409-1 by requiring: each public school, including charter schools, to post in English and in Spanish the toll-free telephone number (1-800-342-3720) operated by OCFS to receive reports of child abuse or neglect and the following website link to access the OCFS website: <http://ocfs.ny.gov/main/cps/>. The Department also recommends that each public school and charter school post such information in the most common languages of the school community. Each school must post such information in clearly visible locations so that it is readily accessible for students and faculty by: posting

such information on the district and schools' website(s), where one exists; posting such information in highly-visible areas of school buildings; and making such information available at the district and school building-level administrative offices, where applicable; and providing such information to parents and persons in parental relation at least once per school year in a manner as determined by the school including, but not limited to, through electronic communication and/or sending such information home with students; and providing each teacher and administrator in the school with such information.

3. PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional services requirements on local governments beyond those imposed by statute.

4. COMPLIANCE COSTS:

There are no additional costs on local governments beyond those imposed by statute.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The rule does not impose any additional technological requirements on districts or BOCES.

6. MINIMIZING ADVERSE IMPACT:

The proposed amendment implements Chapter 105 of the Laws of 2016. Therefore, no alternatives were considered.

7. LOCAL GOVERNMENT PARTICIPATION:

Copies of the rule have been provided to Superintendents and District Superintendents with the request that they distribute them to school districts within their supervisory districts for review and comment.

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

This proposed amendment applies to all public schools and charter schools in New York employing substitute teachers, including those in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

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

The proposed amendment implements Education Law § 409-1 by requiring: each public school, including charter schools, to post in English and in Spanish the toll-free telephone number (1-800-342-3720) operated by OCFS to receive reports of child abuse or neglect and the following website link to access the OCFS website: <http://ocfs.ny.gov/main/cps/>. The Department also recommends that each public school and charter school post such information in the most common languages of the school community. Each school must post such information in clearly visible locations so that it is readily accessible for students and faculty by: posting such information on the district and schools' website(s), where one exists; posting such information in highly-visible areas of school buildings; and making such information available at the district and school building-level administrative offices, where applicable; and providing such information to parents and persons in parental relation at least once per school year in a manner as determined by the school including, but not limited to, through electronic communication and/or sending such information home with students; and providing each teacher and administrator in the school with such information.

3. COSTS:

The proposed amendment does not impose any costs on schools or charter schools, including those located in rural areas of the State beyond those imposed by statute.

4. MINIMIZING ADVERSE IMPACT:

The proposed amendment implements the requirements of Chapter 105 of the Laws of 2016. Therefore, no alternatives were considered.

5. RURAL AREA PARTICIPATION:

Copies of the rule have been provided to Rural Advisory Committee for review and comment.

Job Impact Statement

The proposed amendment implements Education Law § 409-1, as added by Chapter 105 of the Laws of 2016, by requiring: each public school, including charter schools, to post in English and in Spanish the toll-free telephone number (1-800-342-3720) operated by OCFS to receive reports of child abuse or neglect and the following website link to access the OCFS website: <http://ocfs.ny.gov/main/cps/>. Each school must post such information in clearly visible locations so that it is readily accessible for students and faculty by: posting such information on the district and schools' website(s), where one exists; posting such information in highly-visible areas of school buildings; and making such information available at the district and school building-level administrative offices, where applicable; and providing such information to parents and persons in parental relation at least once per school year in a manner as determined by the school including, but not limited to, through electronic communication and/or sending such information home with students; and providing each teacher and administrator in the school with such information.

Because it is evident from the nature of the proposed rule that it will

have no impact on the number of jobs or employment opportunities in New York State, and no further steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Department of Health

NOTICE OF ADOPTION

Practice of Radiologic Technology

I.D. No. HLT-30-15-00005-A

Filing No. 959

Filing Date: 2016-10-18

Effective Date: 2016-11-02

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

Action taken: Amendment of Part 89 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 3504, 3507(2), (7) and 3510(1)(g)

Subject: Practice of Radiologic Technology.

Purpose: To update regulations related to the practice of radiologic technology.

Text or summary was published in the July 29, 2015 issue of the Register, I.D. No. HLT-30-15-00005-P.

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

Revised rule making(s) were previously published in the State Register on August 17, 2016.

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Neurodegenerative Specialty Rate

I.D. No. HLT-24-16-00002-A

Filing No. 961

Filing Date: 2016-10-18

Effective Date: 2016-11-02

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

Action taken: Amendment of Subpart 86-2 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 2802-2(c)

Subject: Neurodegenerative Specialty Rate.

Purpose: To authorize Medicaid rate of payment for providing quality of care to the neurodegenerative population.

Text or summary was published in the June 15, 2016 issue of the Register, I.D. No. HLT-24-16-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: 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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Specialized Programs for Residents with Neurodegenerative Diseases

I.D. No. HLT-24-16-00003-A

Filing No. 960

Filing Date: 2016-10-18

Effective Date: 2016-11-02

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

Action taken: Addition of section 415.41 to Title 10 NYCRR.

Statutory authority: Public Health Law, section 2803(2)

Subject: Specialized Programs for Residents with Neurodegenerative Diseases.

Purpose: To establish nursing home specialty units for residents with Huntington's Disease (HD) and Amyotrophic Lateral Sclerosis (ALS).

Text or summary was published in the June 15, 2016 issue of the Register, I.D. No. HLT-24-16-00003-P.

