

RULE MAKING ACTIVITIES

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

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

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

Department of Agriculture and Markets

NOTICE OF ADOPTION

NIST Handbook 44; Receipts Issued by Taxicab Operators, Digital Scales

I.D. No. AAM-16-17-00001-A

Filing No. 505

Filing Date: 2017-07-07

Effective Date: 2017-07-26

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

Action taken: Amendment of section 220.2 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 16, 18 and 179

Subject: NIST Handbook 44; receipts issued by taxicab operators, digital scales.

Purpose: To incorporate NIST Handbook 44 (2017 edition); to allow handwritten taxicab receipts; to liberalize scale requirements.

Text or summary was published in the April 19, 2017 issue of the Register, I.D. No. AAM-16-17-00001-P.

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

Text of rule and any required statements and analyses may be obtained from: Mike Sikula, Director, Bureau of Weights & Measures, NYS Department of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, (518) 457-3146, email: Mike.Sikula@agriculture.ny.gov

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Emerald Ash Borer (EAB)

I.D. No. AAM-19-17-00006-A

Filing No. 502

Filing Date: 2017-07-07

Effective Date: 2017-07-26

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

Action taken: Amendment of sections 141.1 and 141.2 of Title 1 NYCRR.

Statutory authority: Agriculture and Markets Law, sections 18, 164 and 167

Subject: Emerald ash borer (EAB).

Purpose: To expand the EAB quarantine to the area depicted on the attached map and the physical description of the quarantine.

Text or summary was published in the May 10, 2017 issue of the Register, I.D. No. AAM-19-17-00006-EP.

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

Text of rule and any required statements and analyses may be obtained from: Christopher Logue, Director, Division of Plant Industry, NYS Department of Agriculture and Markets, 10B Airline Drive, Albany, New York 12235, (518) 457-2087, email: christopher.logue@agriculture.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2020, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Department of Civil Service

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-30-17-00006-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of State, by adding thereto the position of Affirmative Action Administrator 1 (1).

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

Data, views or arguments may be submitted to: Ilene Lees, Counsel, NYS

Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-2624, email: public.comments@cs.ny.gov

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-30-17-00007-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office of Indigent Legal Services," by increasing the number of positions of Assistant Counsel from 9 to 14.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-30-17-00008-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Civil Service, by adding thereto the position of Associate Counsel.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-30-17-00009-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Public Service, by increasing the number of positions of Special Assistant from 14 to 15.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00010-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Labor under the subheading "Workers' Compensation Board," by decreasing the number of Assistant Director Operations from 2 to 1 and by increasing the number of positions of Special Assistant from 16 to 17.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00011-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the State University of New York under the subheading "SUNY at Buffalo," by adding thereto the positions of Teaching Hospital Sterile Supply Technician 1 (3).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00012-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the State University of New York under the subheading "State University Colleges," by increasing the number of positions of øSecretary 2 at SUC at Oswego from 5 to 7.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00013-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Justice Center for the Protection of People with Special Needs," by deleting therefrom the positions of Internal Investigator 1 (OPWDD) (7) and by increasing the number of positions of Internal Investigator 1 (Justice Center) from 104 to 111.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00014-P

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

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

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

Subject: Jurisdictional Classification.

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

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the State University of New York under the subheading "State University Colleges," by increasing the number of positions of Secretary 2 at SUC at Plattsburgh from 3 to 4.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00015-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Division of Homeland Security and Emergency Services," by increasing the number of positions of Deputy Counsel from 2 to 3.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00016-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

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

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00017-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Office of General Services," by adding thereto the position of Director Affirmative Action Programs.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00018-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "State Board of Elections," by adding thereto the position of Chief Enforcement Counsel.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00019-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Gaming Commission," by adding thereto the position of Investigative Auditor.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00020-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To delete positions from and classify positions in the exempt class and to delete positions from the non-competitive class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Department of Financial Services, by deleting therefrom the positions of Assistant Director Insurance Frauds Bureau and Director Insurance Frauds Bureau and by adding thereto the positions of Assistant Director Financial Services Frauds Bureau and Director Financial Services Frauds Bureau; and

Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Department of Financial Services, by deleting therefrom the positions of Insurance Frauds Investigator 1 (32), Insurance Frauds Investigator 2 (20), Insurance Frauds Investigator 3 (10), Insurance Frauds Investigator 4 (2) and Insurance Frauds Investigator 5 (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

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

Jurisdictional Classification

I.D. No. CVS-30-17-00021-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To add a subheading and to classify positions in the non-competitive class.

Text of proposed rule: Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Westchester County Service under the subheading "Department of Emergency Ser-

vices," by adding thereto the positions of Fire Inspector(s) part time; and, in the Westchester County Service by adding thereto the subheading "Westchester Health Care Corporation," and the positions of Health Student Intern(s).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-30-17-00022-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt class.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Executive Department under the subheading "Justice Center for the Protection of People with Special Needs," by increasing the number of positions of Assistant Counsel from 23 to 28.

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was

previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Jurisdictional Classification

I.D. No. CVS-30-17-00023-P

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify positions in the exempt and non-competitive classes.

Text of proposed rule: Amend Appendix 1 of the Rules for the Classified Service, listing positions in the exempt class, in the Westchester County Service under the subheading "Office of the County Executive," by adding thereto the position of Director of Economic Development and increasing the number of positions of Senior Assistant to the County Executive II from 2 to 3; and, under the subheading "Department of Law," by increasing the number of positions of Assistant Chief Deputy County Attorney from 2 to 3; and

Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Westchester County Service under the subheading "Office of the District Attorney," by adding thereto the position of Forensic Accountant (1).

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

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

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

Regulatory Impact Statement

A regulatory impact statement is not submitted with this notice because this rule is subject to a consolidated regulatory impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted with this notice because this rule is subject to a consolidated regulatory flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Rural Area Flexibility Analysis

A rural area flexibility analysis is not submitted with this notice because this rule is subject to a consolidated rural area flexibility analysis that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Job Impact Statement

A job impact statement is not submitted with this notice because this rule is subject to a consolidated job impact statement that was previously printed under a notice of proposed rule making, I.D. No. CVS-01-17-00013-P, Issue of January 4, 2017.

Division of Criminal Justice Services

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Familial Search Policy

I.D. No. CJS-30-17-00025-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 6192 of Title 9 NYCRR.

Statutory authority: Executive Law, sections 837(13), 995-b(9) and (13)

Subject: Familial Search Policy.

Purpose: To codify a familial search policy.

Text of proposed rule: 1. Subdivision (q) of Section 6192.1 of 9 NYCRR is amended to read as follows:

(q) The [phrase] *phrases* indirect association and *partial match* [refers] refer to the determination during the CODIS candidate match confirmation process that a forensic DNA profile is similar to a DNA profile in the offender index and a comparison reveals that the offender may be a *close biological* relative of the source of the forensic index profile. *The phrases may be used interchangeably.*

2. New subdivisions (ab), (ac) and (ad) are added to Section 6192.1 of 9 NYCRR to read as follows:

(ab) *The phrases familial DNA search and familial search refer to a targeted evaluation of offenders' DNA profiles in the DNA databank which generates a list of candidate profiles based on kinship indices to indicate potential biologically related individuals to one or more sources of evidence.*

(ac) *The phrase offender refers to anyone in the Databank who has been convicted of a crime.*

(ad) *The phrases State CODIS administrator and State System administrator refer to an employee of the state CODIS laboratory who is responsible for administration and security of the databank.*

3. New subdivisions (h), (i), (j) and (k) are added to Section 6192.3 of 9 NYCRR to read as follows:

(h) *When there is not a match or a partial match to a sample in the DNA databank a familial search may be performed. To perform a familial search, the following case and sample requirements must be met:*

(1) *The forensic DNA profile must be associated with:*

(i) *a Penal Law Article 125 felony offense, other than one defined in Penal Law sections 125.40 or 125.45; or*

(ii) *a Penal Law Article 130 offense that is defined as a violent felony offense pursuant to Penal Law section 70.02; or*

(iii) *a class A felony offense defined in Article 130, 135, 150 or 490 of the Penal Law; or*

(iv) *a crime presenting a significant public safety threat.*

(2) *The investigating agency and appropriate prosecutor must certify, in the form and manner required by the division, that:*

(i) *reasonable investigative efforts have been taken in the case; or*

(ii) *exigent circumstances exist warranting a familial search.*

Nothing in this section shall preclude an investigating agency and the appropriate prosecutor from requesting a familial search of an unidentified profile meeting the criteria set forth in the policy which is associated with a case in which a defendant was previously convicted.

(3) *The forensic DNA profile must:*

(i) *be a single source, or a deduced profile originating from a mixture;*

(ii) *appear to have a direct connection with the putative perpetrator of the crime;*

(iii) *reside in SDIS; and*

(iv) *have been searched against DNA profiles in the DNA databank's offender index.*

(i) *Any request for a familial DNA search must be made jointly by the appropriate investigating agency and the prosecutor (hereinafter "the requestors") through an application to the division in the form and manner specified by the division.*

(1) *Upon receipt of an application:*

(i) *The division will confirm that the requestors have certified that the case requirements in paragraph (1) of subdivision (h) of this Part have been satisfied; and*

(ii) *The state CODIS administrator will confirm that the sample*

requirements in subparagraphs (i) and (ii) of paragraph (3) of subdivision (h) of this Part have been verified by the forensic laboratory that generated the forensic DNA profile; and

(iii) *The state CODIS administrator will confirm that the sample requirements in subparagraphs (iii) and (iv) of paragraph (3) of subdivision (h) of this Part have been met.*

(2) *The commissioner shall review all completed applications.*

(i) *If, upon review and evaluation of such application, the commissioner determines that any of the case and/or any of the sample requirements are not satisfied, the division shall notify the requestors, in writing, that a familial search cannot be performed and identify the requirements not satisfied.*

(ii) *If, upon review and evaluation of such application, the commissioner determines that all of the case and sample requirements have been satisfied, the law enforcement agency, the district attorney, the director of the new york state police crime laboratory or his or her designee, and the commissioner of the division or his or her designee, must execute a memorandum of understanding among themselves detailing the role of each organization.*

(j) *Upon receipt of the memorandum of understanding described in subparagraph (ii) of paragraph (2) of subdivision (i) of this Part, the new york state police crime laboratory will:*

(1) *use validated software, which has been approved by the DNA subcommittee and the commission, to perform a familial search of the DNA databank and generate a candidate list;*

(2) *evaluate the candidate list based on established kinship threshold value(s) approved by the DNA subcommittee and commission;*

(3) *perform Y-STR testing on the candidate sample(s) if the forensic DNA profile is from a male individual and sufficient forensic DNA sample exists for Y-STR testing; and*

(4) *if appropriate, ensure additional testing is performed on the candidate sample, provided there is sufficient forensic DNA sample available for testing.*

(k) *In order for the results of the familial DNA search to be released, the following conditions must be met:*

(1) *The requestors must satisfactorily complete, and demonstrate an understanding of, a mandatory, in-person or at the discretion of the commissioner, video conference training. At a minimum, the training shall address:*

(i) *how a familial search is conducted, including the limitations of the method;*

(ii) *guidance on how to best evaluate leads from a familial search in order to protect unknown family relationships (donor parents/adoptions, previously unknown relatives);*

(iii) *the confidentiality requirements associated with the DNA profiles generated (see, Executive Law §§ 995-c; 995-d; 995-f);*

(iv) *the requirement to withdraw a request if a suspect is identified through other means before the familial search is completed; and*

(v) *the requirement to provide follow-up information to the division regarding the case at intervals determined by the division.*

(2) *If the candidate profiles(s) exceed the established kinship threshold value(s), and are not excluded by additional testing performed, the name(s) of the offender(s) in the DNA databank will be released. The familial DNA search results shall be provided in writing and shall include the following statements:*

(i) *The information provided is for investigatory law enforcement purposes only;*

(ii) *The forensic DNA profile could not have come from the named offender in the DNA databank;*

(iii) *The information provided is not a definitive statement of a familial (i.e., biological) relationship; and*

(iv) *The information provided shall be treated only as an investigatory lead.*

(3) *If no candidate profiles(s) on the candidate list exceed the established kinship threshold value(s), no name will be released and the requestors will be notified, in writing, that no potential relatives were identified through a familial search.*

(4) *The forensic DNA sample can be re-searched against the DNA databank upon renewal of the request. In the absence of exigent circumstances, such requests may be made every six months.*

Text of proposed rule and any required statements and analyses may be obtained from: Natasha M. Harvin-Locklear, Esq., NYS Division of Criminal Justice Services, Alfred E. Smith State Office Building, 80 South Swan St., Albany, New York 12210, (518) 457-8413, email: dcjslegalrulemaking@dcjs.ny.gov

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

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

Regulatory Impact Statement

1. Statutory authority: Executive Law §§ 837(13), 995-b(9) and (13).

Pursuant to Executive Law § 995-b(9), the Commission on Forensic

Science (Commission), in consultation with the DNA Subcommittee, must promulgate a policy for the establishment and operation of a DNA Databank.

The DNA Subcommittee is a subcommittee of the Commission and is composed of scientists with expertise in the fields of molecular biology, population genetics, forensic science, and laboratory standards and quality assurance. Pursuant to Executive Law § 995-b(13), the DNA Subcommittee has been granted authority, through binding recommendations to the Commission, regarding matters relating to the establishment and operation of the DNA Databank.

The Commission is established pursuant to Executive Law § 995-a. Although it is technically an independent entity, the Commission has no staff or budget and relies on the Division of Criminal Justice Services (Division) for the staff, administrative assistance, and other resources necessary to carry out its powers and duties. Executive Law § 837(13) authorizes the Division to adopt, amend or rescind regulations “as may be necessary or convenient to the performance of the functions, powers and duties of the [D]ivision.”

The DNA Databank became operational in 1996. Since its inception, the policy for the establishment and operation of the DNA Databank required pursuant to Executive Law § 995-b(9) has been promulgated by the Division in 9 NYCRR Part 6192. The proposed rule amends 9 NYCRR Part 6192 to codify a familial search policy.

2. Legislative objectives: The Legislature authorized the Commission to promulgate a policy for the establishment and operation of a DNA Databank, and authorized the Division to establish the Databank. Thus, the Legislature clearly intended that the Commission and Division establish and maintain effective procedures governing the DNA Databank.

