RULE MAKING ACTIVITIES

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

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

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

Department of Audit and Control

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Pre-Employment Physicals for Presumption Provisions

I.D. No. AAC-37-16-00005-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 add Part 382 to Title 2 NYCRR.

Statutory authority: Retirement and Social Security Law, sections 11, 63(g)(1)(b), 311, 507(g)(1)(b) and 605(h)(1)(b)

Subject: Pre-employment physicals for presumption provisions.

Purpose: To address requirement that records of a pre-employment physical be submitted in the event that such records no longer exist.

Text of proposed rule: *PART 382. Pre-employment physicals for presumption provisions.*

§ 382.1. Background.

The Retirement and Social Security Law contains various provisions designed to assist a member or beneficiary in obtaining disability retirement or death benefits by creating rebuttable presumptions that an injury, illness or disease was incurred in the performance and discharge of duties and, in some instances, as the natural and proximate result of an accident not caused by the member's own willful negligence. Once brought into play, these presumptions are rebuttable by competent evidence. Many of the presumption provisions require that the member must have successfully passed a physical examination upon entry into employment that failed to disclose evidence of the injury, illness or disease. The requirement, which must be satisfied in order to raise the presumption, is intended to disqualify those individuals who clearly sustained the injury or contracted the illness or disease prior to obtaining the employment upon which membership is based. However, from time to time, the member and/or employer are unable to provide evidence of a successful pre-employment physical despite a diligent search for records and acknowledgement that an examination took place. With the passage of time, records of examinations may be purged under Records Retention schedules or simply lost or destroyed.

In one particularly poignant example, shortly after the enactment of Chapters 93 and 104 of the Laws of 2005, which created the disability presumption for the participants in rescue, recovery and clean-up operations following the World Trade Center disaster, the Retirement System was confronted with a situation wherein the medical records of the Port Authority of New York – New Jersey were destroyed in the Towers collapse. To avoid the untenable outcome of denying the presumption to Port Authority Police Officers, the Retirement System accepted a written statement from the Port Authority's Chief Medical Officer detailing the examinations, including medical, given during the Police Officer selection process with his assurance that only those who successfully complete all requirements are considered for appointment as a Port Authority Police Officer.

A further complicating factor for the World Trade Center presumption was the realization that not every otherwise eligible member was required to undergo a pre-employment physical at the time of employment. It simply is not a requirement of many public positions. As a result, the World Trade Center presumption was amended in 2008 to provide that an authorized release of all relevant medical records could substitute when the member had not had an examination. Although helpful to some, the amendment did not address those who had undergone examinations for which the records were subsequently lost or destroyed.

It seems highly unlikely that the Legislature, in providing presumptions to assist members in obtaining disability benefits, intended to bar those whose examination records were no longer available through no fault of their own. This part is promulgated to address this issue.

§ 382.2. Employer statement.

Effective immediately, in the processing of a disability retirement or death benefit presumption requiring successful passage of a pre-employment physical, when it is determined that the records of such physical no longer exist through no fault of the member, the Retirement System shall accept, in lieu of such records, a sworn statement from an authorized representative of the employer indicating, to the extent known, the reason the records no longer exist, that such member would have been required to undergo a physical examination at or shortly after hire, and that the member would not have been so hired without successfully passing the examination.

Text of proposed rule and any required statements and analyses may be obtained from: Jamie Elacqua, Office of the State Comptroller, 110 State Street, Albany, NY 12236, (518) 473-4146, email: jelacqua@osc.state.ny.us

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

This is a consensus rulemaking proposed for the purpose of addressing the existing requirement for a pre-employment physical for a disability retirement or death benefit presumption in the event that such records no longer exist. These technical amendments relate to the requirement for a pre-employment physical in order to establish eligibility for a disability retirement or death benefit presumption and it has been determined that no person is likely to object to the adoption of the rule as written.

The Retirement and Social Security Law contains various provisions designed to assist a member in obtaining disability retirement or death benefits by creating rebuttable presumptions that an injury, illness or dis-

ease was incurred in the performance and discharge of duties. Many of the presumption provisions require that the member must have successfully passed a physical examination upon entry into employment that failed to disclose evidence of the injury, illness or disease. However, from time to time, the member and/or employer are unable to provide evidence of a successful pre-employment physical despite a diligent search for records and acknowledgement that an examination took place. With the passage of time, records of examinations may be purged under Records Retention schedules or simply lost or destroyed.

Department of Civil Service

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-07-16-00005-A
Filing No. 818
Filing Date: 2016-08-25
Effective Date: 2016-09-14

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

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

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

Subject: Jurisdictional Classification.

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

Text or summary was published in the February 17, 2016 issue of the Register, I.D. No. CVS-07-16-00005-P.

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

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

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-07-16-00007-A
Filing No. 819
Filing Date: 2016-08-25
Effective Date: 2016-09-14

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

Action taken: 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 or summary was published in the February 17, 2016 issue of the Register, I.D. No. CVS-07-16-00007-P.

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

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

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-07-16-00008-A
Filing No. 816
Filing Date: 2016-08-25
Effective Date: 2016-09-14

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

Action taken: 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 or summary was published in the February 17, 2016 issue of the Register, I.D. No. CVS-07-16-00008-P.

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

Text of 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

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-07-16-00010-A
Filing No. 817
Filing Date: 2016-08-25
Effective Date: 2016-09-14

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

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

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

Subject: Jurisdictional Classification.

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

Text or summary was published in the February 17, 2016 issue of the Register, I.D. No. CVS-07-16-00010-P.

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

Text of 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

Assessment of Public Comment
The agency received no public comment.

NOTICE OF EXPIRATION

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

Jurisdictional Classification

I.D. No.	Proposed	Expiration Date
CVS-34-15-00007-P	August 26, 2015	August 25, 2016

Jurisdictional Classification

I.D. No.	Proposed	Expiration Date
CVS-34-15-00009-P	August 26, 2015	August 25, 2016

Jurisdictional Classification

I.D. No.	Proposed	Expiration Date
CVS-34-15-00010-P	August 26, 2015	August 25, 2016

Department of Corrections and Community Supervision

NOTICE OF ADOPTION

Department Records

I.D. No. CCS-24-16-00006-A
Filing No. 820
Filing Date: 2016-08-26
Effective Date: 2016-09-14

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

Action taken: Amendment of sections 5.11 and 5.15 of Title 7 NYCRR.

Statutory authority: Correction Law, sections 5 and 71.1

Subject: Department Records.

Purpose: Update Department name and address, update who appoints records access officer, and adds Regional Directors as custodians.

Text or summary was published in the June 15, 2016 issue of the Register, I.D. No. CCS-24-16-00006-P.

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

Text of rule and any required statements and analyses may be obtained from: Kevin P. Bruen, Deputy Commissioner and Counsel, NYS Department of Corrections and Community Supervision, 1220 Washington Avenue - Harriman State Campus, Albany, NY 12226-2050, (518) 457-4951, email: Rules@doccs.ny.gov

Assessment of Public Comment
The agency received no public comment.

Department of Environmental Conservation

NOTICE OF ADOPTION

Qualifications for License Issuing Agents and Wildlife Rehabilitators

I.D. No. ENV-34-15-00028-A
Filing No. 815
Filing Date: 2016-08-25
Effective Date: 2016-09-14

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

Action taken: Amendment of Parts 183 and 184 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0305, 11-0515, 11-0713 and 11-0919

Subject: Qualifications for License Issuing Agents and Wildlife Rehabilitators.

Purpose: To remove regulatory requirements that exclude individuals with felonies from obtaining certain licenses and authorizations.

Text or summary was published in the August 26, 2015 issue of the Register, I.D. No. ENV-34-15-00028-P.

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

Text of rule and any required statements and analyses may be obtained from: Joseph Therrien, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233, (518) 402-8985, email: joseph.therrien@dec.ny.gov

Initial Review of Rule
As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS.

Attached is an assessment of public comment on the issue of the 4 or 5-year initial review period.

Assessment of Public Comment

The Department of Environmental Conservation (department) received comments from 20 individuals and from two organizations representing the sport hunting community on the proposed amendments to the New York State Wildlife Rehabilitation and License Issuing Agents regulations during the sixty day public comment period, August 26 to November 24, 2015. The amended regulations allow individuals who have been convicted of one or more criminal offenses to become wildlife rehabilitators or license issuing agents provided there is not a direct relationship between one or more of the criminal offenses and the duties required of the license or, licensing the applicant would not involve an unreasonable risk to property or the safety or welfare of a specific individual or the general public.

All individuals and groups who provided comments were opposed to the proposed regulations, specifically access to hunters, anglers and trappers personal and financial information by individuals convicted of crimes should they be allowed to become license issuing officers. No comments were received opposing individuals convicted of crimes being allowed to become wildlife rehabilitators. Eight of the comments received expressed concern about individuals convicted of crimes having knowledge of private (hunters) residences likely to have guns. Among the comments received was concern for the integrity of DEC's license sales system and the likelihood that sport hunters, anglers and trappers may not have confidence in using the system to obtain their licenses.

Department response: The public policy of the state encourages employment and licensure of people with criminal convictions as set forth in New York Corrections Law Article 23-A. Environmental Conservation Law § 11-0713 authorizes license issuing officers to issue sporting licenses and privileges for hunting, fishing and trapping. License issuing officers are entrusted with, among other things, the licensees' personal and financial information. Therefore, New York State has a responsibility to ensure that license issuing officers exhibit a high level or integrity in the exercise of their duties. This responsibility must be balanced with laws prohibiting discrimination against persons previously convicted of one or more criminal offenses.

In order to overcome the presumption and deem an individual with a prior conviction ineligible to be appointed as a license issuing officer, the department must consider the following statutory factors:

1. The public policy of New York State to encourage the licensure and employment of persons previously convicted of one or more criminal offenses;

2. The specific duties and responsibilities necessarily related to the license issuing officer;

3. The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his or her fitness or ability to perform one or more of such duties or responsibilities;

4. The time which has elapsed since the occurrence of the criminal offense or offenses;

5. The age of the person at the time of occurrence of the criminal offense or offenses;

6. The seriousness of the offense or offenses;

7. Any information produced by the person, or produces on their behalf, in regard to their rehabilitation and good conduct; and

8. The legitimate interest of the public agency or private employer in protecting property, and the safety and welfare of specific individuals or the general public.

The department feels that through the proper review of applications for license issuing officers, incorporating the statutory factors, and after a balancing of the factors set out in the Corrections Law, the department can appoint an otherwise qualified applicant with a prior criminal conviction or convictions as a license issuing officer ensuring that appointing the individual as a license issuing officer would not involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public and, ensure the integrity of the license sales system.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Require Thoroughbred Horse Trainers to Complete Four Hours of Continuing Education Each Year

I.D. No. SGC-37-16-00007-P

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

Proposed Action: Amendment of section 4002.8 of Title 9 NYCRR.

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

Subject: Require thoroughbred horse trainers to complete four hours of continuing education each year.

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

Text of proposed rule: Section 4002.8 of 9 NYCRR would be amended as follows:

§ 4002.8. Qualifications for license.

(a) If the commission [shall find] *finds* that the financial responsibility, experience, character and general fitness of the applicant are such that the participation of such person will be consistent with the public interest, convenience or necessity and with the best interests of racing generally in conformity with the purposes of the law, [it] *the commission* shall grant a license. In this connection, the commission may establish criteria to be met concerning specific license occupations as a condition for licensing. If the commission [shall find] *finds* that the applicant fails to meet any of said conditions, [it] *the commission* shall not grant such license and [it] *the commission* shall notify the applicant of the denial.

(b) In order to maintain a current license, trainers and assistant trainers must complete at least four hours per calendar year of continuing education courses approved by the commission. Trainers and assistant trainers who are not domiciled in New York and have 12 or fewer starts during the previous 12 months may request a waiver of this requirement from the State steward.

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

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

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

Regulatory Impact Statement

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

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

3. Needs and Benefits: This rule making proposes to amend the minimum qualifications for a thoroughbred trainer license to require the completion of four hours of continuing education each year.

The current rule, 9 NYCRR § 4002.8, does not require that any thoroughbred trainers (including assistant and private trainers) complete a continuing education requirement. The national model rule of the Association of Racing Commissioners International, Inc. recommends requiring four hours of such continuing education for thoroughbred trainers. The Jockey Club provides online continuing education training modules, free of charge, to thoroughbred trainers. In addition, the stewards have provided continuing education programs for interested trainers for many years at New York racetracks, also without charge.

This proposal would require that all thoroughbred trainers (including assistant and private trainers) complete at least four hours of continuing education each year. It is anticipated that such programs will be offered (and required) in most racing jurisdictions, and that the process of finding such programs and demonstrating compliance will be available online. The proposal includes an exemption for a trainer who rarely participates in New York racing, subject to the approval of the State steward.

This proposal should result in more competitive racing in New York, safer and better conditions for race horses, and greater wagering activity and revenue for government.

The proposal also makes changes in style to clarify the rules.

4. Costs:

(a) Costs to regulated parties for the implementation of and continuing compliance with the rule: The amendment will not add any new mandated costs to the existing rules at this time. Continuing trainer education programs are currently available without charge from The Jockey Club and from the stewards. These programs are online or available conveniently at New York racetracks. The Commission has no indication at this time that anyone intends to charge for this type of program, but it is likely that future programs might arise that would impose a fee for attendance and that trainers might have to take such a program, particularly if the trainer does not attempt to comply with the new requirement until the last moment. The well-established, voluntary and free continuing education programs are the basis for the cost estimate.

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

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

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

6. Paperwork: The trainer is required to maintain a record of completion of the continuing education course. The provider of such training will be required to report such information electronically to the Commission.

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

8. Alternatives: The Commission considered not requiring this program, but rejected this alternative because of the national movement toward the adoption of this requirement and the benefits of continuing education.

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

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

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

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

This proposal would require that all thoroughbred trainers (including assistant and private trainers) complete at least four hours of continuing education each year. The Jockey Club has developed and is offering online programs for trainers. The stewards have provided continuing education programs for interested trainers for many years at New York racetracks. These programs are free of charge. The proposal includes an exemption for a trainer who rarely participates in New York racing, subject to the permission of the State steward.

This rule will not impose an adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses in rural or urban areas or on employment opportunities. No local government activities are involved.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Accounting Standards for a Licensed Gaming Facility

I.D. No. SGC-37-16-00016-P

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

Proposed Action: Addition of Part 5315 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(f), (m) through (o), 1334, 1351, 1353 and 1354

Subject: Accounting standards for a licensed gaming facility.

Purpose: To govern a gaming facility licensee's procedures in regard to accounting and recordkeeping.

Substance of proposed rule (Full text is posted at the following State website:www.gaming.ny.gov): The addition of Part 5315 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission ("Commission") to prescribe rules for gaming facility accounting controls. These rules establish standards for, among other things, the calculation of gross gaming revenue, internal and financial statement audits and the implementation of an anti-money laundering program.

Section 5315.1 sets forth the calculation of gross gaming revenue for slot machines, table games, poker games, progressive jackpots and tournaments. Section 5315.2 sets forth requirements for the use of promotional gaming credits. Section 5315.3 prescribes gross gaming revenue tax and the requirements in regard to transmitting such tax to the commission. Section 5315.4 sets forth requirements for a gaming facility to establish and maintain a daily gaming bankroll in an amount adequate to pay prizes to gaming patrons when due. Section 5315.8 sets forth requirements for a gaming facility's retention and reporting of unclaimed funds. Section 5315.9 sets forth the requirements for a gaming facility licensee to establish an internal audit department and internal audit process. Section 5315.10 sets forth the requirements for a gaming facility to conduct an annual audit of financial statements and file such statements with the commission along with any information, letters and reports related thereto. Section 5315.11 sets forth the requirements for a gaming facility licensee to maintain and retain accounting and financial records. Section 5315.12 sets forth requirements for a gaming facility to maintain accounting records pertaining to gaming operations. Section 5315.13 sets forth requirements for a gaming facility to retain and store records in regard to its ownership. Section 5315.14 establishes that the commission may review and examine all records, procedures and methods relating to a gaming facility licensee's accounting. Section 5315.15 sets forth the requirement for an online monitoring and control system. Section 5315.16 sets forth the prohibition on altering or falsifying gaming documents. Section 5315.17 sets forth the requirements for the establishment of an anti-money laundering program consistent with the Federal Bank Secrecy Act.