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

Revised rule making(s) were previously published in the State Register on August 24, 2016.

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

Assessment of Public Comment

The agency received no public comment.

Department of Motor Vehicles

NOTICE OF ADOPTION

Notices of Hearing

I.D. No. MTV-35-16-00003-A

Filing No. 955

Filing Date: 2016-10-18

Effective Date: 2016-11-02

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

Action taken: Amendment of section 127.1 of Title 15 NYCRR.

Statutory authority: Vehicle and Traffic Law, sections 215(a), 303(f) and 415(9-a)

Subject: Notices of hearing.

Purpose: Provides for mailing by first class mail for most DMV hearings.

Text or summary was published in the August 31, 2016 issue of the Register, I.D. No. MTV-35-16-00003-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. 522A, Albany, NY 12228, (518) 575-0871, email: heidi.bazicki@dmv.ny.gov

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

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

Use of Escrow Funds for Repairs

I.D. No. PSC-44-16-00010-EP
Filing Date: 2016-10-13
Effective Date: 2016-10-13

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

Proposed Action: The Commission, on October 13, 2016, adopted an order restricting the use of Arbor Hills Waterworks, Inc.’s escrow account without the prior approval of the Director of the Office of Electric, Gas and Water; and requiring the submission of a plan to supplement the Company’s water supply.

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

Finding of necessity for emergency rule: Preservation of public health, public safety and general welfare.

Specific reasons underlying the finding of necessity: On July 27, 2016, the Commission ordered Arbor Hills Waterworks, Inc. (the Company) to show cause why, under PSL § 112-a, the Commission should not appoint a temporary operator to manage the system, given the owner’s failure to adequately address ongoing infrastructure failures. On August 26, 2016, the Company filed a response, largely blaming the system’s current operator, JCO, Inc. (JCO), for the recent service failures and unaddressed repairs. The Commission found the Company’s response inadequate and that the public health and safety continued to be threatened by the owner’s inaction. For this reason, the Commission restricted use of the Company’s escrow account and required the Company to submit a plan to increase its water supply.

Subject: Use of escrow funds for repairs.

Purpose: To condition the use of escrow account funds for repairs.

Substance of emergency/proposed rule: The Commission, on October 13, 2016, adopted an order restricting the use of Arbor Hills Waterworks, Inc.’s escrow account without the prior approval of the Director of the Office of Electric, Gas and Water; and requiring the submission of a plan to supplement the Company’s water supply.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire January 10, 2017.

Text of rule may be obtained from: John Pitucci, Public Service Commission, Three 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, Department of Public Service, 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 amended rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(16-W-0415EP2)

NOTICE OF ADOPTION

Complaint Relief and Tariff Revisions

I.D. No. PSC-41-15-00007-A
Filing Date: 2016-10-17
Effective Date: 2016-10-17

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

Action taken: On 10/13/16, the PSC adopted an order granting Glenwyck Development, LLC (Glenwyck) relief for a complaint against Niagara

Mohawk Power Corporation d/b/a National Grid (NMPC) and ordering tariff revisions.

Statutory authority: Public Service Law, sections 31, 65 and 66

Subject: Complaint relief and tariff revisions.

Purpose: To grant Glenwyck relief for a complaint against NMPC and to order tariff revisions.

Substance of final rule: The Commission, on October 13, 2016, adopted an order granting Glenwyck Development, LLC relief for a complaint against Niagara Mohawk Power Corporation d/b/a National Grid’s (NMPC) tariff provisions and to order NMPC to revise Residential Distribution Contribution Statement No. 3, 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-0560SA1)

NOTICE OF ADOPTION

Transfer of Stock

I.D. No. PSC-10-16-00010-A
Filing Date: 2016-10-14
Effective Date: 2016-10-14

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

Action taken: On 10/13/16, the PSC adopted an order approving Whistle Tree Development Corporation’s (Whistle Tree) petition to transfer full stock ownership to Scribners Catskill Lodge, LLC (Scribners).

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

Subject: Transfer of stock.

Purpose: To approve Whistle Tree’s petition to transfer full stock ownership to Scribners.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving Whistle Tree Development Corporation’s petition to transfer full stock ownership to Scribners Catskill Lodge, LLC, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(16-W-0078SA1)

NOTICE OF ADOPTION

Tariff Filing to Effectuate Amendments to Public Service Law Section 70-a

I.D. No. PSC-11-16-00010-A
Filing Date: 2016-10-14
Effective Date: 2016-10-14

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

Action taken: On 10/13/16, the PSC adopted an order approving Central Hudson Gas and Electric Corporation’s (Central Hudson) tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Statutory authority: Public Service Law, sections 66(12) and 70-a

Subject: Tariff filing to effectuate amendments to Public Service Law section 70-a.

Purpose: To approve Central Hudson's tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving Central Hudson Gas and Electric Corporation's tariff filing, with modifications, to effectuate amendments to Public Service Law § 70-a – Transfer of Street Light Systems, contained in P.S.C. No. 15 – 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-0745SA1)

NOTICE OF ADOPTION

Tariff Filing to Effectuate Amendments to Public Service Law Section 70-a

I.D. No. PSC-11-16-00011-A

Filing Date: 2016-10-14

Effective Date: 2016-10-14

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

Action taken: On 10/13/16, the PSC adopted an order approving New York State Electric and Gas Corporation's (NYSEG) tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Statutory authority: Public Service Law, sections 66(12) and 70-a

Subject: Tariff filing to effectuate amendments to Public Service Law section 70-a.