3. Needs and benefits: DNA profiles generated from evidence associated with criminal investigations are routinely searched against DNA databanks. Currently, the regulations permit “partial matches” that occur inadvertently and may indicate that a perpetrator is a close blood relative of an individual whose DNA is on file. In situations when there is not an association (“match”) or an indirect association (“partial match”) to a sample in the New York State DNA Databank, familial searching can be utilized. Familial searching is a targeted evaluation of the convicted offenders in the DNA Databank. This search generates a list of candidates based on kinship statistics to indicate potential biologically related individuals. Familial searching could greatly increase the pool of potential suspects, thereby increasing the number of crimes solved.

Familial searching is not conducted automatically and can only be performed if certain case and sample requirements are met. The familial search policy describes those conditions and defines the procedures that must be followed.

On May 19, 2017, the DNA Subcommittee reviewed and discussed the familial search policy, and made a recommendation to the Commission to adopt the policy. The Commission formally adopted the policy on June 16, 2017. As the administrative arm of the Commission, the Division intends to carry out its duty to maintain effective procedures governing the DNA Databank by adopting and promulgating the proposed regulations.

4. Costs:

a. There are no costs to regulated parties for the implementation of and continuing compliance with the rule.

b. There are no costs to the agency, the state and local governments for the implementation and continuation of the rule.

c. The cost analysis is based on the fact that the proposal does not impose any new mandates. Familial searching is not conducted automatically and can only be performed if certain case and sample requirements are met. The familial search policy merely describes those conditions and defines the procedures that must be followed.

5. Local government mandates: There are no new mandates.

6. Paperwork: Any request for a familial DNA search must be made through an application to the Division in the form and manner specified by the Division.

If, upon review and evaluation of such application, it is determined that any of the case and/or any of the sample requirements are not satisfied, the Division will notify the requestors, in writing, that a familial search cannot be performed and identify the requirements not satisfied. If, upon review and evaluation of such application, it is determined that all of the case and sample requirements have been satisfied, a memorandum of understanding must be executed.

If the candidate profiles(s) exceed the established kinship threshold value(s), and are not excluded by additional testing performed, the name(s) of the offender(s) in the DNA databank will be released. The familial DNA search results will be provided in writing. If no candidate profiles(s) on the candidate list exceed the established kinship threshold value(s), no name will be released and the requestors will be notified, in writing, that no potential relatives were identified through a familial search.

7. Duplication: No other legal requirements duplicate, overlap, or conflict with the rule.

8. Alternatives: At its April 12, 2017 meeting, the Commission reviewed and discussed the draft familial search policy, regulations and implementation plan as they were proposed by the DNA Subcommittee at its March 27, 2017 meeting. After the matter was thoroughly debated, the Commission voted to send the policy, regulations and implementation plan, along with the Commission’s recommendations, back to the DNA Subcommittee for consideration.

The DNA Subcommittee reviewed the draft familial search policy and recommendations provided by the Commission at its April 12, 2017 meeting. Each section requiring revision or input from the DNA Subcommittee was considered and discussed. The policy was amended, and those changes were subsequently made in the regulations and implementation plan.

9. Federal standards: There are no federal standards.

10. Compliance schedule: Regulated parties are expected to be able to comply with the rule immediately upon Notice of Adoption.

Regulatory Flexibility Analysis

The proposed rule amends 9 NYCRR Part 6192 to codify a familial search policy. DNA profiles generated from evidence associated with criminal investigations are routinely searched against DNA databanks. Currently, the regulations permit “partial matches” that occur inadvertently and may indicate that a perpetrator is a close blood relative of an individual whose DNA is on file. In situations when there is not an association (“match”) or an indirect association (“partial match”) to a sample in the New York State DNA Databank, familial searching can be utilized. Familial searching is a targeted evaluation of the convicted offenders in the DNA Databank. This search generates a list of candidates based on kinship statistics to indicate potential biologically related individuals. Familial searching is not conducted automatically and can only be performed if certain case and sample requirements are met. The policy describes those conditions and defines the procedures that must be followed.

The proposed rule does not apply to small businesses nor does it impose mandates on local governments. As such, it is apparent that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis

The proposed rule amends 9 NYCRR Part 6192 to codify a familial search policy. DNA profiles generated from evidence associated with criminal investigations are routinely searched against DNA databanks. Currently, the regulations permit “partial matches” that occur inadvertently and may indicate that a perpetrator is a close blood relative of an individual whose DNA is on file. In situations when there is not an association (“match”) or an indirect association (“partial match”) to a sample in the New York State DNA Databank, familial searching can be utilized. Familial searching is a targeted evaluation of the convicted offenders in the DNA Databank. This search generates a list of candidates based on kinship statistics to indicate potential biologically related individuals. Familial searching is not conducted automatically and can only be performed if certain case and sample requirements are met. The policy describes those conditions and defines the procedures that must be followed.

There are eight local New York State laboratories, none of which is located in a “rural area.” As such, it is apparent that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

The proposed rule amends 9 NYCRR Part 6192 to codify a familial search policy. DNA profiles generated from evidence associated with criminal investigations are routinely searched against DNA databanks. Currently, the regulations permit “partial matches” that occur inadvertently and may indicate that a perpetrator is a close blood relative of an individual whose DNA is on file. In situations when there is not an association (“match”) or an indirect association (“partial match”) to a sample in the New York State DNA Databank, familial searching can be utilized. Familial searching is a targeted evaluation of the convicted offenders in the DNA Databank. This search generates a list of candidates based on kinship statistics to indicate potential biologically related individuals. Familial searching is not conducted automatically and can only be performed if certain case and sample requirements are met. The policy describes those conditions and defines the procedures that must be followed.

As such, it is apparent from the nature and purpose of the rule that it will not have a substantial adverse impact on jobs and employment opportunities.

Department of Financial Services

NOTICE OF ADOPTION

Supplementary Uninsured/Underinsured Motorists Insurance

I.D. No. DFS-17-17-00001-A

Filing No. 503

Filing Date: 2017-07-07

Effective Date: 2017-08-01

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

Action taken: Amendment of Subpart 60-2 (Regulation 35-D) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202 and 302; Insurance Law, sections 301, 307, 308 and 3420

Subject: Supplementary Uninsured/Underinsured Motorists Insurance.

Purpose: To establish a standard form for SUM coverage in order to eliminate ambiguity, minimize confusion, and maximize its utility.

Text or summary was published in the April 26, 2017 issue of the Register, I.D. No. DFS-17-17-00001-P.

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

Text of rule and any required statements and analyses may be obtained from: Hoda Nairooz, NYS Department of Financial Services, One State Street, New York, NY 10004, (212) 480-5595, email: hoda.nairooz@dfs.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2020, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Department of Financial Services ("Department") received one comment from an insurer, in response to its publication of the proposed rule in the New York State Register.

The insurer supports the amendment to Insurance Regulation 35-D and believe that the changes to the regulation are positive.

New York State Gaming Commission

NOTICE OF ADOPTION

Licensing and Regulation of Multi-Jurisdictional Account Wagering Providers in Pari-Mutuel Horse Racing

I.D. No. SGC-17-17-00008-A

Filing No. 504

Filing Date: 2017-07-07

Effective Date: 2017-07-26

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

Action taken: Amendment of sections 4500.1, 4500.2, 4500.3, 4500.4, 4500.5, 4500.6, 4500.7, 4500.8, 4500.9, 4500.10, 4500.11, 4500.12, 4500.13, 4500.14, 4500.15, 4500.16, 4500.17, 4500.20, 4500.21 and 4500.22 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(1), (19) and 1012(2)

Subject: Licensing and regulation of multi-jurisdictional account wagering providers in pari-mutuel horse racing.

Purpose: To adopt rules consistent with and as directed by chapter 174 of the Laws of 2013.

Text or summary was published in the April 26, 2017 issue of the Register, I.D. No. SGC-17-17-00008-P.

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

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

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS.

An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.

Assessment of Public Comment

Two public comments were received. The New York Racing Association, Inc. ("NYRA") asked whether proposed Rule 4500.2 clearly applies to both NYRA and multi-jurisdictional account wagering providers ("MAWs"). It does. Rule 4500.2 applies to an account wagering licensee. Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 1001(r) defines "account wagering licensee" to include franchised corporations (which NYRA is) and MAWs, and Rule 4500.1 clearly states that the definitions in Racing Law section 1001 apply to Part 4500. Second, NYRA suggested that the rule include a requirement that MAWs be required to request approvals for all customer rebates and promotions. Approval of rebates and promotions is not a topic covered by Part 4500, which regulates topics such as the establishment of accounts, withdrawals, credits, accounting and auditing. NYRA also expressed the view that it was "not entirely clear" what proposed Rule 4500.2(d), which sets forth when a separate license is required, meant.

The second comment was submitted by an MAW and self-described "white label" account wagering provider that operates several account wagering websites in conjunction with other entities. Proposed Rule 4500.2(d) provides that an "account wagering provider must obtain a separate account wagering license for each account wagering platform that such provider operates in conjunction with another entity or that such provider markets to bettors as a distinct wagering platform." The commentator argued that because it operates the wager acceptance aspect of the different websites and its partners in the different website ventures operate other aspects, such as marketing and maintaining website content, only the commentator, and not each jointly operated website venture, should be required to be licensed as an MAW. The commentator would like to be permitted to operate multiple website ventures, with multiple website partners, under a single account wagering license. The commentator suggested that this be permitted by amending proposed Rule 4500.2(d) to allow an exception to the requirement for separate account wagering licenses for each venture, so long as a disclosure of the details of the venture relationship is made on the front page of the venture website. Agency staff considered the comment and concluded that ventures with different ownerships require particularized licensing review and should be treated as different applicant entities.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity and Waiver Request

I.D. No. PSC-30-17-00026-P

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

Proposed Action: The Public Service Commission is considering the Notice of Intent of 606 West 57 LLC to submeter electricity at 606 West 57th Street, New York, New York and request for a waiver of the 16 NYCRR section 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 and waiver request.

Purpose: To consider the Notice of Intent to submeter electricity and waiver request of 16 NYCRR section 96.5(k)(3).

Substance of proposed rule: The Public Service Commission (Commission) is considering the Notice of Intent of 606 West 57 LLC (Owner), filed March 13, 2017, to submeter electricity at 606 West 57th Street, New York, New York, located in the service territory of Consolidated Edison

Company of New York, Inc. The Commission is also considering the Owner's June 22, 2017 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. 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-0155SP1)

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

Extension of the Compensation Term for Certain Community Distributed Generation Projects

I.D. No. PSC-30-17-00027-P

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

Proposed Action: The Commission is considering a petition filed by SUN8 PDC LLC, on June 12, 2017, to extend the Phase One NEM Term to 30 years for Multiple Community Distributed Generation Projects.

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

Subject: Extension of the compensation term for certain community distributed generation projects.

Purpose: To determine the appropriate compensation term for certain community distributed generation projects.

Substance of proposed rule: The Public Service Commission (Commission) is considering the Petition to Extend the Phase One NEM Term to 30 years for Multiple Community Distributed Generation Projects (Petition), filed by SUN8 PDC LLC on June 12, 2017. In the Commission's March 9, 2017 Order on Net Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters (VDER Order) in Case 15-E-0751, the Commission provided for fixed compensation terms for the Phase One NEM compensation and Value Stack compensation methodologies, after which a project would receive compensation based on the then-applicable methodology. As permitted in the VDER Order, the petition requests that the Commission extend the term for compensation under the Phase One NEM compensation mechanism to 30 years for several specific solar photovoltaic community distributed generation (CDG) projects. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the relief requested in the petition 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.

(15-E-0751SP8)

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

Proposed Tariff Filing to Modify the Daily Delivery Service Program and the Treatment of Certain Non-Firm Revenues

I.D. No. PSC-30-17-00028-P

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

Proposed Action: The Commission is considering a proposal filed by Consolidated Edison Company of New York, Inc. to revise its gas tariff schedule, P.S.C. No. 9, to modify the Daily Delivery Service Program and the treatment of certain non-firm revenues.

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

Subject: Proposed tariff filing to modify the Daily Delivery Service Program and the treatment of certain non-firm revenues.

Purpose: To consider tariff revisions modifying the Daily Delivery Service Program and the treatment of certain non-firm revenues.

Substance of proposed rule: The Public Service Commission (Commission) is considering a proposal filed by Consolidated Edison Company of New York, Inc. (Con Edison or the Company) on July 3, 2017, to revise its gas tariff schedule, P.S.C. No. 9, to modify the Daily Delivery Service (DDS) Program and the treatment of certain non-firm revenues. The Commission's Order in Case 16-G-0406, issued October 17, 2016, directed Con Edison to continue its collaboration with the gas marketers on its Retail Access Program and to file any proposed updates to its Retail Access Program on or before July 1, 2017. Con Edison filed proposed modifications to: 1) the temperature at which marketers can use storage in the months of April and October; 2) provide the Company the right to waive certain rules in the month of March related to the mandatory use of Tier 1 Pipeline Capacity; 3) provide the Company the right to waive the surcharge to marketers when certain operational limits related to the March storage capacity limit are not met; 4) the payment amounts owed to the Company for Tier 2 and Tier 3 demand and commodity charges by marketers that participate in the purchase of receivables program; 4) clarify that Tier 3 Peaking also includes compressed natural gas; and, 5) beginning November 1, 2017, the treatment of net revenues derived from off-system transactions related to the release of storage and firm transportation associated with storage to credit both firm sales and firm transportation customers through the Non-Firm Revenue credit after the \$65 million target is reached. The proposed amendments have an effective date of November 1, 2017. The full text of the proposal may be reviewed online at the Department of Public Service web page: 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-G-0405SP1)

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

Proposed Amendments to the Modified Criteria to Grandfathering Established in a December 16, 2016 Order

I.D. No. PSC-30-17-00029-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 filing

made by the Albany Broadcasting Company (ABCo.), on July 5, 2017, requesting a limited waiver of the requirement that estimated utility interconnection upgrade costs be paid by January 31, 2017.

Statutory authority: Public Service Law, sections 5(2), 22, 65(1), (2), (3), 66(1), (2), (3), (4), (5), (9), (12), (12-a), 66-c, 66-j and 66-l

Subject: Proposed amendments to the modified criteria to grandfathering established in a December 16, 2016 Order.

Purpose: To consider modifying the monetary remote net metering grandfathering criteria in response to a developer request.