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

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1307(2)(f) requires the Commission to prescribe the manner and method of the collection of taxes, fees, interest and penalties.

Racing Law section 1307(2)(m) requires the Commission to prescribe minimum procedures for the exercise of effective control over the internal fiscal affairs of a gaming facility licensee, including for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts and reports of transactions, operations and events.

Racing Law section 1307(2)(n) requires the Commission to prescribe a minimum uniform standard of accountancy methods, procedures and forms; a uniform code of accounts and accounting classifications; and such other standard operating procedures necessary to assure consistence, comparability and effective disclosure of all financial information.

Racing Law section 1307(2)(o) requires the Commission to prescribe quarterly financial reports and an annual audit by a certified public accountant, attesting to the financial condition of a gaming facility licensee and disclosing whether accounts, records and control procedures are maintained as required.

Racing Law section 1334 requires that a gaming facility licensee create, maintain and file with the Commission a description of its internal procedures and administrative and accounting controls for gaming operations.

Racing Law section 1351 prescribes the tax to be imposed on gross gaming revenues.

Racing Law section 1353 authorizes the Commission to perform audits of the books and records of a gaming facility licensee at times and intervals it deems appropriate for the purpose of determining the sufficiency of tax or fee payments.

Racing Law section 1354 requires a gaming facility licensee to retain unclaimed funds, cash and prizes for the person entitled to such funds, cash and prizes for one year and thereafter to deposit such unclaimed funds, cash and prizes into the commercial gaming revenue fund.

2. LEGISLATIVE OBJECTIVES: This above referenced statutory provisions carry out the legislature's stated goal rule "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state" as set forth in Racing Law section 1300(10). These provisions also enable the Commission to carry out the Upstate New York Gaming Economic Development Act of 2013 as embodied in Chapter 174 of the Laws of 2013 including to maintain the public confidence and trust in the credibility and integrity of legalized gaming activities in order to support the continued growth of the gaming industry that will contribute to economic development and job development in the state.

3. NEEDS AND BENEFITS: The proposed rules implement and help gaming facilities understand the above listed statutory directives regarding the financial and accounting controls of licensed gaming facilities. The rules provide specificity with respect to the above listed statutory directives to assure transparent and accountable gaming operations. The rules represent best practices in gaming facility accounting controls and are the result of input from stakeholders and other gambling jurisdiction best practices and regulation. Best practices addressed in the proposed rules include the establishment of an internal audit department and process; an annual audit of financial statements by a certified public accountant, establishment of an online monitoring and control system, maintenance and retention of accounting and financial records, and implementation of an anti-money laundering program.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: One of the three gaming facility licensees has indicated that the anticipated costs of implementing and complying with the proposed regulations will be approximately $6 to $7.5 million.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The Commission currently reviews accounting controls in video lottery. Based on that experience the Commission anticipates that the costs associated with the proposed rules would be negligible. These rules will not impose any additional costs on local governments.

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

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

6. PAPERWORK: These rules impose paperwork burdens on gaming facility licensees to submit financial and statistical reports, internal audit reports and audited financial statements certified by an independent certified public accountant to the Commission.

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

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulation. Alternatives were discussed and considered with stakeholders and compared to other jurisdictions regulations. These included the calculation of gross gaming revenue and promotional gaming credits; the period to submit a minimum bankroll worksheet; the use of specific internal audit standards; the requirement for audited financial statements; and the inclusion of federal anti-money laundering standards.

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

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

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

These rules will not have any adverse impact on small businesses, local governments, jobs or rural areas. These rules set forth the requirement that a gaming facility licensee establish and maintain a system of accounting controls. These rules will provide for the calculation of gross gaming tax revenue and the use of promotional gaming credits, internal and financial statement audits and implementation of an anti-money laundering program.

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

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

These rules will have no adverse impact on job opportunities.

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Electronic Gaming Devices and Equipment

I.D. No. SGC-37-16-00017-P

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

Proposed Action: Addition of Part 5321 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(g), 1335(2), (8)(c) and (d).

Subject: Electronic Gaming Devices and Equipment.

Purpose: To set forth the practices and procedures for the conduct and operation of electronic gaming devices and equipment.

Substance of proposed rule (Full text is posted at the following State website: www.gaming.ny.gov/): The addition of Part 5321 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission ("Commission") to prescribe the requirements for the use and operation of electronic gaming devices and equipment.

Section 5321.1 sets forth the definitions used throughout the Part. Section 5321.2 establishes the procedures for possessing the transporting gaming devices. Sections 5321.3 and 5321.4 set forth the approvals required to be obtained prior to using a gaming device and central computer system. Section 5321.5 sets forth the information required in a gaming device master list form. Section 5321.6 establishes requirements for the off premise storage of gaming devices. Section 5321.7 sets forth requirements for slot machine layout and density. Section 5321.8 establishes requirements for live gaming device testing and new software installation. Section 5321.9 sets forth the gaming device serving standards. Section 5321.10 requires gaming facility licensees to establish remote system access in its system of internal controls. Section 5321.11 requires a gaming facility to notify the Commission of RAM clears. Section 5321.12 establishes requirements for electronic wagering systems. Section 5321.13 requires gaming facility licensees to establish electronic table game standards in its system of internal controls. Sections 5321.14 and 5321.15 set forth requirements for fully automated and dealer-controlled electronic table games. Section 5321.16 establishes procedures for buying in and cashing out of a dealer-controlled electronic table game. Section 5321.17 sets forth requirements for gaming facility licensees to receive a waiver.

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

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1307(2)(g) requires definitions, rules and methods of operation for gaming devices.

Racing Law section 1335(2) authorizes the Commission to establish regulations for possessing, maintaining or exhibiting gaming equipment by the gaming facilities and the computer equipment used for the linkage and communication of the gaming equipment.

Racing Law section 1335(8)(c) requires the Commission establish technical standards for slot machines, including mechanical and electrical reliability and security against tampering.

Racing Law section 1335(8)(d) further requires the Commission to determine the permissible number and density of slot machines in a licensed gaming facility.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed rules implement the above listed statutory directives regarding the standards for gaming devices. The rules provide specificity with respect to the above listed statutory directives to assure proper servicing and testing of gaming devices, a proper layout of the gaming facility slot area, and to set the requirements of electronic wagering systems.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: One of the three gaming facility licensees has indicated that the anticipated costs of implementing and complying with the proposed regulations will be approximately $500,000 to 1,000,000 annually. The gaming facilities are also required to have electronic table games tested and certified by an independent testing laboratory. The total fee for an independent testing laboratory's inspection and certification will be approximately $500,000 to $750,000 annually.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rule will be negligible given that all such costs are the responsibility of the gaming facility. These rules will not impose any additional costs on local governments.

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

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

6. PAPERWORK: The rules impose paperwork burdens on gaming facility licensees to submit documentation in relation to the transfer, placement and storage of slot machines and to maintain records for slot machine servicing.

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

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulations. Alternatives were discussed and considered with stakeholders and compared to other jurisdiction regulations. These included the frequency of notifications required by the Commission, the types of notification and documentation required to be provided to the Commission and the security required at off-premises storage locations.

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

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

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

These rules establish the standards for the registration requirements for casino electronic gaming devices and equipment and will not have any adverse impact on small businesses, local governments, jobs or rural areas.

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

These rules impose no adverse impact on rural areas. These rules apply uniformly throughout the state.

These rules will have no adverse impact on job opportunities.

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Slot Tournaments and Progressive Gaming Devices

I.D. No. SGC-37-16-00018-P

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

Proposed Action: Addition of Part 5320 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), 1335(2) and (8)(c)

Subject: Slot Tournaments and Progressive Gaming Devices.

Purpose: To to prescribe the technical standards for the certification of slot tournaments and progressive gaming devices.

Substance of proposed rule (Full text is posted at the following State website:www.gaming.ny.gov/): The addition of Part 5320 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission ("Commission") to prescribe the technical standards for the certification of slot tournaments and progressive gaming devices.

Section 5320.1 sets forth the definitions used throughout the Part. Section 5320.2 requires all tournament game devices to be certified by an independent testing laboratory. Section 5320.3 and 5320.4 set forth the hardware and software requirements for tournament game devices. Section 5320.5 further sets forth the definitions used throughout the Part. Sections 5320.6 through 5320.17 establish the technical specifications and requirements for the meter and display; controller; jackpots; payment of awards; odds; independent integrity checks; multi-site central computer; and multi-site jackpots.

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

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1335(2) allows for the linkage of slot machines for progressive multi-site jackpots, and sets forth requirements relating to the computer equipment use and storage for multi-site progressive wagering.

Racing Law section 1335(8)(c) requires the Commission establish technical standards for slot machines, including mechanical and electrical reliability, security against tampering, comprehensibility of wagering, and noise and light levels.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed rules implement the above listed statutory directives regarding slot tournaments and progressive gaming devices. The rules provide specificity with respect to the above listed statutory directives to assure proper hardware, software and testing of tournament gaming devices, and the technical specifications of the progressive wagering and multi-site systems.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: The gaming facilities are required to have slot tournament systems and progressive gaming devices tested and certified by an independent testing laboratory. The total fee for an independent testing laboratory's inspection and certification will be approximately $500,000 to $750,000 annually.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rule will be negligible given that all such costs are the responsibility of the gaming facility. These rules will not impose any additional costs on local governments.

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

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

6. PAPERWORK: The rule is not expected to impose any significant paperwork or reporting requirements for regulated entities.

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

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulations. Alternatives were discussed and considered with stakeholders and compared to other jurisdiction regulations. These included the requirements of slot machines participating on the same link progressive, the technology available for progressive controllers, and the ability to contribute to progressive jackpots by contributions other than credits.

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

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

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

These rules establish the standards for the registration requirements for casino slot tournaments and progressive gaming devices and will not have any adverse impact on small businesses, local governments, jobs or rural areas.

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

These rules impose no adverse impact on rural areas. These rules apply uniformly throughout the state.

These rules will have no adverse impact on job opportunities.

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Table Game Rules

I.D. No. SGC-37-16-00019-P

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

Proposed Action: Addition of Part 5324 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(g) and 1335(5)

Subject: Table game rules.

Purpose: To set forth the practices and procedures for the conduct and operation of table games.

Substance of proposed rule (Full text is posted at the following State website:www.gaming.ny.gov/): The addition of Part 5324 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission ("Commission") to prescribe the rules and payout tables for table games at gaming facilities.

Section 5324.1 sets forth rules applicable to all table games including the shuffling of cards, the opening of the table for gaming, and specific rules for different dealing methods. Sections 5324.3 and 5324.4 set forth the rules and payout odds for wheel games including Big Wheel and Roulette. Section 5324.10 provides the general provisions applicable to all blackjack games. Sections 5324.11-5324.14 prescribe the specific rules and payout odds for each blackjack game. Sections 5324.20-5324.21 prescribe the rules and payout odds for baccarat games. Section 5324.22 prescribes the rules and payout odds for casino war. Section 5324.30 provides the general provisions applicable to all table poker games. Sections 5324.31-41 prescribe the specific rules and payout odds for each table poker game. Section 5324.42 prescribes the rules and payout odds for poker room poker. Sections 5324.50-5324.52 prescribe the rules and payout odds for tile and dice games, including craps and mini-craps.

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

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1307(2)(g) requires the Commission to regulate the definitions, rules, odds and methods of operation for games.

Racing Law section 1335(5) requires the Commission to regulate the conduct of gaming and all wagers and pay-offs of winning wagers.

Racing Law section 1335(5) requires the Commission to assure that gaming facilities offer fair odds to their patrons.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed rules implement the above listed statutory directives regarding the rules and payout odds for table games. These rules were developed to ensure the vitality of casino operations and that fair odds are offered to patrons at all gaming facilities in State of New York. The rules will provide consistency amongst the gaming facilities for the conduct of table games and will further ensure fair play to patrons. The Commission assessed the best practices from other jurisdictions as well as the Native American gaming facilities in developing these rules to provide a superior patron experience.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: These rules set forth the rules for table games and do not result in any costs to the regulated parties.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: Based upon the Commission's experience, it is anticipated that the costs to the Commission for the implementation of and continued administration of these rules is negligible. These rules will not impose any additional costs on local governments.

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

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

6. PAPERWORK: The rule is not expected to impose any significant paperwork or reporting requirements for regulated entities.

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

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulations. Alternatives were discussed and considered with stakeholders and compared to other jurisdiction regulations. These included the specifications relating to the opening of table games, the order the cards are collected by the dealer at the completion of a round of play, the rules regarding misdeals in card games, the rules regarding and the use of cutting and cover cards, and the maximum number of players allowed for specific games.

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

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

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

These rules establish the standards for the table game rules and will not have any adverse impact on small businesses, local governments, jobs or rural areas.

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

These rules impose no adverse impact on rural areas. These rules apply uniformly throughout the state.

These rules will have no adverse impact on job opportunities.

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Monitoring, Control Systems and Validation

I.D. No. SGC-37-16-00020-P

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

Proposed Action: Addition of Part 5317 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1) and 1335(8)

Subject: Monitoring, control systems and validation.

Purpose: To prescribe the technical standards for the certification of online monitoring and control and validation systems.

Substance of proposed rule (Full text is posted at the following State website:www.gaming.ny.gov/): The addition of Part 5317 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission ("Commission") to prescribe the technical standards for the certification of online monitoring and control and validation systems.

Sections 5317.1 through 5317.40 establish the technical specifications for the testing and certification of online monitoring and control systems and validation systems including requiring interface elements, metering, battery backup, information buffering, offline ticketing support, front end controller and data collector, database access, tax reporting thresholds, fill slips, interrogation programs, defined communication protocols, notices of significant event, flash downloads, remote access and environmental and player safety safeguards.

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

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1335(8) authorizes the Commission to regulate the testing of gaming devices and associated equipment.

Racing Law section 1335(8) authorizes the Commission to establish technical standards for the testing and certification of gaming devices and associated equipment.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed rules implement the above listed statutory directives regarding the technical specifications for the testing and certification of online monitoring and control systems and validation systems. The rules represent the best practices including requiring interface elements, metering, battery backup, information buffering, offline ticketing support, front end controller and data collector, database access, tax reporting thresholds, fill slips, interrogation programs, defined communication protocols, notices of significant event, flash downloads, remote access and environmental and player safety safeguards.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: The gaming facilities are required to have online monitoring and control systems and validation systems tested and certified by an independent testing laboratory. The total fee for an independent testing laboratory's inspection and certification will be approximately $500,000 to $750,000 annually.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rule will be negligible given that all such costs are the responsibility of the gaming facility. These rules will not impose any additional costs on local governments.

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

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

6. PAPERWORK: These rules impose paperwork burdens on gaming facility licensees to submit reports to the Commission including net win/revenue report for each gaming device, drop comparison reports, metered versus actual jackpot comparison, theoretical hold versus actual hold comparison with variances, significant event log for each gaming device, and other reports as required by the Commission.

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

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulation.

Alternatives were discussed and considered with stakeholders and compared to other jurisdictions regulations. This included one comment on the information contained on a jackpot/fill slip.

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

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

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

These rules establish the standards for monitoring and control systems validation and will not have any adverse impact on small businesses, local governments, jobs or rural areas.

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

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

These rules will have no adverse impact on job opportunities.

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Set Forth the Standards for the Gaming Devices

I.D. No. SGC-37-16-00021-P

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

Proposed Action: Addition of Part 5319 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1) and 1335(8)

Subject: Set forth the standards for the gaming devices.

Purpose: To prescribe the technical standards for the certification of gaming devices.

Substance of proposed rule (Full text is posted at the following State website:www.gaming.ny.gov/): The addition of Part 5319 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission ("Commission") to prescribe the technical standards for the certification of gaming devices. Section 5319.1 sets forth the requirement that an independent testing laboratory test gaming devices.