Purpose: To approve NYSEG's tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving New York State Electric and Gas Corporation's tariff filing, with modifications, to effectuate amendments to Public Service Law § 70-a – Transfer of Street Light Systems, contained in P.S.C. No. 121 – 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-0746SA1)

NOTICE OF ADOPTION

Tariff Filing to Effectuate Amendments to Public Service Law Section 70-a

I.D. No. PSC-11-16-00012-A

Filing Date: 2016-10-14

Effective Date: 2016-10-14

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

Action taken: On 10/13/16, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (NMPC) tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Statutory authority: Public Service Law, sections 66(12) and 70-a

Subject: Tariff filing to effectuate amendments to Public Service Law section 70-a.

Purpose: To approve NMPC's tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's tariff filing, with modifications, to effectuate amendments to Public Service Law § 70-a – Transfer of Street Light Systems, contained in P.S.C. No. 214 – 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-0747SA1)

NOTICE OF ADOPTION

Tariff Filing to Effectuate Amendments to Public Service Law Section 70-a

I.D. No. PSC-11-16-00014-A

Filing Date: 2016-10-14

Effective Date: 2016-10-14

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

Action taken: On 10/13/16, the PSC adopted an order approving Rochester Gas and Electric Corporation's (RG&E) tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Statutory authority: Public Service Law, sections 66(12) and 70-a

Subject: Tariff filing to effectuate amendments to Public Service Law section 70-a.

Purpose: To approve RG&E's tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving Rochester Gas and Electric Corporation's tariff filing, with modifications, to effectuate amendments to Public Service Law § 70-a – Transfer of Street Light Systems, contained in P.S.C. No. 18 – 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-0748SA1)

NOTICE OF ADOPTION

Tariff Filing to Effectuate Amendments to Public Service Law Section 70-a

I.D. No. PSC-11-16-00015-A

Filing Date: 2016-10-14

Effective Date: 2016-10-14

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

Action taken: On 10/13/16, the PSC adopted an order approving Orange and Rockland Utilities, Inc.'s (O&R) tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Statutory authority: Public Service Law, sections 66(12) and 70-a

Subject: Tariff filing to effectuate amendments to Public Service Law section 70-a.

Purpose: To approve O&R's tariff filing, with modifications, to effectuate amendments to Public Service Law section 70-a.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving Orange and Rockland Utilities, Inc.'s tariff filing, with modifications, to effectuate amendments to Public Service Law § 70-a – Transfer of Street Light Systems, contained in P.S.C. No. 3 – 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-0749SA1)

NOTICE OF ADOPTION

Transfer of Stock

I.D. No. PSC-13-16-00011-A

Filing Date: 2016-10-14

Effective Date: 2016-10-14

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

Action taken: On 10/13/16, the PSC adopted an order approving Crystal Water Corporation's (Crystal Water) petition to transfer 100 percent of stock to Bruce McNab.

Statutory authority: Public Service Law, section 89-h

Subject: Transfer of stock.

Purpose: To approve Crystal Water's petition to transfer 100 percent of stock to Bruce McNab.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving Crystal Water Corporation's petition to transfer 100 percent of stock to Bruce McNab, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(16-W-0126SA1)

NOTICE OF ADOPTION

Petition Requesting Modification of the CCA Opt-Out Program to an Opt-In Program

I.D. No. PSC-25-16-00011-A

Filing Date: 2016-10-13

Effective Date: 2016-10-13

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

Action taken: On 10/13/16, the PSC adopted an order denying, in part, National Fuel Gas Distribution Corporation's (NFG) petition requesting modification of the Community Choice Aggregation (CCA) Opt-Out Program to an Opt-In Program.

Statutory authority: Public Service Law, sections 5(1)(b), (2), 22, 53, 65(1), (2), (3), 66(2) and (5)

Subject: Petition requesting modification of the CCA Opt-Out Program to an Opt-In Program.

Purpose: To deny, in part, NFG's petition requesting modification of the CCA Opt-Out Program to an Opt-In Program.

Substance of final rule: The Commission, on October 13, 2016, adopted

an order denying, in part, National Fuel Gas Distribution Corporation's (NFG) petition requesting modification of the Community Choice Aggregation (CCA) Opt-Out Program to an Opt-In Program. Reconsideration and clarification of the April 21, 2016 Order Authorizing Framework for Community Choice Aggregation Opt-Out Program is granted, 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-M-0224SA3)

NOTICE OF ADOPTION

Proposed Solutions to Meet the PPTN

I.D. No. PSC-25-16-00012-A

Filing Date: 2016-10-13

Effective Date: 2016-10-13

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

Action taken: On 10/13/16, the PSC adopted an order directing the New York State Independent Operator, Inc. (NYISO) to evaluate proposed solutions to meet the Public Policy Transmission Need (PPTN) for Western New York.

Statutory authority: Public Service Law, sections 4(1), 5(1)(b), (2), 65(1), 66(1), (2) and (5)

Subject: Proposed solutions to meet the PPTN.

Purpose: To direct NYISO to evaluate proposed solutions to meet the PPTN.