Substance of proposed rule: The Public Service Commission (Commission) is considering a filing made by the Albany Broadcasting Company (ABCo.), on July 5, 2017, requesting a limited waiver of the requirement that estimated utility interconnection upgrade costs be paid by January 31, 2017, to maintain grandfathered monetary remote net metering. The Commission's Transition Plan was established in the Order Granting Rehearing in Part, Establishing Transition Plan, and Making Other Findings issued on April 17, 2015, in Cases 14-E-0151 and 14-E-0422. The Transition Plan was subsequently modified by the Order Modifying Transition Plan and Making Other Findings (Borrego Order) issued on December 16, 2016, filed within the same cases. The ABCo. is seeking a limited waiver of the Borrego Order criterion three. The ABCo. requests that the Commission allow its solar PV project located within the Niagara Mohawk Power Corp. d/b/a National Grid's service territory be allowed to maintain its grandfathered status despite missing one of four requirements established in the Borrego Order. The full text of the filing may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the requested waiver, and may resolve 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

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

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

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

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

(14-E-0151SP3)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Time of Use Rates

I.D. No. PSC-30-17-00030-P

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

Proposed Action: The Commission is considering a petition filed by Central Hudson Gas and Electric Corporation to close the existing S.C. No. 6 Time of Use (TOU) rate to new customers and instead offer such customers an alternative TOU rate.

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

Subject: Time of Use Rates.

Purpose: To consider the establishment of a new TOU rate for customers not currently taking service under Central Hudson's TOU rate.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed by Central Hudson Gas and Electric Corporation (Central Hudson or the Company) on June 1, 2017 to close the existing Service Classification No. 6 Time of Use (TOU) rate to new customers. The Company's current TOU offering is comprised of a monthly customer charge and on-peak and off-peak volumetric (kWh) charges, with an on-peak to off-peak delivery rate differential of 3 to 1. Under the current tariff, TOU customers can select from among three twelve-hour time periods for on-peak usage, being weekdays from: 8:00 am – 8:00 pm, 9:00 am – 9:00 pm, or 10:00 am – 10:00 pm. Most notably, Central Hudson proposes to modify the on-peak usage period to 2:00 pm – 7:00 pm on weekdays, and to determine the rate differential using a 10-year net present value analysis of avoided transmission and distribution system costs. The full text of the petition may be reviewed online at the

Department of Public Service web page: 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-0369SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Proposed Tariff Filing to Implement Electric Rate Options on a Pilot Basis for the Energy Smart Community Project

I.D. No. PSC-30-17-00031-P

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

Proposed Action: The Commission is considering a proposal filed by New York State Electric & Gas Corporation to revise its electric tariff schedule, P.S.C. No. 120, to implement electric rate options on a pilot basis for the Energy Smart Community Project.

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

Subject: Proposed tariff filing to implement electric rate options on a pilot basis for the Energy Smart Community Project.

Purpose: To consider tariff revisions implementing electric rate options on a pilot basis for the Energy Smart Community Project.

Substance of proposed rule: The Commission is considering a proposal filed by New York State Electric & Gas Corporation (NYSEG) on June 29, 2017, to revise its electric tariff schedule. P.S.C. No. 120, to implement electric rate options on a pilot basis for the Energy Smart Community (ESC) Project pursuant to Commission Order issued June 15, 2016 in Cases 15-E-0283 et al. The ESC Project includes the deployment of advanced metering infrastructure (AMI) to approximately 12,000 customers in Ithaca, N.Y. and the surrounding towns of Tompkins County. The ESC rate options are based on a voluntary, opt-in basis; a customer that elects an ESC rate option will be required to have an AMI meter installed. The ESC rate options consist of time-differentiated delivery rates and hourly supply rates. A customer that enrolls in an ESC rate option will be able to choose their electricity supply from either NYSEG or an Energy Services Company. The proposed amendments have an effective date of January 1, 2018. The full text of the proposal may be reviewed online at the Department of Public Service web page: 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-0370SP1)

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

VDER Tranche Allocations and Policies

I.D. No. PSC-30-17-00032-P

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

Proposed Action: The Commission is considering a petition filed by New York State Electric & Gas Corporation on June 8, 2017 requesting that the Commission permit NYSEG to modify the Tranche allocations established in the VDER Phase One Order.

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

Subject: VDER Tranche allocations and policies.

Purpose: To consider modifications to VDER Tranche allocations and policies.

Substance of proposed rule: The Public Service Commission (Commission) is considering the Petition for Approval to Allow Minor Tranche Adjustments (Petition), filed by New York State Electric & Gas Corporation (NYSEG) on June 8, 2017. The petition relates to the Tranches established in the Commission's March 9, 2017 Order on Net Metering Transition, Phase One of Value of Distributed Energy Resources, and Related Matters (VDER Order) in Case 15-E-0751. NYSEG explains that it inadvertently omitted three projects in making initial Tranche assignments, and requests that the Commission permit it to increase the Tranche allocations so that those projects may be added to Tranche 0/1 without removing any other projects. NYSEG proposes that Tranche 3 be reduced in size by an equal amount. In evaluating the petition, the Commission may consider the need for any other modifications to Tranche allocations or project assignments. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject, or modify, in whole or in part, the relief requested in the petition 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.

(15-E-0751SP7)

Department of State

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

Esthetics Curriculum and Waxing Procedures

I.D. No. DOS-30-17-00001-P

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

Proposed Action: Amendment of section 162.2; and addition of section 160.20(k) to Title 19 NYCRR.

Statutory authority: General Business Law, sections 402 and 404

Subject: Esthetics curriculum and waxing procedures.

Purpose: To update the qualifying curriculum for esthetics and ensure that waxing procedures are safe and sanitary.

Text of proposed rule: Section 160.20 of Title 19 NYCRR is amended to add a new subdivision (k) which reads as follows:

(k) When performing waxing services, disposable protective gloves must be worn. Appearance enhancement practitioners must use a new applicator each time the applicator is inserted into the wax so as not to contaminate the remaining portion. All scissors and tweezers must be new or sterilized before use on each customer.

Section 162.2 of Title 19 NYCRR is amended to read as follows:

§ 162.2 Esthetics

(a) Scope of curriculum. Educational requirements for estheticians shall include the following subjects and the hours assigned to each:

Scope of Curriculum	Hours
Orientation	4
(1) Safety and Health	8
(2) [Bacteriology] <i>Infection Control</i>	18
(3) Anatomy[,] and Physiology[, and Nutrition]	[25] 30
(4) Structure and Functions of the Skin	[12] 18
(5) [Superfluous Hair] <i>Nutrition for Healthy Skin and Body</i>	[24] 5
(6) [Chemistry] <i>Skin Disorders and Diseases</i>	[3] 12
(7) [Chemistry as Applied to Cosmetics] <i>Skin Analysis</i>	[21] 18
(8) [Electricity and Machines] <i>Superfluous Hair</i>	[18] 60
(9) [Facial Treatments] <i>Chemistry</i>	[225] 3
(10) [Body Procedures (No Machines)] <i>Chemistry as Applied to Esthetics</i>	[48] 21
(11) [Make-Up Techniques] <i>Electricity and Equipment</i>	[84] 18
(12) [Business Practices] <i>Facial and Body Procedures</i>	[50] 240
(13) [Job Skills] <i>Make-Up Techniques</i>	[6] 70
(14) [Introduction to Paramedical Esthetics] <i>Business Practices</i>	[18] 30
(15) <i>Career Skills</i>	12
(16) <i>Introduction to Advanced Esthetics</i>	9
(17) Unassigned	[36] 24
Total	600

(b) Subject matter. Each subject (including orientation) shall include a treatment of the topics as set forth herein:

ORIENTATION—4 HOURS

- School Rules and Regulations
- History of Esthetics
- The Role of the Esthetician
- Qualities of the Professional Esthetician
- Code of Ethics
- *New York State and Federal Laws, Rules, and Regulations*

Subject 1

SAFETY AND HEALTH—8 HOURS

- Local, State, Federal Safety Codes
- *Classroom/Student Salon [Clinic] Rules and Regulations*
- [General Salon/Clinic Safety
- First Aid]
- Hazardous Materials Communications (HAZMAT)

Subject 2

[BACTERIOLOGY] INFECTION CONTROL—18 HOURS

- Types and Classification of *Bacteria*
- [Bacterial Growth and Reproduction] *Viral, Bacterial and Fungal Infections*
- [Bacterial Infections and Their Prevention] *Immunity and Body Defenses*

- [• Immunity and Body Defenses]

- Methods of Infection Control
- Physical and Chemical Agents for *Infection Control*

Subject 3

ANATOMY[,] AND PHYSIOLOGY [AND NUTRITION]—[25] 30 HOURS

- Cells, Tissues, and Organs
- Body Systems
- [• Importance of Water
- Nutrition for Healthy Skin and Longevity]

Subject 4

STRUCTURE AND FUNCTIONS OF THE SKIN—[12] 18 HOURS

- Physiology and Histology of the Skin
- Structure and Functions of the Skin
- Appendages of *the Skin* [—Hair Structure and Functions With Relation to Esthetics (Nails, Sebaceous Glands, and Sweat Glands)]

Subject 5

[SUPERFLUOUS HAIR] NUTRITION FOR HEALTHY SKIN AND LONGEVITY—[24] 5 HOURS

[• Theoretical Overview of Permanent Methods (Electrolysis, Thermolysis, Blend)

- Temporary Methods of Hair Removal: Manual Tweezing, Depilatory Lotion, and Waxing (Strip and Non-strip)
- Bleaching of the Hair]

Subject 6

[CHEMISTRY] *SKIN DISORDERS AND DISEASES*—[3] 12 HOURS

[• Chemistry and Matter As Related to Esthetics; Chemical Reactions and Solutions/Elements, Compounds and Mixtures/Biochemistry

- The pH Scale]

Subject 7

[CHEMISTRY AS APPLIED TO COSMETICS] *SKIN ANALYSIS*—[21] 18 HOURS

- [• Cosmetics

- Skin Care Products
- Massage Creams and Oils, Ampoules, and Scrubs
- New Technologies
- FDA Laws Governing Cosmetics and Cosmetic Safety]

Subject 8

[ELECTRICITY AND MACHINES] *SUPERFLUOUS HAIR*—[18] 60 HOURS

- [• Electricity and Its Effects on the Skin
- Galvanic Current for Iontophoresis or Desincrustation
- High Frequency Current

• Use of: Magnifying Lamp and Wood's Lamp, Brushing Machine, Spray Machine and Suction Machine, Vaporizer and Pulverizador, Hot Towel Cabinet

- Paraffin Unit
- Electric Mittens, Booties, and Face Mask]

• *Theoretical Overview of Permanent Methods (Electrolysis, Thermolysis and Blend)*

• *Temporary Methods of Hair Removal: Manual Tweezing and Waxing (Strip and Non-strip)*

Subject 9

[FACIAL TREATMENTS] *CHEMISTRY*—[225] 3 HOURS

- [• Client Preparation
- Skin Analysis and Consultation
- Skin Types
- Skin Conditions and Disorders
- Facial Procedures
- Facial Treatments With or Without Machines
- Overview of Aromatherapy and Manual Lymphatic Drainage for the Face and Neck

- Product Recommendation]
- *Chemistry as Related to Esthetics*
- *Acidity and Alkalinity*

Subject 10

[BODY PROCEDURES (NO MACHINES)] *CHEMISTRY AS APPLIED TO ESTHETICS*—[48] 21 HOURS

- [• Body Exfoliation (Wet and Dry)
- Back Treatments
- Use of Various Products to Enhance the Appearance of the Skin: Seaweed, Salt, Paraffin, Mud, Ampoules, Creams, etc.

• Discussion for Further Training Required for Advanced Body Techniques Such as Aromatherapy, Manual Lymphatic Drainage, Water Therapies]

- *Cosmetics and Skin Care Products*
- *Massage Creams and Oils*
- *New Product Technologies*
- *FDA Laws Governing Cosmetics and Skin Care*
- *Skin Sensitivity and Allergic Reactions*

Subject 11

[MAKE-UP TECHNIQUES] *ELECTRICITY AND EQUIPMENT*—[84] 18 HOURS

- [• Color Analysis
- Morphology of the Face
- Product Knowledge, Chemistry, and Related Composition
- Eyebrow Contouring
- Make-Up Application
- Corrections and Contouring
- False Eyelashes
- Eyelash and Eyebrow Tinting
- Further Training Required for Advanced Techniques]
- *Electricity as Related to Esthetics Equipment*
- *Electrical Equipment Safety*
- *Galvanic Current for Iontophoresis or Desincrustation*
- *High Frequency Current*
- *Esthetics Equipment*
- *Paraffin Unit*
- *Emerging Technologies*

Subject 12

[BUSINESS PRACTICES] *FACIAL AND BODY PROCEDURES*—[50] 240 HOURS

- [• Business Operation
- Site Planning and Design
- Accounting, Inventory, and Sales Tax
- Payroll Regulations
- Ethics and Professional Conduct
- Communication Skills
- Retailing Techniques
- Marketing (Advertising, Retailing, and Promotion)
- Customer Relations]
- *Client Consultation*
- *Skin Analysis, Product Selection and Treatment Recommendations*
- *Facial and Body Procedures*
- *Overview of Various Products to Enhance the Appearance of the Skin*
- *Facial Procedures with Electrical Equipment*
- *Wet and Dry Exfoliations and Applications*
- *Overview of Advanced Techniques*

Subject 13

[JOB SKILLS] *MAKE-UP TECHNIQUES*—[6] 70 HOURS

- [• Resume
- Interviews
- Letter Writing
- Licensing Regulations
- Job Attitudes
- Professional Organizations
- Continuing Education
- Industry Trade Shows, Magazines, etc.
- Career Opportunities]
- *Color Theory*
- *Morphology of the Face*
- *Eyebrow Contouring*
- *Make-up Application*
- *Artificial Eyelashes*
- *Advanced Make-up Techniques*

Subject 14

[INTRODUCTION TO PARAMEDICAL ESTHETICS] *BUSINESS PRACTICES*—[18] 30 HOURS

- [• Overview of Dermatologic Procedures
- Topical and Oral Medications
- Insight Into Plastic Surgery
- Pre- and Post-Operative Care
- Camouflage Therapy]
- *Business Operation*
- *Accounting and Inventory*
- *Payroll Regulations*
- *Ethics and Professional Conduct*
- *Retailing Techniques*
- *Marketing (Advertising, Retailing, and Promotion)*
- *Customer Relations*

Subject 15

CAREER SKILLS-12 HOURS

Subject 16

INTRODUCTION TO ADVANCED ESTHETICS-9 HOURS

- *Define Paramedical Procedures*
- *Discuss Scope of Licensure*
- *Overview of Medical Procedures*
- *Pre and Post Operative Care*

Subject 17

UNASSIGNED-24 HOURS

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

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:

General Business Law §§ 402 and 404 authorize the Department of State to promulgate rules and regulations to establish standards of practice and to set forth the required educational curriculum for prospective appearance enhancement licensees.

