

# 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.

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## Education Department

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### EMERGENCY RULE MAKING

#### Teaching Certificates in Career and Technical Education

**I.D. No.** EDU-21-17-00010-E

**Filing No.** 587

**Filing Date:** 2017-08-04

**Effective Date:** 2017-08-07

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

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

**Statutory authority:** Education Law, sections 207, 305, 3004 and 3009

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

**Specific reasons underlying the finding of necessity:** In order to address teacher shortages in the career and technical education field, the proposed amendments add an additional Transitional A pathway for holders of a bachelor's degree and one year of work experience in the career and technical education area sought, or a closely related area, as determined by the Department. The proposed amendment also uses the existing Transitional A options as the gateway to Initial and Professional certification.

A Notice of Emergency Adoption and Proposed Rule Making will be published in the *State Register* on May 24, 2017. Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) for a proposed rulemaking, would be the September 2017 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the

September meeting, would be September 27, 2017, the date a Notice of Adoption would be published in the *State Register*. To ensure these provisions are in effect prior to the next school year, emergency action is therefore necessary for the preservation of general welfare to conform to the provisions of the new law for the 2017-2018 school year and to provide candidates sufficient time to apply for certification under these pathways so school districts can hire these individuals for the 2017-2018 school year.

**Subject:** Teaching Certificates in Career and Technical Education.

**Purpose:** Establish flexibility in the requirements for teaching certificates in career and technical education to address teacher shortage.

**Substance of emergency rule (Full text is posted at the following State website: <http://www.counsel.nysed.gov/rules/full-text-indices>):** Section 80-3.3 of the Regulations of the Commissioner of Education was amended to add the career and technical education (CTE) Transitional A Pathways D, G, H, I and J to the pathways for obtaining an Initial certificate in CTE. The amendments also eliminated the requirement to take and pass the Educating All Students (EAS) exam.

Section 80-3.4 of the Regulations of the Commissioner of Education was amended to add the existing CTE Transitional A Pathways D, G, H, I and J to the existing pathways for obtaining a Professional certificate in CTE. The amendments also added a requirement that candidates must receive a satisfactory passing score on the EAS exam to obtain their professional certificate.

Section 80-3.5 of the Regulations of the Commissioner of Education was amended to add a new Transitional A Pathway J to the existing CTE pathways. This option allows those candidates with a bachelor's degree or higher in the certificate area sought, or a closely related area and one year of satisfactory work experience or hold an industry related credential in the certificate area to be taught or in a closely related subject area acceptable to the Department.

Section 80-3.7 of the Regulations of the Commissioner of Education was amended to add the existing CTE Transitional A Pathways D, G, I and J to the existing pathways for obtaining an Initial and/or a Professional certificate in CTE through individual evaluation. The amendments to this section eliminated the EAS and the required 30 semester hours of coursework required to obtain an Initial certificate and replaced the requirement with 9 hours of pedagogy coursework. The amendments added the requirement that candidates must receive a satisfactory passing score on the EAS exam in to obtain their professional certificate through individual evaluation.

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. EDU-21-17-00010-EP, Issue of May 24, 2017. The emergency rule will expire October 2, 2017.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, NYS Education Department, Office of Counsel, 89 Washington Avenue, Albany, NY 12234, (518) 474-6400, email: [legal@nysed.gov](mailto:legal@nysed.gov)

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY:

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

Education Law 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervision over schools and authority to advise and guide school district officers in their duties and the general management of their schools.

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

Education Law 3004(1), (2) and (3) authorizes the Commissioner to promulgate regulations governing the certification requirements for teach-

ers employed in public schools and requires that teacher candidates complete certain prior to obtaining certification.

Education Law 3009(1) prohibits school district money from being used to pay the salary of an unqualified teacher.

### 2. LEGISLATIVE OBJECTIVES:

The proposed emergency rule provides additional flexibility for candidates seeking a certification in a career and technical educational (CTE) subject. First, it provides for a new Option J pathway to obtain a Transitional A certificate and it also provides additional gateways to obtaining Initial and/or Professional certification through either individual evaluation or program completion. The amendments also eliminate the current 30 semester hour coursework requirement for the Initial certificate in CTE and replaces it with nine hours of pedagogy coursework for an Initial certificate and an additional nine hours of pedagogy coursework for the Professional CTE certificate.

### 3. NEEDS AND BENEFITS:

For several years, the Department has received reports from school districts and BOCES on the inability to find and retain qualified Career and Technical Education (CTE) teaching candidates. While there are current shortages in various subject areas, the CTE field has experienced additional pressures due to the unique technical skill sets required and development of new and emerging occupational areas being established in business and industry adding to the demand for qualified individuals in similar technical areas.

Due to non-traditional education and experience, prospective candidates have had difficulty obtaining certification through the traditional teacher certification requirements.

To begin to address this problem, an ad hoc advisory group, comprised of stakeholders that represent entities that hire, train, or represent CTE teachers, including school districts, BOCES, teacher preparation programs, and teacher unions, was established to consider how to restructure the existing CTE teacher certification system to simplify the process and reduce barriers to prospective teacher candidates.

After extensive discussion around the challenges to finding and hiring qualified teacher candidates and presentations on national and local induction models, consensus of the group was for the Department to draft a CTE teacher certification structure that utilized the nationally recognized 16 Career Clusters as a framework for current, new and emerging CTE titles. By doing this, prospective candidates for certification will be able to better match their education and work experience as "experts in field" and have a clear understanding of what they must do to attain Initial and/or Professional certification while meeting the needs of the hiring district.

#### Proposed Amendment:

The Department proposes adding a new Option J to the Transitional A pathway for prospective candidates who have a bachelor's degree or higher in the certificate area sought, or a closely related area and one year of satisfactory work experience or hold an industry related credential in the certificate area to be taught or in a closely related subject area acceptable to the Department. The Department is also proposing to use the existing Transitional A options, including the new Option J, as the gateway to Initial and Professional certification. Last, the amendments eliminate the 30 semester hour coursework requirement and replace it with nine semester hours of pedagogical coursework for the initial certificate and nine additional semester hours of pedagogical coursework for the professional certificate as specified below.

#### Current and Proposed Pathways Leading to Transitional A Certificate:

- Option A: An associate's or higher degree in the CTE field plus two years of work experience in the CTE field.
- Option B: A high school diploma and four years of work experience in the CTE field.
- Option C: An associate's degree in the CTE field and two years of teaching experience at the postsecondary level in the CTE field.
- Option D: A full Bureau of Proprietary School Supervision (BPSS) license in the CTE field and two years of BPSS teaching experience in the CTE field.
- Option G: High school diploma, two years of work experience in the CTE field, and an industry credential in the CTE field.
- Option H: Enrollment in a CTE program and either one year of work experience in the CTE field or passing score on an industry exam in the CTE field.
- Option I: Teaching certification in grades 7-12 (any subject) and either one year of work experience in the CTE field or an industry related credential.
- \*New\* Option J: Bachelor's degree and either one year of work experience in the CTE field or an industry credential in the CTE field.

To obtain Initial certification, in addition to meeting the requirements for a specific Transitional A option, candidates will need to complete nine semester hours of pedagogical coursework in the following:

- human development and learning including, but not limited to, the impact of culture, heritage, socioeconomic level, and factors in the home and community that may affect a student's readiness to learn;

- teaching students with disabilities and special health-care needs within the general education classroom, including assistive technology; and
- curriculum and/or instruction, including instructional technology.

To obtain Professional certification, in addition to the requirements for the Initial and passing the Educating All Students (EAS) exam, candidates will need to complete an additional nine semester hours of pedagogical coursework in the following:

- Teaching Literacy Skills Methods – 3 semester hours
- Instruction and/or Assessment
- Classroom Management

The proposed amendment also requires candidates who obtain an Initial certificate through one of the Transitional A pathways described above to take and pass the Educating All Students examination for the Professional certificate, rather than the Initial certificate, as was previously required.

In addition to the current Transitional A options, the Department is recommending a new option (Option J) to gain certain CTE certification titles. This option would allow persons who have completed a bachelor's degree in the subject area or a closely related subject area and have one year of work experience, and have completed the required workshops and fingerprint clearance to gain a Transitional A certificate.

This option is needed for the emerging occupations where it is difficult to find individuals with multiple years of experience and who want to teach instead of work in the technical field.

### 4. COSTS:

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

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

c. Costs to private regulated parties: The amendments do not impose any costs on private regulated parties.

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

### 5. LOCAL GOVERNMENT MANDATES:

The proposed amendments do not impose any additional program, service, duty or responsibility upon any local government, school districts or BOCES.

### 6. PAPERWORK:

The amendments do not require any additional paperwork requirements upon state or local government, the State Education Department, school districts, BOCES, or CTE teacher certification candidates.

### 7. DUPLICATION:

The rule does not duplicate existing State or Federal requirements.

### 8. ALTERNATIVES:

The amendments were proposed in response to concerns raised in the field regarding CTE teacher certification and barriers to certification as well as in response to the outcome of the work of CTE ad hoc advisory group. The amendment applies equally to all candidates pursuing teacher certification in New York State.

### 9. FEDERAL STANDARDS:

There are no applicable Federal standards related to the amendment.

### 10. COMPLIANCE SCHEDULE:

The proposed emergency amendment will be presented at the May 2017 Board of Regents meeting, and will be effective as an emergency rule on May 9, 2017. It is anticipated that the proposed emergency amendment will be adopted as a permanent rule at the September 2017 Board of Regents meeting, and will become effective as a permanent rule on September 27, 2017.

#### *Regulatory Flexibility Analysis*

The purpose of the proposed emergency amendment is to address concerns raised by the field related to certification in the Career and Technical Education (CTE) subjects, and to establish a new Option J pathway to obtain a Transitional A certificate in a CTE subject and to allow candidates to use the existing Transitional A pathways for obtaining certification in a CTE subject as the gateways to obtaining Initial and/or Professional certification through either individual evaluation or program completion.

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

#### *Rural Area Flexibility Analysis*

##### 1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The purpose of the proposed emergency amendment is to address concerns raised by the field related to certification in the Career and Technical Education (CTE) subjects, and to establish a new Option J to obtain a Transitional A certificate and to allow candidates to use the exist-

ing Transitional A pathways for obtaining certification in a CTE subject as the gateways to obtaining Initial and/or Professional certification through either individual evaluation or program completion.

This proposed amendment applies to all teacher certification candidates, including those in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

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

The Department proposes adding a new Option J to the Transitional A pathway for prospective candidates who have a bachelor’s degree or higher in the certificate area sought, or a closely related area and one year of satisfactory work experience or hold an industry related credential in the certificate area to be taught or in a closely related subject area acceptable to the Department. The Department is also proposing to use the existing Transitional A options, including the new Option J, as the gateway to Initial and Professional certification. Last, the amendments eliminate the 30 semester hour coursework requirement and replace it with nine semester hours of pedagogical coursework for the initial certificate and nine additional semester hours of pedagogical coursework for the professional certificate as specified below.

Current and Proposed Pathways Leading to Transitional A Certificate:

- Option A: An associates or higher degree in the CTE field plus two years of work experience in the CTE field.
- Option B: A high school diploma and four years of work experience in the CTE field.
- Option C: An associate’s degree in the CTE field and two years of teaching experience at the postsecondary level in the CTE field.
- Option D: A full Bureau of Proprietary School Supervision (BPSS) license in the CTE field and two years of BPSS teaching experience in the CTE field.
- Option G: High school diploma, two years of work experience in the CTE field, and an industry credential in the CTE field.
- Option H: Enrollment in a CTE program and either one year of work experience in the CTE field or passing score on an industry exam in the CTE field.
- Option I: Teaching certification in grades 7-12 (any subject) and either one year of work experience in the CTE field or an industry related credential.
- \*New\* Option J: Bachelor’s degree and either one year of work experience in the CTE field or an industry credential in the CTE field.

To obtain Initial certification, in addition to meeting the requirements for a specific Transitional A option, candidates will need to complete nine semester hours of pedagogical coursework in the following:

- human development and learning including, but not limited to, the impact of culture, heritage, socioeconomic level, and factors in the home and community that may affect a student’s readiness to learn;
- teaching students with disabilities and special health-care needs within the general education classroom, including assistive technology; and
- curriculum and/or instruction, including instructional technology.

To obtain Professional certification, in addition to the requirements for the Initial and passing the Educating All Students (EAS) exam, candidates will need to complete an additional nine semester hours of pedagogical coursework in the following:

- Teaching Literacy Skills Methods – 3 semester hours
- Instruction and/or Assessment
- Classroom Management

The proposed amendment also requires candidates who obtain an Initial certificate through one of the Transitional A pathways described above to take and pass the Educating All Students examination for the Professional certificate, rather than the Initial certificate, as was previously required.

In addition to the current Transitional A options, the Department is recommending a new option (Option J) to gain certain CTE certification titles. This option would allow persons who have completed a bachelor’s degree in the subject area or a closely related subject area and have one year of work experience, and have completed the required workshops and fingerprint clearance to gain a Transitional A certificate.

This option is needed for the emerging occupations where it is difficult to find individuals with multiple years of experience and who want to teach instead of work in the technical field.

**3. COSTS:**

The proposed amendments do not impose any costs on CTE teacher certification candidates in New York State, including those located in rural areas of the State. In fact, it will result in a cost savings to those pursuing CTE teacher certification in New York State because candidates will no longer be required to complete 30 semester hours of coursework to obtain their Initial certificate.

**4. MINIMIZING ADVERSE IMPACT:**

The amendments were proposed in response to concerns raised in the field regarding CTE teacher certification and barriers to certification as

well as in response to the outcome of the work of CTE ad hoc advisory group. The amendment applies equally to all candidates pursuing CTE teacher certification in New York State.

**5. RURAL AREA PARTICIPATION:**

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

**Job Impact Statement**

The purpose of the proposed emergency amendment is to address concerns raised by the field related to certification in the Career and Technical Education (CTE) subjects, and to establish a new Option J pathway to obtain a Transitional A certificate in a CTE subject and to allow candidates to use the existing Transitional A pathways for obtaining certification in a CTE subject as the gateways to obtaining Initial and/or Professional certification through either individual evaluation or program completion.