Section 5319.2 requires that gaming devices have electrical and mechanical safeguards, game integrity tests, microprocessors and an on/off switch. Section 5319.3 sets forth the game device wiring design. Section 5319.4 requires gaming devices to have an identification badge affixed to it. Sections 5319.5 and 5319.6 set forth specifications for tower lights and power surges. Sections 5319.7 through 5319.14 establish requirements for external and logic doors, currency compartments, program memory, contents and maintenance of critical memory, program storage devices and control programs. Sections 5319.15 through 5319.18 set forth specifications for multi-station games, printed circuit boards, patch wires, switches and jumpers. Sections 5319.19 and 5319.20 set forth the recommendations for display devices, video monitor and touch screens. Sections 5319.21 through 5319.24 set forth the bill validator specifications. Sections 5319.25 and 5319.26 establish protocols for credit redemption and printers. Sections 5319.27 through 5319.29 set forth voucher validation, issuance and redemption requirements. Sections 5319.30 and 5319.31 set forth the software requirements for the gaming device display. Sections 5319.32 through 5319.34 establish the specifications for multi-line games, game cycle and the game selection process. Sections 5319.35 through 5319.38 set forth the random number generator specifications and tests. Sections 5319.39 and 5319.40 establish live game and symbol probabilities. Sections 5319.41 through 5319.44 set forth the technical protocols for card, ball drawing and random number generator games. Sections 5319.45 through 5319.47 establish the software requirements for percentage payouts, odds and limitations on prize amounts. Sections 5319.48 through 5319.50 set forth the specifications for bonus games and mystery awards. Section 5319.51 defines the term multi-game and establishes requirements when it is in use. Sections 5319.52 and 5319.53 set forth the specification for electronic metering and tokenization. Sections 5319.54 through 5319.61 establish protocols for the following: communication, error conditions, program interruption and resumption, taxation reporting limits, demo mode and game history recall.

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

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1335(8) authorizes the Commission to regulate the testing of gaming devices and associated equipment.

Racing Law section 1335(8) authorizes the Commission to establish technical standards for the testing and certification of gaming devices and associated equipment.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed rules implement the above listed statutory directives regarding the technical specifications for the testing and certification of gaming devices. The rules represent the best practices including requiring electrical and mechanical safeguards, game integrity tests, external and logic doors, currency compartments, program memory, contents and maintenance of critical memory and program storage devices. The rules also specify technical standards for card, ball drawing and random number generator games, electronic metering and tokenization.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: The gaming facilities are required to have gaming devices tested and certified by an independent testing laboratory. The total fee for an independent testing laboratory's inspection and certification will be approximately $500,000 to $750,000 annually.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rule will be negligible given that all such costs are the responsibility of the gaming facility. These rules will not impose any additional costs on local governments.

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

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

6. PAPERWORK: The rule is not expected to impose any significant paperwork or reporting requirements on the regulated entities.

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

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulation. Alternatives were discussed and considered with stakeholders and compared to other jurisdictions regulations. These included clarification on the safety and electromagnetic compatibility testing requirements; the definition of a significant event and authorized person; the renaming of error messages on bill validators; the requirement for 64 bit secure encryption for offline voucher issuance; the definition for minimum and maximum payout; and the clarification of game history recall.

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

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

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

These rules establish the standards for gaming devices and will not have any adverse impact on small businesses, local governments, jobs or rural areas.

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

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

These rules will have no adverse impact on job opportunities.

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

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Set Forth the Practice and Procedures for the Cage and Count Standards

I.D. No. SGC-37-16-00022-P

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

Proposed Action: Addition of Part 5316 to Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2)(m), 1335(3) and (8)

Subject: Set forth the practice and procedures for the cage and count standards.

Purpose: To regulate the procedures for the cage and count standards.

Substance of proposed rule (Full text is posted at the following State website:www.gaming.ny.gov/): The addition of Part 5316 of Subtitle T of Title 9 NYCRR will allow the New York State Gaming Commission ("Commission") to prescribe requirements for the cashiers' cage, satellite cage, count room, drop boxes and secured delivery structures. The rule also prescribes the technical requirements for kiosks.

Sections 5316.1 and 5316.2 set forth the characteristics, standards and accounting controls applicable to the cashiers' and satellite cages. Section 5316.3 establishes the count room characteristics. Sections 5316.4 and 5316.5 establish procedures for the transportation and storage of drop boxes and the counting and recording of drop box contents. Section 5316.6 sets forth the specifications for the secured delivery station. Section 5316.7 defines the term kiosk and establishes kiosk functions including voucher issuance and redemption, bill breaking, promotional point redemption and information reporting. Sections 5316.8 through 5316.21 set forth the technical specifications for kiosks including the contents of critical memory, detection of error conditions and voucher validation, issuance and redemption.

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

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

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

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) authorizes the Commission to adopt regulations that it deems necessary to protect the public interest in carrying out the provisions of Racing Law Article 13.

Racing Law section 1307(2)(m) requires the Commission to prescribe procedures for the exercise of effective control over the internal fiscal affairs of a gaming facility licensee, including for the safeguarding of assets and revenues, the recording of cash and evidence of indebtedness, and the maintenance of reliable records, accounts and reports of transactions, operations and events.

Racing Law section 1335(3) authorizes the Commission to regulate the counting and storage of, at a minimum, cash, tokens, plaques and vouchers.

Racing Law section 1335(3) requires the Commission to regulate the storage and locking of drop boxes.

Racing Law section 1335(8) requires the testing of gaming-related devices and gaming voucher systems.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed rules implement the above listed statutory directives regarding a gaming facility's cashiers' cage, satellite cage, count room, drop boxes, secured delivery structures and kiosks. The rules represent the best practices in the security, storage, accounting and delivery of cash, tokens, plaques and vouchers. Best practices addressed in the proposed rules include the design specifications for the cashiers' cage, satellite cage, count room and secured delivery station; the transportation, opening, counting and recording of drop boxes; and the testing and technical specifications for kiosks.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: One of the three gaming facility licensees has indicated that the anticipated costs to construct and design the cashiers' cage, count room and secured delivery station will be approximately $600,000 to $2,500,000. The gaming facilities are also required to have kiosks tested and certified by an independent testing laboratory. The total fee for an independent testing laboratory's inspection and certification will be approximately $500,000 to $750,000 annually.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of the rule: The costs to the Commission for the implementation of and continued administration of the rule will be negligible given that all such costs are the responsibility of the gaming facility. These rules will not impose any additional costs on local governments.

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

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

6. PAPERWORK: These rules impose paperwork burdens on the gaming facility to provide internal control procedures to the Commission regarding the following: cashiers' cage access and the opening, counting and recording of slot cash storage boxes.

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

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulation. Alternatives were discussed and considered with stakeholders and compared to other jurisdictions regulations. These included the addition of accounting department/count room personnel to access the count room; the exclusion of auditors and Commission personnel from count room clothing requirements; the construction of the secure delivery station and the requirements for lockable coin cabinets, power resets for error conditions and specific meters on kiosks.

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

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

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

These rules establish the standards for the cashier cage and count standards and will not have any adverse impact on small businesses, local governments, jobs or rural areas.

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

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

These rules will have no adverse impact on job opportunities.

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

Department of Health

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Medical Use of Marihuana

I.D. No. HLT-37-16-00023-P

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

Proposed Action: Amendment of section 1004.1(a)(2) of Title 10 NYCRR.

Statutory authority: Public Health Law, art. 33, title V-A, section 3369-a

Subject: Medical Use of Marihuana.

Purpose: To authorize nurse practitioners to register with DOH in order to issue certifications to patients with qualifying conditions.

Text of proposed rule: Pursuant to the authority vested in the Commissioner of Health by section 3369-a of the Public Health Law (PHL), subdivision 1004.1(a)(2) of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) is amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

§ 1004.1 Practitioner registration.

(a) No practitioner shall be authorized to issue a patient certification as set forth in § 1004.2 unless the practitioner:

* * *

(2) is licensed, in good standing as a physician and practicing medicine, as defined in article 131 of the Education Law, in New York State*, or is certified, in good standing as a nurse practitioner and practicing, as defined in article 139 of the Education Law, in New York State*;

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

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

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

Regulatory Impact Statement

Statutory Authority:

The Commissioner is authorized pursuant to Section 3369-a of the Public Health Law to promulgate rules and regulations necessary to effectuate the provisions of Title V-A of Article 33 of the Public Health Law. Pursuant to Section 3360(12) of the Public Health Law, the Commissioner is specifically authorized to deem nurse practitioners as "practitioners" under Title V-A.

Legislative Objectives:

The legislative objective of Title V-A is to comprehensively regulate the manufacture, sale and use of medical marihuana, by striking a balance between potentially relieving the pain and suffering of those individuals with serious medical conditions, as defined in Section 3360(7) of the Public Health Law, and protecting the public against risks to its health and safety.

Needs and Benefits:

The regulatory amendment is necessary in order for nurse practitioners registered with the Department to issue certifications for medical marihuana. Allowing nurse practitioners to issue certifications for medical marijuana will increase access to medical marihuana, benefiting patients suffering from one or more of the severe, debilitating or life threatening conditions enumerated in Section 3360(7) of the Public Health Law. This regulatory amendment will particularly benefit those patients in rural counties where there are fewer physicians available to certify patients for medical marihuana.

Costs:

Costs to the Regulated Entity:

Nurse practitioners who are interested in registering with the Department to certify patients to use medical marihuana will first need to take a Department-approved medical use of marihuana course. Currently, the cost to take the required course is $249.

Costs to Local Government:

This amendment to the regulation does not require local governments to perform any additional tasks; therefore, it is not anticipated to have an adverse fiscal impact.

Costs to the Department of Health:

With the authorization of nurse practitioners, additional practitioner registrations will need to be processed by the Department. In addition, the Department anticipates an increase in the number of patients certified to use medical marihuana. Depending upon the number of nurse practitioners who are interested in registering with the Department, this regulatory amendment may result in an increased cost to the Department for additional staffing to provide registration and certification support. However, any resulting cost of additional staffing is greatly outweighed by the benefit to public health in offering increased access to an alternative treatment option for patients suffering from one of the qualifying serious conditions.

Local Government Mandates:

This amendment does not impose any new programs, services, duties or responsibilities on local government.

Paperwork:

Nurse practitioners who register with the program and issue certifications to patients will be required to maintain a copy of the patient's certification in the patient's medical record.

Duplication:

No relevant rules or legal requirements of the Federal and State governments duplicate, overlap or conflict with this rule.

Alternatives:

The alternative would be to continue to limit the definition of "registered practitioner" solely to physicians.

Federal Standards:

Federal requirements do not include provisions for a medical marihuana program.

Compliance Schedule:

There is no compliance schedule imposed by these amendments, which shall be effective upon publication of a notice of adoption.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202-b(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

Cure Period:

Chapter 524 of the Laws of 2011 requires agencies to include a "cure period" or other opportunity for ameliorative action to prevent the imposition of penalties on the party or parties subject to enforcement under the proposed regulation. The regulatory amendment authorizing nurse practitioners is not a mandate imposed upon nurse practitioners. Hence, no cure period is necessary.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for these amendments is not being submitted because amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no other compliance costs imposed on public or private entities in rural areas as a result of the amendments.

Job Impact Statement

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have an adverse impact on jobs and employment opportunities.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Medical Use of Marihuana

I.D. No. HLT-37-16-00024-P

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

Proposed Action: Amendment of Part 1004 and Subpart 55-2 of Title 10 NYCRR.

Statutory authority: Public Health Law, art. 33, title V-A, section 3369-a

Subject: Medical Use of Marihuana.

Purpose: To comprehensively regulate the manufacture, sale and use of medical marihuana.

Substance of proposed rule (Full text is posted at the following State website:www.health.ny.gov): Pursuant to the authority vested in the Commissioner of Health by Section 3369-a of the Public Health Law (PHL), Part 1004 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, and pursuant to Section 502 of the PHL, Subpart 55-2 of Title 10, are amended to read as follows, to be effective upon publication of a Notice of Adoption in the New York State Register.

§ 1004.2 Practitioner issuance of certification. Section 1004.2(a) is amended to clarify the department's expectation that practitioners adhere to new section 1004.2(e) which details the statutory requirement to consult the Prescription Monitoring Program Registry. Section 1004.2(a) is further amended to require registered practitioners to indicate on patient certifications whether a patient is temporarily residing in New York State for the purpose of receiving care and treatment from the practitioner.

§ 1004.3 Application for registration as a certified patient. Section 1004.3(b) is amended to clarify that New York State residents must show proof of residency. Section 1004.3(c) is amended to remove the requirement that applicants include a statement in their application if they are temporarily residing in New York State for purposes of receiving care and treatment in in the state, as this requirement will now be documented by the certifying practitioner.

§ 1004.4 Designated caregiver registration. Section 1004.4(b) is amended to indicate that acceptable proof of residence for a caregiver includes a New York State non-driver identification card.

§ 1004.5 Application for initial registration as a registered organization. Section 1004.5(b) is amended to clarify the requirement to submit a prepared financial statement upon initial application for designation as a registered organization.

§ 1004.6 Consideration of registered organization applications. Section 1004.6(e) is amended to clarify that a registered organization's registration may be amended instead of the application for registration.

* * *

§ 1004.10 Registered organizations; general requirements. Section 1004.10(a) is amended to include a process in which the department will provide a statement of findings to a registered organization, and that the registered organization must respond and implement a plan of correction to address any deficiencies identified by the department. Section 1004.10(a) is also amended to allow manufacturing materials to be submitted to the department upon request and to reduce sample retention duration from two years to one year. Further, this section is amended to clarify that registered organizations must notify the department of adverse events and other incidents within 24 hours and must inventory and maintain records of medical marihuana products or by-products which are disposed. Section 1004.10(a) is also amended to account for records that may need to be maintained for a time period other than five (5) years and to require registered organizations to post the registration certificate in a conspicuous location on the premises of each manufacturing and dispensing facility site. Section 1004.10(b) is amended to clarify criminal history requirements for registered organization managers or employees and to include a requirement that registered organizations not steer or influence any individual to a practitioner for the purpose of becoming a certified patient.

§ 1004.11 Manufacturing requirements for approved medical marihuana product(s). Section 1004.11(a) is amended to update the allowable range of THC and CBD concentration per dose and brand for potency testing purposes. Section 1004.11(c) is modified to clarify reporting requirements for other cannabinoid components at >0.2 percent. Section 1004.11(c) is also amended to update the allowable range of THC and CBD concentration per dose and brand for potency testing purposes. Section 1004.11(e) is updated to clarify that the New York State Department of Environmental Conservation is the authority which registers acceptable pesticides. In addition, section 1004.11(e) is modified to add a requirement that registered organizations shall ensure continual environmental monitoring of harvested plant material awaiting additional processing. Section 1004.11(g) is modified to allow registered organizations to produce products in new forms including tablets, film strips, metered dose inhalation, and rectal administration. Section 1004.11(h) is amended to allow registered organizations to break the seal of an approved medical marihuana product for the purpose of internal quality control testing or disposal. Section 1004.11(l) is amended to require registered organizations to report to the department any lot not meeting the minimum standards or specifications for brand consistency, rather than destroying such lots. Section 1004.11(k) is amended to clarify labeling requirements related to stability studies. Section 1004.11(m) is amended to clarify stability testing requirements and to account for initial stability testing limitations. Section 1004.11(n) is amended to make clear that registered organizations may not use any cannabinoid preparation not produced by the registered organization in any of its medical marihuana products.

§ 1004.12 Requirements for dispensing facilities. Section 1004.12(a) is revised to clarify the requirement that dispensing facility pharmacists must complete a four hour course. Section 1004.12(d) is amended to clarify that no food or beverages may be sold on the premises of a dispensing facility without prior approval from the department. Section 1004.12(f) is amended to include a requirement that dispensing facility pharmacists or a designated individual shall consult the Prescription Monitoring Program (PMP) Registry prior to dispensing approved medical marihuana products. Section 1004.12(g) is amended to clarify dispensing facility access restrictions. Section 1004.12(h) is revised to clarify that labels shall include the expiration date of the product once opened on all products. Section 1004.12(m) is modified to include a requirement that dispensing facilities must document returns of approved medical marihuana products and ensure secure storage until disposal.

§ 1004.13 Security requirements for manufacturing and dispensing facilities. Section 1004.13(a) is revised to clarify that production and harvesting is included in the definition of manufacturing and a video surveillance requirement is also added to the disposal process. Section 1004.13(a) is amended to allow registered organizations to use a digital dialer or other acceptable industry standard equivalent. Section 1004.13(j) is amended to clarify that registered organizations must use approved safes, vaults or other storage methods approved by the department for medical marihuana products. Sections 1004.13(n)-(p) are modified to remove the requirement that registered organizations only transport approved medical marihuana products from a manufacturing facility to dispensing facilities. Section 1004.13(u) is added to restrict visitor access to manufacturing facilities.