2. Legislative objectives:

The statutory intent of Article 27 of the General Business Law is to protect the health, safety and welfare of the public by ensuring that appearance enhancement services are provided by qualified, trained practitioners providing services in a sanitary and safe manner.

3. Needs and benefits:

The proposed rule will update the esthetics curriculum for prospective licensees. The existing curriculum was promulgated in 1994 and has not been updated since. Several of the topic areas are out of date and no longer reflect contemporary esthetics issues and procedures.

In updating the curriculum, it was determined that modifications needed to be made to the permitted waxing procedures. Through inspections of appearance enhancement businesses and investigations into alleged violations of the statute by certain practitioners, the Department of State has determined that some waxing establishments are administering waxing services in an unsanitary and dangerous manner.

Wax is typically stored in a small heating container that warms the wax until it is reduced to a liquid form that can be applied to the skin. The wax is applied to the skin by applicator and, when cooled, is removed from the skin taking with it unwanted hair. As part of this procedure, skin and other material is also removed from the skin. Some practitioners have not been following established sanitary procedures intended to prevent the contamination of wax with this material between clients. The Department of State has observed waxing containers contaminated with hair and other debris waiting to be used on future customers. This practice is not only unsanitary, it is dangerous. During a previous Department investigation, an appearance enhancement business was found to be using the same container of wax for multiple clients, dipping used applicators in the wax time and time again. An unsuspecting customer developed a severe infection from a waxing procedure that nearly resulted in the loss of an eye.

In order to protect the public from similar harm, the Department of State, in consultation with the NYS Appearance Enhancement Advisory Committee, is recommending a change in regulations to clarify proper procedures for wax application. This procedure will be taught as part of the new esthetics curriculum.

4. Costs:

a. Costs to regulated parties:

Prospective esthetic licensees are currently required to complete an approved course of instruction. It is anticipated that, because the hours of instruction are not being changed by the rule, the cost of the course will remain consistent. Educational instructions have reported that the cost of the course varies from \$7,000 to \$15,000.

The proposed rule will impose costs on those licensees currently not following proper waxing procedure insofar as they will need to utilize a new disposable waxing applicator each time the warmed wax is applied to a customer's skin. Disposable waxing applicators are inexpensive. According to the Department's research, the average cost of a box containing 500 disposable applicators is approximately \$10.00.

The proposed rule will also require licensees to use disposable gloves when providing waxing services. Because the removal of hot wax removes skin, it makes customers susceptible to the transmission of contaminants from the unprotected hands of the practitioner. The appearance enhancement advisory committee has advised that proper wax application requires the use of disposable gloves to adequately protect customers from infection. Disposable gloves are inexpensive costing, on average, \$5.00 for a box of 100 gloves.

b. Costs to the Department of State:

The rule does not impose any costs upon the Department of State. Existing staff will process applications, review qualifications and, when necessary, investigate alleged violations of the rule. Similarly, hearings related to violations of the rule will be conducted by the Department's Litigation Unit and Office of Administrative Hearings.

5. Local government mandates:

The rule does not impose any program, service, duty or responsibility upon any county, city, town, village, school district or other special district.

6. Paperwork:

Educational institutions are required to obtain approval from the NYS Department of Education to teach required esthetics curriculum. Prospective licensees are required to apply to the Department of State for a license to practice esthetics.

7. Duplication:

This rule does not duplicate, overlap or conflict with any other state or federal requirement.

8. Alternatives:

The Department considered not promulgating a regulation but determined it was necessary to do so in order to ensure that prospective licensees are taught material that is both relevant and contemporary. The existing curriculum for esthetics was promulgated in 1994 and has not been updated since. It was also determined that proper waxing procedures should be clarified, both as part of the curriculum and as an independent rule in order to adequately protect the public from unsanitary waxing procedures.

9. Federal standards:

This rule does not exceed or conflict with any existing federal standard.

10. Compliance schedule:

Due to the need to update the state examination and for educational institutions to update and receive approval for course curriculum, the proposed rule will take effect six months after Notice of Adoption is published in the State Register. This will also afford sufficient time to educate prospective and existing licensees about the requirements of the new rule. Accordingly, the Department is not including a cure period in the rule.

Regulatory Flexibility Analysis

1. Effect of rule:

The proposed rule will update existing esthetics curriculum and create a stand-alone rule to clarify proper waxing procedure. The current esthetics curriculum was promulgated in 1994 and has not been updated since. Due to the dated content, the curriculum no longer accurately reflects current esthetics practices and procedures. Currently, the Department of State licenses approximately 15,793 estheticians. Some appearance estheticians work in rural areas. There are also approximately 10,824 licensed waxing practitioners, some of which may work in rural areas. Most appearance enhancement practitioners work for small businesses.

The rule does not apply to local governments.

2. Compliance requirements:

The proposed rule does not impose any reporting or recordkeeping requirements on appearance enhancement practitioners. Appearance enhancement schools will be required to obtain course approval from the NYS Department of Education. Prospective licensees will be required to take an approved course and apply to the Department of State for a license. Additionally, those existing licensees who are not currently providing waxing services in a safe and sanitary manner will need to conform their practices to comply with the waxing provision of the rule.

3. Professional services:

It is anticipated that appearance enhancement schools or practitioners will not need to rely on professional services to comply with the requirements of the proposed rule. Appearance enhancement schools will need to revise their course curriculum to comply with the requirements of the rule and obtain approval from the NYS Department of Education to teach the new course. Insofar as the content of the rule conforms to information contained in current esthetics textbooks, updating course curriculum should not require professional services. Practitioners should also be able to comply with the rule without obtaining professional services to do so. Disposable waxing applicators and gloves are readily available to, and may be purchased directly by licensees from supply companies and specialty retailers.

4. Compliance Costs:

Prospective esthetic licensees are currently required to complete an approved course of instruction. It is anticipated that, because the hours of instruction are not being changed by the rule, the cost of the course will remain consistent. Educational instructions have reported that the cost of the course varies from \$7,000 to \$15,000.

The proposed rule will impose costs on those licensees currently not following proper waxing procedure insofar as they will need to utilize a new disposable waxing applicator each time the warmed wax is applied to a customer's skin. Disposable waxing applicators are inexpensive. According to the Department's research, the average cost of a box containing 500 disposable applicators is approximately \$10.00.

The proposed rule will also require licensees to use disposable gloves when providing waxing services. Because the removal of hot wax removes skin, it makes customers susceptible to the transmission of contaminants from the unprotected hands of the practitioner. The appearance enhancement advisory committee has advised that proper wax application requires the use of disposable gloves to adequately protect customers from infection. Disposable gloves are inexpensive costing, on average, \$5.00 for a box of 100 gloves.

5. Economic and technological feasibility:

The Department has determined that it will be economically and technologically feasible for small businesses to comply with the proposed rule. Appearance enhancement schools will be able to use current esthetics text-books to make the required updates to course curriculum and submit same to the Department of Education for approval. Practitioners will also be able to comply with the rule economically and without relying on expensive technology. The disposable gloves and applicators required by the waxing provision of the rule are inexpensive and may be easily obtained, direct from appearance enhancement supply companies.

6. Minimizing adverse impact:

The Department of State has not identified any adverse economic impact of this rule.

The rule does not impose any additional reporting or record keeping requirements on appearance enhancement professionals and does not require them to take any affirmative acts to comply with the rule other than complete the required course of instruction and conform waxing services to proper sanitary procedures. It is believed that the vast majority of appearance enhancement professionals are already providing waxing ser-

vices in an appropriate and sanitary manner. As such, these licensees will not be impacted by this rule. Those who are not in compliance will incur the modest cost associated with purchasing disposable waxing applicators and gloves.

7. Small business participation:

Prior to proposing the rule, the Department of State discussed the proposal at several open meetings of the NYS Appearance Enhancement Advisory Committee. At these meetings, members of the public were invited to provide public comment. No comments were made on the proposed regulation. In addition, the Department published a copy of the proposed text on its website. No comments were received. The Department of State will continue its outreach after the rule is formally proposed as a Notice of Proposed Rule Making in the State Register. The publication of the rule in the State Register will provide additional notice to small businesses. Additional comments will be received and entertained by the Department during the formal public comment period indicated in this Notice of Proposed Rule Making.

8. Compliance:

Due to the need to update the state examination and for educational institutions to update and receive approval for course curriculum, the proposed rule will take effect six months after Notice of Adoption has been published in the State Register. This will also afford sufficient time to educate prospective and existing licensees about the requirements of the new rule. Accordingly, the Department is not including a cure period in the rule.

Rural Area Flexibility Analysis

1. Effect of the rule:

The proposed rule will update existing esthetics curriculum and create a stand-alone rule to clarify proper waxing procedure. The current esthetics curriculum was promulgated in 1994 and has not been updated since. Due to the dated content, the curriculum no longer accurately reflects current esthetics practices and procedures. Currently, the Department of State licenses approximately 15,793 estheticians. Some appearance estheticians work in rural areas. There are also approximately 10,824 licensed waxing practitioners, some of which may work in rural areas.

2. Compliance requirements:

The proposed rule does not impose any reporting or recordkeeping requirements on appearance enhancement practitioners. Appearance enhancement schools will be required to obtain course approval from the NYS Department of Education. Prospective licensees will be required to take an approved course and apply to the Department of State for a license. Additionally, those existing licensees who are not currently providing waxing services in a safe and sanitary manner will need to conform their practices to comply with the waxing provision of the rule.

3. Professional services:

It is anticipated that appearance enhancement schools or practitioners will not need to rely on professional services to comply with the requirements of the proposed rule. Appearance enhancement schools will need to revise their course curriculum to comply with the requirements of the rule and obtain approval from the NYS Department of Education to teach the new course. Insofar as the content of the rule conforms to information contained in current esthetics textbooks, updating course curriculum should not require professional services. Practitioners should also be able to comply with the rule without obtaining professional services to do so. Disposable waxing applicators and gloves are readily available, and may be purchased directly by licensees from supply companies and specialty retailers.

4. Compliance costs:

Prospective esthetic licensees are currently required to complete an approved course of instruction. It is anticipated that, because the hours of instruction are not being changed by the rule, the cost of the course will remain consistent. Educational institutions have reported that the cost of the course varies from \$7,000 to \$15,000.

The proposed rule will impose costs on those licensees currently not following proper waxing procedure insofar as they will need to utilize a new disposable waxing applicator each time the warmed wax is applied to a customer's skin. Disposable waxing applicators are inexpensive. According to the Department's research, the average cost of a box containing 500 disposable applicators is approximately \$10.00.

The proposed rule will also require licensees to use disposable gloves when providing waxing services. Because the removal of hot wax removes skin, it makes customers susceptible to the transmission of contaminants from the unprotected hands of the practitioner. The appearance enhancement advisory committee has advised that proper wax application requires the use of disposable gloves to adequately protect customers from infection. Disposable gloves are inexpensive costing, on average, \$5.00 for a box of 100 gloves.

5. Minimizing adverse economic impacts:

The Department of State has not identified any adverse economic impact of this rule. The rule does not impose any additional reporting or

record keeping requirements on appearance enhancement professionals and does not require them to take any affirmative acts to comply with the rule other than complete the required course of instruction and conform waxing services to proper sanitary procedures. It is believed that the vast majority of appearance enhancement professionals are already providing waxing services in an appropriate and sanitary manner. As such, these licensees will not be impacted by this rule. Those who are not in compliance will incur the modest cost associated with purchasing disposable waxing applicators and gloves.

6. Rural area participation:

Prior to proposing the rule, the Department of State discussed the proposal at several open meetings of the NYS Appearance Enhancement Advisory Committee. At these meetings, members of the public were invited to provide public comment. No comments were made on the proposed regulation. In addition, the Department published a copy of the proposed text on its website. No comments were received. The Department of State will continue its outreach after the rule is formally proposed as a Notice of Proposed Rule Making in the State Register. The publication of the rule in the State Register will provide additional notice to small businesses. Additional comments will be received and entertained by the Department during the formal public comment period indicated in this Notice of Proposed Rule Making.

Job Impact Statement

The proposed rule updates the esthetic curriculum which was promulgated in 1994 and has not been revised since. It also addresses and seeks to remedy unsanitary waxing procedures. This is not a practice engaged in by the vast majority of appearance enhancement professionals and, rather is perpetrated by a small minority of licensees. Those not currently in compliance may do so by conforming to the simple and inexpensive requirements of this rule. As such, the proposed rule will not have a substantial adverse impact on jobs and employment opportunities for appearance enhancement practitioners and educational institutions.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Cease and Desist Zone for Queens and Bronx Counties

I.D. No. DOS-30-17-00002-P

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

Proposed Action: Amendment of section 175.17 of Title 19 NYCRR.

Statutory authority: Real Property Law, section 442-h

Subject: Cease and desist zone for Queens and Bronx Counties.

Purpose: To adopt cease and desist zones for Queens and Bronx Counties.

Text of proposed rule: 19 NYCRR 175.17 is amended as follows:

Section 175.17. Prohibitions in relation to solicitation and unlawful discriminatory practice

(a)

(1) No broker or salesperson shall induce or attempt to induce an owner to sell or lease any residential property or to list same for sale or lease by making any representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, national origin, age, sex, sexual orientation, disability, gender identity, military status, familial [status] *status* or any other protected category under any Federal, State or local law applicable to the activities of real estate licensees in New York State.[.]

(2)

(i) No licensed real estate broker or salesperson shall solicit the sale, lease or the listing for sale or lease of residential property after such licensee has received written notice from an owner thereof that such owner or owners do not desire to sell, lease or list such property.

(ii) Notice provided under the provisions of this subdivision to a real estate broker shall constitute notice to all associate brokers and salespersons who are employed by the real estate broker.

(3)

(i) No licensed real estate broker or salesperson shall solicit the sale, lease or the listing for sale or lease of residential property from an owner of residential property located in a designated cease-and-desist zone if such owner has filed a cease-and-desist notice with the Department of State indicating that such owner or owners do not desire to sell, lease or list their residential property and do not desire to be solicited to sell, lease or list their residential property.