It is evident from the nature of the proposed rule that it will have no impact on the number of jobs or employment opportunities in New York State, and no further steps were needed to ascertain that fact and none were taken. In fact, it may help to address potential CTE teacher shortage issues in New York State by removing barriers to certification. Accordingly, a job impact statement is not required and one has not been prepared.

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## Department of Environmental Conservation

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### EMERGENCY RULE MAKING

**Regulations Governing the Recreational Harvest of Summer Flounder**

**I.D. No.** ENV-22-17-00001-E

**Filing No.** 586

**Filing Date:** 2017-08-03

**Effective Date:** 2017-08-03

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

**Action taken:** Amendment of Part 40 of Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 3-0301, 13-0105 and 13-0340-b

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

**Specific reasons underlying the finding of necessity:** This amendment is adopted as an emergency measure because time is of the essence. DEC submitted a Notice of Emergency Adoption and Proposed Rule Making to the Department of State on May 10, 2017 and the emergency regulations became effective that day. Those regulations will expire on August 7, 2017. This emergency re-adoption is necessary for New York to maintain compliance with the management requirements of the Atlantic States Marine Fisheries Commission (ASMFC) for summer flounder. Without this emergency re-adoption, New York’s recreational summer flounder regulations would revert to less restrictive measures that could result in excess recreational harvest of summer flounder and a finding by ASMFC that New York State is out of compliance.

**Subject:** Regulations governing the recreational harvest of summer flounder.

**Purpose:** To revise regulations concerning the recreational harvest of summer flounder in New York State.

**Text of emergency rule:** Existing subdivision 40.1(f) of 6 NYCRR is amended to read as follows:

Species Striped bass through Atlantic cod remain the same. Species Summer flounder is amended to read as follows:

40.1(f) Table A – Recreational Fishing.

Species	Open Season	Minimum Length	Possession Limit
Summer flounder	May 17 – Sept 21	[18] 19" TL	[5] 3

Species Yellowtail flounder through Oyster toadfish remain the same. **This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a

permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. ENV-22-17-00001-EP, Issue of May 31, 2017. The emergency rule will expire October 1, 2017.

**Text of rule and any required statements and analyses may be obtained from:** John Maniscalco, New York State Department of Environmental Conservation, 205 North Belle Mead Rd., Suite 1, East Setauket, NY 11733, (631) 444-0437, email: john.maniscalco@dec.ny.gov

**Additional matter required by statute:** The proposed rulemaking action is subject to SEQRA as an Unlisted action and a Short EAF was completed. DEC has determined that an EIS need not be prepared and has issued a negative declaration. The EAF and negative declaration are available upon request.

#### Regulatory Impact Statement

##### 1. Statutory authority:

Environmental Conservation Law (ECL) sections 3-0301, 13-0105, and 13-0340-b authorize the Department of Environmental Conservation (DEC or the department) to establish by regulation the open season, size, catch limits, possession and sale restrictions and manner of taking for summer flounder.

##### 2. Legislative objectives:

It is the objective of the above-cited legislation that DEC manages marine fisheries to optimize resource use for commercial and recreational harvesters in a manner that is consistent with marine fisheries conservation and management policies and interstate fishery management plans.

##### 3. Needs and benefits:

This rulemaking is necessary for New York to remain in compliance with the Atlantic States Marine Fisheries Commission's (ASMFC) approved option in Addendum XXVII to the Summer Flounder Fishery Management Plan (FMP). The National Marine Fisheries Service (NMFS) has set the 2017 coast-wide recreational harvest limit (RHL) for summer flounder thirty percent lower than it was in 2016 in response to declining stock biomass. This rulemaking will make New York State's recreational regulations for summer flounder more restrictive to reduce harvest in response to the decrease in RHL.

DEC is adopting these changes by emergency rulemaking in order to protect the general welfare. The regulations currently in place for recreational harvest of summer flounder were developed for prior fishing years, and are not restrictive enough for the current fishing year. Current summer flounder regulations do not satisfy the latest reduction mandated by the ASMFC, and leaving them unchanged would likely result in the over-harvest of summer flounder by New York anglers. Falling out of compliance with the ASMFC requirements could result in federal sanctions and closure of the summer flounder fishery.

The normal rulemaking process would not be completed in time to have these changes in place for the season opening on May 17. Emergency rulemaking is necessary to have these provisions in place by May 17 in order to avoid over-harvest of summer flounder by New York anglers.

##### 4. Costs:

There are no new costs to state and local governments from this action. The Department will incur limited costs associated with both the implementation and administration of these rules, including the costs relating to notifying recreational harvesters, party and charter boat operators and other recreational fishing associated businesses of the new rules.

##### 5. Local government mandates:

The emergency rule does not impose any mandates on local government.

##### 6. Paperwork:

None.

##### 7. Duplication:

The amendment does not duplicate any state or federal requirement.

##### 8. Alternatives:

New York State marine recreational anglers had an opportunity to comment upon the ASMFC Addendum XXVII draft, including the measures proposed in this rulemaking, during the ASMFC's public comment period from December 22, 2016 through January 19, 2017. New York's anglers also had the opportunity to attend a public hearing on the Addendum at the Division of Marine Resources office in East Setauket on January 9, 2017. While some anglers questioned the need to reduce harvest at all, support was overwhelmingly in favor of the measures included in this rule making when compared to alternative reduction options.

"No action" alternative: If New York were to not adopt regulations that reduced recreational summer flounder harvest in 2017, the State would be out of compliance with ASMFC and NMFS requirements and subject to federal sanctions.

##### 9. Federal standards:

The amendments to Part 40 in this rulemaking are in compliance with the ASMFC and the Mid-Atlantic Fishery Management Council fishery management plan for summer flounder.

##### 10. Compliance schedule:

These regulations are being adopted by emergency rulemaking and

therefore will take effect immediately upon filing with Department of State. Regulated parties must comply immediately and will be notified of the changes to the regulations through appropriate news releases, by mail, and through DEC's website.

#### Regulatory Flexibility Analysis

##### 1. Effect of rule:

The proposed amendment will implement more restrictive fishing rules for New York recreational anglers targeting summer flounder. The proposed rule will adopt the following provisions: increase the minimum size by 1 inch, from 18 to 19 inches, and reduce the possession limit from 5 fish to 3 fish; for the entire season. The open season of May 17 through September 21 (128 days) will remain unchanged.

The proposed rule is more restrictive than last year's regulations. In 2016, there were 492 licensed party and charter businesses in New York State. There were also a number of retail and wholesale marine bait and tackle shop businesses operating in New York. The 1-inch increase in size limit and 2-fish decrease in possession limit throughout the season may decrease angler interest in targeting summer flounder and may impact businesses dependent upon these trips. The new size limit will not impact all anglers in the same manner; those fishing from shore and within the bays may have more difficulty encountering legal sized fish, especially later in the season.

##### 2. Compliance requirements:

None.

##### 3. Professional services:

None.

##### 4. Compliance costs:

There are no initial capital costs that will be incurred by a regulated business or industry that complies with the emergency rule.

##### 5. Economic and technological feasibility:

The emergency regulations do not require any expenditure on the part of affected businesses in order to comply with the changes. The emergency regulations may decrease the income of party and charter businesses, marinas and marine bait and tackle shops that depend heavily upon the recreational summer flounder fishery, especially in areas where larger fish are less available.

##### 6. Minimizing adverse impact:

The promulgation of this regulation is necessary for DEC to reduce recreational summer flounder harvest in order to maintain compliance with the Atlantic States Marine Fisheries Commission (ASMFC) while providing New York's anglers with appropriate and equitable access to this popular recreational fishery. These proposed amendments are consistent with the required harvest reduction, and DEC anticipates that New York State will therefore remain in compliance with ASMFC and federal requirements.

Ultimately, the maintenance of long-term sustainable fisheries will have a positive effect on employment for the fisheries in question, including party and charter boat fisheries as well as wholesale and retail bait and tackle shops and other support industries for recreational fisheries. Failure to comply and take required actions to protect our natural resources could cause the collapse of a stock and have a severe, adverse impact on the commercial and recreational fisheries for that species as well as the supporting industries for those fisheries.

##### 7. Small business and local government participation:

New York State marine recreational anglers and associated businesses had an opportunity to comment upon Addendum XXVII, including the measures proposed in this rulemaking, during the ASMFC's public comment period from December 22, 2016 through January 19, 2017. New York's anglers also had the opportunity to attend a public hearing on the Addendum at the Division of Marine Resources office in East Setauket on January 9, 2017. While some anglers questioned the need to reduce harvest at all, support was overwhelmingly in favor of the measures included in this rule making when compared to alternative reduction options.

##### 8. Cure period or other opportunity for ameliorative action:

Pursuant to the State Administrative Procedure Act § 202-b(1-a)(b) (SAPA), a cure period is not included in the rule because of the potential adverse impact on the resource. Cure periods for the illegal taking of fish or wildlife are neither desirable nor recommended. Immediate compliance is required to ensure that the general welfare of the public and the resource are both protected.

##### 9. Initial review of rule:

The Department will conduct an initial review of the rule within three years as required by SAPA § 207(1)(b).

#### Rural Area Flexibility Analysis

The Department of Environmental Conservation has determined that this rule will not impose an adverse impact on rural areas. There are no rural areas within the marine and coastal district. The summer flounder fishery directly affected by the proposed rule is entirely located within the marine and coastal district and is not located adjacent to any rural areas of the

state. Further, the proposed rule does not impose any reporting, record-keeping, or other compliance requirements on public or private entities in rural areas. Since no rural areas will be affected by the proposed amendments of 6 NYCRR Part 40, a Rural Area Flexibility Analysis is not required.

**Job Impact Statement**

1. Nature of impact:

The proposed amendment will implement more restrictive fishing rules for New York recreational anglers targeting summer flounder. The proposed rule will adopt the following provisions: increase the minimum size by 1 inch, from 18 to 19 inches, and reduce the possession limit from 5 fish to 3 fish; for the entire season. The open season of May 17 through September 21 (128 days) will remain unchanged.

2. Categories and numbers affected:

In 2016, there were 492 licensed party and charter businesses in New York State. There were also a number of marinas, retail and wholesale marine bait and tackle shop businesses operating in New York. According to the American Sportfishing Association, in 2011 New York had an estimated 800,811 marine recreational anglers that spent \$1,194,493,042 on saltwater fishing, generating \$144,539,079 in state and local tax revenue.

3. Regions of adverse impact:

The proposed regulation is more restrictive than last year's regulations and will likely impact recreational fishing anglers and associated businesses throughout most of New York's Marine and Coastal District. The 1-inch increase in size limit and 2-fish decrease in possession limit throughout the season may decrease angler interest in targeting summer flounder and may impact businesses dependent upon these trips through lesser sales of bait, tackle, gas, dockage and for-hire fares. The new size limit will not impact all anglers in the same manner; those fishing from shore and within the bays may have more difficulty encountering legal sized fish, especially later in the season.

4. Minimizing adverse impact:

The promulgation of this regulation is necessary for DEC to reduce recreational summer flounder harvest in order to maintain compliance with the Atlantic States Marine Fisheries Commission and avoid federal sanctions.

New York State marine recreational anglers and associated businesses had an opportunity to comment upon Addendum XXVII, including the measures proposed in this rulemaking, during the ASMFC's public comment period from December 22, 2016 through January 19, 2017. New York's anglers also had the opportunity to attend a public hearing on the Addendum at the Division of Marine Resources office in East Setauket on January 9, 2017. While some anglers questioned the need to reduce harvest at all, support was overwhelmingly in favor of the measures included in this rule making when compared to alternative reduction options which would have been even more restrictive.

Ultimately, the maintenance of long-term sustainable fisheries will have a positive effect on employment for the fisheries in question, including party and charter boat fisheries as well as wholesale and retail bait and tackle shops and other support industries for recreational fisheries.

5. Self-employment opportunities:

The party and charter boat businesses, the bait and tackle shops, and marinas are, for the most part, small businesses, owned and often operated by a single owner. The recreational fishing industry is mostly self-employed. This rule will likely have a negative effect upon opportunities for businesses related to the recreational harvest of summer flounder. However, failing to adopt this rulemaking and comply with ASMFC requirements could lead to federal closure of New York's summer flounder fishery.

6. Initial review of the rule, pursuant to the State Administrative Procedure Act § 207 (SAPA):

The Department will conduct an initial review of the rule within three years as required by SAPA § 207(b).

**Proposed Action:** Amendment of Subpart 55-2 and Part 1004 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 revised rule (Full text is posted at the following State website: <https://regs.health.ny.gov/regulations/proposed-rule-making>):** 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 be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

§ 1004.1 Practitioner registration. Section 1004.1(a) and (b) are amended to align with the statute, which requires practitioners to complete a two to four-hour course and register with the department before certifying patients for medical marihuana.

§ 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(b) 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 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(a) is amended to allow forms of payment other than a certified check. Section 1004.6(e) is amended to clarify that a registered organization's registration may be amended instead of the application for registration.

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§ 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 thirty days after the date of expiration. 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 years and to require registered organizations to post a 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.

§ 1004.11 Manufacturing requirements for approved medical marihuana product(s). Section 1004.11(a)(2) is amended to update the allowable range of THC and CBD concentration per dose and brand for potency testing purposes, and is amended to remove the term "extraction" from the definition of a brand. Section 1004.11(c) is modified to remove the prohibition on the use of unprocessed whole flower, to coincide with amendments to section 1004.11(g) and the allowable forms of administration. Section 1004.11(c) is also amended to clarify reporting requirements for other cannabinoid components at >0.1%. Section 1004.11(e) is amended to update the allowable range of THC and CBD concentration per dose and brand for potency testing purposes and 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

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## Department of Health

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### REVISED RULE MAKING NO HEARING(S) SCHEDULED

**Medical Use of Marihuana**

**I.D. No.** HLT-37-16-00024-RP

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

organizations to produce medical marijuana products in new forms of administration. Section 1004.11(h) is amended to allow registered organizations to break the seal of an approved medical marijuana product for internal quality control testing or destruction. 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 a registered organization in an approved manufacturing facility.

