RULE MAKING ACTIVITIES

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

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

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

Office of Children and Family Services

NOTICE OF ADOPTION

Duty of Mandated Reporters to Report Incidents Involving Vulnerable Persons

I.D. No. CFS-36-17-00005-A
Filing No. 936
Filing Date: 2017-10-25
Effective Date: 2017-11-15

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

Action taken: Amendment of section 433.3 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f) and 491

Subject: Duty of mandated reporters to report incidents involving vulnerable persons.

Purpose: To implement statutory requirement of duty of mandated reporters to report incidents involving vulnerable persons.

Text or summary was published in the September 6, 2017 issue of the Register, I.D. No. CFS-36-17-00005-EP.

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

Text of rule and any required statements and analyses may be obtained from: Leslie Robinson, Senior Attorney, New York State Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 474-3333, email: Regcomments@ocfs.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 Economic Development

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Life Sciences Research and Development Tax Credit

I.D. No. EDV-46-17-00001-EP
Filing No. 935
Filing Date: 2017-10-25
Effective Date: 2017-10-25

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

Proposed Action: Addition of Part 260 to Title 5 NYCRR.

Statutory authority: Tax Law, section 43

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

Specific reasons underlying the finding of necessity: Regulatory action is needed immediately to implement the statutory changes contained in Part K of Chapter 59 of the Laws of 2017. The emergency rule implements the Life Sciences Research and Development Tax Credit. The Life Sciences Research and Development Tax Credit is designed to attract new life sciences technologies to New York State, promote critical public and private sector investment in emerging life sciences fields in New York State and create and expand life sciences related businesses and employment. The rule creates the administrative procedures of the program. It is critical to implement this program immediately because life science companies interested in locating or expanding their activities in New York state are approaching the Department of Economic Development in an effort to access funding for their proposed projects. By waiting for the standard rulemaking process to unfold, the State risks losing important economic development opportunities to states with competing life sciences incentive programs.

Subject: Life Sciences Research and Development Tax Credit.

Purpose: Allow Department to implement the Life Sciences Research and Development Tax Credit program.

Substance of emergency/proposed rule (Full text is posted at the following State website: esd.ny.gov): The regulation creates new Part 260 in 5 NYCRR as follows:

1) The purpose and general description section makes clear that the purpose of the regulations is to set forth the administrative process governing the Life Sciences Research and Development Tax Credit Program (the "Program").

2) The regulation adds definitions relevant to the Program. Key definitions include, but are not limited to, "certificate of tax credit", "life sciences", "life sciences company", "research and development expenditures" and "related person".

3) The regulation then articulates the eligibility criteria for the program. These include the fact that an applicant must be: (1) a qualified life sciences company; (2) a new business; (3) in substantial compliance with all worker protection and environmental laws and regulations; and 4) not owe past due state or local taxes.

4) The regulation then creates the application and application review process for the Program. The regulation requires that an applicant must submit a complete application and that the Commissioner, upon receipt of such complete application, will determine whether the applicant meets the eligibility criteria. If an applicant does not meet the eligibility criteria, the applicant will not be accepted into the Program. Having determined that an application is complete and meets the eligibility criteria, the Department will admit the applicant to the program and issue a certificate of tax credit in an amount based upon the review of qualified expenditures and calculation of the credit.

In terms of application review, a life sciences research and development company must submit evidence to the Department that they meet the eligibility requirements required by this regulation and have research and development expenditures in New York in order to receive benefits under the program. Such evidence may include, but not be limited to, the articles of incorporation of the company; relevant tax returns, financial statements; job descriptions and salaries of employees, quarterly combined withholding, wage reporting, and unemployment insurance returns filed with the NYS Tax Department and any other information the Commissioner deems necessary to determine eligibility of the company.