§ 1004.14 Laboratory testing requirements for medical marihuana. Section 1004.14(b) is amended to add the requirement that no immediate family members of a board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization shall have an interest or voting rights in the lab performing testing on medical marihuana. Section 1004.14(c) is amended to clarify final product testing sample requirements. Section 1004.14(d) is modified to clarify that registered organizations may test final products that have been packaged. Section 1004.14(e) is amended to add the requirement that sampling methodologies must be approved by the department. Section 1004.14(g) is amended to clarify the list of contaminants for which testing must occur and to clarify that pesticides include herbicides and fungicides. Section 1004.14(h) is amended to include a disposal requirement for laboratories. Section 1004.14(i) is added to include stability testing guidance for open and unopened products. Section 1004.14(j) is added to include a requirement for laboratories to return medical marihuana products deemed unsuitable for testing to the registered organization.

* * *

§ 1004.16 Medical Marihuana marketing and advertising by registered organizations. Section 1004.16(a) is modified to remove the requirement that only signs with black and white colors may be allowed on the external structures owned by registered organizations. Sections 1004.16(a), (d), (h) and (i) are further modified to clarify the difference between a brand and an approved medical marihuana product. Section 1004.16(m) is amended to clarify that registered organizations may educate practitioners about medical marihuana brands or devices offered by the registered organization.

* * *

§ 1004.20 Proper disposal of medical marihuana products by patients or designated caregivers. Section 1004.20 is amended to allow patients and caregivers to return approved medical marihuana product(s) to the dispensing facility from which they were purchased or any dispensing facility associated with the registered organization. Section 1004.20(b) is also amended to clarify that the New York State Department of Environmental Conservation provides guidance on proper drug disposal.

§ 1004.21 General prohibitions. Section 1004.21(d) is amended to allow physicians and nurse practitioners employed by registered organizations to counsel certified patients or designated caregivers at a registered organization's dispensing facility on medical marihuana product use, administration and risks.

* * *

§ 1004.24 Inventory Requirements for registered organizations. Section 1004.24 is added to define inventory requirements for registered organizations.

§ 1004.25 Registered Organizations disposal of medical marihuana. Section 1004.25 is added to provide guidance on acceptable processes for disposing of medical marihuana products and by-products.

* * *

§ 55-2.15 Requirements for laboratories performing testing for medical marihuana. Section 55-2.15(b) is amended to correct the agency name and to include a disposal requirement for laboratories. Section 55-2.15(c) is also amended to include a disposal requirement for laboratories.

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

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

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

Regulatory Impact Statement

Statutory Authority:

The Commissioner is authorized pursuant to Section 3369-a of the Public Health Law (PHL) to promulgate rules and regulations necessary to effectuate the provisions of Title V-A of Article 33 of the Public Health Law. The Commission is authorized pursuant to Section 502 of the PHL to promulgate rules and regulations relating to environmental laboratories.

Legislative Objectives:

The legislative objective of Title V-A is to comprehensively regulate the manufacture, sale and use of medical marihuana, by striking a balance between potentially relieving the pain and suffering of those individuals with serious medical conditions, as defined in Section 3360(7) of the Pub-

lic Health Law, and protecting the public against risks to its health and safety.

Needs and Benefits:

These proposed regulations promote the safe and effective use of approved medical marihuana products while safeguarding against diversion and other public safety concerns. Populations that will benefit from the proposed regulations include patients who are suffering from severe debilitating or life-threatening conditions. The regulations will serve the following needs:

1. Practitioner issuance of certifications to patients – The proposed regulations add the practitioner's statutory requirement to consult the Prescription Monitoring Program Registry. If the practitioner issues a certification to a patient who is a non-resident of New York but is temporarily residing in the State for purposes of receiving care and treatment, the patient certification shall indicate such.

2. Certified patient and designated caregiver registrations – Patients that are New York State Residents will not be required to show proof of temporary residence. Acceptable proof of residence for a caregiver includes a New York State non-driver identification card.

3. Application for initial registration as a registered organization – The requirement for the prepared financial statement upon initial application for a registered organization is clarified to indicate that a registered organization's registration may be amended and not the application for registration.

4. Registered organization requirements for manufacturing and dispensing facilities – Reporting requirements for other cannabinoid components at >0.2% are clarified. The allowable range of THC and CBD concentration per dose and brand for potency testing purposes is amended. Registered organizations shall ensure continual environmental monitoring of harvested plant material awaiting additional processing. Registered organizations may produce products in new forms including tablets, film strips, metered dose inhalers and rectal products. Registered organizations may break the seal of an approved medical marihuana product for the purpose of internal quality control testing or disposal. Labeling requirements related to stability studies are clarified for registered organizations. Stability testing requirements and initial stability testing limitations are further defined. Registered organizations may not use any cannabinoid preparation not produced by the registered organization in any of its medical marihuana products. Dispensing facility pharmacists must complete a department approved four hour course. No food or beverages may be sold on the premises of a dispensing facility without prior approval from the department. Dispensing facility pharmacists or a designated individual shall consult the PMP Registry prior to dispensing approved medical marihuana products. Dispensing facility access restrictions are clarified. Labels on medical marihuana products shall include the expiration date of the product once opened on all products. Dispensing facilities must document returns of approved medical marihuana products and ensure secure storage until disposal.

5. General registered organization requirements – The department may provide a statement of findings to a registered organization and registered organizations must respond to implement a plan of correction to address deficiencies identified by the department. Manufacturing materials may be submitted to the department upon request and sample retention duration is reduced from two years to one year. Registered organizations must notify the department of adverse events and other incidents within 24 hours. Registered organizations must perform inventory and maintain records of medical marihuana products or by-products which are disposed of. Records may need to be maintained for a time period other than five (5) years. Registered organizations must post the registration certificate in a conspicuous location on the premises of each manufacturing and dispensing facility. Criminal history requirements for registered organization managers or employees are clarified. Registered organizations shall not steer or influence any individual to a practitioner to become a certified patient.

6. Laboratory testing requirements – No immediate family members of a board member, officer, manager, owner, partner, principal stakeholder or member of a registered organization shall have an interest or voting rights in the lab performing testing on medical marihuana. Registered organizations may test final products that have been packaged. The list of contaminants for which testing must occur and stability testing guidance for open and unopened products is further defined. A disposal requirement for laboratories and a requirement for laboratories to return medical marihuana products deemed unsuitable for testing to the registered organization has been included.

7. Security requirements for manufacturing and dispensing facilities – A video surveillance requirement was added to the disposal process. Registered organizations must use approved safes, vaults or other storage methods approved by the department for medical marihuana products. Registered organizations may transport approved medical marihuana products between dispensing facilities, to approved laboratories and waste management facilities. Manufacturing facility access restrictions are further clarified.

8. Medical marihuana marketing and advertising by registered organizations – The regulations clarify the terminology related to brand and approved medical marihuana products. Requirements for approved signage and marketing of registered organizations to practitioners is clarified.

9. Proper disposal of medical marihuana products by patients or designated caregivers – A clarification is made that the Department of Environmental Conservation provides guidance on proper drug disposal and patients and caregivers may return approved medical marihuana product(s) to the dispensing facility where they were purchased or any dispensing facility associated with the registered organization.

10. General prohibitions – A physician or a nurse practitioner employed by a registered organization, who has completed the four-hour course, may counsel certified patients or designated caregivers at a registered organization dispensing facility on medical marihuana product use, administration and risks.

11. Inventory requirements for registered organizations – Inventory requirements for registered organizations are defined.

12. Registered Organizations disposal of medical marihuana - Acceptable processes for disposing of medical marihuana products and by-products are defined.

Costs:

Costs to the Regulated Entity:

The proposed streamlined visitor access requirements will result in a simplification of staff responsibilities for registered organizations where emergency personnel and personnel performing regular maintenance will not require prior authorization by the department. The streamlined visitor access policy will still allow the department to review the names of the individuals visiting dispensing facilities and the purpose of their visits.

Registered organizations will also benefit from the easing of the cannabinoid concentration variability requirements, which are amended to be consistent with pharmaceutical industry standards. Increasing the cannabinoid concentration variability will result in reduced staffing costs to registered organizations related to relabeling of final products falling outside of concentration estimates.

Registered organizations will further benefit from decreased costs related to submitting samples for testing which are packaged in a quantity less than what would be provided to the patient but in a sufficient amount for laboratory confirmation of safety and potency. Registered organizations will realize savings by reducing the amount of product needed for testing. In addition, a savings may be experienced by registered organizations due to decreased sample retention requirements.

Registered organizations may have additional costs in staffing related to responding to a statement of findings identified by the department where a written plan of correction is required by the registered organization. These costs are necessary to ensure the program is administered in a manner that protects the public health and safety. Any increase in costs to registered organizations related to the proposed amendments will be offset by additional savings from the proposed amendments.

Costs to Local Government:

The proposed rule does not require the local government to perform any additional tasks; therefore, it is not anticipated to have an adverse fiscal impact.

Costs to the Department of Health:

The Department of Health anticipates the review of additional brands and dosage forms will require the commitment of department staff resources. The department also anticipates an increased administrative cost to support registration of nurse practitioners, ongoing monitoring and compliance of the medical marihuana program, and for laboratory services provided by Wadsworth Center laboratories for testing of medical marihuana products.

Local Government Mandates:

The proposed amendments do not impose any new programs, services, duties or responsibilities on local government.

Paperwork:

Deficiencies identified by the department will result in the issuance of a written statement of findings issued by the department and registered organizations will be required to submit a written plan of correction.

Duplication:

No relevant rules or legal requirements of the Federal and State governments duplicate, overlap or conflict with this rule.

Alternatives:

No alternatives to making the proposed regulatory amendments were considered by the department.

Federal Standards:

Federal requirements do not include provisions for a medical marihuana program.

Compliance Schedule:

There is no compliance schedule imposed by these amendments, which shall be effective upon publication of a notice of adoption.

Regulatory Flexibility Analysis

Effect of Rule:

This proposed rule will amend regulations for registered organizations who manufacture, distribute and sell approved medical marihuana products in New York State, as well as expand access to patients by authorizing nurse practitioners to register with the department. There are no costs to existing small business establishments or government entities in New York State.

Compliance Requirements:

There are no new compliance requirements imposed on existing small business establishments as a result of these amendments.

Professional Services:

No new professional services will be required of small business entities and local governments.

Compliance Costs:

No new compliance costs will be required of small business entities and local governments.

Economic and Technological Feasibility:

This proposal is economically and technologically feasible. Statute requires the registered organization to pay an excise tax to the Commissioner of Tax and Finance. This tax will help to provide funds to the counties in New York State where medical marihuana is manufactured and dispensed.

Minimizing Adverse Impact:

To minimize the potential for patient adverse effects associated with the use of medical marihuana, the regulations continue to provide for department authorization of approved brands (cannabinoid profiles) and dosage forms that registered organizations may manufacture. In addition, the regulations continue to require laboratory testing of the final manufactured product by a laboratory certified by New York State and located in New York State. These requirements do not create an adverse impact to small business and local governments.

Small Business and Local Government Participation:

The Department consulted with other state agencies, including the Department of Environmental Conservation. The Department also discussed the regulations and received input from various advocacy organizations. There will be a 45-day public comment period with the regulations that will allow for additional comments to be considered.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

Outside of major cities and metropolitan population centers, the majority of counties in New York State contain rural areas. The regulatory amendments do not propose any changes that would decrease access to dispensing facilities or practitioners in rural areas.

Reporting, Recordkeeping and Other Compliance Requirements; and Professional Services:

There are no new reporting, recordkeeping or other compliance requirements imposed on rural areas as a result of these amendments. No new professional services will be required of rural areas. Compliance requirements are limited to the registered organizations and practitioners registered with the department.

Costs:

There are no compliance costs to existing establishments in rural areas since no new compliance activities are imposed upon them. Compliance costs are limited to the registered organizations and practitioners registered with the department.

Minimizing Adverse Impact:

The proposed rule will apply to practitioners who wish to complete the educational requirement in order to issue certifications to patients for medical marihuana. Practitioners in rural areas of the state may complete this course, which is offered online to make the course easily accessible to all practitioners who wish to issue certifications to patients for approved medical marihuana products.

Rural Area Participation:

The Department consulted with other state agencies, including Department of Environmental Conservation. There will be a 45-day public comment period with the regulations that will allow for additional comments to be considered regarding rural areas.

Job Impact Statement

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have an adverse impact on jobs and employment opportunities.

New York State Joint Commission on Public Ethics

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Source of Funding Reporting

I.D. No. JPE-37-16-00002-EP
Filing No. 822
Filing Date: 2016-08-29
Effective Date: 2016-08-29

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

Proposed Action: Amendment of Part 938 of Title 19 NYCRR.

Statutory authority: Executive Law, section 94(9)(c); Legislative Law, sections 1-h(c)(4) and 1-j(c)(4)

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

Specific reasons underlying the finding of necessity: The governor is expected imminently to sign Part D, S.8160/A.2016, which will change the monetary threshold amounts related to requirements to disclose sources of funding with respect to lobbying activities, and will take effect thirty (30) days after signing. The formal rulemaking process would result in a period of time during which the Source of Funding regulation of the Joint Commission of Public Ethics ("Commission") would not be in accordance with statutory law. Since due process entitles all persons and entities subject to the Commission's jurisdiction to proper notice of their disclosure requirements under the law this emergency rule is necessary for the public welfare.

Subject: Source of funding reporting.

Purpose: To implement legislative changes made to the source of funding disclosure requirements.

Substance of emergency/proposed rule (Full text is posted at the following State website:www.jcope.ny.gov): Part D, S. 8160/A.10742 (2016), which was signed into law by the Governor on August 24, 2016, makes changes to the source of funding disclosure requirements relating to lobbyists and clients. Specifically, it decreases the filing threshold for total lobbying expenditures to $15,000, from $50,000, and the minimum contribution amount for disclosing a source to $2,500, from $5,000. Further, it excludes funds received for membership dues, fees, and assessments from the contributions that must be disclosed, while continuing to require the donor to be identified as a source. Such changes become effective thirty (30) days after signing, which will be September 23, 2016. This rule implements these changes and provides due process notice to persons and entities subject to the Commission's jurisdiction.

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 November 26, 2016.

Text of rule and any required statements and analyses may be obtained from: Martin Levine, Director of Lobbying and FDS Compliance, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3975, email: martin.levine@jcope.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: Executive Law Section 94(9)(c) directs the Joint Commission on Public Ethics ("Commission") to adopt, amend, and rescind rules and regulations to govern Commission procedures. Legislative Law section 1-d(a) provides the Commission with the power and the duty to administer Article 1-A of the Legislative Law. Legislative Law sections 1-h(c)(4) and 1-j(c)(4) require certain registered lobbyists, whose lobbying activity is performed on its own behalf and not pursuant to retention by a client, and clients, who have retained, employed or designated a registered lobbyist, to report the names of each source of funding used to fund lobbying activities if such source meets the criteria set forth in such law.

2. Legislative objectives: The Public Integrity Reform Act of 2011 ("PIRA") established the Commission and authorized the Commission to

exercise the powers and duties set forth in Executive Law Section 94 with respect to lobbyists and clients of lobbyists as such terms are defined in article one-A of the Legislative Law. PIRA also amended the Legislative Law to include a requirement that lobbyists and clients of lobbyists who spend at least $50,000 in reportable compensation and expenses and 3% of total expenditures on lobbying activities in New York State in a calendar year or twelve-month period (the "$50,000/3% expenditure threshold"), disclose the sources of funding over $5,000 from each single source used for such lobbying activities in New York State. Part D, S.8160/A.10742 (2016) will decrease the filing threshold for total lobbying expenditures to $15,000, from $50,000, and the minimum contribution amount for disclosing a source to $2,500, from $5,000. Further, it will exclude funds received for membership dues, fees and assessments from the contributions that must be disclosed, while continuing to require the donor to be identified as a source.

3. Needs and benefits: The proposed rulemaking is necessary to implement the changes set forth in Part D, S.8160/A.10742 (2016).

4. Costs:

a. costs to regulated parties for implementation and compliance: Minimal.

b. costs to the agency, state and local government: No costs to state and local governments.

c. cost information is based on the fact that there will be no costs to regulated parties and state and local government.

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

6. Paperwork: This regulation may require the preparation of any additional forms or paperwork. Such additional paperwork is expected to be minimal, and many filers will complete any additional forms online.