§ 1004.12 Requirements for dispensing facilities. Section 1004.12(a) is amended to clarify that medical marijuana products may not be dispensed or handled unless an individual with an active New York State pharmacist license is on the premises and supervising. Section 1004.12(a) is further revised to clarify that dispensing facility pharmacists must complete a four hour course approved by the commissioner pursuant to section 1004.1(b). Section 1004.12(b) is amended to allow dispensing facilities to sell additional items. Section 1004.12(d) is stricken to allow food or beverages to be consumed on the premises of a dispensing facility. Section 1004.12(f) is changed to section 1004.12(d) and new section 1004.12(d) is amended to include a requirement that the Prescription Monitoring Program (PMP) Registry be consulted prior to dispensing approved medical marijuana products. Section 1004.12(g) is changed to section 1004.12(e) and new section 1004.12(e) is amended to clarify dispensing facility access restrictions. Section 1004.12(h) is changed to section 1004.12(f) and new section 1004.12(f) is revised to clarify that labels shall include the expiration date of the product once opened. Section 1004.12(m) is changed to section 1004.12(k) and new section 1004.12(k) is modified to clarify the documentation requirements for dispensing facilities that accept returns of approved medical marijuana products and to ensure secure storage until returned products can be properly disposed.

§ 1004.13 Security requirements for manufacturing and dispensing facilities. Section 1004.13(a) is revised to clarify that production and harvesting are included in the definition of manufacturing and a video surveillance requirement is also added to the disposal process. Section 1004.13(a)(8) is amended to allow registered organizations to use an automatic voice dialer, digital dialer or other acceptable industry standard equivalent. Section 1004.13(c) removes the requirement that a back-up alarm system needs to be provided by a different company than the primary alarm. Section 1004.13(g) reduces the frequency of alarm system testing that must be conducted by the registered organization. Section 1004.13(h) addresses visitors at the manufacturing facility. Section 1004.13(i) is amended to clarify the requirements for storage of marijuana. Section 1004.13(j) is amended to clarify that registered organizations must store medical marijuana in such a manner as to protect against physical, chemical and microbial contamination and deterioration. Sections 1004.13(n)-(p) are modified to remove the requirement that registered organizations only transport approved medical marijuana products from a manufacturing facility to dispensing facilities.

§ 1004.14 Laboratory testing requirements for medical marijuana. 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 marijuana. 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 clarify stability testing requirements for open and unopened products. Section 1004.14(i) is added to include a disposal requirement for laboratories. Section 1004.14(j) is added to include a requirement for laboratories to return medical marijuana products deemed unsuitable for testing to the registered organization.

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§ 1004.16 Medical Marijuana marketing and advertising by registered organizations. Section 1004.16(a) is amended to remove the requirement that only a single black and white sign may be allowed on the external structures of a registered organization. Section 1004.16(a) is also amended to remove the restriction that external signs not be illuminated. Section 1004.16(m) is amended to clarify that registered organizations may educate practitioners about medical marijuana brands or devices offered by the registered organization.

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§ 1004.20 Proper disposal of medical marijuana products by patients or designated caregivers. Section 1004.20 is amended to allow patients and caregivers to return approved medical marijuana products to the dispensing facility from which they were purchased or any dispensing facility as-

sociated 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, nurse practitioners and physician assistants, employed by registered organizations, to counsel certified patients and designated caregivers on medical marijuana product use, administration and risks.

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§ 1004.24 Registered Organizations disposal of medical marijuana. Section 1004.24 is added to provide guidance on acceptable processes for disposing of medical marijuana products and by-products.

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§ 55-2.15 Requirements for laboratories performing testing for medical marijuana. 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.

**Revised rule compared with proposed rule:** Substantial revisions were made in sections 1004.2, 1004.3, 1004.6, 1004.10-1004.14, 1004.16, 1004.20, 1004.21 and 1004.24.

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

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

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

#### Revised 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 marijuana, 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:

These proposed regulations promote the safe and effective use of approved medical marijuana products while, improving patient access, and 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 registration – The proposed regulations modify the duration of the Department approved course to allow for courses that are two to four hours in duration.

2. 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 who is temporarily residing in the State for purposes of receiving care and treatment, such information must be indicated on the certification.

3. Certified patient and designated caregiver registrations – Clarify that an acceptable proof of residence for a caregiver includes a New York State non-driver identification card.

4. Application for initial registration as a registered organization – The requirement for the prepared financial statement upon initial application for a registered organization is clarified.

5. Registered organization requirements for manufacturing and dispensing facilities – Reporting requirements for other cannabinoid components at >0.1% are clarified. The allowable range of THC and CBD concentration per brand and dose 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, but not limited to, solid and semisolid preparations (e.g. capsules, chewable and effervescent tablets, lozenges), metered ground plant preparations, and topical forms and transdermal patches. Registered organizations may break the seal of an approved medical marijuana product for internal quality control testing or destruction. 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 in any of its medical marijuana products that has not been produced by a registered organization. Dispensing facility pharmacists must complete a Department approved four-hour course. The Prescription Monitoring Program

(PMP) Registry must be consulted prior to dispensing approved medical marijuana products. Dispensing facility access restrictions are amended to allow individuals who are not certified patients or designated caregivers into the dispensing facility. Labels on all medical marijuana products shall include the expiration date of the product once opened. Dispensing facilities that accept returns must document the returns and ensure secure storage until disposal.

6. 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 thirty days following the date of expiration. Registered organizations must notify the Department of adverse events and other incidents within 24 hours. Registered organizations must maintain records of medical marijuana products or by-products which are disposed of. Registered organizations must post a Department issued certificate of registration in a conspicuous location on the premises of each manufacturing and dispensing facility. Criminal history requirements for registered organization managers or employees are clarified.

7. 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 independent laboratory performing testing on medical marijuana. 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 marijuana products deemed unsuitable for testing to the registered organization has been included.

8. Security requirements for manufacturing and dispensing facilities – A video surveillance requirement was added to the disposal process. Registered organizations must store all marijuana in a secure area or location within the registered organization as approved by the Department. Restrictions on where and how registered organizations transport medical marijuana were clarified. Manufacturing facility access restrictions are further clarified.

9. Medical marijuana marketing and advertising by registered organizations – Requirements for approved signage are amended. The regulations clarify the type of advertisements requiring Department approval.

10. Proper disposal of medical marijuana 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 marijuana products to certain dispensing facilities.

11. General prohibitions – A physician, nurse practitioner, physician assistant or pharmacist 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 marijuana product use, administration and risks.

12. Registered organizations disposal of medical marijuana - Acceptable processes for disposing of medical marijuana 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 visitors to the dispensing facility, including, but not limited to emergency personnel and persons performing regular maintenance, will not require prior authorization by the Department.

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 may result in reduced 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 ongoing monitoring and compliance of the medical marijuana program, and for laboratory services provided by Wadsworth Center laboratories for testing of medical marijuana 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:

The Department could have made this regulation final as previously proposed. However, the substantive changes proposed in this revised rulemaking will help to further enhance the medical marijuana program.

#### Federal Standards:

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

#### Compliance Schedule:

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

#### **Revised Regulatory Flexibility Analysis**

##### Effect of Rule:

This proposed rule will amend regulations for registered organizations who manufacture, distribute and sell approved medical marijuana products in New York State, as well as expand access to patients by authorizing new dosage forms and improving regulations pertaining to visitors. 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 marijuana is manufactured and dispensed.

##### Minimizing Adverse Impact:

To minimize the potential for patient adverse effects associated with the use of medical marijuana, 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 30-day public comment period with the regulations that will allow for additional comments to be considered.

#### **Revised Rural Area Flexibility Analysis**

No Rural Area Flexibility Analysis is required pursuant to Section 202-bb(4)(a) of the State Administration Procedure Act (SAPA). It is apparent from the nature of the proposed regulation that it will not impose any adverse impact on rural areas, and the rule does not impose any new reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

#### **Revised Job Impact Statement**

Changes made to the last published rule do not necessitate revision to the previously published Job Impact Statement.

**Assessment of Public Comment**

The Department of Health ("Department") received comments from various stakeholders, including but not limited to healthcare providers, registered organizations and legislators. Comments received included, but were not limited to, topics concerning manufacturing requirements, dispensing facility operations and laboratory testing. Based on the comments received, the Department is proposing revised rule making.

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

**Residential Health Care Facility Quality Pool**

**I.D. No.** HLT-41-16-00002-RP

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

**Proposed Action:** Addition of section 86-2.42 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2808(2-c)(d)

**Subject:** Residential Health Care Facility Quality Pool.

**Purpose:** To reward NYS facilities with the highest quality outcomes as determined by methodology developed by regulation.

**Substance of revised rule (Full text is posted at the following State website: <https://regs.health.ny.gov/regulations/proposed-rule-making>):**

The New York State Nursing Home Quality Pool (NHQP) is an annual budget-neutral pool that was established in the 2010-2011 final State budget. The amount of the pool is \$50 million dollars, or as determined by the Commissioner. The pool was created to incentivize Medicaid-certified nursing facilities across New York State to improve the quality of care for their residents, and to reward facilities for quality based on their performance. The set of measures used to evaluate nursing homes are part of the Nursing Home Quality Initiative (NHQI). The New York State Department of Health (NYS DOH) works in consultation with a workgroup of NYS DOH staff and industry experts comprised of representatives from nursing home associations and patient advocates to assist in the development of the NHQI. The performances of facilities in the NHQI guide the distribution of the funds in the NHQP.

The NHQI contains measurement components comprised of quality measures, compliance measures, efficiency measures, and satisfaction measures, if and when satisfaction data becomes available. The measures included in the initiative are decided upon with input and advice from the workgroup based on expert opinions, industry standards, and quality measure outcomes being assessed at the national level.

The NYS DOH assesses the facilities on their performance in all components of the NHQI as compared to their peers. Facilities are categorized into quintiles based on the distribution of their overall scores. Under the payment methodology of the NHQP, the funding of the pool is achieved by an across-the-board Medicaid rate reduction for all eligible facilities. The amount of a nursing home's Medicaid rate reduction is proportional to the nursing home's Medicaid rate as of January 1 of the payment year, and its total number of Medicaid patient days accrued during the measurement year on which the NHQI is based. The pool money is redistributed to the facilities based on their quintile placement. Facilities in the top three quintiles receive distributions, with facilities in the first quintile receiving a proportion larger than facilities in the second and third quintiles, and facilities in the second quintile receiving a proportion larger than facilities in the third quintile. The facilities in the fourth and fifth quintiles do not receive a redistribution. Additionally, if a facility receives a health inspection survey deficiency of a letter J, K, or L between July 1 of the measurement year and June 30 of the payment year, the facility is not eligible to receive a redistribution, regardless of its quintile placement.

**Revised rule compared with proposed rule:** Substantial revisions were made in section 86-2.42(a), (b), (c) and (d).

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

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

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

**Revised Regulatory Impact Statement**

Statutory Authority:

The statutory authority for this regulation is contained in Section 2808(2-c) of the Public Health Law (PHL) as enacted by Section 95 of Chapter 59 of the Laws of 2011, which authorizes the Commissioner to promulgate regulations, including emergency regulations, with regard to

Medicaid reimbursement rates for residential health care facilities. Such rate regulations are set forth in Subpart 86-2 of Title 10 (Health) of the Official Compilation of Codes, Rules, and Regulations of the State of New York.

Legislative Objectives:

Subpart 86-2 of Title 10 will be amended by adding a new section 86-2.42 to provide for the creation of a residential health care facility quality pool intended to improve the quality of care among nursing home residents in Medicaid-certified facilities, and to reward facilities based on their performance compared to their peers. This program shall be referred to as the Nursing Home Quality Pool (NHQP).

The proposed regulation permits the Commissioner to reward facilities in the NHQP based on their performance in the Nursing Home Quality Initiative (NHQI). The NHQI contains measurement components in the areas of quality, compliance, efficiency, and satisfaction, if and when satisfaction data becomes available. Failure to achieve high performance in the NHQI, as determined by the Commissioner, shall be a basis for declining to award NHQP dollars to a facility.

Needs and Benefits:

The NHQP is necessary to incentivize nursing facilities to maintain and improve the quality of care for their residents. The benefits of the NHQP include improving quality of care and, in turn, reducing overall health care costs. Specific benefits that fall under the umbrella of improving quality of care include reducing the percent of residents with pressure ulcers, reducing antipsychotic medication use, reducing urinary tract infections, reducing depression, reducing pain, reducing unnecessary weight loss, and reducing avoidable hospitalizations. These quality of care improvements are associated with reductions in health care costs and improved quality of life for nursing home residents. The additional reimbursement provided by this adjustment will support the intent of the quality pool. Facilities can use the additional funds to facilitate quality improvements through activities including, but not limited to, increasing direct care staffing levels, providing training and education for staff, and utilizing technology.

Costs:

Costs to Private Regulated Parties:

There will be no additional costs to private regulated parties. No additional data will be requested from facilities.

Costs to State Government:

There is no additional aggregate increase in Medicaid expenditures anticipated as a result of these regulations.

Costs to Local Government:

Local districts' share of Medicaid costs is statutorily capped; therefore, there will be no additional costs to local governments as a result of this proposed regulation.

Costs to the Department of Health:

There will be no additional costs to the Department of Health as a result of this proposed regulation.

Local Government Mandates:

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

Paperwork:

The proposed regulation does not have any paperwork requirements for nursing facilities.

Duplication:

This is a new State regulation and does not duplicate any existing federal, state or local regulations.

Alternatives:

The authorizing statute, PHL Section 2808(2-c), specifically provides for facilitating quality improvements through the establishment of the Nursing Home Quality Pool. Therefore, no alternatives were considered. The Department of Health worked in consultation with a workgroup of NYS DOH staff and industry experts comprised of representatives from nursing home associations and patient advocates to assist in the development of the NHQI. The measures included in the NHQI were decided upon with input and advice from the workgroup based on expert opinions, industry standards, available data, and quality measure outcomes being assessed at the national level. During development, the workgroup also provided input on the scoring methods of such quality measure outcomes. The performances of facilities in the NHQI guide the distribution of the funds in the NHQP. The workgroup will continue to provide input for future years of the NHQI.