The regulation further prescribes that if a life sciences research and development company fails to demonstrate that it has satisfied the eligibility requirements, the Department will deny its application. A company may appeal this denial. If the Department reviews such evidence and finds it sufficient, the Department will calculate the appropriate amount of tax credit and issue a certificate of tax credit for one taxable year. In order to receive a certificate of tax credit for subsequent taxable years, the life sciences research and development company must reapply to the program and meet the eligibility criteria set forth in the regulation.

5) The regulation next addresses how the credit is calculated. It specifies that a taxpayer that is a qualified life sciences company, or that is a sole proprietor of or a partner in a partnership that is a qualified life sciences company or a shareholder of a New York S corporation that is a qualified life sciences company, and is subject to tax under article nine-A or twenty-two of the Tax Law shall be allowed a credit against such tax for a period of three years provided that no credit shall be allowed for taxable years beginning on or after January first, two thousand twenty-eight.

For a qualified life sciences company that employs ten (10) or more persons during the taxable year, the amount of the credit shall be equal to fifteen (15%) percent of such qualified life sciences company's research and development expenditures in this state for the taxable year. For a qualified life sciences company that employs less than ten (10) persons during the taxable year, the amount of the credit shall be equal to twenty (20%) percent of such qualified life sciences company's research and development expenditures in this state for the taxable year.

The regulation then explains that credit shall be allowed only with respect to the first taxable year during which the criteria are satisfied, and with respect to each of the two taxable years next following (but only, with respect to each of such years, if such criteria are satisfied). Subsequent certifications of the life sciences company by the department of economic development may not extend the three taxable year time limitation.

The total amount of credit allowable to a qualified life sciences company shall not exceed five hundred thousand dollars in any taxable year. In addition, the regulation makes clear that no research and development expenditures made by the life sciences company and used either as the basis for the allowance of the credit or used in the calculation of the credit shall be used to claim any other credit or be used in the calculation of any other credit.

6) The regulation also prescribes that the aggregate maximum amount of the credits allowed shall be $10 million, to be taken from funds allocated to the Excelsior Jobs tax credit program.

7) Next, the regulation addresses some administrative matters. For example, it provides that aggregate amount of credits shall be allocated by the Department among taxpayers in order of priority based upon the date of filing a complete application. If the total amount of allocated credits applied for in any particular year exceeds the aggregate amount of tax credits allowed for such year, the excess shall be treated as having been applied for on the first day of the subsequent year. The tax credit shall be refundable as provided in the Tax Law. If a life sciences research and development company fails to satisfy the eligibility criteria it will lose the ability to claim credit for that year.

8) In addition, regarding recordkeeping, each life sciences research and development company shall keep all relevant records for their duration of program participation plus three years. The Department shall have the right to inspect all relevant records upon reasonable notice to the life sciences research and development company.

9) Next, the regulation delineates the appeal procedures for applicants whose applications have been denied by the Department.

10) The regulation concludes with a section allowing for the exchange of information pertaining to tax credits between employees of the Department and the Department of Taxation and Finance.

The full text of the emergency rule is available at the Department's website at www.esd.ny.gov.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire January 22, 2018.

Text of rule and any required statements and analyses may be obtained from: Thomas P Regan, New York State Department of Economic Development, 625 Broadway, Albany, NY 12245, (518) 292-5123, email: thomas.regan@esd.ny.gov

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

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

Regulatory Impact Statement

STATUTORY AUTHORITY:

Part K of Chapter 59 of the Laws of 2017 requires the New York State Department of Economic Development ("DED") to establish criteria for the Life Sciences Research and Development Tax Credit via rulemaking.

LEGISLATIVE OBJECTIVES:

The rulemaking accords with the public policy objectives the Legislature sought to advance since it creates the administrative framework for the Life Sciences Research and Development Tax Credit. The tax credit is designed to create and expand life sciences businesses and employment throughout New York State.