7. Duplication: This regulation does not duplicate any existing federal, state or local regulations.

8. Alternatives: PIRA created an affirmative duty on the Commission to implement the source of funding requirements. Therefore there is no alternative to amending the Commission's existing regulation.

9. Federal standards: The proposed rulemaking pertains to lobbying disclosure requirements that specifically relate to lobbying activity in New York State. These regulations do not exceed any federal minimum standard with regard to a similar subject area.

10. Compliance schedule: Compliance will take effect upon adoption.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Emergency Adoption and Proposed Rule Making because the proposed rulemaking will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this Notice of Emergency Adoption and Proposed Rule Making because the proposed rulemaking will not impose any adverse economic impact on rural areas, nor will compliance require or impose any reporting, record-keeping, or other affirmative acts on the part of rural areas. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold. Rural areas are not affected in any way.

Job Impact Statement

A Job Impact Statement is not submitted with this Notice of Emergency Adoption and Proposed Rule Making because the rule will have a limited impact on jobs or employment opportunities. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold. This regulation does not apply, nor relate to small businesses, economic development or employment opportunities.

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Adjudicatory Proceedings and Appeals Procedures for Matters Under the Commission's Jurisdiction

I.D. No. JPE-37-16-00003-EP
Filing No. 823
Filing Date: 2016-08-29
Effective Date: 2016-08-29

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

Proposed Action: Amendment of Part 941 of Title 19 NYCRR.

Statutory authority: Executive Law, section 94(14)

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

Specific reasons underlying the finding of necessity: The governor is expected imminently to sign Part J, S.8160/A.10742 (2016). This legislation establishes new adjudicatory procedures for matters falling under the jurisdiction of the Joint Commission on Public Ethics ("Commission"), and provides that these changes shall take effect immediately. This regulation implements those changes to the Commission's procedures. The formal rulemaking process would result in a period of time during which the Commission's regulations would not be in accordance with its statutory directives. Since due process entitles all persons and entities subject to the Commission's jurisdiction to proper notice of the Commission's adjudicatory proceedings this emergency rule is necessary for the general welfare.

Subject: Adjudicatory proceedings and appeals procedures for matters under the Commission's jurisdiction.

Purpose: To implement legislative changes made to the Commission's adjudicatory proceedings.

Substance of emergency/proposed rule (Full text is posted at the following State website:www.jcope.ny.gov): Part J, S. 8160/A.10742 (2016), which the governor is expected imminently to sign, effects changes to the adjudicatory proceedings conducted by the Joint Commission on Public Ethics ("Commission"). In particular, Part J, S. 8160/A.10742 (2016) provides persons or entities under investigation by the Commission the right to be heard prior to a final determination by the Commission, and the right to be informed of the alleged violations of law and supporting evidence. Section 3 of Part J, S. 8160/A.10742 (2016) provides for an immediate effective date. This rule implements these changes and provides due process notice to persons and entities subject to the Commission's jurisdiction of the Commission's applicable adjudicatory proceedings.

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 November 26, 2016.

Text of rule and any required statements and analyses may be obtained from: Michael E. Sande, Associate Counsel, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3975, email: michael.sande@jcope.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: Executive Law section 94(14) directs the Joint Commission on Public Ethics (the "Commission") to adopt rules and regulations relating to adjudicatory proceedings and appeals for matters arising under the Commission's jurisdiction.

2. Legislative objectives: To provide guidance and procedures regarding the conduct of adjudicatory proceedings and appeals for matters arising under the Commission's jurisdiction.

3. Needs and benefits: In 2012, the Commission amended its regulations regarding adjudicatory proceedings and appeals procedures in Part 941. Part J, S. 8160/A.10742 (2016), which the governor is expected imminently to sign and is to take immediate effect, implements changes to the Commission's adjudicatory proceedings via amendments to the Commission's governing statute. The amended regulation will bring the Commission's regulatory procedures into accordance with its governing statute by effecting substantive changes as follows:

A. Notice to the Respondent and Exchange of Information

In accordance with the statute, as amended, this regulation will impose new disclosure obligations and time restrictions upon the Commission and the Respondent. Upon receipt of a sworn complaint or other information

reflecting a possible or alleged violation of law, the Commission will be required to provide initial notice to the Respondent including a description of the allegations, the sections of law alleged to have been violated, and the evidence supporting such allegations. The Commission will be further required to provide to the Respondent, prior to the hearing, any additional evidence supporting the allegations that was not previously provided. The Respondent will be required to provide to the Commission, prior to the hearing, a list of possible witnesses, notice of any defenses to be presented, and supporting evidence.

B. Substantial Investigation Basis Report

In accordance with the statute, as amended, this regulation will change the timing of the Commission's issuance of a Substantial Basis Investigation Report ("SBIR"). Under the statute, and this amended regulation, the Commission shall issue an SBIR if it has found a substantial basis to conclude that the Respondent committed a violation of law after a hearing has been conducted. Currently an SBIR is issued after an investigation but prior to a hearing.

C. Summary of Amended Sections

Part 941.1 provides the purpose of the regulations.

Part 941.2 defines key terms in the regulations. The definitions are not meant to alter the scope of the existing regulations, but are instead designed to clarify those regulations.

Part 941.3 sets forth procedures, in accordance with the statute, as amended, for providing a Respondent notice of the Commission's decision to commence and investigation and conduct a hearing to determine whether a substantial basis exists to conclude a violation of law has occurred. The notice shall contain (1) the alleged violations of law and the factual basis for those allegations; (2) the time and place of the hearing; (3) the identity of the hearing officer and instructions for the submission of filings; (4) a statement concerning the provision of deaf interpretation without charge; and any other information deemed necessary or appropriate.

Part 941.4 addresses the scheduling and adjournment of hearings and the service of filings by a Respondent.

Part 941.5 provides that any person who voluntarily appears in a hearing shall be accorded the right to representation, who need not be an attorney. Any counsel or attorney for a Respondent must file a Notice of Appearance.

Part 941.6 outlines the procedure for selecting a hearing officer.

Part 941.7 outlines the powers and duties of the hearing officer. These shall include the authority to direct the parties to appear for a pre-hearing conference, and to issue findings of fact, conclusions of law, and make recommendations, where appropriate.

Part 941.8 sets forth procedures for an adjournment of a hearing.

Part 941.9 sets forth time limits, in accordance with the statute, for specific filings and submissions prior to a hearing, and for the conduct of the hearing. At least seven (7) days prior to the hearing, the Commission shall provide to the Respondent any additional evidence that was not previously described in the notice discussed in Part 941.3. At least seven (7) days before the hearing, the Respondent shall provide the Commission and hearing officer a list of possible witnesses and notice of any defenses to be presented, and supporting evidence. Any other papers, statements, proofs, and evidence shall be provided to the other party and the hearing officer, in the hearing officer's discretion and at a time to be designated by the hearing officer. The hearing officer, Executive Director or the Commission may grant an extension of time for filing such matters only upon formal request. Generally, except by consent of the parties, every hearing conducted pursuant to these rules shall be concluded within 180 days of the notice discussed in Part 941.3.

Part 941.10 sets forth specific rules for the conduct of hearings. In accordance with the statute, as amended, all hearings and procedures before the hearing officer are to be confidential. A hearing may continue if a Respondent, having been duly served with notice, fails to appear for the hearing. The hearing officer shall conduct all hearings pursuant to these rules, and shall exercise the power and authority of hearing officers as defined in the State Administrative Procedures Act and any other pertinent statute.

Part 941.11 addresses the administration of oaths at hearings.

Part 941.12 provides rules of evidence and proof. The formal rules of evidence shall not apply in hearings under the Commission's jurisdiction, but objections to evidentiary offers may be made and shall be reflected in the record. All evidence appearing in the record shall be deemed to have been validly introduced. Each party shall have the right to give sworn testimony, produce witnesses, present documentary evidence, and to examine opposing witnesses and evidence. The parties may stipulate to facts, and official notice may be taken of facts of which judicial notice could be taken.

Part 941.13 provides rules, in accordance with the statute, as amended, for the preparation and adoption of proposed findings of fact and recommendation, substantial basis investigation report, and notice of civil assessment. The hearing officer shall, within sixty (60) days of the conclusion of the hearing, make findings of fact and a recommendation as to the appropriate penalty. The Respondent shall have the opportunity to respond in writing in the form of a brief addressed to the Commission. The Commission's staff, also, shall have the right to respond in the form of a brief addressed to the Commission, and to submit a proposed Substantial Basis Investigation Report to the Commission. The Commission shall have sixty (60) days thereafter in which to vote on whether to issue a Substantial Basis Investigation Report.

Part 941.14 provides rules for the assessment of penalties and the referral of violations of law to a prosecutor for criminal prosecution.

Part 941.15 provides rules for the record of hearings.

Part 941.16 addresses the privacy and confidentiality of records and documents.

Part 941.17 provides rules for appeals from the Commission's Executive Director's denials of application to delete or exempt certain information from financial disclosure statements.

Part 941.18 provides rules for appeals from a denial of an application for an exemption under Article 1-A of the Legislative Law § § 1-h, 1-j and 19 NYCRR Part 938.6 (Source of Funding disclosures).

Part 941.19 sets forth rules of general applicability.

Part 941.20 provides that all matters where the Commission has issued a Substantial Basis Investigation Report will be governed by the laws and adjudicatory rules in effect when such Substantial Basis Investigation Report was issued. All other matters and investigations will be governed by the provisions of this Part.

Part 941.21 provides that this Part shall take effect upon the effective date of Part J, S.8160/A.10742 (2016).

4. Costs:

a. costs to regulated parties for implementation and compliance: Minimal.

b. costs to the agency, state and local government: Minimal costs to state and local governments.

c. cost information is based on the fact that there will be minimal costs to regulated parties and state and local government for training staff on changes to the requirements. The cost to the agency is based on the estimated slight increase in staff resources to implement the regulations.

5. Local government mandates: The proposed regulation imposes no new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: This regulation may require the preparation of additional forms or paperwork. Such additional paperwork is expected to be minimal.

7. Duplication: This regulation does not duplicate any existing federal, state, or local regulations.

8. Alternatives: Part J, S.8160/A.10742 (2016) imposes an affirmative duty on the Commission to implement changes to its adjudicatory proceedings. Therefore there is no alternative to amending the Commission's existing regulation.

9. Federal standards: These regulations do not exceed any federal minimum standard with regard to a similar subject area.

10. Compliance schedule: Compliance will take effect upon adoption.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Emergency Adoption and Proposed Rule Making because the proposed rulemaking will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this Notice of Emergency Adoption and Proposed Rule Making because the proposed rulemaking will not impose any adverse economic impact on rural areas, nor will compliance require or impose any reporting, record-keeping, or other affirmative acts on the part of rural areas. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold. Rural areas are not affected in any way.

Job Impact Statement

A Job Impact Statement is not submitted with this Notice of Emergency Adoption and Proposed Rule Making because the rule will have a limited

impact on jobs or employment opportunities. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold. This regulation does not apply, nor relate to small businesses, economic development or employment opportunities.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Sources and Mechanisms of Funding Related to the Clean Energy Standard

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

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

Proposed Action: The Commission is considering a petition by the NYSERDA for adders to cover administrative costs and fees related to the Renewable Energy Standard and the Zero Emission Credit Requirement.

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

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

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

Substance of proposed rule: The Public Service Commission is considering a petition filed on August 25, 2016 by the New York State Energy Research and Development Authority (NYSERDA) proposing an adder to cover administrative costs and fees to administer Tier 1 of the Renewable Energy Standard (RES) and an adder to cover administrative costs and fees related to the Zero Emission Credits (ZECs) requirement.

Regarding the administrative adder for RECs for 2017 and charges for non-recurring expenses related to RECs and ZECs, NYSERDA proposes to use uncommitted System Benefits Charge (SBC), Energy Efficiency Portfolio Standard (EEPS), and Renewable Portfolio Standard (RPS) to fund such costs totaling $6,500,000, rather than to fund the costs through a REC collection adder. For ZEC administrative costs, NYSERDA proposes a $.2172 per ZEC adder.

The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may address and resolve other matters related to the issues raised in the petition.

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, NY 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Katheen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223, (518) 474-6530, email: kathleen.burgess@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-0302SP6)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Transfer of the James A. FitzPatrick Nuclear Power Plant from Entergy Nuclear FitzPatrick, LLC to Exelon Generation Company, LLC

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

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

Proposed Action: The Commission is considering a joint petition by Entergy Nuclear FitzPatrick, LLC and Exelon Generation Company, LLC for approval of the transfer of the James A. FitzPatrick Nuclear Power Plant.

Statutory authority: Public Service Law, section 70

Subject: Transfer of the James A. FitzPatrick Nuclear Power Plant from Entergy Nuclear FitzPatrick, LLC to Exelon Generation Company, LLC.

Purpose: To ensure safe and adequate electric generation facilities.

Substance of proposed rule: The Public Service Commission (Commission) is considering the joint petition of Entergy Nuclear FitzPatrick, LLC (Entergy) and Exelon Generation Company, LLC (Exelon) for authority to transfer from Entergy to Exelon the James A. FitzPatrick Nuclear Power Plant (FitzPatrick Facility) and related assets. Petitioners also request that the Commission declare that the lightened regulatory regime approved for the owner and operator of the FitzPatrick Facility will continue unchanged as applied to Exelon after the transfer. Petitioners also request that the Commission take action and issue an order on the joint petition no later than November 18, 2016.

Entergy owns the FitzPatrick Facility, a boiling water nuclear reactor located in Scriba, New York in Oswego County with a generating capacity of approximately 882 MW. The FitzPatrick Facility began operations in 1975 and its current Nuclear Regulatory Commission (NRC) operating license expires in 2034. The FitzPatrick Facility is a lightly regulated merchant generating facility that sells energy, capacity, and ancillary services in the wholesale markets administered by the New York Independent System Operator, Inc. and through bilateral contracts.

Under the terms of the Asset Purchase Agreement (APA) between Exelon and Entergy, Exelon will acquire Entergy's right, title, and interest in and to the FitzPatrick Facility and related assets. This will include, but will not be limited to, (1) real property, buildings, and improvements; (2) all machinery and equipment; (3) all transferrable permits; (4) all spent nuclear fuel, waste, source and byproduct material, and inventory; and (5) all books and records relating to the FitzPatrick Facility.

The APA also addresses decommissioning the FitzPatrick Facility, including provisions that detail the transfer of decommissioning funds to Exelon. Upon closing, Exelon will assume the decommissioning obligations for the FitzPatrick Facility. Exelon will be obligated to meet the Nuclear Regulatory Commission's minimum funding assurance requirements once it becomes the licensed owner and operator of the FitzPatrick Facility. In addition, prior to closing the proposed transaction, Exelon will offer employment to substantially all of the Entergy employees at the FitzPatrick Facility.

Entergy is a party to two interconnection agreements: (1) an Interconnection and Operation Agreement, dated March 28, 2000, between Entergy and the Power Authority of the State of New York; and (2) a Large Generator Interconnection Agreement between Entergy and Niagara Mohawk Corporation (d/b/a National Grid). Closing the transaction will include, among other things, assignment of these interconnection agreements to Exelon.

Pursuant to Section 70 of the Public Service Law, no electric corporation shall transfer or lease its works or system or any part thereof to any other person or corporation or contract for the operation of its works and system, without the written consent of the Commission. Among other things, the Commission may consider whether (a) the proposed transfer, lease or contract for the operation of the works or system is in the public interest; (b) the proposed transfer or contract for the operation will result in a concentration of wholesale generation ownership that may enable the excise of horizontal market power; (c) the purchasing entity is affiliated with entities that own or control traditional public utilities, electric transmission facilities, or fuel inputs into generation that operates in markets affecting New York or that otherwise have the ability to impose prices on captive ratepayers; (d) the transferee is financially sound; and (e) the assets being transferred or subject to contract for operation will be safely operated following the transaction.

A "lightened regulatory regime" is a concept that the owners and operators of wholesale generation facilities that do not make retail sales to consumers may be more lightly regulated than traditional monopoly electric utilities that serve retail consumers and may also own or operate electric generation facilities. Lightened regulations does not relieve a wholesale generator of regulatory oversight regarding enforcement, investigation, safety, reliability, system improvement, among other matters. In addition, nuclear generation facilities are subject to certain regulatory requirements that are not applied to non-nuclear wholesale generators.

The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may address and resolve other matters related to the issues raised in the petition.