Substance of final rule: The Commission, on October 13, 2016, adopted an order directing the New York State Independent Operator, Inc. to evaluate proposed solutions to meet the Public Policy Transmission Need for Western 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.

(14-E-0454SA2)

NOTICE OF ADOPTION

Petition for Rehearing, Reconsideration and Clarification of Certain Aspects of the CCA Order

I.D. No. PSC-25-16-00013-A

Filing Date: 2016-10-13

Effective Date: 2016-10-13

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

Action taken: On 10/13/16, the PSC adopted an order granting the Joint Utilities' petition for rehearing, reconsideration and clarification of certain aspects of the Community Choice Aggregation (CCA) Opt-Out Program Order.

Statutory authority: Public Service Law, sections 5(1)(b), (2), 22, 53, 65(1), (2), (3), 66(2) and (5)

Subject: Petition for rehearing, reconsideration and clarification of certain aspects of the CCA Order.

Purpose: To grant the Joint Utilities' petition for rehearing, reconsideration and clarification of certain aspects of the CCA Order.

Substance of final rule: The Commission, on October 13, 2016, adopted an order granting Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, National Fuel Gas Distribution Corporation, The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Corporation d/b/a National Grid, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation's petition for rehearing, reconsideration and clarification of certain aspects of the April 21, 2016 Order Authorizing Framework for Community Choice Aggregation Opt-Out Program, subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service 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-M-0224SA2)

NOTICE OF ADOPTION

Revised Audit Implementation Plan

I.D. No. PSC-28-16-00014-A

Filing Date: 2016-10-13

Effective Date: 2016-10-13

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

Action taken: On 10/13/16, the PSC adopted an order approving Consolidated Edison Company of New York, Inc. (Con Edison) and Orange and Rockland Utilities, Inc.'s (O&R) Revised Audit Implementation Plan.

Statutory authority: Public Service Law, section 66(19)(b)

Subject: Revised Audit Implementation Plan.

Purpose: To approve Con Edison and O&R's Revised Audit Implementation Plan.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.'s Revised Audit Implementation Plan, 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-M-0001SA1)

NOTICE OF ADOPTION

Tariff Amendments to SC No. 20—Gas Marketers, Contained in P.S.C. No. 9—Gas

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

Filing Date: 2016-10-17

Effective Date: 2016-10-17

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

Action taken: On 10/13/16, the PSC adopted an order approving Consolidated Edison Company of New York, Inc.'s (Con Edison) tariff amendments to Service Classification (SC) No. 20—Gas Marketers, contained in P.S.C. No. 9—Gas.

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

Subject: Tariff amendments to SC No. 20—Gas Marketers, contained in P.S.C. No. 9—Gas.

Purpose: To approve Con Edison's tariff amendments to SC No. 20—Gas Marketers, contained in P.S.C. No. 9—Gas.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving Consolidated Edison Company of New York, Inc.'s tariff amendments to Service Classification No. 20 – Gas Marketers, contained in P.S.C. No. 9 – Gas, in regards to Daily Delivery Service and Winter Bundled Sales Service, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(16-G-0406SA1)

NOTICE OF ADOPTION

Deferral of Property Taxes

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

Filing Date: 2016-10-17

Effective Date: 2016-10-17

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

Action taken: On 10/13/16, the PSC adopted an order approving New York American Water Company, Inc.'s (NYAW) petition to defer \$300,000 of excess property taxes.

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

Subject: Deferral of property taxes.

Purpose: To approve NYAW's petition to defer \$300,000 of excess property taxes.

Substance of final rule: The Commission, on October 13, 2016, adopted an order approving New York American Water Company, Inc.'s petition to defer \$300,000 of excess property taxes from its current Sea Cliff Revenue, Production Costs and Property Tax Reconciliation Filing, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(16-W-0410SA1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Surcharge to Recover Costs of Dynamic Load Management Programs

I.D. No. PSC-44-16-00015-P

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

Proposed Action: The Commission is considering a petition by Consolidated Edison Company of New York, Inc. to establish a surcharge mechanism to recover costs of Dynamic Load Management Programs.

Statutory authority: Public Service Law, sections 5(1), (2), 65(1), (5), 66(1), (12) and (14)

Subject: Surcharge to recover costs of Dynamic Load Management Programs.

Purpose: To consider a surcharge to recover costs of the Dynamic Load Management Programs.

Substance of proposed rule: The Public Service Commission is consider-

ing a petition by Con Edison Company of New York, Inc. (Con Edison) to establish a Dynamic Load Management (DLM) Surcharge mechanism in compliance with the Commission's Order Adopting Dynamic Load Management Program Changes with Modifications, issued May 23, 2016 in this Case. Con Edison proposes to allocate the costs of DLM Programs to individual service classifications on a transmission demand basis, and recover such costs from customers on a dollar per kilowatt-hour basis for non-demand billed customers, and on a dollar per kilowatt basis for demand billed customers. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

Data, views or arguments may be submitted to: Kathleen H. Burgess, 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-E-0423SP2)

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

Consideration of Comments Made by NFG Regarding the Audit Process and the Use of Guidance Documents in Regulation

I.D. No. PSC-44-16-00016-P

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

Proposed Action: The Commission is considering comments by National Fuel Gas Distribution Corporation regarding the audit process, rulemaking and guidance documents.