NEEDS AND BENEFITS:

The Life Sciences Research and Development Tax Credit is designed to attract new life sciences technologies to New York State, promote critical public and private sector investment in emerging life sciences fields in New York State and create and expand life sciences related businesses and employment. The rule creates the administrative procedures of the program. It is critical to implement this program immediately because life science companies interested in locating or expanding their activities in New York State are approaching the Department of Economic Development in an effort to access funding for their proposed projects. By waiting for the standard rulemaking process to unfold, the State risks losing important economic development opportunities to states with competing life sciences incentive programs.

COSTS:

A. Costs to private regulated parties: None. There are no regulated parties in the Life Sciences Research and Development Tax Credit, only voluntary participants.

B. Costs to the agency, the State, and local governments: DED does not anticipate substantial extra costs associated with running the program outlined in this rulemaking. There is no additional cost to local governments.

C. Costs to the State government: The $10 million for this program is funded out of the Excelsior Tax credit program. The Department estimates that any costs associated with this program will be offset by the positive economic impact the program will bring to New York State.

LOCAL GOVERNMENT MANDATES:

None. Local governments are not eligible to participate in the Life Sciences Research and Development Tax Credit.

PAPERWORK:

The emergency rule will require applicants to fill out an application to participate in the Life Sciences Research and Development Tax Credit. Such application will require applicants to provide certain business financial information to the Department as part of the process.

DUPLICATION:

The emergency rule conforms to provisions of section 43 of the Tax Law and does not otherwise duplicate any state or federal statutes or regulations.

ALTERNATIVES:

No alternatives were considered with regard to implementing this rulemaking.

FEDERAL STANDARDS:

There are no federal standards with regard to the Life Sciences Research and Development Tax Credit. Therefore, the emergency rule does not exceed any Federal standard.

COMPLIANCE SCHEDULE:

Part K of Chapter 59 of the Laws of 2017 requires the Department to adopt regulations (emergency) for the program by October 31, 2017. Applicants may apply for taxable years beginning on or after January 1, 2018.

Regulatory Flexibility Analysis

The Life Sciences Research and Development Tax Credit is a statewide tax credit program. Although there are small businesses in New York State that are eligible to participate in the program, participation by the businesses is entirely at their discretion. The emergency rule will not have a substantial adverse economic impact on small businesses and local governments. On the contrary, because the rule creates a tax credit program

designed to attract business and jobs to New York State, it will have a positive economic impact on the State. Accordingly, a regulatory flexibility analysis for small business and local governments is not required and one has not been prepared.

Rural Area Flexibility Analysis

The Life Sciences Research and Development Tax Credit is a statewide program. Although there are businesses in rural areas of New York State that are eligible to participate in the program, participation by the businesses is entirely at their discretion. The emergency rule imposes no additional reporting, record keeping or other compliance requirements on public or private entities in rural areas. Therefore, the emergency rule will not have a substantial adverse economic impact on rural areas or reporting, record keeping or other compliance requirements on public or private entities in such rural areas. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

Job Impact Statement

The proposed rule relates to the Life Sciences Research and Development Tax Credit. This Program will enable New York State to provide financial assistance to life sciences companies that commit to making research and development investment in the State. This Program, given its design and purpose, will have a substantial positive impact on job retention and creation, and employment opportunities. Because this rule will authorize the Department of Economic Development to immediately begin offering financial incentives to life sciences businesses that commit to creating or retaining jobs, it will only have a positive impact on job and employment opportunities. Accordingly, a job impact statement is not required and one has not been prepared.