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, NY 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Katheen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223, (518) 474-6530, email: kathleen.burgess@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-0472SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Zero Emission Credit Requirement of the Clean Energy Standard

I.D. No. PSC-37-16-00010-P

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

Proposed Action: The Commission is considering a petition seeking rehearing of its August 1, 2016 Order Adopting a Clean Energy Standard filed on August 22, 2016 by Constellation Energy Nuclear Group, LLC and Exelon Generation Company, LLC.

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

Subject: Zero Emission Credit requirement of the Clean Energy Standard.

Purpose: To avoid adverse air emissions from fossil-fueled generation that would replace nuclear generation.

Substance of proposed rule: The Public Service Commission is considering a petition filed by Constellation Energy Group, LLC (Constellation) and Exelon Generation Company, LLC (Exelon) (jointly, Petitioners) for rehearing or clarification of the Commission's August 1, 2016 Order Adopting a Clean Energy Standard (CES Order). The petition questions whether the duration of all three facility contracts initially qualified for the Zero Emission Credit (ZEC) program, James A. FitzPatrick Nuclear Power Plant (FitzPatrick Facility) the Robert Emmett Ginna Nuclear Power Plant (Ginna Facility) and the Nine Mile Point Nuclear Station (Nine Mile Facility) is conditioned on a buyer purchasing the Fitzpatrick Facility and taking title to the facility prior to September 1, 2018, or if that condition applies only to the Fitzpatrick Facility contract. To the extent the order applies the condition to all three facilities, Petitioners seeks rehearing of that issue, requesting that the Commission apply the condition only to the FitzPatrick Facility.

Petitioners argue that it is unlikely that the Commission intended to include the condition to apply to the contracts for the R.E. Ginna and Nine Mile Point Facilities, because, according to Petitioners, such a condition inappropriately puts at risk the zero-emission attributes of those two facilities. Petitioners state that conditioning the contract duration for the R.E. Ginna and Nine Mile Point facilities on the sale of the FitzPatrick Facility is inconsistent with the Commission's determination and reasoning in the CES Order relating to the upstate nuclear generating facilities. Petitioners claim that the more likely intent of the Commission was to apply the contract duration condition to the FitzPatrick Facility only, in order to protect Entergy Corp. (Entergy), the current owner of FitzPatrick Facility, in the event that the sale of the FitzPatrick Facility fails to occur after Entergy has signed a contract with the New York State Energy Research and Development Authority (NYSERDA) for the sale of ZECs.

Petitioners claim that if the Commission intended to condition the duration of the ZEC contracts for all three facilities on the sale of the FitzPatrick Facility, the condition should be modified to only apply to the ZEC contract for the FitzPatrick Facility. Petitioners first argue that requiring a buyer to close on the purchase of the FitzPatrick Facility as a precondition to a full term ZEC contract for the R.E. Ginna and Nine Mile Point Facilities could cause significant harm to the State's policy objectives if the condition led to the facilities' closure and the incentives provided for in the CES Order to keep the facilities open should not be weakened. Second, Petitioners argue that Exelon and Entergy do not control the final outcome of the proposed transfer of the FitzPatrick Facility because the transaction requires approvals by the United States Department of Justice, the Federal Energy Regulatory Commission and the Nuclear Regulatory Commission. Thirdly, Petitioners argue that circumstances have changed since the CES Order and therefore rehearing is warranted. Specifically, Petitioners argue that the executed asset purchase agreement between Entergy and Exelon for Exelon to purchase the FitzPatrick Facility is a new set of circumstances warranting rehearing.

In addition, Petitioners argue that the CES Order provides Exelon sufficiently strong incentive to continue operation of the FitzPatrick Facility without conditioning the duration of the contract for the other two facilities on the sale of the FitzPatrick Facility. Petitioners state that the ZEC program rule lowering the overall ZEC cap by one third in the event that any of the three facilities, FitzPatrick, R.E. Ginna, or Nine Mile Point, permanently cease producing zero-emissions, is sufficient incentive for Exelon to make all reasonable efforts to keep the plant operational due to the number of ZECs Exelon would forgo if it closed. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may address and resolve other matters related to the issues raised in the joint petition.

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, NY 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Katheen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223, (518) 474-6530, email: kathleen.burgess@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-0302SP5)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Temperature Controlled and Interruptible Provisions

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

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

Proposed Action: The Commission is considering a proposal filed by KeySpan Gas East Corporation d/b/a National Grid to revise certain tariff provisions in its gas tariff schedule, P.S.C. No. 1, pertaining to service to temperature controlled and interruptible customers.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Temperature Controlled and Interruptible Provisions.

Purpose: To consider proposed revisions to tariff provisions related to temperature controlled and interruptible customers.

Substance of proposed rule: The Public Service Commission is considering a proposal filed by KeySpan Gas East Corporation d/b/a National Grid (KEDLI) to revise certain tariff provisions in its gas tariff schedule, P.S.C. No. 1, related to service provided to temperature controlled and interruptible customers. KEDLI proposes to change the temperature index for temperature controlled customers from the National Weather Service at Central Park to the National Weather Service at Farmingdale Airport. KEDLI also proposes revisions to provide that interruptible customers may remain on gas in the following circumstances: (1) when peaking supplies are dispatched ratably across a weekend and/or holiday with varying temperatures above and below 15° F; and (2) when peaking supplies are dispatched based on a day ahead call option and actual temperatures are higher than forecast. In all cases, Liquefied Natural Gas (LNG) and nonratable peaking supplies will be minimized to preserve winter deliverability. The proposed amendments have an effective date of December 1, 2016. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(16-G-0485SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Sources and Mechanisms of Funding Related to the Clean Energy Standard

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

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

Proposed Action: The Commission is considering a petition by NYSERDA for a schedule of sales and payments related to Renewable Energy Credits and a mechanism for the electric distribution utilities to provide security for payments that will be owed to generators.

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

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

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

Substance of proposed rule: The Public Service Commission is considering a petition filed on August 25, 2016 by the New York State Energy Research and Development Authority (NYSERDA) proposing a schedule for sales and payments related to Renewable Energy Credits (RECs) and a mechanism for the electric distribution utilities (EDCs) to provide security for the payments that will be owed to REC and Zero-Emission Credit (ZEC) generators.

NYSERDA also requests that the Commission direct NYSERDA to develop and file, as compliance filings to be approved by Department of Public Service (DPS) Staff, within ten days of the issuance of its order, the forms of standard REC, ZEC and EDC agreements, which will incorporate the payment schedules and all necessary terms including methods of payment, financial security requirements, and penalties for non-compliance. NYSERDA further requests that the Commission direct each load serving entity (LSE) and EDC to execute such agreements and provide them to NYSERDA within one week of the date upon which the compliance filings are approved by DPS Staff. Finally, NYSERDA requests that DPS Staff be authorized, upon request by NYSERDA, to approve modifications to the form of those agreements as may be necessary to reflect changes to the REC and ZEC programs or other contingencies over the life of the programs.

NYSERDA proposes a number of principles relating to the EDC security mechanism including matching NYSERDA's requirement to pay generators in time with when NYSERDA receives payment from LSEs, preferably monthy; approval to use any NYSERDA cash balances in the Clean Energy Fund available at the time a need arises on a temporary basis prior to invoking the EDC guarantee mechanism; the mechanism be established and authorized such that when appropriate triggers occur the EDC guarantee mechanism can be initiated in a timely manner to avoid cash shortfalls or missed payment obligations.

The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may address and resolve other matters related to the issues raised in the petition.

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, NY 12223, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Katheen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, NY 12223, (518) 474-6530, email: kathleen.burgess@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-0302SP7)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Temperature Controlled and Interruptible Provisions

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

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

Proposed Action: The Commission is considering a proposal filed by The Brooklyn Union Gas Company d/b/a National Grid NY to revise certain tariff provisions in its gas tariff schedule, PSC No. 12, pertaining to service to temperature controlled and interruptible customers.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Temperature Controlled and Interruptible Provisions.

Purpose: To consider proposed revisions to tariff provisions related to temperature controlled and interruptible customers.

Substance of proposed rule: The Public Service Commission is considering a proposal filed by The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to revise certain tariff provisions in its gas tariff schedule, P.S.C. No. 12, related to service provided to temperature controlled and interruptible customers. KEDNY proposes to change the temperature index for temperature controlled customers from the National Weather Service at Central Park to the National Weather Service at LaGuardia Airport. KEDNY also proposes revisions to provide that interruptible customers may remain on gas in the following circumstances: (1) when peaking supplies are dispatched ratably across a weekend and/or holiday with varying temperatures above and below 15° F; and (2) when peaking supplies are dispatched based on a day ahead call option and actual temperatures are higher than forecast. In all cases, Liquefied Natural Gas (LNG) and non-ratable peaking supplies will be minimized to preserve winter deliverability. The proposed amendments have an effective date of December 1, 2016. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(16-G-0486SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-37-16-00014-P

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

Proposed Action: The Public Service Commission is considering the Notice of Intent, filed by 61st & 2nd NYC, LLC, to submeter electricity at 301 East 61st Street, New York, New York.

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

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent to submeter electricity at 301 East 61st Street, New York, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by 61st & 2nd NYC, LLC on July 12, 2016, to submeter electricity at 301 East 61st Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(16-E-0396SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-37-16-00015-P

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

Proposed Action: The Public Service Commission is considering the Notice of Intent, filed by 10 Sullivan Condominium, to submeter electricity at 10 Sullivan Street, New York, New York.

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

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the Notice of Intent of 10 Sullivan Condominium to submeter electricity at 10 Sullivan Street, New York, New York.

Substance of proposed rule: The Commission is considering the Notice of Intent, filed by 10 Sullivan Condominium on July 13, 2016, to submeter electricity at 10 Sullivan Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(16-E-0400SP1)

Department of State

NOTICE OF ADOPTION

Facility Requirements for Businesses Which Offer Appearance Enhancement Services

I.D. No. DOS-22-15-00017-A

Filing No. 824

Filing Date: 2016-08-30

Effective Date: 2016-10-03

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

Action taken: Amendment of section 160.16 of Title 19 NYCRR.

Statutory authority: Executive Law, section 91; General Business Law, sections 402(5) and 404

Subject: Facility requirements for businesses which offer appearance enhancement services.

Purpose: To increase ventilation standards for businesses which offer appearance enhancement services.

Text or summary was published in the June 3, 2015 issue of the Register, I.D. No. DOS-22-15-00017-P.

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

Revised rule making(s) were previously published in the State Register on June 22, 2016.

Text of rule and any required statements and analyses may be obtained from: David Mossberg, NYS Dept. of State, 123 William St., 20th Fl., New York, NY 10038, (212) 417-2063, email: david.mossberg@dos.ny.gov

Initial Review of Rule

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

Assessment of Public Comment

The Department of State (the "Department") has received over 300 comments since the original proposal (DOS-22-15-00017-P; June 3, 2015) was first published in June 2015, through the close of the current comment period, which began following notice of revised proposed rulemaking (DOS-22-15-00017-RP; June 22, 2016) and ended on August 10, 2016.

Most of the comments were received following publication of the notice of revised proposed rulemaking. The majority of those comments, however, were restatements of concerns/comments which were already addressed in the Department's notice of revised proposed rulemaking (DOS-22-15-00017-RP; June 22, 2016). To the extent any such redundant comments were already addressed by the Department's prior filing, the Department is not required to address them again. These comments include, but are not limited to: 1) proposing chemical substitution/banning in lieu of requiring increased ventilation; 2) general concerns regarding cost of implementation; 3) efficacy of increased ventilation; 4) and insufficient data regarding harmful effects of working in a place of business which offers nail specialty services. Accordingly, to the extent that more recent commentators have submitted comments regarding these issues, the Department refers back to the assessment of public comment in the notice of revised proposed rulemaking (DOS-22-15-00017-RP; June 22, 2016).

Additionally, the Department received a significant number of comments which provide general statements in opposition to ventilation standards, but do not state substantive reasons in opposition and therefore do not require a response.

A summary and analysis of issues raised and significant alternatives suggested by new comments, reasons why any significant alternatives were not incorporated into the rule, and description of changes made in the rule as a result of such comments are described below:

COMMENT 1:

The rule should not be adopted because increased ventilation will cause too much noise for businesses.

RESPONSE 1:

The Department has consulted with industry experts and does not believe that increased ventilation will cause excessive noise. Similar ventilation standards have been required in other jurisdictions for many years, and the Department found no evidence that these systems are excessively noisy. Accordingly, this suggestion has not been incorporated into the revised rulemaking.

COMMENT 2:

The rule should not be adopted because it discriminates against minority-owned businesses.

RESPONSE 2:

The Department rejects the argument that requiring increased ventilation to exhaust harmful/toxic containments from their source discriminates against minority owned businesses. The Department of Health has issued a report confirming that chemicals and contaminants present in appearance enhancement businesses which offer nail services, including those businesses which may not traditionally consider themselves "nail salons", and therefore not part of the class of "nail salon owners", are harmful with increased exposure. Industry experts have also opined that additional ventilation is needed to protect individuals regularly exposed to chemicals and contaminants found in appearance enhancement businesses which offer nail services. It must be noted that a similar argument was raised in a legal proceeding following the Department's implementation of a wage bond requirement; in that case the court held, in part: "[t]he State of New York has a legitimate interest in protecting workers in the nail salon industry from unsafe working conditions …. As such, the legislation is re-

lated to a legitimate purpose and there has been no violation of equal protection." Korean Am. Nail Salon Ass'n of New York, Inc. v Cuomo, 50 Misc 3d 731, 736 [Sup Ct 2015]. The Department believes that this regulation similarly advances a legitimate government interest. Accordingly, the Department finds this comment to be without merit and no change to the rule text is required.

COMMENT 3:

The rule should require "[b]usiness owners … to adhere to the manufacturer's and/or design professional's recommendations for the testing and maintenance of the systems. Further, they should use and maintain a written log to document all maintenance activities to ensure that compliance is documented."

RESPONSE 3:

The Department finds that this recommendation is not necessary. Businesses owners are required by this rule to have on premises a certification indicating that a ventilation system is in place which complies with the standards set forth in the rule. Further, business owners are required to have such systems operable when the salon is occupied by any individuals. Accordingly, it is not necessary to require owners to maintain a separate log of maintenance activities; if such systems are not working during an inspection and/or if the owner fails to have a certification on file, the owner would already be subject to appropriate action by the Department.

COMMENT 4:

The rule should require property owners, and not the licensed business owner, to install proper ventilation because the required improvements are costly and building owners will not allow them.

RESPONSE 4:

To the extent that the rule imposes a cost on licensed owners, the Department already responded to such comments in previous filings, including the Department's Regulatory Flexibility Analysis for Small Businesses and Local Governments. Notwithstanding the Department's prior responses, we are continuing to explore funding options for owners and will continue to work with industry experts to reduce costs before 2021. As to shifting the requirement to the building owner, this recommendation cannot be incorporated into the final rule because the Department does not have the authority to require the property owners to install these systems. It should be noted, however, that although the Department did receive general comments from businesses owners regarding their fears that their landlords would not allow such ventilation improvements to take place, the Department believes that many building owners will not oppose installation of these systems. First, these systems will improve the commercial spaces within the buildings, which will ultimately benefit the building owners. Second, such improvements will indicate a business owner's desire to stay in the property long term, which would generally benefit the building owner as well as the business owner. Accordingly, the Department believes that any refusals by owners to allow such systems may be unfounded and are in any event premature considering that complete installation is not required until 2021.

COMMENT 5:

The rule should not be adopted because many salons use chemicals which are "odor free".

RESPONSE 5:

The characterization of some chemicals as "odor free" does not mean that they are necessarily safe under any exposure conditions. It is well known for example that carbon monoxide and radon are odorless, colorless and tasteless substances; however substantial exposure to either can have adverse health consequences. With respect to nail specialty products, there are also chemicals, for example phthalates or acrylate co-polymers, which are odorless, or nearly so, but nevertheless can cause adverse effects for consumers, workers, and the general public who experience substantial exposure to them. Furthermore, label claims on cosmetic products such as "odor free", "three-free", or "organic" are not verified or certified by government regulators, and there is published evidence that these claims are not always accurate. In addition, the requirements imposed by this rulemaking will also protect against inhalation of particulate matter created by filing and shaving of nails, not just chemical vapors, thereby supporting the need for adoption of this rule.