Statutory authority: Public Service Law, section 66(19)

Subject: Consideration of comments made by NFG regarding the audit process and the use of guidance documents in regulation.

Purpose: To consider NFG's arguments and if the Commission should modify its practices.

Substance of proposed rule: The Public Service Commission is considering comments by National Fuel Gas Distribution Corporation (NFG), filed on September 16, 2016, regarding the Commission's current audit of the gas utility industry in New York State. NFG argues that the current audit improperly focuses on all gas utilities in New York State, rather than on an individual company, that the Commission is avoiding the statutory rule making process by imposing practices on the gas utility through the audit process and through the use of guidance documents. 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.

(13-M-0314SP7)

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

Valuation of and Compensation for Electricity Generated by Distributed Resources

I.D. No. PSC-44-16-00017-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 Staff's proposal, including options and alternatives, for implementing a new valuation and compensation methodology for electricity generated by distributed generation resources owned or operated by customer-generators.

Statutory authority: Public Service Law, sections 5(1)(a), (2), 65(1)-(5), 66(1), (12), (14), 66-j and 66-l

Subject: Valuation of and compensation for electricity generated by distributed resources.

Purpose: To implement framework that will benefit ratepayers and customer-generators and further State policy.

Substance of proposed rule: The Public Service Commission (Commission) is considering the Staff Report and Recommendations (Report) filed by Department of Public Service Staff (Staff) in Case 15-E-0751. The Report presents recommendations, options, and alternatives for implementing a new valuation and compensation methodology for electricity generated by distributed generation resources owned or operated by customer-generators. The Commission may adopt, reject, or modify, in whole or in part, the recommendations, options, and alternatives presented in the Report, and may resolve related matters.

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

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

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

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

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

(15-E-0751SP1)

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

Notice of Intent to Submeter Electricity

I.D. No. PSC-44-16-00018-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 the Notice of Intent of 325 Kent LLC c/o Two Trees Management Co., LLC, to submeter electricity at 325 Kent Avenue, Brooklyn, New York.

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

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent to submeter electricity at 325 Kent Avenue, Brooklyn, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent of 325 Kent LLC c/o Two Trees Management Co., LLC, filed July 13, 2016, to submeter electricity at 325 Kent Avenue, 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-0399SP1)

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

Transfer of Certain Streetlights Located in the City of Kingston

I.D. No. PSC-44-16-00019-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 petition filed by Central Hudson Gas & Electric Corporation (Central Hudson) for the transfer of certain streetlights located in the City of Kingston, Ulster County, New York to the City of Kingston.

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

Subject: Transfer of certain streetlights located in the City of Kingston.

Purpose: To consider the transfer of certain streetlights from Central Hudson to the City of Kingston.

Substance of proposed rule: The Public Service Commission is considering a petition filed on October 5, 2016, by Central Hudson Gas & Electric Corporation (Central Hudson) for authorization to transfer 2,012 streetlights to the City of Kingston, a New York municipal corporation. Central Hudson asserts that the proposed transaction will not impact the reliability, safety, operation, or maintenance of Central Hudson's electric distribution system. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(16-E-0564SP1)

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

Transfer of a Parcel of Property Located in the Town of North Castle

I.D. No. PSC-44-16-00020-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 petition filed by Consolidated Edison Company of New York, Inc. (Con Edison) for authorization to transfer a parcel of property located in the Town of North Castle, Westchester County, New York to the Town of North Castle.

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

Subject: Transfer of a parcel of property located in the Town of North Castle.

Purpose: To consider the transfer of a parcel of property from Con Edison to the Town of North Castle.

Substance of proposed rule: The Public Service Commission is consider-

ing a petition filed on July 14, 2016, by Consolidated Edison Company of New York, Inc. (Con Edison) for authorization to transfer a parcel of property located at the corner of Long Pond Road and Windmill Road in New Castle to the Town of North Castle, a New York municipal corporation. Con Edison asserts that the proposed transaction will not impact the reliability, safety, operation, or maintenance of Con Edison's electric distribution system. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(16-M-0562SP1)

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

Minor Rate Filing of Municipal Commission of Boonville

I.D. No. PSC-44-16-00021-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 proposed tariff amendments filed by the Municipal Commission of Boonville, to P.S.C. No. 1 — Electricity, to increase its annual electric revenues by approximately \$161,477 or 4.2%.

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

Subject: Minor rate filing of Municipal Commission of Boonville.

Purpose: To consider an increase in annual revenues of about \$161,477 or 4.2%.

Substance of proposed rule: The Public Service Commission is considering proposed tariff amendments, filed by Municipal Commission of Boonville (Boonville), to P.S.C. No. 1 — Electricity, by which it would increase its annual electric revenues by approximately \$161,477 or 4.2%. Under the proposed rates, the average summer monthly bill of a residential customer using 875 kilowatt-hours of electricity would increase from \$37.72 to \$39.99 or 6.0%, and the average winter monthly bill of a residential customer using 1,725 kilowatt-hours of electricity would increase from \$76.63 to \$79.79 or 4.0%. Boonville also proposes to increase the monthly service charge for Service Classification (SC) No. 1 — Residential and SC No. 2 — Small Commercial from \$2.00 to \$6.50 per month, to be phased in over three years. In addition, Boonville proposes to update the Factor of Adjustment by using a six-year average, which has historically been the method used by the Commission. The proposed amendments have an effective date of February 1, 2017. 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-0565SP1)

Workers' Compensation Board

NOTICE OF ADOPTION

Stipulations

I.D. No. WCB-45-15-00019-A

Filing No. 954

Filing Date: 2016-10-14

Effective Date: 2016-11-02

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

Action taken: Amendment of section 300.5 of Title 12 NYCRR.