Department of Financial Services

EMERGENCY RULE MAKING

Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure

I.D. No. DFS-25-17-00002-E
Filing No. 941
Filing Date: 2017-10-30
Effective Date: 2017-10-30

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

Action taken: Amendment of Part 52 (Regulation 62) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 2606, 2607, 2608, 3201, 3221(h), 3231(a), 3232(g), (h), 3240(b), (d), 4303(ll), 4317(a), 4318(g), (h) and 4328(b)(1)

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

Specific reasons underlying the finding of necessity: There is a movement underway in Congress to repeal and replace the federal Affordable Care Act ("ACA"), including the requirement that issuers cover essential health benefits ("EHB"), such as benefits for maternity and newborn care and mental health and substance use disorder services, and the prohibition against discrimination in the issuance and rating of accident and health insurance because of factors such as race, color, national origin, sex, age, and disability. This rule would require every individual and small group accident and health insurance policy or contract (other than a grandfathered health plan) delivered or issued for delivery in New York that provides hospital, surgical, or medical expense coverage and every student accident and health insurance policy or contract delivered or issued for delivery in New York to provide coverage of at least the enumerated ten categories of EHB if the EHB provisions in 42 U.S.C. § 18022 and 45 C.F.R. 156.100 et seq. are no longer in effect or are modified as determined by the Superintendent of Financial Services. This will ensure that people covered under individual, small group, and student accident and health insurance policies and contracts will continue to have coverage for these important benefits.

In addition, the rule would, with regard to an individual or small group accident and health insurance policy that provides hospital, surgical, or medical expense coverage and a student accident and health insurance policy or contract delivered or issued for delivery in New York State, reaffirm that an issuer is prohibited from discriminating because of race, color, creed, national origin, sex, age, marital status, disability, or a preexisting condition and to clarify the scope of such prohibitions.

For the public health and general welfare, the Department is promulgating this rule on an emergency basis in the event that Congress repeals the ACA.

Subject: Minimum standards for form, content and sale of health insurance, including standards of full and fair disclosure.

Purpose: To ensure coverage for essential health benefits in all individual, small group, and student accident and health policies.

Text of emergency rule: A new subdivision 52.1(q) is added as follows:

(q)(1) The federal Patient Protection and Affordable Care Act ("ACA") requires all individual and small group accident and health insurance policies delivered or issued for delivery in this State that provide hospital, surgical, or medical expense coverage and are not grandfathered health plans, and all student accident and health insurance policies delivered or issued for delivery in this State to include coverage for ten categories of essential health benefits. The essential health benefits provide a set of minimum standards that ensure that all individual and small group accident and health insurance policies that provide hospital, surgical, or medical expense coverage and are not grandfathered health plans, and all student accident and health insurance policies provide their insureds with comprehensive coverage for medically necessary care. Independent of the ACA, the Insurance Law and this Title include broad protections to ensure that all accident and health insurance coverage sold in this State is comprehensive and that insurers shall not discriminate against residents of this State based on race, color, creed, national origin, sex, age, marital status, disability, or preexisting condition.

(2) It is the policy of this State that all individual and small group accident and health insurance policies that provide hospital, surgical, or medical expense coverage and are not grandfathered health plans, and all student accident and health insurance policies provide insureds with essential health benefits and that insurers shall not discriminate against residents of this State based on race, color, creed, national origin, sex, age, marital status, disability, or preexisting condition, whether in issuing policies or setting premiums. Accordingly, irrespective of any changes to the essential health benefit rules in the ACA, as set forth in section 52.71 of this Part, this State will continue to require that individual and small group accident and health insurance policies that provide hospital, surgical, or medical expense coverage and are not grandfathered health plans, and student accident and health insurance policies cover the same essential health benefits and be subject to the same benchmark plan and model contract rules as currently apply. Similarly, irrespective of any changes to the anti-discrimination rules in the ACA, as set forth in section 52.72 of this Part, this State will continue to ensure that all New York insureds covered by individual and small group accident and health insurance policies that provide hospital, surgical, or medical expense coverage and student accident and health insurance policies are not subject to discrimination based on race, color, creed, national origin, sex, age, marital status, disability, or preexisting condition.

A new section 52.71 is added as follows:

§ 52.71 Essential health benefits.