(ii) The following geographic areas are designated as cease-and-desist zones, and, unless sooner redesignated, the designation for the following cease-and-desist zones shall expire on the following dates:

Zone Expiration Date
 County of Bronx [August 1, 2014] September 1, 2022

Within the County of Bronx as follows:
 [All that] *The sections of the area of land in the County of Bronx, City of New York, within the neighborhood commonly referred to as Country Club, [otherwise known as Community Districts 10, 11 and 12] and more specifically bounded by and described as follows: [Beginning at a point at the intersection of Bronx County and Westchester County boundary and Long Island Sound; thence southerly along Long Island Sound while including City Island to East River; thence westerly along East River to Westchester Creek; thence northerly, northwesterly and northeasterly along Westchester Creek to East Tremont Avenue; thence southwestwesterly, northwesterly and westerly along East Tremont Avenue to Bronx River Parkway; thence northerly and northeasterly along Bronx River Parkway to East 233rd Street; thence westerly along East 233rd Street to Van Cortlandt Park East; thence northerly along Van Cortlandt Park East to the boundary of Westchester County and Bronx County; thence easterly along the boundary of Westchester County and Bronx County to Long Island Sound and the point of beginning]*

All the land west of the Eastchester Bay south of Griswold Avenue to Bruckner Expressway; thence southerly along the Bruckner Expressway/Throgs Neck Expressway to Layton Avenue; then easterly to the Eastchester Bay.

Zone Expiration Date
 County of Queens [August 1, 2014] September 1, 2022

Within the County of Queens as follows:
The sections of the area of land in the County of Queens, City of New York, within the neighborhood commonly referred to as College Point, and more specifically bounded by and described as follows:

Beginning at the intersection of interstate 678 and the East River; thence southerly along interstate 678 to the intersection of interstate 678 and 14th Avenue; thence westerly along 14th Avenue to College Point Boulevard; thence southerly along College Point Boulevard to 28th Avenue; thence westerly to Flushing Bay; thence northeasterly along Flushing Bay and the East River to the point of the beginning.

The sections of the area of land in the County of Queens, City of New York, within the neighborhoods commonly referred to as: Bay Side, Bay Terrace and Murray Hill, and more specifically bounded by and described as follows:

Beginning at the intersection of the Cross Island Parkway and 149th Street; thence southerly along 149th Street to 46th Avenue; thence easterly along 46th Avenue and continuing along Hollis Court Boulevard to interstate 495; thence easterly along interstate 495 to the Cross Island Parkway; thence northerly along the Cross Island Parkway to the point of the beginning.

[All that area of land in the County of Queens, City of New York, otherwise known as Bayside, Bellerose, Queens Village, Rockaways, South Ozone Park, Woodhaven and Whitestone bounded and described as follows:

Bayside: Located in northern Queens. Francis Lewis Boulevard to the west, 233rd Street to the east, Grand Central Parkway to the south and Cross Island Parkway to the north and bounded by the geographical boundaries of the following zip codes: 11361, 11359, 11360, and 11364.

Bellerose: Little Neck Parkway to the east, Grand Central Parkway to the west, the Credmoor State Hospital grounds to the north and Braddock and Jamaica Avenues to the south and bounded by the geographical boundary of the zip code 11426.

Queens Village: Nassau County and Belmont Park to the east, Cambria Heights and St. Albans to the south, Hollis to the west, and Bellerose and Holliswood to the north and bounded by the geographical boundaries of the following zip codes: 11427, 11428 and 11429.

Rockaways: Located in southern Queens. 11 miles long peninsula with Jamaica Bay to the north, the Atlantic Ocean to the south and Nassau County to the east and bounded by the geographical boundaries of the following zip codes:

11690, 11691, 11692, 11693, 11694, 11695 and 11697.

South Ozone Park: Van Wyck Expressway to the east, Aqueduct Race Track to the west, Liberty Avenue to the north and Conduit Avenue and Belt Parkway to the south and bounded by the geographical boundaries of the zip code 11420.

Woodhaven: Forest Park and Park Lane South to the north, Richmond Hill to the east, Ozone Park and Atlantic Avenue to the south and borough of Brooklyn to the west and bounded by the geographical boundaries of the zip code 11421.

Whitestone: Located in northern Queens between the East River to the

north and 25th Avenue to the south, Whitestone Bridge to the west and the Throgs Neck Bridge to the east and bounded by the geographical boundaries of the zip code 11357.
 Cease and Desist Zone
 (Mill Basin/Brooklyn)

Zone Expiration Date
 County of Kings November 30, 2012
 (Brooklyn)

Within the County of Kings as follows:

All that area of land in the County of Kings, City of New York, otherwise known as the communities of Mill Basin, Mill Island, Bergen Beach, Futurama, Marine Park and Madison Marine, bounded and described as follows: Beginning at a point at the intersection of Flatlands Avenue and the northern prolongation of Paerdegat Basin, thence southwestwesterly along Flatlands Avenue to Avenue N; thence westerly along Avenue N to Nostrand Avenue; thence southerly along Nostrand Avenue to Kings Highway; thence southwestwesterly along Kings Highway to Ocean Avenue; thence southerly along Ocean Avenue to Shore Parkway; thence northeasterly, southeasterly, northerly, northeasterly and northerly along Shore Parkway to Paerdegat Basin; thence northwestwesterly along Paerdegat Basin and the northern prolongation of Paerdegat Basin; thence northwestwesterly along Paerdegat Basin and northern prolongation of Paerdegat Basin to Flatlands Avenue and the point of beginning.]

(iii) The names and addresses of owners who have filed a cease-and-desist notice with the Department of State shall be compiled according to the street address for each cease-and-desist zone. Following the first compilation of a list, the list shall be revised and updated annually on or before December 31st. Individual lists shall be identified by geographic area and year.

(iv) A copy of each cease-and-desist list shall be available for inspection at the following offices of the Department of State:

Department of State
 Division of Licensing Services
 [80 South Swan Street, 10th Floor]
 99 Washington Avenue
 Albany, New York 12231-0001

Department of State
 Division of Licensing Services
 State Office Building Annex
 164 Hawley Street
 Binghamton, New York 13901-4053

Department of State
 Division of Licensing Services
 65 Court Street
 Buffalo, New York 14202-3471

Department of State
 Division of Licensing Services
 Hughes State Office Building
 Syracuse, New York 13202-1428

Department of State
 Division of Licensing Services
 State Office Building Veterans Memorial Highway
 Hauppauge, New York 11788-5501

[Department of State
 Division of Licensing Services
 114 Old Country Road
 Mineola, New York 11501-4459]

Department of State
 Division of Licensing Services
 123 William Street
 New York, New York 10038-3804

(v) The cost of each list [compiled] compiled pursuant to this subdivision shall be \$10 and shall be available upon written request to the following address:

Department of State
 Division of Licensing Services

123 William Street
New York, New York 10038-3804

(vi) The original cease-and-desist notice shall be filed with the Department of State's Division of Licensing Services at 123 William Street, New York, New York 10038-3804, and shall be available for public inspection and copying upon written request and appointment.

(vii) For the purposes of Real Property Law, section 441-c, it shall not be a demonstration of untrustworthiness or incompetence for a licensee to solicit an owner who had filed a cease-and-desist notice with the Department of State if the owner's name and address do not appear on the current cease-and-desist list compiled by the Department of State pursuant to subparagraph (iii) of this paragraph.

(4)

(i) For the purposes of this subdivision, solicitation shall mean an attempt to purchase or rent or an attempt to obtain a listing of property for sale, for rent or for purchase. Solicitation shall include but not be limited to use of the telephone, mails, delivery services, personal contact or otherwise causing any solicitation, oral or written, direct or by agent:

(a) to be delivered or presented to the owner or anyone else at the owner's home address;

(b) to be left for the owner or anyone else at the owner's home address; or

(c) to be placed on any vehicle, structure or object located on the owner's premises.

(ii) Solicitation shall not include classified advertising in regularly printed periodicals that are not primarily real estate related; advertisements placed in public view if they are not otherwise in violation of this subdivision; or radio and television advertisements.

(5) For the purposes of this subdivision, residential property shall mean one-, two- or three-family houses, including a cooperative apartment or condominium.

(b) No real estate broker or salesperson shall engage in an unlawful discriminatory practice, as proscribed by any Federal, State or local law applicable to the activities of real estate licensees in New York State. A finding by any Federal, State or local agency or court of competent jurisdiction that a real estate broker or salesperson has engaged in unlawful discriminatory practice in the performance of licensed real estate activities shall be presumptive evidence of untrustworthiness and will subject such licensee to discipline, including a proceeding for revocation. Nothing herein shall limit or restrict the department from otherwise exercising its authority pursuant to section 441-c of the Real Property Law.

Text of proposed rule and any required statements and analyses may be obtained from: David mossberg, NYS Dept. of State, 123 William St., 20th Floor, New York, NY 10038, (212) 417-2063, email: david.mossberg@dos.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 442-h(3)(a) of the New York Real Property Law ("NY RPL") provides that the Secretary of State may adopt a rule establishing a "cease-and-desist zone" if the Secretary determines that some homeowners within a defined area are subject to intense and repeated solicitations by real estate brokers, salespersons or other persons regularly engaged in the trade or business of buying and selling real estate. Upon the establishment of such a zone, the law provides that any homeowner located within the zone may file with the Secretary a statement of desire not to be solicited and may request that the homeowner's property be included on a list commonly referred to within the real estate industry as a "cease-and-desist list". Thereafter, the Secretary shall publish a list of names and addresses of the persons who have filed the statement. Once the list is published, brokers, salespersons and other persons regularly engaged in the trade or business of buying and selling real estate are prohibited from soliciting persons on that list.

2. Legislative objectives:

Section 442-h was enacted to protect homeowners within specific areas from intense and repeated solicitations, which were often accompanied by implications that property values will be decreasing due to changes taking place within the community. These changes were often attributed to persons of different ethnic, social or religious backgrounds moving into specific neighborhoods in greater numbers. In a case upholding the law against a challenge brought against the creation of a "cease-and-desist list", the Second Circuit Court of Appeals further explained that the objectives advanced by such "lists" also include protecting the privacy of homeowners. *Anderson v. Treadwell*, 294 F.3d 453 (2d Cir. 2002). In *Anderson*, the court held, inter alia, that "[t]he homeowners' privacy inter-

est is 'substantial' within the meaning of Central Hudson. The Supreme Court has declared that protecting the 'well-being, tranquility, and privacy of the home is certainly of the highest order in a free and civilized society.' The Court has observed that '[e]ven solicitation that is neither fraudulent nor deceptive may be pressed with such frequency or vehemence as to intimidate, vex, or harass the recipient....[P]rotection of the public from these aspects of solicitation is a legitimate and important state interest.' As the District Court noted, the Secretary asserts such a situation here, stating that many homeowners feel 'harassed, overwhelmed, threatened, and offended by the extensive telephonic, mail, flyers, and personal direct solicitation they receive.' Accordingly, the interest in protecting homeowners from such harassing solicitations is a substantial state interest." *Anderson*, 461-62 (internal quotation marks omitted). Therefore, "cease-and-desist lists" are also intended to protect homeowners from unwanted solicitations which are intense and repeated so as to offend the well-being, tranquility, and privacy of the home.

After holding several public hearings, and receiving evidence from many homeowners, the Secretary has found that homeowners within certain parts of Bronx and Queens counties are subject to the types of solicitations that Section 442-h and "cease-and-desist lists" are intended to guard against. This rule, therefore, furthers the legislative intent and advances the policies sought by enacting Section 442-h.

3. Needs and benefits:

The Department held public hearings in both Bronx and Queens counties prior to proposing this rule. The hearings were held within Bronx County on: April 20, 2016; June 28, 2016; and July 28, 2016. Hearings were also held within Queens County on: April 28, 2016; September 14, 2016; and September 15, 2016.

The Department gathered hundreds of different pieces of mailed solicitations at these hearings and during a public comment period following the hearings. Many homeowners urged the Secretary to establish a "cease-and-desist list" due to the amount and the intensity of the solicitations received, and the harassment felt by the homeowners as a result. Speakers provided examples of frequent telephone calls, unwanted mail and flyers, and door-to-door solicitations as intrusive and unwanted solicitation practices by members of the real estate industry.

Further, testimony solicited from some real estate professionals also supports creation of the lists proposed by this rulemaking. In Queens, for example, a broker offered that her brokerage usually sends 20,000 individual pieces of mail six to seven times a year, in addition to her other marketing practices.

This proposal therefore satisfies the important legislative objective of protecting homeowners from unwanted, repeated and intense solicitations, and is reasonably tailored to fit just those communities which have demonstrated a need for a "cease-and-desist list". Accordingly, this rule will provide those homeowners who do not wish to be solicited with an effective and practical means of so notifying real estate professionals.

4. Costs:

A. Costs to regulated parties:

Parties affected by this rule include licensed real estate brokers and salespeople, as well as other persons regularly engaged in the trade or business of buying and selling real estate. The Department will offer "cease-and-desist lists" on its website, at no cost. The Department will also offer "cease-and-desist lists" for \$10.00 per copy, in accordance with NY RPL § 442-h and 19 NYCRR § 175.17. The Department expects that most professionals will obtain the "cease-and-desist lists" from the Department's website at no cost.

If a professional uses the telephone, delivery services or personal contact to solicit residential listings, there may be additional time spent checking the "cease-and-desist list" to avoid contact with any person who may be on the list. There is, of course, a cost associated with that expenditure of the time taken to check the list. On the other hand, there may be some savings resulting from the elimination of unproductive calls or deliveries. Whether there is a net cost or savings will depend on the circumstances and practices of each business.

B. Costs to the Department of State:

The costs for printing and mailing are unknown, in part because it is unknown how many prints are required; it is expected that most business will obtain the "cease-and-desist lists" from the Department's website. For those few who want to purchase a paper copy, the Department will likely print a copy, on a per order basis, on existing equipment and using existing resources. The Department anticipates that any costs associated with this rule will be minimal, and may be defrayed by the required \$10.00 fee for paper copy requests. Existing staff will be utilized to update and maintain the "cease-and-desist lists".

5. Local government mandates:

The rule does not impose any program, service, duty or responsibility upon any county, city, town, village, school district or other special district.

6. Paperwork:

Homeowners who do not want to be solicited will have to file an

“owner’s statement” with the Department. The owner’s statement will indicate the owner’s desire not to be solicited and will set forth the owner’s name and the address of the property located within the “cease-and-desist zone”. The Department will provide homeowners with a standard form, although use of the form is not mandatory. Owner’s statement forms will be provided to community leaders for distribution to their constituents. In addition, owner’s statement forms will be available from Department on request. Owners will also be able to fill out a statement electronically on the Department’s website.

The Department will prepare a “cease-and-desist list” containing the names and addresses of all of the homeowners who filed an owner’s statement. The list will be available, at no cost, on the Department’s website. The list will also be sold to the public, including real estate professionals. The price will be \$10 per copy. Besides requests for copies of the “cease-and-desist lists” that they submit by mail, there are no other paperwork requirements as a result of this rule.

7. Duplication:

This rule does not duplicate, overlap or conflict with any other state or federal requirement.