Statutory authority: Workers' Compensation Law, sections 117 and 141

Subject: Stipulations.

Purpose: Permitting parties to a workers' compensation claim to enter into stipulations in accordance with agreements reached outside hearing.

Text of final rule: Section 300.5 of Title 12 of the New York Codes Rules and Regulations is amended as follows:

(a) In controverted claims the Workers' Compensation Law Judge shall make a reasoned decision upon the contested points. This decision, outlining the evidence supporting said determination, may be made by an oral statement which shall be entered upon the minutes of the hearings, or may be in a written and signed statement which shall be filed with the papers in the record.

(b)(1) Parties to any claim before the board may stipulate to uncontested facts or proposed findings. [Such stipulation shall be in writing and shall be signed by all parties so stipulating] *When a claimant is represented, a stipulation may be made either as an oral statement on the record at a hearing or, in writing outside of a hearing. A written stipulation must be submitted using the form or format prescribed by the Chair. The stipulation must indicate that each party to the stipulation:*

(i) [have] has been advised of the legal effect of stipulating to the facts or proposed findings contained in said stipulation; and

(ii) [have] has affixed their signatures to said stipulation of their own free will. *If the stipulation is presented at a hearing, a [A] Workers' Compensation Law Judge shall verify the foregoing through questioning. [that all parties:]*

[If the claimant is not represented, the stipulation shall be signed in the presence of a Workers' Compensation Law Judge.]

(2) A stipulation [pursuant to this section shall be subject to the approval of] *made at a hearing and approved by a Workers' Compensation Law Judge [and, if approved,] shall be incorporated into the decision of the Workers' Compensation Law Judge and shall be binding upon the parties. A written stipulation made outside of a hearing entered into by a represented claimant and the employer or carrier shall be reviewed and if approved by a Workers' Compensation Law Judge or conciliator shall be incorporated into a decision of the Board. Such stipulation, as incorporated into [the] a decision of the Workers' Compensation Law Judge, shall be subject to the provisions of section 23 of the Workers' Compensation Law and section 300.13 of this Part, and to sections 22 and 123 of the Workers' Compensation Law. The Chair may direct that stipulations properly submitted in the prescribed format and approved by a Workers' Compensation Law Judge or conciliator constitute the decision of the Workers' Compensation Law Judge.*

(3) *When a claimant is not represented, he or she shall give a sworn statement on the record at a hearing indicating an understanding of the facts agreed to and the legal effect of the oral or written stipulation.*

(3)4 The provisions of this subdivision shall not be applicable to agreements settling upon and determining claims for compensation pursuant to section 32 of the Workers' Compensation Law and section 300.36 of this Part.

(c) In every claim where the disability exceeds seven days, the Workers' Compensation Law Judge shall make a finding as to whether or not an accident arising out of and in the course of employment or an occupational disease has been established [; and in every claim involving disability less than seven days, the Workers' Compensation Law Judge shall make such a finding where possible to do so on evidence before him or her. The finding of the Workers' Compensation Law Judge in such cases shall be incorporated in the notice of decision].

(d) The Workers' Compensation Law Judge may excuse the failure of a physician or other health providers to file reports in accordance with the requirements of subdivision (4) of section 13-a, subdivision (3) of section

13-k, subdivision (3) of section 13-l and subdivision (4) of section 13-m of the Workers' Compensation Law whenever after taking testimony the Workers' Compensation Law Judge finds it to be in the interest of justice to excuse such failure, and the decision of the Workers' Compensation Law Judge shall state the reasons therefor.

(e) A claim for reimbursement pursuant to section 15, subdivision 8 of the Workers' Compensation Law shall be filed on a form prescribed by the chair.

Final rule as compared with last published rule: Nonsubstantive changes were made in section 300.5(b)(1), (2) and (3).

Text of rule and any required statements and analyses may be obtained from: Heather MacMaster, Workers' Compensation Board, 328 State Street, Schenectady, NY 12305-2318, (518) 486-9564, email: regulations@wcb.ny.gov

Revised Regulatory Impact Statement

A revised Regulatory Impact Statement is not required because the changes made to the last published rule do not necessitate revision to the previously published document. The changes to the text are not substantial, do not change the meaning of any provision and therefore do not change any statements in the document. Specifically, the words "oral or written" were added and words reorganized to clarify that the stipulation may be either oral or written.

Revised Regulatory Flexibility Analysis

A revised Regulatory Flexibility Analysis for Small Business and Local Governments is not required because the changes made to the last published rule do not necessitate revision to the previously published document. The changes to the text are not substantial, do not change the meaning of any provision and therefore do not change any statements in the document. Specifically, the words "oral or written" were added and words reorganized to clarify that the stipulations may be either written or oral.

Revised Rural Area Flexibility Analysis

A revised Rural Area Flexibility Analysis is not required because the changes made to the last published rule do not necessitate revision to the previously published document. The changes to the text are not substantial, do not change the meaning of any provision and therefore do not change any statements in the document. Specifically, the words "oral or written" were added and words reorganized to clarify that the stipulation may be either written or oral.