(a) Every individual and small group accident and health insurance policy that provides hospital, surgical, or medical expense coverage and is not a grandfathered health plan, and every student accident and health insurance policy shall provide coverage of at least the following essential health benefits:

(1) ambulatory patient services, such as office visits, ambulatory surgical services, dialysis, radiology services, chemotherapy, infertility treatment, abortion services, hospice care, and diabetic equipment, supplies and self-management education;

(2) emergency services, such as emergency room services, urgent care services, and ambulance services;

(3) hospitalization, such as preadmission testing, inpatient physician and surgical services, hospital care, skilled nursing facility care, and hospice care;

(4) maternity and newborn care, such as delivery, prenatal and postnatal care, and breastfeeding education and equipment;

(5) mental health and substance use disorder services, including behavioral health treatment, such as inpatient and outpatient services for the diagnosis and treatment of mental, nervous and emotional disorders including maternal depression, screening, diagnosis and treatment for autism spectrum disorder, and inpatient and outpatient services for the diagnosis and treatment of substance use disorder;

(6) prescription drugs, such as coverage for generic, brand name and specialty drugs, enteral formulas, contraceptive drugs and devices, abortifacient drugs, and orally administered anti-cancer medication;

(7) rehabilitative and habilitative services and devices, such as durable medical equipment, medical supplies, prosthetic devices, hearing aids,

chiropractic care, physical therapy, occupational therapy, speech therapy, and home health care;

(8) laboratory services, such as diagnostic testing;

(9) preventive and wellness services and chronic disease management, such as well child visits, immunizations, mammography, gynecological exams including cervical cytology screening, bone density measurements or testing, and prostate cancer screening; and

(10) pediatric services, including oral and vision care, such as preventive and routine pediatric vision and dental care, and prescription lenses and frames.

(b) The scope of the minimum benefits covered as essential health benefits pursuant to subdivision (a) of this section shall be equal to the benefits provided by the benchmark plan selected by the superintendent as the New York Benchmark Plan in accordance with this section.

(c) Subject to subdivisions (d) and (e) of this section, the superintendent may select the New York Benchmark Plan in consultation with the commissioner of health from any of the following plans:

(1) Small group market health plan. The largest health plan by enrollment in any of the three largest small group insurance products by enrollment in the small group market in this state;

(2) State employee health benefit plan. Any of the largest three employee health benefit plan options by enrollment offered and generally available to state employees in this state;

(3) FEHBP plan. Any of the largest three national Federal Employees Health Benefits Program (FEHBP) plan options by aggregate enrollment that is offered to all health-benefits-eligible federal employees under 5 U.S.C. section 8903;

(4) HMO. The coverage plan with the largest insured commercial non-Medicaid enrollment offered by a health maintenance organization operating in this State; or

(5) Any other plan identified by the superintendent as a typical employer plan providing the coverage of essential health benefits required by this section.

(d)(1) In order to be eligible to be selected as the New York Benchmark Plan, a plan shall provide coverage of at least the categories of benefits identified in subdivision (a) of this section.

(2) Coverage in each benefit category. A plan not providing any coverage in one or more of the categories described in paragraph (1) of this subdivision may be selected as the New York Benchmark Plan if the plan is supplemented as follows:

(i) General supplementation methodology. A plan that does not include items or services within one or more of the categories described in subdivision (a) of this section shall be supplemented by the addition of the entire category of such benefits offered under any other benchmark plan option described in subdivision (c) of this section unless otherwise described in this subdivision.

(ii) Supplementing pediatric oral services. A plan lacking the category of pediatric oral services shall be supplemented by the addition of the entire category of pediatric oral benefits from one of the following:

(a) The Federal Employees Dental/Vision Program ("FEDVIP") dental plan with the largest national enrollment that is described in and offered to federal employees under 5 U.S.C. section 8952; or

(b) The benefits available under that State's separate Children's Health Insurance Program ("CHIP") plan, if a separate CHIP plan exists, to the eligibility group with the highest enrollment.