State University of New York

NOTICE OF WITHDRAWAL

State University of New York's Patents and Inventions Policy

I.D. No. SUN-28-16-00005-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. SUN-28-16-00005-P, has been withdrawn from consideration. The notice of proposed rule making was published in the *State Register* on July 13, 2016.

Subject: State University of New York's Patents and Inventions Policy.

Reason(s) for withdrawal of the proposed rule: Objection to adoption of a consensus rule was received.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

State University of New York's Patents and Inventions Policy

I.D. No. SUN-37-16-00006-P

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

Proposed Action: Repeal of section 335.28 and addition of new section 335.28 of Title 8 NYCRR. This rule was previously proposed as a consensus rule making under I.D. No. SUN-28-16-00005-P.

Statutory authority: Education Law, section 355(3)

Subject: State University of New York's Patents and Inventions Policy.

Purpose: Model best practices in the areas of innovation & technology transfer & comply with federal law re: intellectual property rights.

Text of proposed rule:

§ 335.28 Patents and Inventions Policy

(a) Purpose of the Patents and Inventions Policy ("this Policy")

(1) The State University of New York ("SUNY") recognizes that the three primary missions of an educational institution are teaching, research, and public service. SUNY further recognizes that, in the course of performing its mission, innovations of public value will be developed under its auspices. It is the policy of SUNY to encourage such innovation and to take appropriate steps to aid Creators and ensure that the public receives the benefit of such innovation in accordance with its public service mission. Appropriate steps include securing research support, identifying and encouraging disclosure of Intellectual Property, securing appropriate protections, marketing Intellectual Property through licensing and other arrangements, and managing royalties and other related income, such as litigation proceeds. These activities are undertaken in a spirit of cooperation with governmental agencies and private industry as part of SUNY's contribution to the economic well-being of the State of New York and of the Nation.

(2) In implementing its policies, SUNY will take appropriate steps to ensure that its academic community may freely publish the results of scholarly research pursuant to SUNY's policy on unrestricted dissemination of research activities. In conformance with this principle, all concerned shall cooperate so that essential rights to Intellectual Property shall not be lost.

(3) All net proceeds realized from the commercialization or other monetization of SUNY Intellectual Property, after payment of the Creator's share as defined in subpart (e) of this Policy and other appropriate costs associated with the evaluation, marketing, development, protection, maintenance, or enforcement of Intellectual Property, shall be used for the support of SUNY research programs in a manner consistent with the Bayh-Dole Act and its implementing regulations. Campus net proceeds shall be applied in a manner consistent with local campus policies and procedures. Upon the request of a Creator, SUNY shall provide an accounting of the distribution of royalties earned from Intellectual Property of the Creator.

(b) Definitions

(1) Affiliate: For purposes of this Policy, Affiliates include The Research Foundation for The State University of New York ("The Research Foundation"), State University Construction Fund, all campus auxiliary service corporations, and all campus foundations.

(2) Created: Having conceived, authored, reduced to practice, designed, developed, or otherwise having contributed to the making of Intellectual Property.

(3) Creative and Course Content: Academic course content and materials Created by Personnel including, but not limited to syllabi, course materials and textbooks; other scholarly or creative works of authorship; instructional, dramatic, musical and artistic works; and manuscripts, articles, poetry, prose, short stories, digital shorts, novels, plays, screenplays, and creative writings.

(4) Creator: One who has Created Intellectual Property, in whole or in part.

(5) Incidental Use of SUNY Resources ("Incidental Use"): Any use of publicly or routinely-available SUNY resources, such as residence halls, common areas, meeting rooms, cafeterias, gymnasiums, libraries, office spaces, furnishings, office supplies, photocopiers, telephones, fax machines and other standard office equipment, personal-type computers,

and commercially available software in use on such computers, computer and communications networks, including internet access and data storage, that is nonessential to the creation of Intellectual Property, and any use of SUNY resources by a Student in accordance with assigned coursework pursuant to that Student's academic curriculum.

(6) Intellectual Property: Patentable Inventions, tangible research materials, computer software, and any unique or novel innovation in the technical arts or any new and useful improvements thereof, including methods or processes for creating an object or result (a way of doing or making things), machines, devices, products of manufacture, product designs, or composition, maskworks or layout designs for printed circuit boards or integrated circuits, compositions of matter, materials, any variety of plant, and any know-how essential to the practice or enablement of such innovations and improvements, whether or not patentable.

(7) Inventor: One who contributes to the conception of a Patentable Invention under the patent laws of the United States or other relevant jurisdiction.

(8) Net Royalty: Royalty less reasonable out-of-pocket expenses incurred by SUNY and not reimbursed by licensees for the evaluation, marketing, development, protection, maintenance, and enforcement of the subject Intellectual Property.

(9) Partner: Any entity or individual who is neither Personnel nor Student, who engages with SUNY or a SUNY Affiliate through a contract or other business transaction that will facilitate the research, teaching, or public service missions of SUNY.

(10) Patentable Invention: Any art or process (way of doing or making things), machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States or other relevant jurisdiction, and the patent applications or patents that embody them.

(11) Personnel: All full-time and part-time employees of SUNY and SUNY Affiliates, Student employees (including, but not limited to, research assistants, teaching assistants, fellows, post-doctoral scholars, and students providing services under sponsor agreements), and other persons holding any paid appointment or position with SUNY.

(12) Royalty: Cash, equity, or other value received by SUNY as consideration for use of rights to SUNY Intellectual Property.

(13) Students: Individuals enrolled in SUNY, including, but not limited to, continuing education, undergraduate, graduate and professional students, non-degree students, and not-for-credit students.

(14) Substantial Use of SUNY Resources ("Substantial Use"): Any use of SUNY resources that is more than Incidental Use, including, but not limited to, use of: financial support, funds and grants administered by SUNY or a SUNY Affiliate; inter-institutional collaborations facilitated by SUNY; equipment, facilities, services, laboratories, or space; computers and computer or communications networks not publicly or routinely-available; research, clinical, or other scientific instruments; time spent by Personnel, including secretarial, clerical, administrative staff, and research and teaching assistants; confidential information; Inventions and other proprietary or intellectual property owned by SUNY; and any privileged access as a result of a person's affiliation with SUNY.

(15) The State University of New York ("SUNY"): References to "SUNY" in this Policy may include Affiliates where appropriate under the contexts, whether or not specifically stated. In addition, at the request of SUNY, SUNY Ownership of Intellectual Property under subpart (d)(1) of this Policy may include ownership, management, promotion, licensing and other transfers, commercialization, and monetization of certain Intellectual Property by The Research Foundation.

(c) Scope

(1) This Policy applies to Intellectual Property Created, in whole or in part, by SUNY Personnel, Students, Affiliates, and Partners.

(2) This Policy sets forth the rights and responsibilities of SUNY and SUNY Personnel, Students, Partners, and Affiliates in the development, creation, ownership, protection, maintenance, dissemination, marketing, licensing, and monetization of Intellectual Property.

(3) Creative and Course Content is beyond the scope of this Policy.

(d) Ownership of Intellectual Property

(1) SUNY Ownership: Subject to the exceptions of (d)(2) below, SUNY shall own, and Creator shall promptly disclose and assign to The Research Foundation, Intellectual Property Created, in whole or in part:

(a) within the scope of the Creator's employment by SUNY; or

(b) through the Substantial Use of SUNY Resources, unless otherwise agreed in writing.

(2) Creator Ownership: Ownership rights to Creative and Course Content shall be governed by SUNY's Copyright Policy A Creator who is Personnel may retain ownership rights to Intellectual Property that is not Creative and Course Content if:

(a) the Intellectual Property was Created exclusively outside the scope of the Creator's employment by SUNY; and

(b) the Intellectual Property was Created through no more than Incidental Use of SUNY Resources; and

Creators of Intellectual Property satisfying (d)(2)(a) and (d)(2)(b) above shall submit an External Invention Disclosure Form as prescribed in SUNY's Procedures for Disclosure and Management of Patents and Inventions.

(3) Student Ownership: A Creator who is a Student and not also Personnel may retain ownership rights to Intellectual Property Created through no more than Incidental Use of SUNY Resources, subject to those restrictions that may be required by an external sponsor, if any. A Student shall own the copyright to his or her thesis unless an agreement supporting the underlying work specifies otherwise. Under all circumstances, SUNY shall have an unrestricted royalty-free license to reproduce and disseminate Student theses.

(4) Partner Ownership: Where SUNY intends that a Partner engage in Substantial Use of SUNY Resources, the ownership of Intellectual Property Created by or for the Partner in connection with the use or sponsorship of SUNY Resources shall be memorialized in a written agreement between the Partner and SUNY or an Affiliate.

(5) Joint Ownership: Intellectual Property may be subject to exercise of ownership rights by two or more parties, including SUNY, Affiliates, Personnel, Students, and Partners, in which case joint ownership may be appropriate.

(6) Questions as to Ownership: Where any dispute is raised as to ownership of Intellectual Property, patents, or patent applications under these provisions, the matter shall be referred to the Innovation Policy Board in a manner consistent with SUNY's Procedures for Disclosure and Management of Patents and Inventions.

(e) Royalty Income

(1) Patentable Inventions: With respect to any Patentable Invention obtained by or through SUNY or assigned to or as directed by SUNY in accordance with the foregoing provisions, SUNY, in recognition of the meritorious services of the Inventor and in consideration of the Inventor's assignment of the Patentable Invention to SUNY, will make provision entitling the Inventor and the Inventor's heirs or legatees to share in the proceeds from the management and licensing of such Patentable Invention to the extent of forty-five percent (45%) of the first $100,000 of Net Royalty received by SUNY and forty percent (40%) of Net Royalty thereafter, unless the Inventor and SUNY agree otherwise in a written and duly executed instrument, or if this exceeds the limits fixed by applicable regulations of the relevant sponsoring agency, which will control in such cases.

(2) Computer Software and Intellectual Property Other Than Patentable Inventions: With respect to any Intellectual Property that is not a Patentable Invention, including Computer Software that is not a Patentable Invention, Created in the performance of academic or research activities and obtained by or through SUNY or assigned to or as directed by SUNY in accordance with the foregoing provisions, SUNY, in recognition of the meritorious services of the Creator and in consideration of the Creator's assignment to SUNY, will make provision entitling the Creator and the Creator's heirs or legatees to share in the proceeds from SUNY's management and licensing to the extent of forty-five percent (45%) of the first $100,000 of Net Royalty received by SUNY and forty percent (40%) of Net Royalty thereafter, unless:

i) the campus has adopted a local policy requiring reinvestment in support of university research programs, in which case no less than forty-five percent (45%) of the first $100,000 received by SUNY and forty percent (40%) of such income thereafter shall be directed to the program within which the Intellectual Property was Created; or

ii) the Intellectual Property is a work for hire or subject to a conflicting obligation to a sponsor or a Partner; or

iii) the Creator and SUNY agree otherwise in a written and duly executed instrument; or

iv) if this exceeds the limits fixed by applicable regulations of the relevant sponsoring agency, which will control in such cases.

(f) Release and Waiver

(1) SUNY decisions regarding evaluation, marketing, development, protection, maintenance, or enforcement of Intellectual Property shall be made in consultation with the Creator(s). SUNY may, at the Creator's written request, release its ownership rights in Intellectual Property to the Creator(s), subject to those restrictions that may be required by an external sponsor, if any.

(2) SUNY shall make an initial determination regarding whether to retain title to Intellectual Property within one year of SUNY's acceptance of the Creator's fully disclosed, assigned and properly executed disclosure statement. SUNY shall proceed with patenting, development and marketing of the Intellectual Property as soon as practicable thereafter. If SUNY elects not to retain title or fails to make such an election within one year, all of SUNY's rights to the Intellectual Property shall be released upon written request to the Creator, subject to those restrictions that may be required by an external sponsor, if any.

(3) For any Intellectual Property so released to a Creator, SUNY shall receive ten (10) percent of the net proceeds to the Creator, in recognition of the contribution of the State and people of New York to the support of the research that resulted in the Intellectual Property. For purposes of this subpart, (f)(2), "net proceeds" means income realized by the Creator from commercialization or other monetization of the Intellectual Property less reasonable costs incurred directly by the Creator for the evaluation, marketing, development, protection, maintenance, or enforcement of the subject Intellectual Property.

(g) Innovation Policy Board

(1) The Chancellor shall establish and appoint an Innovation Policy Board of the State University of New York and designate the chair thereof in accordance with the procedures accompanying this Policy. The Innovation Policy Board shall have full powers of organization to undertake periodic review of this Policy and to create, revise and enhance guidelines and procedures to interpret and implement this policy.

(h) Applicability

(1) Intellectual Property which is fully disclosed and assigned in a properly executed new technology disclosure statement before the effective date of these regulations shall be subject to SUNY's prior Patents and Inventions Policy.

Text of proposed rule and any required statements and analyses may be obtained from: Lisa S. Campo, State University of New York, State University Plaza, S-325, Albany, NY 12246, (518) 320-1400, email: Lisa.Campo@SUNY.edu

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 Withdrawal Objection

The three following points were raised by one objector via public comment:

1. An objection was raised to section (f) Release and Waiver, stating that a change in time limit from six (6) months to one (1) year for the university to make an initial determination regarding whether to retain title to intellectual property is unreasonable. The objector states that by delaying the filing of the patent application, the chance of losing the patent protection to someone else increases.

2. An objection was raised to section (d)(1)(a), stating that the language "within the scope of the Creator's employment by SUNY" is ambiguous.

3. An objection was raised to section (b)(8), stating that the definition of "Net Royalty" is ambiguous.

Regulatory Impact Statement

1. Statutory Authority: Education Law, 355(3). Section 355(3) authorizes the State University Board of Trustees ("SUNY Board") to adopt and implement a patent policy for research conducted in university facilities which is consistent with the university's mission of education, scholarly research, and public service. Section 355(3) authorizes the SUNY Board to adopt and implement appropriate modifications to such policy.

2. Legislative Objectives: The present measure supports the SUNY Board's legislative authority over the provision of standards and regulations covering the organization and operation of the university's programs, which includes its sponsored research and patent program. The SUNY Board's patents and inventions policy, codified in Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York ("NYCRR") Section 335.28, sets forth the regulations governing intellectual property rights in the areas of innovation and technology transfer.

3. Needs and Benefits: The present measure amends SUNY's Patents and Inventions Policy, which amendments are deemed necessary by the various university stakeholders and the SUNY Board.

4. Costs: There are no costs associated with the present measure.

5. Local Government Mandates: There are no local government mandates. The amendment does not affect students enrolled in the community colleges operating under the program of the State University of New York.

6. Paperwork: The State University of New York Policies of the Board of Trustees will need to be revised to reflect these changes. Creators of intellectual property satisfying certain conditions set forth in the policy will be required to submit an External Invention Disclosure Form as set forth in the procedure accompanying the policy. This is a one-page form that will be provided by the State University to Creators, if applicable.

7. Duplication: None.

8. Alternatives: None.

9. Federal Standards: None.

10. Compliance Schedule: None.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is submitted with this notice because the proposed rule does not impose any requirements on small businesses and local governments. This proposed rule making will not impose any adverse economic impact on small businesses and local governments or impose any reporting, recordkeeping or other compliance requirements on small businesses and local governments.

Rural Area Flexibility Analysis

No rural area flexibility analysis is submitted with this notice because the proposed rule does not impose any requirements on rural areas. The rule will not impose any adverse economic impact on rural areas or impose any reporting, recordkeeping, professional services or other compliance requirements on rural areas.

Job Impact Statement

No job impact statement is submitted with this notice because the proposed rule does not impose any adverse economic impact on existing jobs, employment opportunities, or self-employment. This regulation governs the Patents and Inventions Policy of State University of New York and will not have any adverse impact on the number of jobs or employment.

Office of Temporary and Disability Assistance

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Child Support

I.D. No. TDA-37-16-00001-P

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

Proposed Action: Amendment of section 347.19 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 111-a and 111-v; 42 U.S.C., sections 651-658, 660, 663-664, 666-667, 1302, 1396a(25), 1396b(d)(2), (o), (p) and (k); 45 C.F.R., sections 303.21, 303.69, 303.70 and 307.13

Subject: Child Support.

Purpose: To help ensure the State's compliance with the federal rules for safeguarding confidential information, disclosing said information, where appropriate, to authorized persons and entities for authorized purposes, and reporting of delinquent child support payors to credit reporting agencies.

Substance of proposed rule (Full text is posted at the following State website:http://otda.ny.gov/legal/): This is a general summary of the proposed rule text to amend to 18 NYCRR § 347.19. The full proposed rule text is posted at the following State website: http://otda.ny.gov/legal/.