Revised Job Impact Statement

A revised Job Impact Statement is not required because the changes made to the last published rule do not necessitate revision to the previously published document. The changes made to the text were not substantive, do not change the meaning of any provision and therefore do not change any statements in the document. Specifically, the changes clarify that the stipulations can be made outside the hearing and may be either oral or written.

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Administrative Appeals

I.D. No. WCB-44-16-00011-P

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

Proposed Action: This is a consensus rule making to amend section 300.13 of Title 12 NYCRR.

Statutory authority: Workers' Compensation Law, sections 23, 117 and 141

Subject: Administrative Appeals.

Purpose: Update the process for requesting administrative review of decisions by a law judge.

Text of proposed rule: Section 300.13 of Title 12 NYCRR is amended as follows:

300.13 Administrative Review, Full Board Review, and Applications for Board Reconsideration

a. Definitions

(1) "Administrative Review" means an administrative appeal from a decision of a Compensation Claims Referee, under section twenty-three of the workers' compensation law, or an administrative appeal of a finalized

administrative determination as set forth in part three-hundred [twelve] *thirteen* of this chapter.

(2) "Full Board Review" means an administrative appeal from a decision of the Board pursuant to section twenty three of the workers' compensation law. Such review is discretionary unless a board member dissents from the ruling regarding a finding other than the issue of whether to appoint an impartial medical specialist. Upon notice to the claimant, his or her legal representative, if any, the employer or carrier or Special Fund, the full board may review any case on its own motion.

(3) "Filing" means an application has been received by the Board at the designated point of receipt. Upon posting on the Board's website, the Chair may prescribe the format and method for filing and service including, among other methods, electronic, mail or fax service.

(4) "Necessary Parties of Interest" means, for the purposes of this section, claimants, self-insured employers, private insurance carriers, the state insurance fund, special funds, no-fault carriers per section one hundred forty-two of the workers' compensation law, or any surety, including but not limited to the uninsured employer's fund, and the liquidation bureau. Treating Medical Providers and Independent Medical Examiners are not parties of interest and may not make filings, oral arguments, or otherwise participate in the administrative review process. Attorneys and licensed hearing representatives are not necessary parties of interest under this rule, except that an attorney or representative is a necessary party in an appeal that concerns the amount of a fee payable to an attorney or representative or a penalty imposed against an attorney or licensed hearing representative. A claimant's attorney or licensed hearing representative, properly designated by the claimant as his or her representative, shall receive a copy of any applications or rebuttals filed under this section.

b. Requests for Administrative Review and Requests for Full Board Review filed pursuant to Workers' Compensation Law Section 23, and Requests for Reconsideration of a Board Panel decision pursuant to Section 300.14 of this Part.

(1) Application format. Unless submitted by an unrepresented claimant, an application to the Board for administrative review of a decision by a Workers' Compensation Law Judge shall be in the format as prescribed by the Chair. The application in the format prescribed by the Chair must be filled out completely by the appellant, except that the requirement to utilize the application format shall not be imposed upon a claimant who is unrepresented.

(i) Unless otherwise specified by the Chair, the appellant may attach a legal brief of up to eight pages in length, in 12-point font, with one inch margins, on 8.5 inch by 11 paper. A brief longer than eight pages will not be considered, unless the appellant specifies, in writing, why the legal argument could not have been made within eight pages. In no event shall a brief longer than fifteen pages be considered.

(ii) Documents that are present in the Board's electronic case folder at the time the administrative review is submitted shall not be, included with or attached to the application. The Board may reject applications for review by an appellant, or an attorney or licensed representative of the appellant, who attaches documents that are already in the case folder at the time of the application.

(iii) If the appellant seeks to introduce additional documentary evidence in the administrative appeal that was not presented before the Workers' Compensation Law Judge, the appellant must submit a sworn affidavit, setting forth the evidence, and explaining why it could not have been presented before the Workers' Compensation Law Judge. The Board has discretion to accept or deny such newly filed evidence. Newly filed evidence submitted without the affidavit will not be considered by the Board panel.

(2) The application for administrative review:

(i) shall specify the issues and grounds for the appeal;

(ii) shall specify the objection or exception that was interposed to the ruling, and when the objection or exception was interposed;

(iii) shall, when filed by an employer or carrier, specify which payments are continuing pending resolution of the administrative appeal, and which payments are stayed pursuant to section twenty-three and subdivision three (f) of section twenty-five of the Workers' Compensation Law;

(iv) shall include proof of service upon all necessary parties of interest, in the format prescribed by the Chair. Service upon a party who is not adverse to the interest of the appellant may not render the appeal defective as such party is not a necessary party of interest. Failure to properly serve a necessary party shall be deemed defective service and the application may be rejected by the Board.

(A) Proof of service in the format prescribed by the Chair shall specify the papers served, the person who was served, the date, and method of service including the actual address, email address or fax number where service was transmitted. An affidavit, affirmation, or other satisfactory proof of service as prescribed by the Chair, shall be submitted with the

Application for Administrative Review to the Board. The affidavit, affirmation, or other proof of service must certify that all service was completed within thirty days from the filing of the decision that is the subject of the Application for Administrative Review.