(iii) Supplementing pediatric vision services. A plan lacking the category of pediatric vision services shall be supplemented by the addition of the entire category of pediatric vision benefits from one of the following:

(a) The FEDVIP vision plan with the largest national enrollment that is offered to federal employees under 5 U.S.C. section 8982; or

(b) The benefits available under the State's separate CHIP plan, if a separate CHIP plan exists, to the eligibility group with the highest enrollment.

(e) The superintendent may issue model contract language identifying the coverage requirements for all individual and small group accident and health insurance policies that provide hospital, surgical, or medical expense coverage and all student accident and health insurance policies delivered or issued for delivery in this State.

(f) The model language issued by the superintendent summarizes the federal and state laws and rules that are applicable to health insurance policies delivered or issued for delivery in this State, including the requirement that the policies include coverage for essential health benefits required by the federal Patient Protection and Affordable Care Act. Every individual and small group accident and health insurance policy that provides hospital, surgical, or medical expense coverage and every student accident and health insurance policy delivered or issued for delivery in this State shall comply with the federal and state laws and rules that are applicable to health insurance policies issued in New York State as set forth in the model language.

(g) Except for subdivisions (e) and (f) of this section, the provisions of this section shall not be applicable unless and until the essential health benefits provision in 42 U.S.C. section 18022 and 45 C.F.R. 156.100 et seq. are no longer in effect or are modified as determined by the superintendent.

A new section 52.72 is added as follows:

§ 52.72 Nondiscrimination on the basis of race, color, creed, national origin, sex, age, marital status, disability, or preexisting condition.

(a) With regard to an individual or small group accident and health insurance policy that provides hospital, surgical, or medical expense coverage and a student accident and health insurance policy delivered or issued for delivery in this State, no insurer shall, because of race, color, creed, national origin, sex, age, marital status, disability, or preexisting condition:

(1) make any distinction or discrimination between persons as to the premiums or rates charged for the policy or in any other manner whatever;

(2) demand or require a greater premium from any person than it requires at that time from others in similar cases;

(3) make or require any rebate, discrimination or discount upon the amount to be paid or the service to be rendered on any policy;

(4) insert in the policy any condition, or make any stipulation, whereby the insured binds his or herself, or his or her heirs, executors, administrators or assigns, to accept any sum or service less than the full value or amount of such policy in case of a claim thereon except such conditions and stipulations as are imposed upon others in similar cases; and any such stipulation or condition so made or inserted shall be void;

(5) reject any application for a policy issued or sold by it;

(6) cancel or refuse to issue, renew or sell such policy after appropriate application therefor; or

(7) fix any lower rate or discriminate in the fees or commissions of insurance agents or insurance brokers for writing or renewing such a policy.

(b) For the purposes of this section, "disability" shall have the same meaning set forth in Executive Law section 292(21).

(c)(1) Discrimination because of national origin shall include discrimination based on an individual's, or his or her ancestor's, place of origin (such as country or world region) or an individual's manifestation of the physical, cultural, or linguistic characteristics of a national origin group.

(2) Discrimination because of sex shall include discrimination on the basis of pregnancy, false pregnancy, termination of pregnancy, or recovery therefrom, childbirth or related medical conditions, sex stereotyping, and gender identity.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. DFS-25-17-00002-EP, Issue of June 21, 2017. The emergency rule will expire December 28, 2017.

Text of rule and any required statements and analyses may be obtained from: Nathaniel Dorfman, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 709-5538, email: Nathaniel.Dorfman@dfs.ny.gov

Regulatory Impact Statement

1. Statutory authority: Financial Services Law §§ 202 and 302 and Insurance Law §§ 301, 2606, 2607, 2608, 3201, 3217, 3221(h), 3231(a), 3232(g) and (h), 3240(b) and (d), 4303(ll), 4317(a), 4318(g) and (h), and 4328(b)(1).