8. Alternatives:

The Department did not identify any alternative that would provide relief for homeowners and, at the same time, be less restrictive and less burdensome on the solicitation activities. Consideration was given to the adoption of a non-solicitation order pursuant to NY RPL section 442-h(2)(a). However, the Department concluded that creation of a cease and desist zone could provide homeowners with relief from intense and repeated solicitation without imposing the more restrictive and burdensome regulation of a non-solicitation order, which would, among other things, prohibit all direct solicitation activities within the non-solicitation zone.

The Department also considered not establishing new zones for Queens and Bronx counties. It was determined, however, that to do so would have resulted in homeowners in the affected areas continuing to be subject to unwanted intense and repeated solicitations to sell their homes. The Department found such a result to be contrary to the best interests of the State and would not further the legislative objective of protecting homeowners.

9. Federal standards:

There are no applicable Federal standards directly relating to this rulemaking.

10. Compliance schedule:

The rule will become effective on September 1, 2017; thereafter, a cure period will be in place for 90 days after adoption of the final rule. These timeframes will allow sufficient time for homeowners to file their owner’s statements with the Department and for those impacted by the regulation to comply with this proposed regulation.

Regulatory Flexibility Analysis

1. Effect of rule:

This rule would adopt two “cease and desist zones” to permit homeowners within the defined areas of Bronx and Queens counties to file an Owner’s Statement with the Department of State indicating that they do not wish to be solicited to sell or list their property for sale. Real estate licensees, and those regularly engaged in the business of buying or selling property, would then be prohibited from soliciting a property listing from those residents. The defined “cease and desist zones” would be limited to only certain specified portions of Bronx and Queens counties.

This rule will apply to all real estate licensees but would primarily affect the 2,607 real estate licensees in Bronx County and 12,378 licensees in Queens County who do business in the defined geographic zones. Many of these licensees are small businesses or are associated with small businesses. Real estate brokers and salespersons will remain free, however, to solicit listings from those residents in the defined zone who have not filed Owner’s Statements with the Department of State, and to participate in regulated transactions within the zone. Insofar as the proposed rule seeks to adopt “cease and desist zones” that are similar to zones that were previously in place, but expired, it is not anticipated that the solicitation limitations will place an undue financial burden or impose a hardship on real estate brokers and salespersons. Additionally, many professionals who participated in the various public hearings offered that it is their business practice to not solicit homeowners who directly asked them to stop; accordingly, many small businesses have already instituted their own voluntary versions of a “cease and desist zone”.

In addition to the changes noted above, the proposal also includes minor, non-substantive formatting and grammar changes, which will not have any impact on small businesses.

The rule does not apply to local governments.

2. Compliance requirements:

The Department of State publishes and makes available a list of residents within “cease and desist zones” who have notified the Department that they do not wish to be solicited by real estate professionals.

These lists are made available to any member of the public and are available at no cost. To comply with the rule, these businesses need only refer to the list prior to soliciting listings from homeowners within the defined “cease and desist zone.”

3. Professional services:

Small businesses will not need professional services in order to comply with this rule.

4. Compliance costs:

Small businesses will not incur any significant compliance costs associated with this rule. The Department publishes a free list of all “cease-and-desist lists” on its website at no cost. Businesses who desire a hard copy of the lists may notify the Department and receive a copy of the list by mail for a cost of \$10.00.

5. Economic and technological feasibility:

The Department has determined that it will be economically and technologically feasible for small businesses to comply with this rule. There have been “cease-and-desist lists” in past years and the Department finds no reason to believe the businesses will not be able to comply with these requirements again.

6. Minimizing adverse impact:

The Department did not identify any alternative that would provide relief for homeowners and, at the same time, be less restrictive and less burdensome on the solicitation activities. Consideration was given to the adoption of a nonsolicitation order pursuant to NY RPL section 442-h(2)(a). However, the Department concluded that a “cease and desist order” could provide homeowners with relief from intense and repeated solicitation without imposing the more restrictive and burdensome regulation of a non-solicitation order, which would prohibit all direct solicitation activities within the non-solicitation zone.

The Department also considered not establishing new zones for Queens and Bronx counties. It was determined, however, that to do so would have resulted in homeowners in the affected areas continuing to be subject to unwanted intense and repeated solicitation to sell their homes. The Department found such a result to be contrary to the best interests of the State and would not further the legislative objective of protecting homeowners.

7. Small business participation:

On April 20, 2016; April 28, 2016; June 28, 2016; July 28, 2016; September 14, 2016; and September 15, 2016 the Department held public hearings in Bronx and Queens counties to determine, in part, whether communities within those counties have suffered repeated and intense solicitations warranting this proposed rulemaking. The hearings were publicized in advance and were open to all interested parties, including small businesses represented by licensed brokers. Representatives of local community boards, State and local elected officials, homeowners, and real estate professionals also attended and participated in the process.

The Department kept the hearing record open in order to permit individuals and businesses to submit written testimony and evidence following the public hearing. Further, the Department will continue its outreach after the rule is formally proposed as a Notice of Proposed Rule Making in the State Register. The publication of the rule in the State Register will provide additional notice to interested parties. Additional comments will be received and entertained by the Department.

8. Compliance:

The proposed “cease-and-desist lists” will be effective on September 1, 2017, but the Department is providing a cure period for those impacted by the rule to comply. This time will also be used to allow homeowners sufficient time to file their owner’s statements with the Department.

9. Cure Period:

The Department is providing a cure period of 90 days following publication of the Notice of Adoption to permit those impacted to obtain any lists published by the Department and to adjust their business practices accordingly. After 90 days any business or individual, subject to this rule, who solicits a homeowner that has filed a statement with the Department will be subject to appropriate action pursuant to Article 12-A of the New York Real Property and the regulations promulgated thereunder.

Rural Area Flexibility Analysis

1. Effect of the rule:

This rule does not apply to rural areas and, rather, applies only to defined geographic areas within Bronx and Queens counties.

2. Compliance requirements:

This rule, which applies only in Bronx and Queens counties, does not impose any reporting or recordkeeping requirements on businesses located within rural areas.

3. Professional services:

Professional services are not needed to comply with this rule.

4. Compliance costs:

The rule does not impose any costs on rural areas.

5. Minimizing adverse economic impacts:

Insofar as the rule does not impose any costs on rural areas, no alternatives to minimize adverse impacts were considered by the Department of State.

6. Rural area participation:

Insofar as the rule does not apply in rural areas, rural area participation was not solicited by the Department of State.

Job Impact Statement

As is evident by the nature of this rulemaking, this proposal will not have a substantial adverse impact on jobs and employment opportunities. The rule merely prohibits real estate professionals from soliciting real estate listings from residents of a defined geographic zone who have notified the Department of State that they do not wish to be solicited. Real estate professionals will remain free to solicit other residents within the defined zone and engage in real estate transactions within and outside of the defined geographic area. Similar rules have been promulgated in the past without adversely impacting job opportunities. Further, during the public hearings held on this matter, many professionals indicated that they already voluntarily establish their own "lists" when homeowners ask not to be contacted. Accordingly, for the reasons expressed above, this rule will not adversely impact jobs and employment opportunities.

State University of New York

EMERGENCY RULE MAKING

State Basic Financial Assistance for Operating Expenses of Community Colleges Under the Program of SUNY and CUNY

I.D. No. SUN-30-17-00005-E

Filing No. 509

Filing Date: 2017-07-11

Effective Date: 2017-07-11

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

Action taken: Amendment of section 602.8(c) of Title 8 NYCRR.

Statutory authority: Education Law, sections 355(1)(c) and 6304(1)(b); L. 2017, ch. 53

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

Specific reasons underlying the finding of necessity: The State University of New York finds that immediate adoption of amendments to the Code of Standards and Procedures for the Administration and Operation of Community Colleges (the Code) is necessary for the preservation of the general welfare and that compliance with the requirements of subdivision 1 Section 202 of the State Administrative Procedures Act ("SAPA") would be contrary to the public interest. The 2017-2018 Education, Labor and Social Services Budget Bill (the Budget) requires amendments to the existing funding formula for State financial assistance for operating expenses of community colleges of the State and City Universities of New York. The funding formula is to be developed jointly with the City University of New York, subject to the approval of the Director of the Budget. Amendments to the Code on an emergency basis for the 2017-2018 fiscal year are necessary to:

1. provide timely State operating assistance to public community colleges of the State and City Universities of New York;

2. obtain the necessary revenue to maintain essential staffing levels, program quality, and accessibility. Compliance with the provision of subdivision 1 of Section 202(6) of SAPA would be contrary to the public interest. The requirements of subdivision (1) of Section 202(6) of SAPA would not allow implementation of the State fiscal assistance provided in the Budget Bill in time for the 2017-2018 community college fiscal year.

Subject: State basic financial assistance for operating expenses of community colleges under the program of SUNY and CUNY.

Purpose: Modify limitations formula for basic State financial assistance for operating expenses and conform to Education Law and Budget Bill.

Text of emergency rule: Subdivision (c) of section 602.8 of said Title 8 is amended to read as follows, subject to the approval of the Director of the Budget:

(c) Basic State financial assistance.

(1) Full opportunity colleges. The basic State financial assistance for community colleges, implementing approved full opportunity programs, shall be the lowest of the following:

(i) two-fifths (40%) of the net operating budget of the college, or campus of a multiple campus college, as approved by the State University trustees;

(ii) two-fifths (40%) of the net operating costs of the college, or campus of a multiple campus college; or

(iii) for the current college fiscal year the total of the following:

(a) the budgeted or actual number (whichever is less) of full-time equivalent students enrolled in programs eligible for State financial assistance multiplied by [\$2,697] \$2,747; and

(b) up to one-half (50%) of rental costs for physical space.

(2) Non-full opportunity colleges. The basic State financial assistance for community colleges not implementing approved full opportunity programs shall be the lowest of the following:

(i) one-third (33%) of the net operating budget of the college, or campus of a multiple campus college, as approved by the State University trustees;

(ii) one-third (33%) of the net operating costs of the college, or campus of a multiple campus college; or

(iii) for the college fiscal year current, the total of the following:

(a) the budgeted or actual number (whichever is less) of full-time equivalent students enrolled in programs eligible for State financial assistance multiplied by [\$2,248] \$2,290; and

(b) up to one-half (50%) of rental cost for physical space.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, a community college or a new campus of a multiple campus community college in the process of formation shall be eligible for basic State financial assistance in the amount of one-third of the net operating budget or one-third of the net operating costs, whichever is the lesser, for those colleges not implementing an approved full opportunity program plan, or two-fifths of the net operating budget or two-fifths of the net operating costs, whichever is the lesser, for those colleges implementing an approved full opportunity program, during the organization year and the first two fiscal years in which students are enrolled.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire October 8, 2017.

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

Regulatory Impact Statement

This is a technical amendment to implement the provisions of the 2017-2018 Budget Bill. The amendment provides for the provision of State financial assistance for operating expenses of community colleges operating under the program of the State University of New York and the City University of New York.

Regulatory Flexibility Analysis

This is a technical amendment to implement the provisions of the 2017-2018 Budget Bill. The amendment provides for the provision of State financial assistance for operating expenses of community colleges operating under the program of the State University of New York and the City University of New York. It will have no impact on small businesses and local governments.

Rural Area Flexibility Analysis

This is a technical amendment to implement the provisions of the 2017-2018 Budget Bill. The amendment provides for the provision of State financial assistance for operating expenses of community colleges operating under the program of the State University of New York and the City University of New York. This rule making will have no impact on rural areas or the recordkeeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

No job impact statement is submitted with this notice because the adoption of this rule does not impose any adverse economic impact on existing jobs, employment opportunities, or self-employment. This rule making governs the financing of community colleges operating under the program of the State University and will not have any adverse impact on the number of jobs or employment opportunities in the state.

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

State University of New York Tuition and Fees Schedule

I.D. No. SUN-30-17-00003-EP

Filing No. 508

Filing Date: 2017-07-11

Effective Date: 2017-07-11

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

Proposed Action: Amendment of section 302.1(b) of Title 8 NYCRR.

Statutory authority: Education Law, section 355(2)(b) and (h)

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

Specific reasons underlying the finding of necessity: Amendment of these regulations needs to proceed on an emergency basis because tuition increases are intended to be effective for the Fall 2017 semester. Billing for these new tuition rates occurs during the summer of 2017; therefore, notice of the new rates needs to occur as soon as possible.

Subject: State University of New York Tuition and Fees Schedule.

Purpose: To amend the Tuition and Fees Schedule to increase tuition for students in all programs in the State University of New York.

Text of emergency/proposed rule: Section 302.1. Tuition and fees at State-operated units of State University.

(b) Tuition charges as listed in the following table for categories of students, terms and programs, and as modified, amplified or explained in footnotes 1 through [11]/2 are effective with the 201[6]7 fall term and thereafter.