(B) There is no requirement that each party be served in the same manner. Service is deemed timely if completed by the party of interest within thirty days of the filing of the decision by the Board.

(C) Unless the Chair directs service by electronic means, the appellant must certify in the affidavit or affirmation of service, that the party served provided explicit permission to receive service by fax, email, or other electronic means.

(D) When the administrative appeal is filed by the carrier, self-insured employer, or other payor or potential payor, service shall be upon the claimant, and claimant's attorney or representative, and other necessary parties in interest.

(E) Service upon a party who is not adverse to the interest of the appellant is optional, and failure to properly serve an optional party shall not be deemed to render the appeal defective.

(v) Shall include any additional fee request in the format prescribed by the Chair for fee requests. Failure to request an additional fee in the prescribed format shall result in waiver of such fee.

(3) Filing with the Board.

(i) The application shall be filed with the board within thirty days after the notice of the filing of the decision. All filings must be made using methods designated, permitted, and prescribed by the Chair. If more than one filing option is permitted by the Chair, the appellant shall choose one method for filing. Any duplicate filings may be deemed to be raising or continuing an issue without reasonable grounds, and may subject the appellant to assessments under 114-a(3) of the Workers' Compensation Law.

(ii) Method of filing the application:

(A) By mail shall be sent to the Board's designated Centralized Mailing Address;

(B) By fax shall be sent to the Board's designated Centralized Fax Number;

(C) By email shall be sent to the Board's designated email address for claims documents;

(D) By electronic means shall be filed in the method and manner prescribed by the Chair. An application that is submitted by electronic means in accordance with this subparagraph shall not be deemed filed with the Board until such submission is received and acknowledged by the Board.

(iii) The Chair may prescribe and require the format and the methods of filing of administrative appeals, including by electronic means, and may set the requirements to include various data fields, except that claimants who are unrepresented are exempt from the requirement to file electronically.

(4) Denial of review. The application for review may be denied under the following circumstances:

(i) By letter issued by the Chair or the Chair's designee when the appellant, other than a claimant who is not represented, does not comply with prescribed formatting, completion and service submission requirements;

(ii) By decision of the Board panel, when the appellant does not file the application within thirty days;

(iii) By decision of the Board panel, when the appellant does not properly file the application with the Board;

(iv) By decision of the Board panel, when the appellant does not provide proper proof of timely service upon a necessary party in interest other than a party who is not adverse to the appellant. When the appellant fails to supply proper proof of timely service upon a necessary party.

(A) When a rebuttal is submitted, the necessary party shall raise the issue of defective service in its rebuttal. Failure to raise the issue of defective service in the rebuttal shall constitute a waiver of the issue.

(B) When no rebuttal is filed, the Board may consider whether the application was defectively served, and if so, the Board may deny review without decision.

(v) By decision of the Board Panel, where the appellant did not interpose a specific objection or exception to a ruling or award by a workers' compensation law judge.

(A) Where a decision is made at a hearing, the appellant did not preserve a specific objection to the ruling or award at the hearing on the record.

(B) Where proceedings occur off-calendar, such as at a deposition, the appellant did not preserve objections on the record at the start of or conclusion of the proceeding as to qualifications of the deponent, or admissibility of any medical report or report of independent medical examination.

(C) No objection to findings made by reserved decision that have not been previously made at a hearing, need be interposed prior to filing of an application for review.

c. Rebuttal. A party adverse to the application for administrative review may file a rebuttal to such application for review. The rebuttal shall be in writing and, for parties other than an unrepresented claimant, shall be accompanied by a cover sheet in the format prescribed by the Chair. The rebuttal shall conform to the requirements for requests for administrative review set forth in subdivision (b) herein. Such rebuttal shall be served on the Board and all necessary parties within thirty days after service of the application for review together with proof of service upon all necessary parties in the form and format prescribed by the Chair.

d. The Board shall have the verbatim records of all hearings and proceedings placed in the case file it maintains in a readable, viewable or audible format where the issue or issues raised in the application for review were covered, and the case file shall only be considered by a Board Panel after the verbatim records covering the disputed issues are inserted in the case file.

e. Stay of Payments. There is no stay of any payment due to the claimant or the Board upon a filing of an application for full Board review.

f. When a claimant is not represented, the Board shall have discretion to waive the requirements contained in this section. An unrepresented claimant, who subsequently retains counsel, may have the procedural requirements of this section waived for the time when he or she was unrepresented.

Text of proposed rule and any required statements and analyses may be obtained from: Heather MacMaster, Workers' Compensation Board, Office of General Counsel, 328 State Street, Schenectady, NY 12305-2318, (518) 486-9564, email: regulations@wcb.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.

Consensus Rule Making Determination

The proposed amendment to section 300.13 corrects an incorrect reference in paragraph (1) from Part 312 to Part 313. The proposed amendment also adds an additional citation to section 25(3)(f) to paragraph (2)(iii). The proposed changes are ministerial. They do not change the meaning or function of any of the amended regulations. It is believed that there is no basis for objecting to the proposed amendments.

Job Impact Statement

The proposed rule will not have an adverse impact on jobs. The proposed amendment of section 300.13 of Title 12 of the NYCRR simply corrects a typographical error and adds a statutory reference for accuracy. The rule does not eliminate any existing process, procedure, or program, and will not result in an adverse impact on jobs.