Financial Services Law § 202 establishes the office of the Superintendent of Financial Services ("Superintendent"). Financial Services Law § 302 and Insurance Law § 301, in material part, authorize the Superintendent to effectuate any power accorded to the Superintendent by the Financial Services Law, Insurance Law, or any other law, and to prescribe regulations interpreting the Insurance Law.

Insurance Law § 2606 prohibits discrimination because of race, color, creed, national origin, or disability, Insurance Law § 2607 prohibits discrimination because of sex or marital status, and Insurance Law § 2608 prohibits discrimination because of treatment for a mental disability.

Insurance Law § 3201 requires a policy form delivered or issued for delivery in New York to be filed with and approved by the Superintendent.

Insurance Law § 3217 requires the Superintendent to issue such regulations as the Superintendent deems necessary or desirable to establish minimum standards for the form, content and sale of accident and health insurance policies and subscriber contracts offered by a corporation authorized under Insurance Law Article 43 and entities licensed pursuant to Public Health Law article 43.

Insurance Law § § 3221(h), 3240(d), 4303(ll), and 4328(b)(1) require an individual or small group health insurance policy or contract delivered or issued for delivery in New York, including a health maintenance organization ("HMO") contract (other than a grandfathered health plan), that provides hospital, medical or surgical expense coverage, and a student ac-

cident and health policy or contract delivered or issued for delivery in New York, to provide coverage for essential health benefits ("EHB") as defined in 42 U.S.C. § 18022(b).

Insurance Law § § 3231(a) and 4317(a) require an individual and small group health insurance policy or contract, including an HMO contract, to be community rated.

Insurance Law § § 3232(g) and (h), 3240(b), and 4318(g) and (h) prohibit an issuer from imposing any preexisting condition exclusion in any individual, group or blanket health insurance policy or contract, including an HMO contract, that provides hospital, medical or surgical expense coverage and is not an individual grandfathered health plan and any student accident and health insurance policy or contract.

2. Legislative objectives: Insurance Law § § 3221(h), 3240(d), 4303(ll), and 4328(b)(1) require an individual or small group policy or contract delivered or issued for delivery in New York (other than a grandfathered health plan) that provides coverage for hospital, medical or surgical expense, and a student accident and health insurance policy or contract delivered or issued for delivery in New York, to provide coverage for EHB defined in 42 U.S.C. § 18022(b). In addition, Insurance Law § § 3232(g) and (h), 3240(b), and 4318(g) and (h) prohibit an issuer from imposing any preexisting condition exclusion in any individual, group or blanket health insurance policy or contract that provides hospital, medical or surgical expense coverage and is not a grandfathered health plan and in any student accident and health insurance policy or contract. Insurance Law Article 26 prohibits discrimination because of race, color, creed, national origin, disability, sex, or marital status.

This rule accords with the public policy objectives that the Legislature sought to advance in Insurance Law § § 3221(h), 3240(d), 4303(ll), 4328(b)(1) by requiring every individual and small group accident and health insurance policy or contract delivered or issued for delivery in New York that provides hospital, surgical, or medical expense coverage (other than a grandfathered health plan), and every student accident and health insurance policy or contract delivered or issued for delivery in New York, to provide coverage of at least the enumerated ten categories of EHB if the EHB provision in 42 U.S.C. § 18022 and 45 C.F.R. 156.100 et seq. are no longer in effect or are modified as determined by the Superintendent.

This rule also accords with the public policy objectives that the Legislature sought to advance in Insurance Law Article 26, which prohibits an issuer from discriminating because of race, color, creed, national origin, sex, age, marital status, disability, or a preexisting condition with respect to an individual or small group accident and health insurance policy or contract that provides hospital, surgical, or medical expense coverage or a student accident and health insurance policy or contract.