	Charge per Semester		Charge per Semester credit hour ¹ Special Students	
	New York State residents	Out-of-State residents	New York State residents	Out-of-State residents
(1) Students enrolled in degree-granting undergraduate programs leading to an associate degree and non-degree granting programs of at least one regular academic term in duration which have been approved as eligible for Tuition Assistance Program Awards	[\$3,235] \$3,335 \$3,235 ²	\$8,160 \$4,870 ^[2] ³ \$5,420 ^[3] ⁴ \$5,430 ^[4] ⁵ [\$5,500] ³ \$5,660 ⁶ \$8,160 ^[6] ⁷ [\$3,880] ⁷ \$4,000 ⁸	[\$270] \$278 [\$270] ⁷ \$278 ⁹	\$680 \$406 ^[2] ³ \$452 ^[3] ⁴ \$453 ^[4] ⁵ [\$458] ³ \$472 ⁶ \$680 ^[6] ⁷ [\$323] ⁷ \$333 ⁸ [\$270] ⁸ \$278 ⁹
(2) Students enrolled in degree-granting undergraduate programs leading to a baccalaureate degree and non-degree granting programs of at least one regular academic term in duration which have been approved as eligible for Tuition Assistance Program Awards	[\$3,235] \$3,335 \$3,235 ²	\$8,160 [\$3,880] ⁷ \$4,000 ⁸ [\$11,855] ⁹ \$12,090 ¹⁰ \$10,775 ^[10] ¹¹ [\$4,855] ¹¹ \$5,005 ¹²	[\$270] \$278	\$680 [\$323] ⁷ \$333 ⁸ [\$988] ⁹ \$1,008 ¹⁰ \$898 ^[10] ¹¹ [\$405] ¹¹ \$417 ¹²
(3) Students enrolled in graduate programs (other than Masters of Business Administration, Architecture, Social Work or Physician Assistant) leading to a Master's, Doctor's or equivalent degree	\$5,435	\$11,105 \$6,520 ⁸ \$8,155 ^[11] ¹²	\$453	\$925 \$543 ⁸ \$680 ^[11] ¹²
(4) Students enrolled in a graduate program leading to a Masters of Business Administration (MBA)	[\$7,205] \$7,350	\$12,195 \$8,820 ⁸	[\$600] \$613	\$1,016 \$735 ⁸
(5) Students enrolled in a graduate program leading to a Masters of Architecture	[\$6,690] \$6,890	[\$11,550] \$11,895	[\$558] \$574	[\$963] \$991
(6) Students enrolled in a graduate program leading to a Masters of Social Work	[\$6,475] \$6,540	\$11,105 \$7,850 ⁸	[\$540] \$545	\$925 \$654 ⁸
(7) Students enrolled in the professional program of pharmacy	[\$12,570] \$12,920	[\$23,365] \$18,225	[\$1,048] \$1,077	[\$1,947] \$1,519

(8) Students enrolled in the professional program of law	\$12,705	[\$21,340] \$14,750	\$1,059	[\$1,778] \$1,229
(9) Students enrolled in the professional program of medicine	[\$20,080] \$20,885	\$32,580	[\$1,673] \$1,740	\$2,715
(10) Students enrolled in the professional program of dentistry	[\$17,220] \$17,565	\$31,475	[\$1,435] 1,464	\$2,623
(11) Students enrolled in the professional programs of physical therapy	\$12,195	[\$20,465] \$15,350	\$1,016	[\$1,705] \$1,279
(12) Students enrolled in the professional program of optometry	[\$13,650] \$14,195	[\$24,340] \$24,825	[\$1,138] 1,183	[\$2,028] \$2,069
(13) Students enrolled in the professional program of physician assistant	[\$7,010] \$7,360	\$14,695	[\$584] ⁶ ¹³	\$1,225
(14) Students enrolled in the professional programs of doctor of nursing practice	\$12,195	[\$21,440] \$16,080 \$14,635 ⁸	\$1,016	[\$1,787] \$1,340 \$1,220 ⁸

¹ The Chancellor shall determine the equivalent of a credit hour.

² In accordance with Part HHH of Chapter 59 of the Laws of 2017, students who are both eligible for, and recipients of, an Excelsior Scholarship from the State of New York are to be charged the resident undergraduate rate of tuition approved by the Board of Trustees in the 2016/17 academic year.

^{[2]³} In accordance with Chapter 309 of the Laws of 1996, and enabling action by the Board of Trustees, the Colleges of Technology at Alfred, Canton, Cobleskill, Delhi, and Morrisville are authorized to charge a lower rate for non-resident students enrolled in degree-granting programs leading to an associate degree or in non-degree granting programs. This reduced rate does not apply to those students enrolled in degree-granting programs leading to a baccalaureate degree. Alfred is authorized to charge the rate noted effective with the fall 201[6]7 term.

^{[3]⁴} In accordance with Chapter 309 of the Laws of 1996, and enabling action by the Board of Trustees, the Colleges of Technology at Alfred, Canton, Cobleskill, Delhi, and Morrisville are authorized to charge a lower rate for non-resident students enrolled in degree-granting programs leading to an associate degree or in non-degree granting programs. This reduced rate does not apply to those students enrolled in degree-granting programs leading to a baccalaureate degree. Delhi is authorized to charge the rate noted effective with the fall 201[6]7 term.

^{[4]⁵} In accordance with Chapter 309 of the Laws of 1996, and enabling action by the Board of Trustees, the Colleges of Technology at Alfred, Canton, Cobleskill, Delhi, and Morrisville are authorized to charge a lower rate for non-resident students enrolled in degree-granting programs leading to an associate degree or in non-degree granting programs. This reduced rate does not apply to those students enrolled in degree-granting programs leading to a baccalaureate degree. Canton is authorized to charge the rate noted effective with the fall 201[6]7 term.

^{[5]⁶} In accordance with Chapter 309 of the Laws of 1996, and enabling action by the Board of Trustees, the Colleges of Technology at Alfred, Canton, Cobleskill, Delhi, and Morrisville are authorized to charge a lower rate for non-resident students enrolled in degree-granting programs leading to an associate degree or in non-degree granting programs. This reduced rate does not apply to those students enrolled in degree-granting programs leading to a baccalaureate degree. Morrisville is authorized to charge the rate noted effective with the fall 201[6]7 term.

^{[6]⁷} In accordance with Chapter 309 of the Laws of 1996, and enabling action by the Board of Trustees, the Colleges of Technology at Alfred, Canton, Cobleskill, Delhi, and Morrisville are authorized to charge a lower rate for non-resident students enrolled in degree-granting programs leading to an associate degree or in non-degree granting programs. This reduced rate does not apply to those students enrolled in degree-granting programs leading to a baccalaureate degree. Cobleskill is authorized to charge the rate noted effective with the fall 201[6]7 term.

^{[7]⁸} In accordance with Chapter 437 of the laws of 2015, the Board of Trustees is authorized to establish a new category of tuition for non-resident students enrolled in distance learning courses at SUNY.

^{[8]9} In accordance with Chapter 309 of the Laws of 1996, and enabling action by the Board of Trustees, the Colleges of Technology at Alfred, Canton, Cobleskill, Delhi, and Morrisville are authorized to charge this lower rate for special students (part-time) enrolled in degree-granting programs leading to an associate degree or in non-degree granting programs, and taking classes at off-campus locations or during the summer or winter intercessions. This reduced rate does not apply to those students enrolled in degree-granting programs leading to a baccalaureate degree.

^{[9]10} In accordance with Chapter 54 of the laws of 2016, the University Centers at Buffalo and Stony Brook are authorized to charge this rate for non-resident undergraduate students.

^{[10]11} In accordance with Chapter 54 of the laws of 2016, the University Centers at Binghamton and Albany are authorized to charge this rate for non-resident undergraduate students.

^{[11]12} As authorized by the Board of Trustees (2010-081), Maritime College is authorized to charge up to this rate for non-resident students from states and *commonwealths* considered to be in-region (Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Virginia, and Washington D.C.).

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 October 8, 2017.

Text of rule and any required statements and analyses may be obtained from: Lisa S. Campo, State University of New York, State University Plaza, S-325, 353 Broadway, Albany, NY 12246, (518) 320-1400, email: Lisa.Campo@SUNY.edu

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

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

Regulatory Impact Statement

1. Statutory Authority: Education Law, Sections 355(2)(b) and 355(2)(h). Section 355(2)(b) authorizes the State University Trustees to make and amend rules and regulations for the overall governance of the State University and institutions therein. Section 355(2)(h) authorizes the State University Trustees to regulate the admission of students, tuition charges, other fees and charges, curricula, and all other matters pertaining to the operation and administration of each State-operated institution of the State University.

2. Legislative Objectives: The present measure will provide the State-operated campuses limited additional financial support for investment in programmatic offerings and to partially meet negotiated salary costs, in accordance with Part JJJ of Chapter 59 of the Laws of 2017.

3. Needs and Benefits: The present measure adjusts a series of tuition rates in the various degree programs at the State-operated campuses.

Undergraduate Programs

- Resident undergraduate tuition for students enrolled in an associate or baccalaureate degree would increase by \$200 (3.1%) to \$6,670. For resident undergraduate students who receive the Excelsior Scholarship, tuition will remain at \$6,470.

- Non-resident undergraduate tuition for students at the University Centers at Albany and Binghamton would remain at \$21,550 and would increase by \$470 (2.0%) to \$24,180 for non-resident students at the University Centers at Buffalo and Stony Brook.

- The standard non-resident undergraduate tuition would remain at \$16,320 for all undergraduate students at the Comprehensive Colleges, Environmental Science and Forestry, Downstate Health Science Center, Upstate Health Science Center, Farmingdale, SUNY Polytechnic, Maritime, and for students enrolled at baccalaureate programs at Alfred, Canton, Cobleskill, Delhi, and Morrisville.

- Non-resident undergraduate tuition for students enrolled in an associate's degree or non-degree granting program at the College of Technology at Morrisville would increase by \$320 (2.9%) to \$11,320.

- Non-resident undergraduate tuition would not increase for students enrolled in an associate's degree or non-degree granting program at the College of Technology at Alfred, remaining at \$9,740; the College of Technology at Delhi, remaining at \$10,840; the College of Technology at Canton, remaining at \$10,860; or the College of Technology at Cobleskill, remaining at \$16,320.

- Non-resident undergraduate tuition for students enrolled in an associate's, baccalaureate, or non-degree granting program, and taking exclusively distance learning courses, would increase by \$240 (3.1%) to \$8,000. In accordance with Chapter 37 of the Laws of 2015, the Board of Trustees was authorized to establish a new category of tuition for non-resident students enrolled in distance learning courses at SUNY.

- Maritime College tuition for non-resident students who are from a

state defined as "in-region" (Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Virginia, and Washington D.C.) would increase by \$300 (3.1%) to \$10,010. Students not from one of the states identified above will pay the standard non-resident rate.

Graduate Programs

- For students enrolled in graduate programs not separately identified, the standard tuition would remain at \$10,870 for residents and at \$22,210 for non-residents.

- For students enrolled in programs leading to a Master's in Business Administration degree, tuition would increase by \$290 (2.0%) to \$14,700 for resident students and would remain at \$24,390 for non-resident students.

- For students enrolled in programs leading to a Master's in Architecture degree, tuition would increase by \$400 (3.0%) to \$13,780 for resident students, and by \$690 (3.0%) to \$23,790 for non-resident students.

- For students enrolled in programs leading to a Master's in Social Work degree, tuition would increase by \$130 (1.0%) to \$13,080 for resident students and would remain at \$22,210 for non-resident students.

- Tuition for the Physicians' Assistant graduate master's program at Stony Brook and Upstate would increase by \$700 (5.0%) to \$14,720 for resident students, and would remain at \$29,390 for non-resident students. Downstate Medical began offering Physician's Assistant degrees during the summer 2017 semester.

- Maritime College tuition for non-resident students who are from a state defined as "in-region" (Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Mississippi, Maryland, New Jersey, North Carolina, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, Virginia, and Washington D.C.) would remain at \$16,310. Students not from one of the states identified above will pay the standard non-resident rate.

Professional Programs

- For students enrolled in the Medical Professional Program at the four health science centers, tuition would increase by \$1,610 (4.0%) to \$41,770 for residents and will remain at \$65,160 for non-residents.

- Tuition for the Dental Professional Program at the universities at Stony Brook and Buffalo would increase by \$690 (2.0%) to \$35,130 for residents. Tuition for non-resident students would not increase, remaining at \$62,950.

- Tuition for the Optometry Program at the College of Optometry would increase by \$1,090 (4.0%) to \$28,390 for residents and by \$970 (2.0%) to \$49,650 for non-residents.

- Tuition at the Law School of the University at Buffalo would remain at \$25,410 for resident students. Tuition for non-resident students would decrease by \$13,180 (30.9%) to \$29,500.

- Tuition for the School of Pharmacy Professional Program at the University at Buffalo would increase by \$700 (2.8%) to \$25,840. Tuition for non-resident students would decrease by \$10,280 (22.0%) to \$36,450. Binghamton University will begin offering Pharmacy degrees beginning in the fall 2017 semester.

- Tuition for the Doctor of Physical Therapy Program would remain at \$24,390 for residents. Tuition for non-resident students would decrease by \$10,230 (25.0%) to \$30,700.

- Tuition for the Doctor of Nursing Practice Program would remain at \$24,390 for residents. Tuition for non-resident students would decrease by \$10,720 (25.0%) to \$32,160.

The recommended modifications do not detrimentally impact the competitiveness of State-operate rates compared to peer institutions in other public university systems.

The tuition rates were last increased in the fall 2016.

4. Costs: Students: Tuition rate modifications for students enrolled in these programs of SUNY will range from a \$13,180 decrease per year for non-resident law students to \$1,610 for resident medical students. In setting the new tuition schedule, SUNY has examined its appropriation levels, the prevailing tuition rates charged by other public universities, and the status of various State and Federal student financial aid programs. SUNY: Changes to resident undergraduate rates that will impact students not in receipt of an Excelsior Scholarship will increase the existing SUNY Tuition Assistance Program (SUNY TAP or SUNY Tuition Credit) costs by approximately \$7M to a total projected cost of nearly \$62M.

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

6. Paperwork: No parties will experience any new reporting responsibilities. SUNY publications and documents containing notices regarding costs of attendance will need to be revised to reflect these changes.

7. Duplication: None.

8. Alternatives: Other modification levels were considered, however,

there is no acceptable alternative to the proposed changes when considering competitiveness, programmatic needs, and anticipated costs.

9. Federal Standards: None.

10. Compliance Schedule: The amendment to the tuition schedule will go into effect for the fall 2017 semester.

Regulatory Flexibility Analysis

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

Rural Area Flexibility Analysis

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

Job Impact Statement

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

NOTICE OF ADOPTION

Proposed Amendments to Traffic and Parking Regulations at State University College at Plattsburgh

I.D. No. SUN-19-17-00005-A

Filing No. 507

Filing Date: 2017-07-11

Effective Date: 2017-07-26

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

Action taken: Amendment of sections 565.3(b) and 565.7(e) of Title 8 NYCRR.

Statutory authority: Education Law, section 360(1)

Subject: Proposed amendments to traffic and parking regulations at State University College at Plattsburgh.

Purpose: To amend existing regulations to update traffic and parking regulations.

Text or summary was published in the May 10, 2017 issue of the Register, I.D. No. SUN-19-17-00005-P.

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

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

Assessment of Public Comment

The agency received no public comment.

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

State Basic Financial Assistance for the Operating Expenses of Community Colleges Under the Program of SUNY and CUNY

I.D. No. SUN-30-17-00004-P

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

Proposed Action: This is a consensus rule making to amend section 602.8(c) of Title 8 NYCRR.

Statutory authority: Education Law, sections 355(1)(c) and 6304(1)(b); L. 2017, ch. 53

Subject: State basic financial assistance for the operating expenses of community colleges under the program of SUNY and CUNY.

Purpose: To modify limitations formula for basic State Financial assistance and conform to the Education Law and the 2017-18 Budget Bill.

Text of proposed rule: Subdivision (c) of section 602.8 of said Title 8 is

amended to read as follows, subject to the approval of the Director of the Budget:

(c) Basic State financial assistance.