Federal Standards:

The proposed regulation does not exceed any minimum standards of the federal government for the same or similar subject area.

Compliance Schedule:

This rule does not create new compliance or reporting requirements for nursing facilities in New York State.

**Revised Regulatory Flexibility Analysis**

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Flexibility Analysis.

**Revised Rural Area Flexibility Analysis**

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse impact on facilities in rural areas, and it does not impose reporting, record keeping or other compliance requirements on facilities in rural areas. The Nursing Home Quality Pool places no additional reporting requirements on any nursing facility or locality. The data used in the calculation of the NHQI measures are culled from existing data sources including the nursing home cost report (RHCF-4, RHCF-2), data from the DOH Bureau of Immunization, Statewide Planning and Research Cooperative System data, and data from the Centers for Medicare and Medicaid Services. The data used to determine the Medicaid rate reduction and payment distributions for the NHQP are culled from the nursing home cost report (RHCF-4, RHCF-2) and nursing home Medicaid reimbursement rates.

**Revised Job Impact Statement**

Changes made to the last published rule do not necessitate revision to the previously published Job Impact Statement.

**Assessment of Public Comment**

The Department of Health (the "Department") received comments from nursing home associations, healthcare providers, and other members of the public on the proposed rulemaking. The comments are summarized below with the Department's responses.

**COMMENT:** A commenter stated that the regulations should be written to apply to 2013 and all subsequent years.

**RESPONSE:** In response to this comment, the regulations will be revised to apply to 2013 and all subsequent and future years of the NHQP.

**COMMENT:** A commenter stated that because the regulations only pertain to rate year 2013 and do not address 2014 and beyond, the Department may not take any action related to the NHQP for 2014 and beyond.

**RESPONSE:** In response to this comment, the regulations will be revised to apply to 2013 and all subsequent and future years of the NHQP.

**COMMENT:** A commenter stated that the regulations are unenforceable because they are written for rate year 2013, which is now in the past, and therefore they are improperly retroactive. The commenter added that if the regulations did pertain to 2014, 2015, and 2016, they would also be improperly retroactive because those years are in the past.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. The regulations are not improperly retroactive. The Department has the authority to retroactively adjust Medicaid reimbursement rates. Rates are continually adjusted retroactively as appeals are processed and audits are carried out. The Department is continually processing appeals for prior years and making retroactive adjustments to a facility's Medicaid rate, and the adjustment can be positive or negative. Additionally, under 18 NYCRR 517.3(2), the Office of the Medicaid Inspector General has the authority to audit rates and recoup Medicaid overpayments made to a facility up to six years prior.

**COMMENT:** A commenter stated that the structure of the NHQP is logically unsound because it takes funds away from poor-performing facilities and awards those funds to high-performing facilities. The commenter also stated that facilities with lower Medicaid reimbursement rates will perform poorly in the NHQP.

**RESPONSE:** No changes to the proposed regulations were made in response to these comments. Funding of the NHQP is achieved through an across-the-board Medicaid rate reduction for all Medicaid-funded nursing facilities in the State, regardless of performance in the NHQP. Analysis of Medicaid reimbursement rates compared to the quintile performance of facilities in the NHQP has shown that each quintile contains facilities spanning the high and low ends of Medicaid reimbursement rates. There are facilities with low Medicaid reimbursement rates in Quintile 1, which is the highest-performing quintile, and there are facilities with high Medicaid reimbursement rates in Quintile 5, which is the poorest-performing quintile.

**COMMENT:** A commenter stated that the NHQP is unsupported by any legislation.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. The NHQP is supported by legislation. The Department has legislative authority to enact regulations to implement Public Health Law § 2808(2-c)(d). The legislature gave the Department this authority in 2011 when the statute was enacted.

**COMMENT:** A commenter stated that the quality measures used to evaluate facilities in the NHQP are not appropriate and do not consider the unique circumstances of each facility.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. Fourteen of the eighteen total measures used in the 2013 NHQP are nationally-vetted quality measures developed by the Centers for Medicare and Medicaid Services (CMS). Two additional quality measures were developed with input and guidance from the NHQP

workgroup, which consists of representatives from LeadingAge New York, New York State Health Facilities Association (NYSHFA), Greater New York Hospital Association (GNYHA)/Continuing Care Leadership Coalition (CCLC), The Healthcare Association of New York State (HANYs), as well as nursing home patient advocates. The remaining two measures are compliance measures which nursing facilities have contractual obligations to meet. To account for differences across facilities, the Department risk adjusts several measures and applies exclusions that have been agreed upon with guidance and input from workgroup members.

**COMMENT:** A commenter stated that to improve quality, the Medicaid reimbursement rates need to be equalized, and facilities with different Medicaid reimbursement rates cannot be compared.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. All nursing facilities are reimbursed using a pricing methodology which utilizes a peer group methodology. The peer groups are defined as facilities with less than 300 beds and those facilities which are either hospital based or have 300 or more beds. Through the use of the pricing methodology, facilities are as close as possible to equalized operating component rates. Differences in facility rates are a factor of the different facility case mixes and the capital components of the rates.

**COMMENT:** A commenter stated that because two different health inspection survey tools are used in different regions of the State, facilities cannot be compared across regions.

**RESPONSE:** The Department recognizes that two health inspection survey tools are used in the State. In response to this, the Department adjusted the health inspection scores by region beginning with the 2014 NHQP.

**COMMENT:** A commenter stated that because facilities must comply with minimum wage increases, the rate disparity between rural and urban areas will be minimal. The commenter added that rural areas have property taxes and higher supply costs due to shipping costs.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. These comments are beyond the scope of the proposed regulations.

**COMMENT:** A commenter stated that the NHQP provides money to special interests.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. The NHQP does not provide money to special interests. The NHQP methodology follows an objective format, evaluating facilities using vetted measures and assigning an overall score and quintile to that facility based on its performance in the measures. A facility is awarded funds using a mathematical payment formula that incorporates a facility's quintile placement, total Medicaid patient days, and Medicaid reimbursement rate.

**COMMENT:** A commenter stated that the NHQP is a regressive tax designed to close facilities.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. The NHQP is not a regressive tax designed to close facilities. The adjustments to the Medicaid reimbursement rates do not meet the essential feature of a tax because they do not produce at least some revenue for the government. The NHQP provides a monetary award to those facilities that achieve high performance so that they can continue to improve quality of care, and it incentivizes facilities that do not achieve high performance to continue striving to improve quality care.

**COMMENT:** A commenter stated that the NHQP should not be budget-neutral, and the funds should instead be derived from shared savings from Medicaid Redesign or other funding sources.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment.

**COMMENT:** A commenter stated that the NHQP payments should be distributed as close as possible to the end of the reporting year.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. The Department acknowledges this suggestion and continues to strive to achieve timely NHQP rate adjustments.

**COMMENT:** A commenter stated that there has been a lack of communication and documentation regarding how and when the NHQP will be implemented.

**RESPONSE:** No changes to the proposed regulations were made in response to this comment. The Department sent a Dear Administrator letter and NHQP methodology to facilities in July 2012. The documents contained the methodologies for the 2012 benchmarking NHQP, and the 2013 NHQP. The Department held two regional webinars for facilities on June 10, 2013, and June 12, 2013, to present the NHQP methodology and answer questions. The NHQP workgroup consists of representatives from the five nursing home associations in the state, as well as nursing home patient advocates. The Department held biannual meetings with the workgroup in 2012 and 2013, and held annual meetings in 2014, 2015, 2016, and 2017. The Department will continue to hold annual NHQP workgroup meetings. After the workgroup meetings, nursing home associations disseminate the information to their members. Several of the

associations regularly update their websites with NHQP information that is relevant to their members. The Department releases the NHQP methodology to facilities and the workgroup ahead of the calculations each year.

## New York State Joint Commission on Public Ethics

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

#### Records Access

**I.D. No.** JPE-34-17-00002-EP

**Filing No.** 590

**Filing Date:** 2017-08-08

**Effective Date:** 2017-08-08

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

**Proposed Action:** Amendment of Part 937 of Title 19 NYCRR.

**Statutory authority:** Executive Law, section 94(9)(c) and (19)

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

**Specific reasons underlying the finding of necessity:** The current version of Part 937 contains inaccurate information, including reference to our predecessor agency. The formal rulemaking process would have resulted in a continued period of time during which Part 937 would not accurately reflect the Joint Commission on Public Ethics ("Commission") statutory directives related to records access. The amendments to Part 937 will clarify procedures regarding access to the Commission's records and is necessary for the public welfare.

**Subject:** Records access.

**Purpose:** To update regulations governing records access.

**Text of emergency/proposed rule:** PART 937

#### ACCESS TO PUBLICLY AVAILABLE RECORDS

##### § 937.1 Scope and purpose

These regulations provide information concerning the procedures by which [the publicly available record set forth in section 94 (17) (a) of the Executive Law may be obtained from the New York State Commission on Public Integrity ("Commission") These records include:] records of the Joint Commission on Public Ethics ("Commission") shall be available for public inspection and copying. Pursuant to Executive Law section 94(19)(a) the only records of the Commission which shall be available for public inspection and copying are set forth below:

(a) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except the categories of value or amount, which shall remain confidential, and any other item of information deleted pursuant to Section 94(9)(h) [and (m)] of the Executive Law (*Effective until January 1, 2013*);

(b) *The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except information deleted pursuant Section 94 (9)(h) of the Executive Law (Effective January 1, 2013);*

[(b)c] Notices of Delinquency sent pursuant to section 94(1[1]2) of the Executive Law;

[(c) Notices of Reasonable Cause sent pursuant to section 94(12)(b) of the Executive Law;]

(d) Notices of Civil Assessments imposed pursuant to section 94(1[3]4) of the Executive Law that shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the Commission, and any sanction imposed;

(e) The terms of any Settlement Agreement or compromise of a complaint or referral that includes a fine, penalty or other remedy; [and]

(f) Those records required to be held or maintained publicly available pursuant to article one-A of the Legislative Law[.];and

(g) *Substantial basis investigation reports issued by the Commission pursuant to section 94 (14-a) and (14-b) of the Executive Law. With respect to reports concerning members of the Legislature or legislative employees or candidates for member of the Legislature, the Commission shall not publicly disclose or otherwise disseminate such reports except in conformance with the requirements of section 80(9)(b) of the Legislative Law.*

##### § 937.2 Designation of records access officer

(a) The Commission designates its Public Information Officer to act as the Records Access Officer.

(b) The Records Access Officer is responsible for ensuring compliance with the regulations herein.

(c) The Records Access Officer is responsible for ensuring that Commission staff perform the following actions:

(1) assist the requester in identifying the record sought, if necessary;

(2) upon locating the requested record:

(i) make the record [promptly] available for inspection in accordance with Subparts 937.3 and 937.4 herein; or

(ii) make copies free of charge unless the request is for more than 40 pages, in which case the Commission shall charge \$ 0.25 per copy or the cost of electronic reproduction.

[(iii) upon request, certify that a record is a true copy or reproduction.]

##### § 937.3 Requests for access to publicly available records

(a) A request for access to records shall be in writing or on a form approved by the Commission.

(b) A request shall reasonably describe the record sought. To the extent possible, a requesting person should supply identifying details such as the name of the person, entity or title associated with the record sought and dates or filing period.

(c) A response to a request that reasonably describes the record sought shall be made within five business days of receipt of the request by:

(1) granting access to the record; or

(2) acknowledging the receipt of the request in writing, including an approximate date when the request will be granted, which shall be reasonable under the circumstances and shall not be more than twenty business days after the date of the acknowledgement, or providing a statement in writing indicating the reason for the inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted; or

(3) if receipt of the request was acknowledged in writing and included an approximate date when the request would be granted within twenty business days of such acknowledgement, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgement specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted.

##### § 937.4 Location of records for inspection

(a) [Upon arranging an appointment with the] *Once granted, access to records will be arranged by the Records Access Officer, and the records [set forth in Subpart 937.1 shall be available for public inspection at the Commission's office.] will be made available in a convenient and appropriate manner.*

(b) [Such] A[a]ppointments for public inspection of records at the Commission's office shall be arranged on days that the Commission is regularly open for business and during the hours of 9a.m.- 4:30p.m.

##### § 937.5 Deletion of certain items of information from financial disclosure statements

(a) Prior to making any financial disclosure statement publicly available, the Records Access Officer shall delete [the categories of value or amount and] any other item of information that the Commission has determined to delete pursuant to section 94(9)(h) [and (m)] of the Executive Law[.], and for filings prior to January 1, 2013, the categories of value and amount.

(b) In accordance with the rules set forth in 19 NYCRR 94.1[19]17(b)(1), pending any application for deletion to the executive director or notice of appeal filed with the members of the Commission, all information which is the subject or a part of the application or appeal shall remain confidential. Upon an adverse determination on appeal by the members of the Commission, the reporting individual may request, within five calendar days of receipt of an adverse determination, and upon such request the Commission shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns from office prior to the issuance of a determination and holds no other office subject to the jurisdiction of the Commission, the information shall not be made public and shall be expunged in its entirety.

##### § 937.6 Records access appeals

(a) *The General Counsel, or Deputy General Counsel in the General Counsel's stead, shall act as the Records Access Appeals Officer.*

(b) *Any person denied access in whole or in part to a record or records requested may within thirty days appeal in writing such denial to the Records Access Appeals Officer who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought. This shall constitute the final determination of the Commission.*

**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 5, 2017.

**Text of rule and any required statements and analyses may be obtained from:** Carol C. Quinn, Deputy Director of Lobbying Guidance, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: carol.quinn@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: Section 9(c) of the Executive Law provides the Joint Commission on Public Ethics (“Commission”) with authority to adopt, amend, and rescind regulations to govern the procedures of the Commission. Section 94(19) of the Executive Law further provides which records of the Commission shall be available for public inspection and copying.