The proposed rule amends 18 NYCRR § 347.19 to conform with amendments to title IV-D of the federal Social Security Act and regulations promulgated by the federal Department of Health and Human Services. Section 347.19 is renamed as "Use and Disclosure of Confidential Information and Credit Reporting" to better reflect the new provisions.

Section 347.19 (a) clarifies what information is to be safeguarded and what uses are permitted for child support purposes. It details when disclosure of location information is not permitted due to the risk of family violence. It also addresses the limitations on disclosure to third parties, including other government agencies or programs. The revisions provide instructions on the manner in which to respond to court ordered disclosure and identify the penalties for unauthorized use or disclosure. The revisions authorize the Office of Temporary and Disability Assistance to promulgate standards and controls for safeguarding confidential information on State and local systems.

New York State maintains a State parent locator service in accordance with federal law. As required by recently adopted federal regulation, § 347.19(b) establishes separate rules regarding the use and disclosure of information contained in the state parent locator service. The proposed regulation identifies the persons authorized to receive the information, the authorized uses of information, and the types of information that may be disclosed.

Section 347.19 (c) amends the existing rules regarding reporting child support arrears to consumer reporting agencies. The amendments clarify the rules setting out the threshold requirements for reporting child support arrears and the process for challenging the support collection unit's determination to make such a report.

Text of proposed rule and any required statements and analyses may be obtained from: Matthew Tulio, NYS Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, New York 12243-0001, (518) 486-9568, email: matthew.tulio@otda.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:

Social Services Law (SSL) § 20(3)(d) authorizes the Office of Temporary and Disability Assistance (OTDA) to promulgate regulations to carry out its powers and duties.

SSL § 34(3)(f) requires the Commissioner of OTDA to establish regulations for the administration of public assistance and care within the state.

SSL § 111-a requires OTDA to promulgate regulations necessary to obtain and retain approval of its child support state plan, required to be submitted to the federal Department of Health and Human Services by Part D of Title IV of the federal Social Security Act.

SSL § 111-v requires that OTDA shall by regulation prescribe and implement safeguards on the confidentiality, integrity, accuracy, access, and the use of all confidential information and other data handled or maintained, including such information handled and maintained in the automated child support enforcement system and such information shall not be disclosed except for authorized purposes.

Title 42 of the United States Code (42 U.S.C.) §§ 651-658, 660, 663-664, 666- 667, 1302, 1396a(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396b(k) sets forth authority for the title IV-D program and authorizes states to, in part, establish and maintain a State Parent Locator Service that interacts with State agencies and the federal parent locator service, requires that states safeguard confidential information contained in their records including computerized records and sets forth for what purposes and to whom confidential information may be disclosed.

Title 45 of the Code of Federal Regulations (45 C.F.R.) § 303.21 provides that states may disclose confidential information to certain state agencies as necessary to carry out their plans and responsibilities.

Federal regulations at 45 C.F.R. § 303.69 provide that states may provide confidential information to agents or attorneys of the United States from the Federal Parent Locator Service.

Federal regulations at 45 C.F.R. § 303.70 provide, in part, that states have procedures for submissions to the State Parent Locator Service or the Federal Parent Locator Service.

Federal regulations at 45 C.F.R. § 307.13 provide, in part, that states provide for security and confidentiality for computerized support enforcement systems.

2. Legislative Objectives:

It was the intent of the Legislature in enacting the above statutes that OTDA establish rules, regulations and policies so that child support enforcement services are provided to eligible persons to ensure that, to the greatest extent possible, parents provide financial support for their children. The Legislature has given OTDA and the social services districts access to confidential information about the parties and children subject to paternity and child support proceedings, and the intent of the above statutes is that such information be safeguarded and used in a confidential manner and disclosed only for permitted purposes.

3. Needs and Benefits:

The amendments to 18 NYCRR § 347.19 are being made to ensure the State's compliance with the federal rules on safeguarding confidential information, disclosing said information, where appropriate, to authorized persons and entities for authorized purposes, and on reporting of delinquent child support payors to credit reporting agencies. Specifically, the amendments describe the use and disclosure of confidential information that may be provided by OTDA or by the local child support enforcement unit to authorized persons and agencies for only authorized purposes, and authorize OTDA to set systems standards for safeguarding confidential information. The amendments describe the State parent locator service and detail the purposes for which the State parent locator and Federal parent locator services may be accessed and what agencies, persons, and courts have authority to access such services and for what purposes. The amendments further simplify the regulation as it pertains to credit reporting and the rights of respondents to contest credit reporting. These amendments align State regulations with federal rules and current processes. As such, State and local child support enforcement units are in compliance with these amendments.

4. Costs:

The proposed amendments to the regulation will not require the social services districts to incur any initial capital costs or annual costs for continuing compliance with the rule.

5. Local Government Mandates:

Social services districts will be required to comply with the proposed amendments by ensuring that any and all disclosures of confidential information are done in full compliance with federal and State requirements. The proposed amendments are clarifying in nature and consistent with federal and State laws.

6. Paperwork:

No new paperwork or reporting requirements are anticipated to be required by the proposed rule, except that persons not receiving child support services may apply for location only services through the State Parent Locator Services. Support collection units for each social services district are already processing applications for this service.

7. Duplication:

The proposed amendments do not duplicate, overlap or conflict with any existing federal or State law or regulation.

8. Alternatives:

There are no significant alternatives to consider because the proposed amendments are consistent with federal and State statutes and regulations.

9. Federal Standards:

The proposed amendments do not exceed federal minimum standards for the same subject.

10. Compliance Schedule:

It is anticipated that social services districts will be in compliance with the proposed amendments on the effective date.

Regulatory Flexibility Analysis

1. Effect of Rule

Each of the 58 social services districts in New York State will be affected by the proposed regulatory amendments. However, the proposed amendments will not impact small businesses.

2. Compliance Requirements

Social services districts will be required to comply with the proposed amendments by ensuring that confidential information is properly safeguarded and that any use or disclosure is done in full compliance with federal and State requirements. The proposed amendments are clarifying in nature and consistent with federal and State laws and regulations.

3. Professional Services

To the extent social services districts already comply with the current requirements regarding confidentiality of information, no new professional services will be imposed on them.

4. Compliance Costs

The proposed amendments to the regulations will not require the social services districts to incur any initial capital costs or annual costs for continuing compliance with the rule.

5. Economic and Technological Feasibility

The Division of Child Support Enforcement within the Office of Temporary and Disability Assistance (OTDA) continues to assume all administrative cost and responsibility for the systematic programming for implementing the State Parent Locator Service and State automated systems. Consequently, economic and technological feasibility are not concerns for social services districts.

6. Minimizing Adverse Impact

The proposed regulations will not have an adverse economic impact on social services districts or small businesses.

7. Small Business and Local Government Participation

The procedure for social services districts to safeguard confidential information is not new. The proposed amendments are clarifying in nature. Small businesses do not currently have access to child support information and will not be affected.

The statutes on which these regulatory changes are predicated have been discussed with the social services districts. OTDA and the social services districts have had ongoing discussions regarding these requirements, and this regulatory proposal will bring State regulations into compliance with federal and State requirements and, at the same time, address the practical, day-to-day needs of the social services districts.

Rural Area Flexibility Analysis

1. Type and estimated numbers of rural areas:

The proposed regulations will affect the 44 rural social services districts in the State.

2. Reporting, recordkeeping and other compliance requirements; and professional services:

Social services districts in rural areas will be required to comply with the proposed amendments by ensuring that confidential information is properly safeguarded and that any use or disclosure of confidential information is done in full compliance with federal and State requirements. The proposed amendments are clarifying in nature and consistent with existing federal and State laws and regulations.

3. Costs:

The proposed amendments to the regulations will not require the social services districts in rural areas to incur any initial capital costs or annual costs for continuing compliance with the rule.

4. Minimizing adverse impact:

The proposed regulations will not have an adverse economic impact on social services districts in rural areas.

5. Rural area participation:

The procedure for social services districts in rural areas to safeguard

confidential information and limit disclosure of such information to authorized persons and entities for authorized purposes is not new. The proposed amendments are clarifying in nature. The proposed amendments will ensure State regulations are consistent with federal requirements.

The regulatory changes have been discussed with the social services districts in rural areas. The Office of Temporary and Disability Assistance and the social services districts have had ongoing discussions regarding these requirements, and this regulatory proposal will bring State regulations into compliance with federal and State requirements, and, at the same time, address the practical, day-to-day needs of the social services districts in rural areas.

Job Impact Statement

A Job Impact Statement has not been prepared for the proposed regulatory amendments. It is apparent from the nature and the purpose of the proposed rule that it will not have a substantial adverse impact on jobs and employment opportunities in the State. The proposed amendments to 18 NYCRR § 347.19 will have no impact on jobs and employment opportunities in either the public sector or private sector of the State. Furthermore, the jobs of the child support enforcement personnel and the attorneys representing the social services districts will not be impacted in any real way by the proposed amendments.

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Public Assistance (PA) Use of Resources - General Policy

I.D. No. TDA-37-16-00004-P

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

Proposed Action: Amendment of section 352.23(b)(2) of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 17(a)-(b), (j), 20(3)(d), 34(3)(f), 131(1) and 131-n; L. 2016, ch. 54, part X, section 1

Subject: Public Assistance (PA) Use of Resources - General Policy.

Purpose: To update current PA resource exemptions related to automobiles.

Text of proposed rule: Paragraph (2) of subdivision (b) of § 352.23 of Title 18 NYCRR is amended to read as follows:

(2) one automobile, up to [$4,650] *$10,000* fair market value[.]*, through March 31, 2017; one automobile, up to $11,000 fair market value, from April 1, 2017 through March 31, 2018; and one automobile, up to $12,000 fair market value, beginning April 1, 2018 and thereafter,* [If the automobile is needed for the applicant or recipient to seek or retain employment or travel to and from work activities as defined in section 336 of the Social Services Law, the automobile exemption will be increased to an amount equal to $9,300,] or such other higher dollar value as the local social services district may elect to adopt. However, if the automobile is especially equipped with apparatus for [the handicapped] *individuals with a disability*, the apparatus must not increase the value of the vehicle;

Text of proposed rule and any required statements and analyses may be obtained from: Matthew Tulio, New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, NY 12243-0001, (518) 486-9568, email: Matthew.Tulio@otda.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:

Social Services Law (SSL) § 17(a)-(b) and (j) authorize the Commissioner of the Office of Temporary and Disability Assistance (OTDA) to: determine the policies and principles upon which public assistance (PA), services, and care shall be provided within the State, both by the State itself and by the social services districts (SSDs); make known his or her policies and principles to social services officials and public and private institutions and welfare agencies subject to the OTDA Commissioner's regulatory and advisory powers; and exercise such other powers and perform such other duties as may be imposed by law. SSL § 20(3)(d) authorizes OTDA to promulgate regulations to carry out its powers and duties. SSL § 34(3)(f) requires the Commissioner of OTDA to establish regulations for the administration of public assistance and care within the State. SSL § 131(1) requires SSDs, insofar as funds are available, to provide adequately for those unable to maintain themselves, in accordance with the provisions of the SSL. Section 1 of Part X of Chapter 54 of the Laws of 2016 amended SSL § 131-n to expand the existing resource exemption of one automobile, up to $10,000 fair market value, through March 31, 2017; one automobile, up to $11,000 fair market value, from April 1, 2017 through March 31, 2018; and one automobile, up to $12,000 fair market value, beginning April 1, 2018 and thereafter, or such other higher dollar value as the SSD may elect to adopt.

2. Legislative Objectives:

It was the intent of the Legislature in enacting the above statutes that OTDA establish rules, regulations, and policies so that adequate provision is made for those persons unable to provide for themselves, so that, whenever possible, such persons can be restored to conditions of self-support and self-care.

3. Needs and Benefits:

The proposed regulatory amendments of 18 NYCRR § 352.23(b)(2) would implement the revision of SSL § 131-n (1) provided in § 1 of Part X of Chapter 54 of the Laws of 2016. Wherein PA applicants and recipients are allowed to exempt one automobile, up to $10,000 fair market value, through March 31, 2017; one automobile, up to $11,000 fair market value, from April 1, 2017 through March 31, 2018; and one automobile, up to $12,000 fair market value, beginning April 1, 2018 and thereafter, or such other higher dollar value as the SSD may elect to adopt. Under the previous exemption, applicants and recipients of PA were allowed to exempt one automobile, up to $4,650 fair market value. If the automobile was needed for the applicant or recipient to seek or retain employment or travel to and from work activities as defined in SSL § 336, the automobile exemption was to be increased to an amount equal to $9,300, or such other higher dollar value as the SSD may elect to adopt. These regulatory amendments are required to give effect to the statutory change noted above.

4. Costs:

There would be no new cost associated with the proposed regulatory amendments, insofar as the proposed regulatory amendments would merely update State regulations to reflect current statutory requirements which have already been implemented by the SSDs and OTDA. The annual cost resulting from the new statutory requirements is estimated to be $6.5 million gross, ($2.8 million federal, $1 million state, $2.6 million local). The SFY 2016-17 Enacted Budget authorizes changes to the automobile resource exemption provisions, per Part X of Chapter 54 of the Laws of 2016. The enacted Budget Local Assistance State General Fund PA and Federal Temporary Assistance to Needy Families appropriations were increased by $1 million and $2 million, respectively, to support this purpose.

5. Local Government Mandates:

The proposed regulatory amendments would modify the existing resources exemption, and would not require any new procedures or expertise on the parts of local governments to support the change. As a result of the new statutory requirements, the annual cost spread statewide across the SSDs is estimated to be approximately $2.6 million.

6. Paperwork:

There would be no additional reporting requirements or additional paperwork required to support the proposed regulatory amendments.

7. Duplication:

The proposed regulatory amendments would not duplicate, overlap or conflict with any existing State or federal regulations.

8. Alternatives:

A possible alternative to the proposed regulatory amendments would be to leave the current 18 NYCRR § 352.23(b)(2) intact. However, under this alternative, the existing State regulations would remain inconsistent with § 1 of Part X of Chapter 54 of the Laws of 2016. Adoption of the proposed regulatory amendments would render the existing State regulation consistent with § 1 of Part X of Chapter 54 of the Laws of 2016.

9. Federal Standards:

The proposed regulatory amendments would not conflict with federal standards for use of resources.

10. Compliance Schedule:

A compliance schedule relative to the proposed regulatory amendments is unnecessary because the proposed regulatory amendments would reflect current statutory requirements set forth in § 1 of Part X of Chapter 54 of the Laws of 2016, which have already been implemented by the SSDs and OTDA.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not required because the proposed regulatory amendments would neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon small businesses or local governments. The proposed regulatory amendments would simply reflect current statutory requirements set forth in § 1 of Part X of Chapter 54 of the Laws of 2016, which have already been implemented by the social services districts and the Office of Temporary and Disability Assistance. As it was evident from the proposed regulatory amendments that they would

not have an adverse impact or impose reporting, recordkeeping, or other compliance requirements upon small businesses or local governments, no further measures were needed to ascertain those facts and, consequently, none were taken.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not required because the proposed regulatory amendments would neither have an adverse impact upon, nor impose reporting, recordkeeping, or other compliance requirements upon public or private entities in rural areas. The proposed regulatory amendments would simply reflect current statutory requirements set forth in § 1 of Part X of Chapter 54 of the Laws of 2016, which have already been implemented by the social services districts and the Office of Temporary and Disability Assistance. As it was evident from the proposed regulatory amendments that they would not have an adverse impact or impose reporting, recordkeeping, or other compliance requirements in rural areas, no further measures were needed to ascertain those facts and, consequently, none were taken.

Job Impact Statement

A Job Impact Statement is not required for the proposed regulatory amendments. It is apparent from the nature and the purpose of the proposed regulatory amendments that they would not have a substantial adverse impact on jobs and employment opportunities in the private sector, in the social services districts (SSDs) or in the State. The proposed regulatory amendments would not substantively affect the jobs of the employees of the SSDs or the State. The proposed regulatory amendments would simply reflect current statutory requirements set forth in § 1 of Part X of Chapter 54 of the Laws of 2016, which have already been implemented by the SSDs and the Office of Temporary and Disability Assistance. Thus, the proposed regulatory amendments would not have any adverse impact on jobs and employment opportunities in New York State.