(1) Full opportunity colleges. The basic State financial assistance for community colleges, implementing approved full opportunity programs, shall be the lowest of the following:

(i) two-fifths (40%) of the net operating budget of the college, or campus of a multiple campus college, as approved by the State University trustees;

(ii) two-fifths (40%) of the net operating costs of the college, or campus of a multiple campus college; or

(iii) for the current college fiscal year the total of the following:

(a) the budgeted or actual number (whichever is less) of full-time equivalent students enrolled in programs eligible for State financial assistance multiplied by [\$2,697] \$2,747; and

(b) up to one-half (50%) of rental costs for physical space.

(2) Non-full opportunity colleges. The basic State financial assistance for community colleges not implementing approved full opportunity programs shall be the lowest of the following:

(i) one-third (33%) of the net operating budget of the college, or campus of a multiple campus college, as approved by the State University trustees;

(ii) one-third (33%) of the net operating costs of the college, or campus of a multiple campus college; or

(iii) for the college fiscal year current, the total of the following:

(a) the budgeted or actual number (whichever is less) of full-time equivalent students enrolled in programs eligible for State financial assistance multiplied by [\$2,248] \$2,290; and

(b) up to one-half (50%) of rental cost for physical space.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this subdivision, a community college or a new campus of a multiple campus community college in the process of formation shall be eligible for basic State financial assistance in the amount of one-third of the net operating budget or one-third of the net operating costs, whichever is the lesser, for those colleges not implementing an approved full opportunity program plan, or two-fifths of the net operating budget or two-fifths of the net operating costs, whichever is the lesser, for those colleges implementing an approved full opportunity program, during the organization year and the first two fiscal years in which students are enrolled.

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

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

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

Consensus Rule Making Determination

The State University of New York has determined that no person is likely to object to this rule as written because it provides timely State operating assistance to public community colleges of the State and City Universities of New York and adopts amendments to the tuition regulations for community colleges under the program of the State University of New York for the 2017-2018 fiscal year.

Job Impact Statement

No job impact statement is submitted with this notice because the adoption of this rule does not impose any adverse economic impact on existing jobs, employment opportunities, or self-employment. This rule making governs the financing of community colleges operating under the program of the State University and will not have any adverse impact on the number of jobs or employment opportunities in the state.

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

Governance, Structure and Operations of SUNY Authorized Charter Schools Pertaining to Teacher Compliance

I.D. No. SUN-30-17-00024-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 700 to Title 8 NYCRR.

Statutory authority: Education Law, section 355(2-a)

Subject: Governance, structure and operations of SUNY authorized charter schools pertaining to teacher compliance.

Purpose: Provide alternative teacher certification compliance pathways for SUNY charter schools with strong student performance.

Substance of proposed rule (Full text is posted at the following State website:

http://www.newyorkcharters.org/wp-content/uploads/102263_1.pdf): Charter school education corporations authorized by the State University of New York Board of Trustees (the "SUNY Trustees") consistently post strong academic results as measured by student proficiency in meeting state performance measures. Over 80% of SUNY authorized charter schools provide parents and students public education choices that exceed the performance of the district school choices available in the same neighborhoods, districts and cities, some lifting 20 to 30 to 40% and more of their children to and over what New York identifies as grade level proficiency year after year. When SUNY authorized charter schools fail to perform well, the SUNY Trustees have a strong record of not allowing such schools to continue operation. The stated purpose of the NY Charter Schools Act of 1998 (as amended, the "Act") is:

to authorize a system of charter schools to provide opportunities for teachers, parents, and community members to establish and maintain schools that operate independently of existing schools and school districts in order to accomplish the following objectives:

- (a) improve student learning and achievement;
- (b) increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are at-risk of academic failure;
- (c) encourage the use of different and innovative teaching methods;
- (d) create new professional opportunities for teachers, school administrators and other school personnel;
- (e) provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and

(f) provide schools with a method to change from rule-based to performance-based accountability systems by holding schools established under [Article 56 of the NY Education Law] accountable for meeting measureable student achievement results.

Instead of allowing SUNY authorized charter schools to continue to operate based on rule-based measures of school success alone (state mandated curricula, district mandated textbooks or adherence to state teacher evaluation requirements), the SUNY Trustees hold charters accountable for the success achieved in helping students read, write, calculate, compute, investigate and demonstrate their abilities to meet the demands of state performance standards. When schools demonstrate, through their students' abilities, proficiency at helping students succeed, the SUNY Trustees renew them. When schools are not able, after years of opportunity, to demonstrate student success, the SUNY Trustees close those schools. The proposed teacher certification regulations link the proficiency of SUNY authorized charters in preparing students well to the opportunity to fulfill the purposes of the Act by allowing only those schools with strong academic performance to propose a program of teacher certification that sharpens the focus on holding schools accountable "for meeting measureable student achievement results."

Much like their district counterparts across the state, SUNY's high performing charter schools cite challenges in identifying high quality teachers. The challenges are compounded by the need to find high quality teachers that have completed the myriad of steps and tasks required in the state's rule-based teacher certification requirements that are often not directly linked to building teacher proficiency in the instructional skills and knowledge that make a particular SUNY charter school successful. For a prospective teacher, it means that in addition to a teacher's instructional course load, communication with caregivers, supporting students after and before school, grade level team meetings, meetings with school embedded instructional coaches, preparations for the next day or week's quality lesson delivery, and the school's weekly, monthly and summer intensive professional development requirements, that teacher must as well hustle after class or between summer engagements to attend and complete traditional certification requirements with no tie to the successful school program in which they teach. The proposed SUNY charter teacher certification regulations link certification to programs that have demonstrated student success and do not require teachers to complete a set of steps, tests and tasks not designed for teachers embedded in a high quality school. Charter schools with a history of strong student performance normally have in place teacher requirements and professional development programs that not only compare to traditional certification pathways but are also tailored to the unique, successful educational programs delivered by charter schools.

Proposed Teacher Certification Regulation Language

The proposed new Part 700 of title 8 of the NY Compilation of Codes, Rules and Regulations provides certain parameters and requirements for charter schools that wish to operate alternative teacher preparation programs. The proposed rulemaking do not mandate that any school operate such a program or teacher enroll in such a program. SUNY authorized charter schools may still comply with NY Education Law § 2854(3)(a-1)

with teaching staff qualified through already established teacher certification pathways. Teachers approved through a program at a SUNY authorized school will be able to use the approval at another SUNY authorized charter school but will not be able to transfer such certification to a charter school not authorized by SUNY or to a district school. SUNY will not charge a fee to apply for approval of an instructor program and charter schools may not charge teachers a fee for attending such programs.

The proposed rulemaking delineate criteria for the following: educational prerequisites; number of instructional hours required and additional hours required for teaching students with disabilities or English language learners; number of hours of supervised field teaching experience; required coursework in Mandated Reporter, SAVE and bullying, harassment, and discrimination; types of certification available; term of the certification; program instructor requirements; program assessments; and, record keeping and other requirements. The proposed rulemaking also address the education corporation application and review processes as well as the minimum applicant requirements and the program revocation process.

The SUNY Charter Schools Institute looks forward to receiving comments on the proposed rulemaking.

Text of proposed rule and any required statements and analyses may be obtained from: Ralph A. Rossi II, SUNY Charter Schools Institute, 41 State Street, Suite 700, Albany, New York 12207, (518) 455-4250, email: charters@suny.edu

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

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

Regulatory Impact Statement

1. Statutory authority: The State University of New York's Board of Trustees' (the "SUNY Trustees' ") Charter Schools Committee has been granted the authority to promulgate regulations regarding SUNY authorized charter schools by New York Education Law § 355 (2-a).

2. Legislative objectives: The stated purpose of the NY Charter Schools Act of 1998 (as amended, the "Act") is: to authorize a system of charter schools to provide opportunities for teachers, parents, and community members to establish and maintain schools that operate independently of existing schools and school districts in order to accomplish the following objectives:

- (a) improve student learning and achievement;
- (b) increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are at-risk of academic failure;
- (c) encourage the use of different and innovative teaching methods;
- (d) create new professional opportunities for teachers, school administrators and other school personnel;
- (e) provide parents and students with expanded choices in the types of educational opportunities that are available within the public school system; and

(f) provide schools with a method to change from rule-based to performance-based accountability systems by holding schools established under [Article 56 of the NY Education Law] accountable for meeting measureable student achievement results.

Instead of allowing SUNY authorized charter schools to continue to operate based on rule-based measures of school success alone (state mandated curricula, district mandated textbooks or adherence to state teacher evaluation requirements), the SUNY Trustees hold charters accountable for the success achieved in helping students read, write, calculate, compute, investigate and demonstrate their abilities to meet the demands of state performance standards. When schools demonstrate, through their students' abilities, proficiency at helping students succeed, the SUNY Trustees renew them. When schools are not able, after years of opportunity, to demonstrate student success, the SUNY Trustees close those schools. The proposed teacher certification compliance regulations link the proficiency of SUNY authorized charters in preparing students well to the opportunity to fulfill the purposes of the Act by allowing only those schools with strong academic performance to propose a program of teacher certification that sharpens the focus on holding schools accountable "for meeting measureable student achievement results."

3. Needs and benefits: Much like their district counterparts across the state, SUNY's high performing charter schools cite challenges in identifying high quality teachers. The challenges are compounded by the need to find high quality teachers that have completed the myriad of steps and tasks required in the state's rule-based teacher certification requirements that are often not directly linked to building teacher proficiency in the instructional skills and knowledge that make a particular SUNY charter school successful. For a prospective teacher, it means that in addition to a teacher's instructional course load, communication with caregivers, supporting students after and before school, grade level team meetings, meetings with school embedded instructional coaches, preparations for the next day or week's quality lesson delivery, and the school's weekly,

monthly and summer intensive professional development requirements, that teacher must as well hustle after class or between summer engagements to attend and complete traditional certification requirements with no tie to the successful school program in which they teach. The proposed SUNY charter teacher certification regulations link certification to programs that have demonstrated student success and do not require teachers to complete a set of steps, tests and tasks not designed for teachers embedded in a high quality school. Charter schools with a history of strong student performance normally have in place teacher requirements and professional development programs that not only compare to traditional certification pathways but are also tailored to the unique, successful educational programs they deliver. Those schools will have access to a broader range of legally qualified candidates so long as the schools provide a quality teacher instruction program and maintain high student performance outcomes.

4. Costs:

a. Costs to regulated parties: The proposed rulemaking does not impose a cost on a regulated party. It is voluntary for a SUNY authorized charter schools to apply. It is voluntary for a teacher candidate to apply to an approved program. A charter school with an approved teacher instruction program cannot teacher candidates a fee to attend the program.

b. Costs to local government: The amendments do not impose any costs to the State or local government. There will be costs for SUNY to implement and administer the regulations. Cost for review of applications to approve an instructional program will be approximately \$3000 per review. This is based on a consultant fee of \$300 per hour and approximately 10 hours of review work. The fee is based on current consultant fees in the area and the expectation of a highly qualified and specialized area of consultant expertise (teacher preparation training). Record keeping and administration would require approximately a 0.5 administrative assistant position, which based on current staffing at SUNY, would be approximately \$31,500.

c. Cost source information: Cost information is based on the current costs associated with activities at the State University of New York.

5. Local government mandates: There are no programs, services, duties or responsibilities imposed upon any county, city, town, village, school district, fire district or other special district by the proposed rulemaking.

6. Paperwork: The proposed rulemaking do not impose any additional paperwork requirements for individual candidates because participate is voluntary. In fact, it may reduce paperwork that would currently be required to apply for state certification. Currently, candidates who have not completed the required steps before application for their certification are denied the certification and must re-apply after completion of the steps. The proposed rulemaking will alleviate this issue by allowing candidates to gain intern status and then complete the required professional development within six months (and possible six month renewal) after their application for the certification.

7. Duplication: The proposed rulemaking do not duplicate existing Federal requirements. Three parts of state teacher certification requirements are present in the proposed rulemaking: Mandated Reports of Child Abuse and Neglect training; School Violence Intervention and Prevention (SAVE) training; and six hours of training on harassment, bullying and discrimination prevention. The first two trainings are approved by the New York State Education Department (NYSED) and may be used for state certification. Only the last training would not be accepted by NYSED and, therefore, would be duplicative of the NYSED approved Dignity for All Students Act training.

8. Alternatives: No alternatives were considered.

9. Federal standards: There are no applicable federal standards.

10. Compliance schedule: The proposed rulemaking is voluntary. Therefore, there is not an estimated time for affected persons to come into compliance. It is anticipated that the proposed rulemaking will come before the State University of New York's Charter Schools Committee for permanent adoption at its September 2017 meeting. If adopted at the September 2017 meeting, the proposed rulemaking will become effective immediately.

Regulatory Flexibility Analysis

1. Effect of Rule

(a) Small businesses:

State University of New York ("SUNY") authorized charter schools are not-for-profit education corporations. The proposed rulemaking is for SUNY authorized charter schools which voluntarily apply to operate an instructional program for their teachers. As the proposed rulemaking is for SUNY charter schools that volunteer to participate, the proposed rulemaking does not impose any new recordkeeping or other compliance requirements, and will not have an adverse economic impact, on small businesses.

(b) Local governments:

SUNY authorized charter schools are not-for-profit education corporations. The proposed rulemaking does not impose any new recordkeeping or other compliance requirements, and will not have an adverse

economic impact, on local government. Because it is evident from the nature of the proposed rulemaking that they do not affect local governments, no further steps were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for local governments is not required and one has not been prepared.

Rural Area Flexibility Analysis

The Rural Area Flexibility analysis is not required as the proposed rulemaking does not have an adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The proposed rulemaking allows a greater number of qualified applicants for teaching positions in SUNY authorized charter schools. SUNY authorized charter schools are not located in any rural areas. Accordingly, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement

A job impact statement is not required for this rulemaking as the proposed rulemaking will not have an adverse impact on jobs and employment opportunities. The purpose of Part 700 is to increase the flexibility of SUNY authorized charter schools to hire candidates applying for teaching positions in SUNY authorized charter schools.

1. Nature of impact: The proposed rulemaking does not create nor eliminate jobs but creates a greater pool of applicants for existing jobs.

2. Categories and numbers affected: The proposed rulemaking does adversely affect the number of teaching positions in SUNY authorized charter school but simply has the potential to increase the pool of qualified applicants.

3. Regions of adverse impact: The proposed rulemaking does not have an adverse impact on jobs anywhere in the state.

4. Minimizing adverse impact: The proposed rulemaking does not have an adverse impact on jobs and therefore, minimizing measures are not necessary.

5. Self-employment opportunities: The proposed rulemaking does not have any impact on self-employment opportunities.