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 section 94 of the Executive Law with respect to record access. This regulation provides updates to a preceding regulation on the gaining of record access.

3. Needs and Benefits: The proposed rulemaking will provide clarification relating to access to Commission records.

4. Costs:  
a. Costs to regulated parties for implementation and compliance: Minimal.

b. Costs to the agency, state and local governments for the implementation and continuation of the rule: No costs to such entities.

c. Cost information is based on the fact that this rule implements the requirements set forth in Section 94(19) of the Executive Law.

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 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: This regulation is an updated version of a previous regulation concerning the same material.

9. Federal Standards: This regulation pertains to requirements that specifically relate to record access at the Commission. This regulation does not exceed any minimum standards of the federal government with regard to a similar subject area.

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

**Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Proposed Rulemaking 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 implements current law and, therefore, imposes no new requirements on such entities.

**Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis is not submitted with this Notice of Proposed Rulemaking because the proposed rulemaking will not impose any adverse economic impact on rural areas, nor will it 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 implements current law and, therefore, imposes no new requirements on such entities. Rural areas are not affected.

**Job Impact Statement**

A Job Impact Statement is not submitted with this Notice of Proposed Rulemaking because the proposed rulemaking will have limited, if any, impact on jobs or employment opportunities. This regulation implements current law and, therefore, imposes no new requirements. This regulation does not relate to job or employment opportunities.

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

**Comprehensive Lobbying Regulations**

**I.D. No.** JPE-34-17-00003-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 943 to Title 19 NYCRR.

**Statutory authority:** Executive Law, section 94(1) and (9)(c); Legislative Law, section 1-d(a)

**Subject:** Comprehensive lobbying regulations.

**Purpose:** To set forth comprehensive lobbying regulations that implement the provisions of the Lobbying Act.

**Substance of proposed rule (Full text is posted at the following State website: [www.jcope.ny.gov](http://www.jcope.ny.gov)):** A new Part 943 is added which sets forth comprehensive lobbying regulations, including provisions relating to the following topics: definitions, statutory exceptions to lobbying, general provisions and restrictions relating to lobbying, direct and grassroots lobbying, procurement lobbying, reportable lobbying activity, and filing requirements.

**Text of proposed rule and any required statements and analyses may be obtained from:** Carol C. Quinn, Deputy Director of Lobbying Guidance, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: carol.quinn@jcope.ny.gov

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

**Public comment will be received until:** October 16, 2017.

**Regulatory Impact Statement**

1. Statutory Authority: Section 94(1) of the Executive Law provides the Joint Commission on Public Ethics (“Commission”) with jurisdiction over lobbyists and clients of lobbyists, as defined by Article 1-A of the Legislative Law (the “Lobbying Act”). Section 94(9)(c) of the Executive Law directs the Commission to adopt, amend, and rescind rules and regulations to govern Commission procedures. Section 1-d(a) of the Lobbying Act provides the Commission with the power and the duty to administer the Lobbying Act.

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 section 94 of the Executive Law with respect to lobbyists and clients of lobbyists. The Lobbying Act sets forth requirements relating to lobbying activity in New York. Section 1-a of the Lobbying Act provides that, in order to maintain the integrity of governmental decision-making, it is necessary that the identity, expenditures and activities of persons and organizations retained, employed or designated to attempt to influence the passage or defeat of state and local laws, executive orders, rules, or state agency ratemakings be publicly and regularly disclosed. This regulation sets forth the requirements of the Lobbying Act in one place and provides comprehensive guidance on all aspects of lobbying activity which should promote better compliance and improved public disclosure of lobbying activities.

3. Needs and Benefits: The proposed rulemaking will implement the Lobbying Act by providing lobbyists, clients of lobbyists and the public comprehensive guidance on all requirements relating to lobbying activity in New York State.

4. Costs:  
a. Costs to regulated parties for implementation and compliance: Minimal.

b. Costs to the agency, state and local governments for the implementation and continuation of the rule: No costs to such entities.

c. Cost information is based on the fact that this rule implements the requirements set forth in the Lobbying Act and provides comprehensive guidance on lobbying activity requirements in one place, which should provide more clarity to both the public and regulated community.

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 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: This regulation is the first time comprehensive lobbying guidance has been set forth in regulation. Since it should assist both the public and the regulated community in understanding and complying with the Lobbying Act’s requirements and, thereby, promote public disclosure of lobbying activities, no other alternatives were considered.

9. Federal Standards: This regulation pertains to requirements that specifically relate to lobbying activity in New York State. This regulation does not exceed any minimum standards of the federal government with regard to a similar subject area.

10. Compliance Schedule: Compliance shall take effect within 180 days of adoption.

**Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Proposed Rulemaking 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 application to lobbyists or clients of lobbyists, including public corporations. It implements current law and, therefore, imposes no new requirements on such entities.

#### **Rural Area Flexibility Analysis**

A Rural Area Flexibility Analysis is not submitted with this Notice of Proposed Rulemaking because the proposed rulemaking will not impose any adverse economic impact on rural areas, nor will it 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 application to lobbyists or clients of lobbyists, including public corporations. It implements current law and, therefore, imposes no new requirements on such entities. Rural areas are not affected.

#### **Job Impact Statement**

A Job Impact Statement is not submitted with this Notice of Proposed Rulemaking because the proposed rulemaking will have limited, if any, impact on jobs or employment opportunities. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears application to lobbyists or clients of lobbyists, including public corporations. It implements current law and, therefore, imposes no new requirements. This regulation does not relate to job or employment opportunities.

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

#### **Source of Funding Reporting**

**I.D. No.** JPE-34-17-00004-P

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

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

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

**Subject:** Source of funding reporting.

**Purpose:** To make consistent with the new comprehensive lobbying regulations at Part 943 and clarify exemption procedures.

**Substance of proposed rule (Full text is posted at the following State website: [www.jcope.ny.gov](http://www.jcope.ny.gov)):** Part 938 is amended to be consistent with the comprehensive lobbying regulations set forth in a new Part 943, including provisions relating to Beneficial Clients and Coalitions. It also clarifies what constitutes a Contribution and what information must be disclosed regarding a Source. Provisions relating to exemptions from disclosure of a source of funding are also amended to conform to the statute.

**Text of proposed rule and any required statements and analyses may be obtained from:** Carol C. Quinn, Deputy Director of Lobbying Guidance, Joint Commission on Public Ethics, 540 Broadway, Albany, New York 12207, (518) 408-3976, email: [carol.quinn@jcope.ny.gov](mailto:carol.quinn@jcope.ny.gov)

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

**Public comment will be received until:** October 16, 2017.

#### **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. Chapter 286 of the Laws of 2016 also amended the Legislative Law to include a requirement that lobbyists and clients of lobbyists who spend at least \$15,000 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 "\$15,000/3% expenditure threshold"), disclose the sources of funding over \$2,500 from each single source used for such lobbying activities in

New York State. Further, excluded 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 maintain consistency with the new comprehensive lobbying regulations at Part 943 and to clarify the exemption provisions as set forth in Article 1-A of the Legislative Law.

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 within 180 days of adoption.

#### **Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis of Small Businesses and Local Governments is not submitted with this Notice of Proposed Rulemaking because the proposed rulemaking will not impose any adverse economic impacts 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 lobbyists or 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 Proposed Rulemaking because the proposed rulemaking will not impose any adverse economic impacts on rural, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the rural areas. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to lobbyists or 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 Proposed Rulemaking because the proposed rulemaking will have 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 lobbyists or 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.

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## **Office for People with Developmental Disabilities**

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

#### **Developmental Disability Definition Update**

**I.D. No.** PDD-34-17-00001-P

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

**Proposed Action:** This is a consensus rule making to amend Parts 624, 633, 635, 671, 676, 679, 680, 681, 686, 687 and 690 of Title 14 NYCRR.

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

**Subject:** Developmental Disability Definition Update.

**Purpose:** To conform OPWDD's definition of developmental disability in existing regulations with Mental Hygiene Law.

**Text of proposed rule:** Existing subdivision 624.20(q) is deleted and a new subdivision 624.20(q) is added as follows:

(q) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 633.99(ai) is deleted and a new subdivision 633.99(ai) is added as follows:

(ai) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 635-99.1(ae) is deleted and a new subdivision 635-99(ae) is added as follows:

(ae) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 671.99(j) is deleted and a new subdivision 671.99(j) is added as follows:

(j) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 676.12(m) is deleted and a new subdivision 676.12(m) is added as follows:

(m) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 679.99(j) is deleted and a new subdivision 679.99(j) is added as follows:

(j) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 680.13(n) is deleted and a new subdivision 680.13(n) is added as follows:

(n) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 681.99(h) is deleted and a new subdivision 681.99(h) is added as follows:

(h) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 686.99(o) is deleted and a new subdivision 686.99(o) is added as follows:

(o) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 687.99(d) is deleted and a new subdivision 687.99(d) is added as follows:

(d) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

Existing subdivision 690.99(p) is deleted and a new subdivision 690.99(p) is added as follows:

(p) *Disability, developmental. A developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.*

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

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

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

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

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

#### Consensus Rule Making Determination

In conformance with Mental Hygiene Law, OPWDD is updating existing regulations in Title 14 NYCRR to conform OPWDD's definition of developmental disability, with the definition of developmental disability as defined in section 1.03(22) of the Mental Hygiene Law.

OPWDD has determined that due to the nature and purpose of the amendments no person is likely to object to the rule as written.

#### Job Impact Statement

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

The proposed regulation updates existing regulations in Title 14 NYCRR to conform OPWDD's definition of developmental disability, to the definition of developmental disability as defined in section 1.03(22) of the Mental Hygiene Law. The amendment makes a technical change that will not result in any increased costs (including staffing costs) or compli-

ance activities. Consequently, the proposed regulation will not have a substantial adverse impact on jobs or employment opportunities.

## Public Service Commission

### NOTICE OF ADOPTION

#### Petition for Rehearing and/or Clarification of the Track One Order

**I.D. No.** PSC-17-15-00004-A

**Filing Date:** 2017-08-02

**Effective Date:** 2017-08-02

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

**Action taken:** On 8/2/17, the PSC adopted an order granting clarification and denying rehearing of the Order Adopting Regulatory Policy Framework and Implementation Plan (Track One Order).

**Statutory authority:** Public Service Law, sections 4(1), 5(1), (2), 22, 65(1) and 66(1)

**Subject:** Petition for rehearing and/or clarification of the Track One Order.

**Purpose:** To grant clarification and deny rehearing of the Track One Order.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order addressing the joint petition filed on March 30, 2015, by the Alliance for a Green Economy, Binghamton Regional Sustainability Coalition, The Center for Social Inclusion, Citizens' Environmental Coalition, Citizens for Local Power, and People United for Sustainable Housing (PUSH) Buffalo, for rehearing and/or clarification of the Commission's February 26, 2015 Order Adopting Regulatory Policy Framework and Implementation Plan (Track One Order). The Commission denied rehearing, but granted clarification that utilities may own distributed energy resources for the benefit of low- and moderate-income consumers, subject to the terms and conditions set forth in the order.

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

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

#### Assessment of Public Comment

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

(14-M-0101SA11)

### NOTICE OF ADOPTION

#### Petition for Implementation of a Microgrid Business Model

**I.D. No.** PSC-20-15-00006-A

**Filing Date:** 2017-08-03

**Effective Date:** 2017-08-03

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

**Action taken:** On 8/2/17, the PSC adopted an order denying Pareto Energy Ltd.'s (Pareto) petition to implement a Microgrid Business Model in Consolidated Edison Company of New York, Inc.'s (Con Edison) service territory.

**Statutory authority:** Public Service Law, sections 5(2), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

**Subject:** Petition for implementation of a Microgrid Business Model.

**Purpose:** To deny Pareto's petition to implement a Microgrid Business Model in Con Edison's service territory.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order denying Pareto Energy Ltd.'s petition to implement a Microgrid Business Model in Consolidated Edison Company of New York, Inc.'s service territory, subject to the terms and conditions set forth in the order.

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

**Text of rule may be obtained from:** John Pitucci, Public Service Commis-

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

**Assessment of Public Comment**

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

(15-E-0250SA1)

## NOTICE OF ADOPTION

### Revised Customer Service Reporting Metrics

**I.D. No.** PSC-25-16-00019-A

**Filing Date:** 2017-08-04

**Effective Date:** 2017-08-04

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

**Action taken:** On 8/2/17, the PSC adopted an order adopting the revised customer service reporting metrics, with modifications.

**Statutory authority:** Public Service Law, sections 37, 66, 80, 89-c and 111

**Subject:** Revised customer service reporting metrics.

**Purpose:** To adopt the revised customer service reporting metrics, with modifications.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order adopting the revised customer service reporting metrics, with modifications. Consolidated Edison Company of New York, Inc.; Niagara Power Corporation, d/b/a National Grid; Central Hudson Gas and Electric Corporation; Orange & Rockland Utilities, Inc.; Rochester Gas and Electric Corporation (RG&E); New York State Electric & Gas Corporation (NYSEG); National Fuel Gas Distribution Corporation; The Brooklyn Union Gas Company d/b/a National Grid NY; and, KeySpan Gas East Corporation, d/b/a National Grid are directed to begin reporting performance on the customer service measures listed in the Appendix to this Order, as soon as practicable, and in no event later than the first report that is due after 90 days from the date of this order. Department of Public Service Staff shall convene a collaborative with the utilities 90 days after the issuance of this Order, to further develop the statewide customer satisfaction survey or alternatives, and to issue a proposal for statewide measurement of customer satisfaction within 6 months thereafter. The Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid shall discuss with Staff and interested parties aligning their respective customer satisfaction survey methodologies within the context of this collaborative. RG&E and NYSEG shall, within 90 days of issuance of this Order, file a plan for including collection-related calls in their telephone answer response metric, or explain why inclusion of these calls is not practical, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(15-M-0566SA1)

## NOTICE OF ADOPTION

### Con Edison's Replevin Acts and Practices

**I.D. No.** PSC-39-16-00028-A

**Filing Date:** 2017-08-02

**Effective Date:** 2017-08-02

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

**Action taken:** On 8/2/17, the PSC adopted an order regarding the Public Utility Law Project of New York Inc.'s (PULP) petition to review Consolidated Edison Company of New York, Inc.'s (Con Edison) replevin acts and practices.

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

**Subject:** Con Edison's replevin acts and practices.

**Purpose:** To review Con Edison's replevin acts and practices with regards to PULP's petition.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order regarding the Public Utility Law Project of New York Inc.'s (PULP) petition to review Consolidated Edison Company of New York, Inc.'s (Con Edison) replevin acts and practices and directed Con Edison to make modifications to improve transparency and accountability in Con Edison's replevin actions. Con Edison is directed to review the information that Company customer service representatives input regarding deferred payment agreements (DPAs), and file a report within 60 days on the feasibility of including, at a minimum: the date, type and terms of the offers; the date and terms of negotiated DPAs; the date DPAs were mailed; and, documentation of returned DPAs with customer signatures in its customer service system. Con Edison is directed to file revised Voluntary Informal Conference procedures and shall file quarterly reports on customer accounts involved in the replevin process. Con Edison is also directed to propose an electronic deferred payment agreement program for Commission approval within six months of this Order, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(16-M-0501SA1)

## NOTICE OF ADOPTION

### Petition for a Declaratory Ruling on Eligible Satellite Accounts for Remote Net Metering

**I.D. No.** PSC-46-16-00015-A

**Filing Date:** 2017-08-02

**Effective Date:** 2017-08-02

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

**Action taken:** On 8/2/17, the PSC adopted an order approving to the extent as described in the Order and otherwise denying, Sunlight Beacon LLC (Sunlight Beacon) and BQ Energy LLC's (BQ Energy) petition for a declaratory ruling.

**Statutory authority:** Public Service Law, sections 5(2), 66-j and 66-l

**Subject:** Petition for a declaratory ruling on eligible satellite accounts for remote net metering.

**Purpose:** To approve to an extent and otherwise deny Sunlight Beacon and BQ Energy's petition for a declaratory ruling.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving to the extent as described in the Order and otherwise denying a petition for a Declaratory Ruling submitted by Sunlight Beacon LLC and BQ Energy LLC. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation are directed to file, in conformance with the discussion in the body of this order, tariff leaves allowing non-metered accounts to be eligible satellite accounts as part of remote net metering (RNM) projects and eligible subscriber accounts as part of Community Distributed Generation (CDG) projects, where those RNM and CDG projects are compensated based on Value of Distributed Energy Resources Phase One tariffs, either as monetary crediting projects under Phase One Net Energy Metering (NEM) or as projects compensated under the Value Stack, on not less than 5 days' notice to become effective on August 31, 2017, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.  
(16-E-0604SA1)

**NOTICE OF ADOPTION****Shared Solar Pilot Program**

**I.D. No.** PSC-46-16-00018-A

**Filing Date:** 2017-08-02

**Effective Date:** 2017-08-02

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

**Action taken:** On 8/2/17, the PSC adopted an order approving, with modifications, Consolidated Edison Company of New York, Inc.'s (Con Edison) petition for a Shared Solar Pilot Program.

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

**Subject:** Shared Solar Pilot Program.

**Purpose:** To approve, with modifications, Con Edison's petition for a Shared Solar Pilot Program.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving, with modifications, Consolidated Edison Company of New York, Inc.'s (Con Edison) petition for a Shared Solar Pilot Program (Shared Solar Pilot) to provide Community Distributed Generation (CDG) to customers participating in the Con Edison's established electric low income affordability program (low income customers). The first phase of Con Edison's proposed Shared Solar Pilot, allowing Con Edison to procure and install approximately 3 megawatts (MW) of solar generation on their property for the benefit of low income customers, is authorized for a maximum capital expenditure budget of \$9 million. Con Edison is also directed to recover the net costs of the Shared Solar Pilot through the Monthly Adjustment Clause, file an Implementation Plan, quarterly reports, detailed accounting procedures, an outreach plan and tariff revisions, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(16-E-0622SA1)

**NOTICE OF ADOPTION****Submetering of Electricity and Waiver Request**

**I.D. No.** PSC-05-17-00004-A

**Filing Date:** 2017-08-07

**Effective Date:** 2017-08-07

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

**Action taken:** On 8/2/17, the PSC adopted an order approving Himrod Development LLC's (Himrod) petition to submeter electricity at 336 Himrod Street, Brooklyn, New York and request for waiver of 16 NYCRR § 96.5(k)(3).

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

**Subject:** Submetering of electricity and waiver request.

**Purpose:** To approve Himrod's petition to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving Himrod Development LLC's petition to submeter electricity at 336 Himrod Street, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. and request for waiver of the energy audit and energy efficiency plan requirements in 16

NYCRR § 96.5(k)(3), subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(16-E-0717SA1)

**NOTICE OF ADOPTION****Joint Petition on Water Supply Agreement, Tariff Revisions and Waivers**

**I.D. No.** PSC-06-17-00005-A

**Filing Date:** 2017-08-04

**Effective Date:** 2017-08-04

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

**Action taken:** On 8/2/17, the PSC adopted an order approving a joint petition between Saratoga Water Services, Inc. (Saratoga Water) and GLOBALFOUNDRIES U.S. INC. (GLOBAL) regarding a water supply agreement, tariff revisions and waivers.

**Statutory authority:** Public Service Law, sections 4(1), 5(1)(2), 89-b, 89-c, 89-c(1), (3), (10)(a), (b) and (f)

**Subject:** Joint petition on water supply agreement, tariff revisions and waivers.

**Purpose:** To approve Saratoga Water and GLOBAL's joint petition regarding a water supply agreement, tariff revisions and waivers.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving a joint petition between Saratoga Water Services, Inc. (Saratoga Water) and GLOBALFOUNDRIES U.S. INC. (GLOBAL) regarding Saratoga Water's Agreement for the Provision of Interruptible Water Service with GLOBAL and the extension of water service and waivers of Sections XI (1) and XIII, on Leaves 44 and 45 of Saratoga Water's tariff (PSC No. 3 – Water) and 16 NYCRR §§ 501.2, 501.3, 501.4, 501.6, 501.9 and 502.3. Saratoga Water is also directed to file tariff leaves containing the proposed Service Classification 3A, Interruptible Industrial Process Water Service and is to annually report any customers' share of incremental revenues above the minimum sales revenues from Service Classification 3A in its annual report filed with the Commission and to propose treatment of the deferral balance with interest once the deferral balance reaches a certain level, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(16-W-0721SA1)

**NOTICE OF ADOPTION****Submetering of Electricity and Waiver Request**

**I.D. No.** PSC-13-17-00004-A

**Filing Date:** 2017-08-07

**Effective Date:** 2017-08-07

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

**Action taken:** On 8/2/17, the PSC adopted an order approving Seaview C Development LLC's (Seaview C) notice of intent to submeter electricity

at 155-175 Friendship Lane, Staten Island, New York and request for waiver of 16 NYCRR § 96.5(k)(3).

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

**Subject:** Submetering of electricity and waiver request.

**Purpose:** To approve Seaview C's notice of intent to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving Seaview C Development LLC's notice of intent to submeter electricity at 155-175 Friendship Lane, Staten Island, New York, located in the service territory of Consolidated Edison Company of New York, Inc. and request for waiver of the energy audit and energy efficiency plan requirements in 16 NYCRR § 96.5(k)(3), subject to the terms and conditions set forth in the order.

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

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

#### Assessment of Public Comment

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

(17-E-0098SA1)

### NOTICE OF ADOPTION

#### Petition for Rehearing

**I.D. No.** PSC-15-17-00004-A

**Filing Date:** 2017-08-07

**Effective Date:** 2017-08-07

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

**Action taken:** On 8/2/17, the PSC adopted an order approving, in part, Rolling Meadows Water Corporation's (Rolling Meadows) petition for a rehearing of the February 21, 2017 Order Approving Rates and Eliminating Surcharge (February Order).

**Statutory authority:** Public Service Law, sections 4, 5, 22, 89-c(1) and (10)

**Subject:** Petition for rehearing.

**Purpose:** To approve, in part, Rolling Meadows petition for a rehearing of the February Order.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving, in part, Rolling Meadows Water Corporation's (Rolling Meadows) petition for a rehearing of the February 21, 2017 Order Approving Rates and Eliminating Surcharge, to the extent of increasing the volumetric rate to \$8.84 per thousand gallons. Rolling Meadows request to increase its allowed rate case expense is denied and Rolling Meadows is directed to file revised Leaf No. 12 to P.S.C. No. 4 – Water, on not less than one day's notice, to become effective September 1, 2017, in the form shown in Appendix A, subject to the terms and conditions set forth in the order.

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

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

#### Assessment of Public Comment

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

(16-W-0121SA2)

### NOTICE OF ADOPTION

#### Tariff Amendment

**I.D. No.** PSC-20-17-00006-A

**Filing Date:** 2017-08-04

**Effective Date:** 2017-08-04

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

**Action taken:** On 8/2/17, the PSC adopted an order approving Orange and Rockland Utilities, Inc.'s (O&R) tariff amendment to Service Classification (SC) No. 4, contained in P.S.C. No. 3 — Electricity.

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

**Subject:** Tariff amendment.

**Purpose:** To approve O&R's tariff amendment to SC No. 4, contained in P.S.C. No. 3 — Electricity.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving Orange and Rockland Utilities, Inc.'s tariff amendment to incorporate a 23 watt Light Emitting Diode option within Service Classification No. 4 – Public Street Lighting – Company Owned, contained in P.S.C. No. 3 – Electricity, subject to the terms and conditions set forth in the order.

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

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

#### Assessment of Public Comment

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

(16-E-0226SA2)

### NOTICE OF ADOPTION

#### Statewide Standardized Interconnection Forms

**I.D. No.** PSC-20-17-00009-A

**Filing Date:** 2017-08-02

**Effective Date:** 2017-08-02

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

**Action taken:** On 8/2/17, the PSC adopted an order approving the New York State Standard Site Control Certification Form (Site Control Certification) and the New York State Standard Moratorium Attestation Form (Moratorium Attestation).

**Statutory authority:** Public Service Law, sections 5(2), 65(3), 66(1), (2), (3), (4), (12)(a), (b), 66-c, 66-j and 66-l

**Subject:** Statewide Standardized Interconnection Forms.

**Purpose:** To adopt the New York State Site Control Certification and Moratorium Attestation Forms.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving the New York State Standard Site Control Certification Form and the New York State Standard Moratorium Attestation Form. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a/ National Grid, Orange & Rockland Utilities, Inc., and Rochester Gas & Electric Corporation are directed to file, on not less than two days' notice, to become effective on August 16, 2017, updated Standardized Interconnection Requirements as addenda to their tariffs, in conformance with the discussion in the body of this Order and Appendices A and B, subject to the terms and conditions set forth in the order.

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

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

#### Assessment of Public Comment

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

(16-E-0560SA2)

## NOTICE OF ADOPTION

## Pole Attachment Rates

I.D. No. PSC-21-17-00011-A

Filing Date: 2017-08-04

Effective Date: 2017-08-04

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

**Action taken:** On 8/2/17, the PSC adopted an order approving, with modification, New York Municipal Power Agency's (NYMPA) petition for an increase to its pole attachment rates.

**Statutory authority:** Public Service Law, sections 65, 66 and 119-a

**Subject:** Pole attachment rates.

**Purpose:** To approve, with modifications, NYMPA's petition for an increase to its pole attachment rates.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving, with modification, New York Municipal Power Agency's (NYMPA) petition for an increase to its pole attachment rates. The 36 municipal electric companies that NYMPA represents are authorized to file tariff amendments containing an annual pole attachment rate of \$11.98, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(17-E-0243SA1)

## NOTICE OF ADOPTION

## Tariff Amendment

I.D. No. PSC-22-17-00005-A

Filing Date: 2017-08-02

Effective Date: 2017-08-02

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

**Action taken:** On 8/2/17, the PSC adopted an order approving Central Hudson Gas & Electric Corporation's (Central Hudson) tariff amendment to General Information Section (GIS) 5, contained in P.S.C. No. 12 — Gas.

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

**Subject:** Tariff amendment.

**Purpose:** To approve Central Hudson's tariff amendment to GIS 5, contained in P.S.C. No. 12 — Gas.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving Central Hudson Gas & Electric Corporation's (Central Hudson) tariff amendment to General Information Section 5 — Extension of Mains and Service Lines to Effectuate Amendments to 49 CFR Part 192 Regarding the Installation of Excess Flow Valves Mandated by the Pipeline and Hazardous Materials Safety Administration, contained in P.S.C. No. 12 — Gas, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(17-G-0256SA1)

## NOTICE OF ADOPTION

## Joint Petition Regarding a Waiver for the Consideration of Service Extensions

I.D. No. PSC-23-17-00020-A

Filing Date: 2017-08-04

Effective Date: 2017-08-04

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

**Action taken:** On 8/2/17, the PSC adopted an order approving a joint petition between Saratoga Water Services, Inc. (Saratoga Water) and GLOBALFOUNDRIES U.S. INC. (GLOBAL) regarding a waiver for the consideration of service extensions.

**Statutory authority:** Public Service Law, sections 4(1), 5(1), (2), 89-b, 89-c, 89-c(1), (3), (10)(a), (b) and (f)

**Subject:** Joint petition regarding a waiver for the consideration of service extensions.

**Purpose:** To approve Saratoga Water and GLOBAL's joint petition regarding a waiver for the consideration of service extensions.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving a joint petition between Saratoga Water Services, Inc. (Saratoga Water) and GLOBALFOUNDRIES U.S. INC. (GLOBAL) regarding a waiver of 16 NYCRR § 501.10, allowing Saratoga Water to obtain the approval of the Department of Environmental Conservation for its service area expansion, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(16-W-0721SA2)

## NOTICE OF ADOPTION

## Petitions for Rehearing, Reconsideration, or Clarification Seeking to Revise the April 20, 2017 Order

I.D. No. PSC-24-17-00007-A

Filing Date: 2017-08-03

Effective Date: 2017-08-03

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

**Action taken:** On 8/2/17, the PSC adopted an order approving in part and denying in part petitions for rehearing, reconsideration, or clarification seeking to revise the Order Establishing Statewide Inspection Schedules and Procedural Requirements, issued April 20, 2017.

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

**Subject:** Petitions for rehearing, reconsideration, or clarification seeking to revise the April 20, 2017 Order.

**Purpose:** To approve in part and deny in part petitions for rehearing, reconsideration, or clarification seeking revisions.

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving in part and denying in part petitions filed by National Fuel Gas Distribution Corporation (NFG), Consolidated Company of New York, Inc. (Con Edison) and Orange & Rockland Utilities, Inc., the Northeast Gas Association, The Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid (collectively, National Grid), and New York State Electric & Gas/Rochester Gas & Electric for rehearing, reconsideration, or clarification seeking to revise the Order Establishing Statewide Inspection Schedules and Procedural Requirements, issued April 20, 2017 (April 20 Order). The April 20 Order is amended by changing the last sentence of the first paragraph on page 4 to state, "When a meter is set outside a building, jurisdiction extends to the outside building wall," and the last sentence of the Order narrative on

page 37 shall state, "baseline inside leakage surveys in business districts shall be completed within 15 months and atmospheric corrosion inspections with three years of the date of this Order." All inside leakage surveys and corrosion inspections completed by New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utilities Commission since the commencement of this proceeding, as long as they were completed in a manner consistent with the April 20 Order may be counted towards the total baseline inspection requirement. Inside leakage surveys and corrosion inspections completed before December 31, 2017, shall be counted towards the leakage surveys and corrosion inspections due to be completed in 2018. NFG's request to allow local distribution companies to terminate service based solely on a customer's failure to provide access to a premise to perform the gas safety inspections is denied. Con Edison's request to reconcile the April 20 Order and the Order Approving Electric and Gas Rate Plans, issued January 25, 2017, with respect to the accounting mechanism to be used for costs incurred to perform the inside leakage surveys and corrosion inspections is approved. New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utilities Commission are directed to track new incremental costs associated with completing inside leakage surveys and corrosion inspections incurred due to the amendment of the gas service line definition, i.e., for pipe that is between the building wall and the meter, until such costs normalize, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(15-G-0244SA2)

## NOTICE OF ADOPTION

### Submetering of Electricity and Waiver Request

**I.D. No.** PSC-24-17-00009-A

**Filing Date:** 2017-08-07

**Effective Date:** 2017-08-07

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

**Action taken:** On 8/2/17, the PSC adopted an order approving West Street Apartments LLC's (West Street) petition to submeter electricity at 1013 West Street, Utica, New York and request for waiver of 16 NYCRR § 96.5(k)(3).

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

**Subject:** Submetering of electricity and waiver request.

**Purpose:** To approve West Street's petition to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).

**Substance of final rule:** The Commission, on August 2, 2017, adopted an order approving West Street Apartments LLC's petition to submeter electricity at 1013 West Street, Utica, New York, located in the service territory of Niagara Mohawk Power Corporation d/b/a National Grid and request for waiver of the energy audit and energy efficiency plan requirements in 16 NYCRR § 96.5(k)(3), subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(17-E-0199SA1)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Proposed Electric and Gas Energy Efficiency Budget and Metrics Plan

**I.D. No.** PSC-34-17-00005-P

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

**Proposed Action:** The Commission is considering the proposed 2017-2020 Electric and Gas Budget and Metrics Plan filed by Niagara Mohawk Power Corporation on June 1, 2017 pursuant to the Commission's Order issued January 22, 2016 in Case 15-M-0252.

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

**Subject:** Proposed electric and gas energy efficiency budget and metrics plan.

**Purpose:** To establish an energy efficiency budget and metrics plan for the Company's electric and gas portfolios for the years 2017-2020.

**Substance of proposed rule:** The Public Service Commission is considering a proposed 2017-2020 Electric and Gas Budget and Metrics Plan filed by Niagara Mohawk Power Corporation d/b/a National Grid on June 1, 2017 pursuant to the January 22, 2016 Commission Order in Case 15-M-0252. The 2017-2020 Electric and Gas Budget and Metrics Plan, filed in compliance with the Order Adopting Regulatory Policy Framework and Implementation Plan issued by the Commission on February 26, 2015 in Case 14-M-0101, the Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 issued by the Commission on June 19, 2015 in Case 15-M-0252, the Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016-2018 issued by the Commission on January 22, 2016 in Case 15-M-0252, and CE-01 ETIP Guidance, Version 2.0, New York State Department of Public Service – Office of Clean Energy (dated July 28, 2016), describes proposed budgets and targets for the utility's Energy Efficiency Transition Implementation Plan. The full text of the 2017-2020 Electric and Gas Budget and Metrics Plan may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, modify or reject, in whole or in part, the Company's proposal. The Commission may also consider other related matters, including but not restricted to: novel approaches or improvements to various energy efficiency practices and tools, such as the New York State Technical Resource Manual; Metrics and Potential Associated Incentives; Evaluation, Measurement and Verification; Cost Effectiveness; Program Design; Coordination of Delivery, Performance Assessment and Data Sharing; Cost Recovery; and Activities of the Clean Energy Advisory Council.

**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](mailto:secretary@dps.ny.gov)

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

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

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

(15-M-0252SP28)

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

**Proposed Gas Energy Efficiency Budget and Metrics Plan**

**I.D. No.** PSC-34-17-00006-P

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

**Proposed Action:** The Commission is considering the proposed 2017 Budgets and Metrics Plan filed by National Fuel Gas Distribution Corporation on June 1, 2017 pursuant to the Commission's Order issued January 22, 2016 in Case 15-M-0252.

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

**Subject:** Proposed gas energy efficiency budget and metrics plan.

**Purpose:** To establish an energy efficiency budget and metrics plan for the Company's gas portfolio for the years 2017-2020.

**Substance of proposed rule:** The Public Service Commission is considering a proposed 2017 Budgets and Metrics Plan filed by National Fuel Gas Distribution Corporation on June 1, 2017 pursuant to the January 22, 2016 Commission Order in Case 15-M-0252. The 2017 Budgets and Metrics Plan, filed in compliance with the Order Adopting Regulatory Policy Framework and Implementation Plan issued by the Commission on February 26, 2015 in Case 14-M-0101, the Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 issued by the Commission on June 19, 2015 in Case 15-M-0252, the Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016-2018 issued by the Commission on January 22, 2016 in Case 15-M-0252, and CE-01 ETIP Guidance, Version 2.0, New York State Department of Public Service – Office of Clean Energy (dated July 28, 2016), describes proposed budgets and targets for the utility's Energy Efficiency Transition Implementation Plan. The full text of the 2017 Budgets and Metrics Plan may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, modify or reject, in whole or in part, the Company's proposal. The Commission may also consider other related matters, including but not restricted to: novel approaches or improvements to various energy efficiency practices and tools, such as the New York State Technical Resource Manual; Metrics and Potential Associated Incentives; Evaluation, Measurement and Verification; Cost Effectiveness; Program Design; Coordination of Delivery, Performance Assessment and Data Sharing; Cost Recovery; and Activities of the Clean Energy Advisory Council.

**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](mailto: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](mailto:secretary@dps.ny.gov)

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

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

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

(15-M-0252SP27)

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

**Proposed Electric and Gas Energy Efficiency Budget and Metrics Plan**

**I.D. No.** PSC-34-17-00007-P

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

**Proposed Action:** The Commission is considering the proposed 2019-2020 Energy Efficiency Budgets and Metrics Plan filed by NYSEG and RG&E on June 1, 2017 pursuant to the Commission's Order issued January 22, 2016 in Case 15-M-0252.

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

**Subject:** Proposed electric and gas energy efficiency budget and metrics plan.

**Purpose:** To establish an energy efficiency budget and metrics plan for the Companies' electric and gas portfolios for 2019-2020.

**Substance of proposed rule:** The Public Service Commission is considering a proposed 2019-2020 Energy Efficiency Budgets and Metrics Plan filed by New York State Electric & Gas Corporation and Rochester Gas & Electric Corporation on June 1, 2017 pursuant to the January 22, 2016 Commission Order in Case 15-M-0252. The 2019-2020 Energy Efficiency Budgets and Metrics Plan, filed in compliance with the Order Adopting Regulatory Policy Framework and Implementation Plan issued by the Commission on February 26, 2015 in Case 14-M-0101, the Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 issued by the Commission on June 19, 2015 in Case 15-M-0252, the Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016-2018 issued by the Commission on January 22, 2016 in Case 15-M-0252, and CE-01 ETIP Guidance, Version 2.0, New York State Department of Public Service – Office of Clean Energy (dated July 28, 2016), describes proposed budgets and targets for the utility's Energy Efficiency Transition Implementation Plan. The full text of the 2019-2020 Energy Efficiency Budgets and Metrics Plan may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, modify or reject, in whole or in part, the Company's proposal. The Commission may also consider other related matters, including but not restricted to: novel approaches or improvements to various energy efficiency practices and tools, such as the New York State Technical Resource Manual; Metrics and Potential Associated Incentives; Evaluation, Measurement and Verification; Cost Effectiveness; Program Design; Coordination of Delivery, Performance Assessment and Data Sharing; Cost Recovery; and Activities of the Clean Energy Advisory Council.

**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](mailto: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](mailto:secretary@dps.ny.gov)

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

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

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

(15-M-0252SP29)

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

**Proposed Electric and Gas Energy Efficiency Budget and Metrics Plan**

**I.D. No.** PSC-34-17-00008-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 the proposed 2019-2020 Budgets and Metrics Plan filed by Orange and Rockland Utilities, Inc. on June 1, 2017 pursuant to the Commission's Order issued January 22, 2016 in Case 15-M-0252.

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

**Subject:** Proposed electric and gas energy efficiency budget and metrics plan.

**Purpose:** To establish an energy efficiency budget and metrics plan for the Company's electric and gas portfolios for 2019-2020.

**Substance of proposed rule:** The Public Service Commission is considering a proposed 2019-2020 Budgets and Metrics Plan filed by Orange and Rockland Utilities, Inc. on June 1, 2017 pursuant to the January 22, 2016 Commission Order in Case 15-M-0252. The 2019-2020 Budgets and Metrics Plan, filed in compliance with the Order Adopting Regulatory Policy Framework and Implementation Plan issued by the Commission on February 26, 2015 in Case 14-M-0101, the Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning

ning January 1, 2016 issued by the Commission on June 19, 2015 in Case 15-M-0252, the Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016-2018 issued by the Commission on January 22, 2016 in Case 15-M-0252, and CE-01 ETIP Guidance, Version 2.0, New York State Department of Public Service – Office of Clean Energy (dated July 28, 2016), describes proposed budgets and targets for the utility's Energy Efficiency Transition Implementation Plan. The full text of the 2019-2020 Budgets and Metrics Plan may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, modify or reject, in whole or in part, the Company's proposal. The Commission may also consider other related matters, including but not restricted to: novel approaches or improvements to various energy efficiency practices and tools, such as the New York State Technical Resource Manual; Metrics and Potential Associated Incentives; Evaluation, Measurement and Verification; Cost Effectiveness; Program Design; Coordination of Delivery, Performance Assessment and Data Sharing; Cost Recovery; and Activities of the Clean Energy Advisory Council.

**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](mailto: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](mailto:secretary@dps.ny.gov)

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

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

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

(15-M-0252SP30)

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

**Proposed Electric and Gas Energy Efficiency Budget and Metrics Plan**

**I.D. No.** PSC-34-17-00009-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 the proposed 2018-2020 Budgets and Metrics Plan filed by Consolidated Edison Company of New York, Inc. on June 1, 2017 pursuant to the Commission's Order issued January 22, 2016 in Case 15-M-0252.

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

**Subject:** Proposed electric and gas energy efficiency budget and metrics plan.

**Purpose:** To establish an energy efficiency budget and metrics plan for the Company's electric and gas portfolios for the years 2018-2020.

**Substance of proposed rule:** The Public Service Commission is considering a proposed 2018-2020 Budgets and Metrics Plan filed by Consolidated Edison Company of New York, Inc. on June 1, 2017 pursuant to the January 22, 2016 Commission Order in Case 15-M-0252. The 2018-2020 Budgets and Metrics Plan, filed in compliance with the Order Adopting Regulatory Policy Framework and Implementation Plan issued by the Commission on February 26, 2015 in Case 14-M-0101, the Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 issued by the Commission on June 19, 2015 in Case 15-M-0252, the Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016-2018 issued by the Commission on January 22, 2016 in Case 15-M-0252, and CE-01 ETIP Guidance, Version 2.0, New York State Department of Public Service – Office of Clean Energy (dated July 28, 2016), describes proposed budgets and targets for the utility's Energy Efficiency Transition Implementation Plan. The full text of the 2018-2020 Budgets and Metrics Plan may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, modify or reject, in whole or in part, the Company's proposal. The Commission may also consider other related matters, including but not restricted to: novel approaches or improvements to various energy efficiency practices and tools,

such as the New York State Technical Resource Manual; Metrics and Potential Associated Incentives; Evaluation, Measurement and Verification; Cost Effectiveness; Program Design; Coordination of Delivery, Performance Assessment and Data Sharing; Cost Recovery; and Activities of the Clean Energy Advisory Council.

**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](mailto: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](mailto:secretary@dps.ny.gov)

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

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

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

(15-M-0252SP24)

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

**Appointment of One Company as a Temporary Operator of a Gas Utility System Abandoned by Three Separate Companies**

**I.D. No.** PSC-34-17-00010-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 by Reserve Gas Company, Inc. to be appointed temporary operator of 29 gas wells and portions of pipeline owned by New York Gas & Oil, Inc., Northern Gas Well Operators, Inc., and First Medina Gas Properties, LLC.

**Statutory authority:** Public Service Law, sections 65, 66 and 112-a

**Subject:** Appointment of one company as a temporary operator of a gas utility system abandoned by three separate companies.

**Purpose:** To ensure safe and adequate gas service to customers in the service territory abandoned by the owners of the gas system.

**Substance of proposed rule:** The Commission is considering a petition, dated August 1, 2017, filed by Reserve Gas Company, Inc. (Reserve) seeking to be appointed temporary operator of 29 gas wells and specific portions of pipeline (the gas delivery system), which is owned by New York Gas & Oil, Inc., Northern Gas Well Operators, Inc. and First Medina Gas Properties, LLC (NGO) to ensure the continued safe and adequate provision of gas service to customers in Alden, New York. Reserve seeks this authority because NGO's owners have declared bankruptcy and have abandoned the gas delivery system, which, known at this time to the Department of Public Service, serves at least six people in the Town of Alden, New York. Reserve also requests authority to adjust existing rates, which may include the imposition of a surcharge, in order to meet the projected expenses of inspecting the gas delivery system and repairing leaks on wells and gas pipe. The full text of the petition may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the relief requested and may resolve related matters.

**Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact:** John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: [john.pitucci@dps.ny.gov](mailto: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](mailto: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-0181SP2)

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

**Waiver to Permit Energy Cooperative of America to Serve Low-Income Customers**

**I.D. No.** PSC-34-17-00011-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 petition filed on August 3, 2017 by Energy Cooperative of America, Inc. seeking a waiver to the prohibition on service to low-income customers by energy service companies.

**Statutory authority:** Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5) and (8)

**Subject:** Waiver to permit Energy Cooperative of America to serve low-income customers.

**Purpose:** To consider the petition for a waiver.

**Substance of proposed rule:** The Public Service Commission is considering a petition filed on August 3, 2017 by Energy Cooperative of America, Inc. (ECA) seeking a waiver to the prohibition on service by energy service companies (ESCOs) to low-income customers (Petition). On December 16, 2016, the Commission directed a prohibition on ESCO service to low-income customers (Prohibition Order). The Prohibition Order provided that, if an ESCO can demonstrate that it is capable of providing a product to low-income customers that guarantees savings compared to what the customer would have otherwise paid as a full-service utility customer, it may seek a waiver of the prohibition order from the Commission. The petition seeks such a waiver. The full text of the petition may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the relief requested and may resolve related matters.

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

(12-M-0476SP27)

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

**Proposed Electric and Gas Energy Efficiency Budget and Metrics Plan**

**I.D. No.** PSC-34-17-00012-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 the proposed Energy Efficiency 2017-2020 Budget and Metric Plan filed by Central Hudson Gas & Electric Corporation on June 1, 2017 pursuant to the Commission's Order issued January 22, 2016 in Case 15-M-0252.

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

**Subject:** Proposed electric and gas energy efficiency budget and metrics plan.

**Purpose:** To establish an energy efficiency budget and metrics plan for the Company's electric and gas portfolios for the years 2017-2020.

**Substance of proposed rule:** The Public Service Commission is considering a proposed Energy Efficiency 2017-2020 Budget and Metric Plan filed by Central Hudson Gas & Electric Corporation on June 1, 2017 pursuant to the January 22, 2016 Commission Order in Case 15-M-0252. The

Energy Efficiency 2017-2020 Budget and Metric Plan, filed in compliance with the Order Adopting Regulatory Policy Framework and Implementation Plan issued by the Commission on February 26, 2015 in Case 14-M-0101, the Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 issued by the Commission on June 19, 2015 in Case 15-M-0252, the Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016-2018 issued by the Commission on January 22, 2016 in Case 15-M-0252, and CE-01 ETIP Guidance, Version 2.0, New York State Department of Public Service – Office of Clean Energy (dated July 28, 2016), describes proposed budgets and targets for the utility's Energy Efficiency Transition Implementation Plan. The full text of the Energy Efficiency 2017-2020 Budget and Metric Plan may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, modify or reject, in whole or in part, the Company's proposal. The Commission may also consider other related matters, including but not restricted to: novel approaches or improvements to various energy efficiency practices and tools, such as the New York State Technical Resource Manual; Metrics and Potential Associated Incentives; Evaluation, Measurement and Verification; Cost Effectiveness; Program Design; Coordination of Delivery, Performance Assessment and Data Sharing; Cost Recovery; and Activities of the Clean Energy Advisory Council.

**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](mailto: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](mailto:secretary@dps.ny.gov)

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

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

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

(15-M-0252SP23)

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

**Proposed Gas Energy Efficiency Budget and Metrics Plan**

**I.D. No.** PSC-34-17-00013-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 the proposed 2017-2020 Gas Energy Efficiency Portfolios Budget and Metrics Plan filed by KeySpan Gas East Corporation on June 1, 2017 pursuant to the Commission's Order issued January 22, 2016 in Case 15-M-0252.

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

**Subject:** Proposed gas energy efficiency budget and metrics plan.

**Purpose:** To establish an energy efficiency budget and metrics plan for the Company's gas portfolio for the years 2017-2020.

**Substance of proposed rule:** The Public Service Commission is considering a proposed 2017-2020 Gas Energy Efficiency Portfolios Budget and Metrics Plan filed by KeySpan Gas East Corporation d/b/a National Grid on June 1, 2017 pursuant to the January 22, 2016 Commission Order in Case 15-M-0252. The 2017-2020 Gas Energy Efficiency Portfolios Budget and Metrics Plan, filed in compliance with the Order Adopting Regulatory Policy Framework and Implementation Plan issued by the Commission on February 26, 2015 in Case 14-M-0101, the Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 issued by the Commission on June 19, 2015 in Case 15-M-0252, the Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016-2018 issued by the Commission on January 22, 2016 in Case 15-M-0252, and CE-01 ETIP Guidance, Version 2.0, New York State Department of Public Service – Office of Clean Energy (dated July 28, 2016), describes proposed budgets and targets for the utility's Energy Efficiency Transition Implementation Plan. The full text of the 2017-2020 Gas Energy Efficiency Portfolios Budget and Metrics Plan may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, modify or reject, in whole or in part, the Company's proposal. The Commission

may also consider other related matters, including but not restricted to: novel approaches or improvements to various energy efficiency practices and tools, such as the New York State Technical Resource Manual; Metrics and Potential Associated Incentives; Evaluation, Measurement and Verification; Cost Effectiveness; Program Design; Coordination of Delivery, Performance Assessment and Data Sharing; Cost Recovery; and Activities of the Clean Energy Advisory Council.

**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.

(15-M-0252SP25)

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

**Proposed Gas Energy Efficiency Budget and Metrics Plan**

**I.D. No.** PSC-34-17-00014-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 the proposed 2017-2020 Gas Energy Efficiency Portfolios Budget and Metrics Plan filed by The Brooklyn Union Gas Company on June 1, 2017 pursuant to the Commission's Order issued January 22, 2016 in Case 15-M-0252.

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

**Subject:** Proposed gas energy efficiency budget and metrics plan.

**Purpose:** To establish an energy efficiency budget and metrics plan for the Company's gas portfolio for the years 2017-2020.

**Substance of proposed rule:** The Public Service Commission is considering a proposed 2017-2020 Gas Energy Efficiency Portfolios Budget and Metrics Plan filed by The Brooklyn Union Gas Company d/b/a National Grid NY on June 1, 2017 pursuant to the January 22, 2016 Commission Order in Case 15-M-0252. The 2017-2020 Gas Energy Efficiency Portfolios Budget and Metrics Plan, filed in compliance with the Order Adopting Regulatory Policy Framework and Implementation Plan issued by the Commission on February 26, 2015 in Case 14-M-0101, the Order Authorizing Utility-Administered Gas Energy Efficiency Portfolios for Implementation Beginning January 1, 2016 issued by the Commission on June 19, 2015 in Case 15-M-0252, the Order Authorizing Utility-Administered Energy Efficiency Portfolio Budgets and Targets for 2016-2018 issued by the Commission on January 22, 2016 in Case 15-M-0252, and CE-01 ETIP Guidance, Version 2.0, New York State Department of Public Service – Office of Clean Energy (dated July 28, 2016), describes proposed budgets and targets for the utility's Energy Efficiency Transition Implementation Plan. The full text of the 2017-2020 Gas Energy Efficiency Portfolios Budget and Metrics Plan may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, modify or reject, in whole or in part, the Company's proposal. The Commission may also consider other related matters, including but not restricted to: novel approaches or improvements to various energy efficiency practices and tools, such as the New York State Technical Resource Manual; Metrics and Potential Associated Incentives; Evaluation, Measurement and Verification; Cost Effectiveness; Program Design; Coordination of Delivery, Performance Assessment and Data Sharing; Cost Recovery; and Activities of the Clean Energy Advisory Council.

**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.

(15-M-0252SP26)

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

**Notice of Intent to Submeter Electricity**

**I.D. No.** PSC-34-17-00015-P

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

**Proposed Action:** The Commission is considering the notice of intent of 10 Huron FS Condo LLC to submeter electricity at 21 and 23 India Street, Brooklyn, New York, and request for a waiver of 16 NYCRR § 96.5(k)(3).

**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 and waiver request of 16 NYCRR § 96.5(k)(3).

**Substance of proposed rule:** The Commission is considering the notice of intent of 10 Huron FS Condo LLC (Applicant), filed on June 14, 2017, to submeter electricity at 21 and 23 India Street, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. The Commission is also considering the Applicant's request for a waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance. The full text of the notice of intent and waiver request may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

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

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

(17-E-0350SP1)

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

**Proposed Transfer of Ownership Interests in the James A. FitzPatrick Nuclear Power Plant and Related Assets**

**I.D. No.** PSC-34-17-00016-P

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

**Proposed Action:** The Commission is considering a joint petition seeking approval for the transfer of ownership interests in the James A. FitzPatrick Nuclear Power Plant and related assets.

**Statutory authority:** Public Service Law, sections 2(12), (13), 5(1)(b), 5-b, 64, 65, 66 and 70

**Subject:** Proposed transfer of ownership interests in the James A. FitzPatrick Nuclear Power Plant and related assets.

**Purpose:** To consider the proposed transfer of ownership interests in the James A. FitzPatrick Nuclear Power Plant and related assets.

**Substance of proposed rule:** The New York State Public Service Commission (“Commission”) is considering a joint petition filed by Exelon Generation Company, LLC (“ExGen”) and Exelon FitzPatrick, LLC (“ExFitz”) (collectively, the “Petitioners”) under Section 70 of the Public Service Law for the authority to transfer ownership of the James A. FitzPatrick Nuclear Power Plant (“Power Plant”) and related assets from ExGen to ExFitz. ExGen currently owns and operates the Power Plant, which is an approximately 882 MW electric generating facility located in Scriba, New York. The full text of the joint petition may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify, in whole or in part, the relief proposed and may resolve related matters.

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

(17-E-0452SP1)

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

**Use of the Honeywell Mercury EC350 Volumetric Corrector in Gas Metering Applications**

**I.D. No.** PSC-34-17-00017-P

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

**Proposed Action:** The Public Service Commission is considering a petition filed by Consolidated Edison of New York, Inc. and Orange and Rockland Utilities, Inc., to use the Honeywell Mercury EC350 volumetric corrector in gas metering applications.

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

**Subject:** Use of the Honeywell Mercury EC350 volumetric corrector in gas metering applications.

**Purpose:** To consider the use of the Honeywell Mercury EC350 volumetric corrector in gas metering applications.

**Substance of proposed rule:** The Public Service Commission is considering a petition filed by Consolidated Edison of New York, Inc., and Orange and Rockland Utilities, Inc. to use the Honeywell Mercury EC350 volumetric corrector in gas metering applications. The full text of the petition may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may approve, reject, or modify the relief requested, and may consider other 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](mailto: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](mailto: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.

(17-G-0464SP1)

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

**Use of the Artech UCE-7, URJ-17, VCE-17 and CRB-17 Transformers in Electric Metering Applications**

**I.D. No.** PSC-34-17-00018-P

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

**Proposed Action:** The Public Service Commission is considering a petition filed by Artech USA, Inc., to use the Artech UCE-7, URJ-17, VCE-17 and CRB-17 transformers in electric metering applications.

**Statutory authority:** Public Service Law, sections 67(1)

**Subject:** Use of the Artech UCE-7, URJ-17, VCE-17 and CRB-17 transformers in electric metering applications.

**Purpose:** To consider the use of the Artech UCE-7, URJ-17, VCE-17 and CRB-17 transformers in electric metering applications.

**Substance of proposed rule:** The Public Service Commission is considering a petition filed by Artech USA, Inc., to use the Artech UCE-7, URJ-17, VCE-17 and CRB-17 transformers in electric metering applications. The full text of the petition may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

(17-E-0292SP1)

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

**Development of an Aggregation Standard for Release of Whole-Building Energy Data to Building Owners**

**I.D. No.** PSC-34-17-00019-P

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

**Proposed Action:** The Commission is considering the Joint Utilities proposed 4/50 privacy standard as the basis for energy utilities providing whole-building aggregated energy data to building owners and the issues associated with that standard.

**Statutory authority:** Public Service Law, sections 5(1), (2), 65(1), (2), (3), 66(1), (2), (3), (4) and (5)

**Subject:** Development of an aggregation standard for release of whole-building energy data to building owners.

**Purpose:** Improved energy data access to support state energy efficiency and demand reduction goals.

**Substance of proposed rule:** The Commission is considering the Joint Utilities' proposed 4/50 privacy standard and the issues associated with that standard. As required by the Commission's Order on Distributed System Implementation Plan Filings, issued March 9, 2017, relating to distributed system platform capabilities to achieve Reforming the Energy Vision (REV) goals, the Joint Utilities submitted a filing on June 7, 2017 proposing building energy management and benchmarking data standards for the Commission's consideration. As discussed in that filing, the Joint Utilities propose a 4/50 privacy standard as the basis for utilities providing whole-building aggregated data to building owners or their authorized agents. The full text of the proposal may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may

adopt, reject or modify, in whole or in part, the proposal 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-M-0411SP4)