3. Needs and benefits: There is movement underway in Congress to repeal and replace the federal Affordable Care Act ("ACA"), including the requirement that issuers cover EHB, such as benefits for maternity and newborn care and mental health and substance use disorder services, and the prohibition against discrimination in the issuance and rating of accident and health insurance because of factors such as race, color, national origin, sex, age, and disability. This rule would require every individual and small group accident and health insurance policy or contract (other than a grandfathered health plan) delivered or issued for delivery in New York that provides hospital, surgical, or medical expense coverage and every student accident and health insurance policy or contract delivered or issued for delivery in New York to provide coverage of at least the enumerated ten categories of EHB if the EHB provisions in 42 U.S.C. § 18022 and 45 C.F.R. 156.100 et seq. are no longer in effect or are modified as determined by the Superintendent. This will ensure that people covered under individual, small group, and student accident and health insurance policies and contracts will continue to have coverage for these important benefits.

In addition, the rule would, with regard to an individual or small group accident and health insurance policy that provides hospital, surgical, or medical expense coverage and a student accident and health insurance policy or contract delivered or issued for delivery in New York State, reaffirm that an issuer is prohibited from discriminating because of race, color, creed, national origin, sex, age, marital status, disability, or a preexisting condition and to clarify the scope of such prohibitions.

4. Costs: This rule will not impose compliance costs on issuers because it only continues the existing protections provided under the ACA.

The Department will not incur costs for the implementation and continuation of this rule.

This rule does not impose compliance costs on state or local governments.

5. Local government mandates: This rule does not impose any program, service, duty, or responsibility upon a county, city, town, village, school district, fire district, or other special district.

6. Paperwork: This rule does not impose any reporting requirements, including forms and other paperwork.

7. Duplication: With regard to the section in the rule that pertains to EHB, it does not duplicate or conflict with any existing state or federal rules or other legal requirements because it only applies if Congress repeals the ACA. With regard to the section in the rule that pertains to nondiscrimination, there is some duplication and overlap with Insurance Law Article 26.

8. Alternatives: The Department considered not promulgating the rule. However, the Department is concerned about the negative impact on consumers if the protections under the ACA are repealed. As a result, the Department determined that it is necessary to promulgate this rule requiring coverage of EHB and continuing to prohibit discrimination for the individual and small group health insurance markets and for student accident and health insurance.

Another alternative considered by the Department was to implement the amendment immediately. However, if the ACA remains in effect in its current form, then there is no need to implement mandating the EHB benefits in the regulation.

9. Federal standards: The rule does not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: The Department is promulgating this rule on an emergency basis in the event that Congress repeals the ACA.

Regulatory Flexibility Analysis

Small businesses: The Department of Financial Services finds that this rule will not impose any adverse economic impact on small businesses and will not impose any reporting, recordkeeping, or other compliance requirements on small businesses. The basis for this finding is that this rule is directed at insurers and health maintenance organizations ("HMOs"), which do not fall within the definition of a "small business" as defined by State Administrative Procedure Act § 102(8), because in general they are not independently owned and do not have fewer than 100 employees.

Local governments:

The rule does not impose any impact, including any adverse impact, or reporting, recordkeeping, or other compliance requirements on any local governments. The basis for this finding is that this rule is directed at insurers and HMOs.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Insurers and health maintenance organizations ("HMOs") (collectively, "issuers") affected by this rule operate in every county in this state, including rural areas as defined by State Administrative Procedure Act § 102(10).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule does not impose additional reporting, recordkeeping, and other compliance requirements on issuers located in rural areas. An issuer in a rural area should not need to retain professional services to comply with this rule.

3. Costs: This rule will not impose compliance costs on issuers, including issuers in rural areas.

4. Minimizing adverse impact: This rule uniformly affects issuers that are located in both rural and non-rural areas of New York State. The rule should not have an adverse impact on rural areas.

5. Rural area participation: The Department of Financial Services ("Department") is promulgating this rule on an emergency basis in the event that Congress repeals the ACA. Issuers in rural areas will have an opportunity to participate in the rule making process when the proposed rule is published in the State Register and posted on the Department's website.

Job Impact Statement

This rule should not adversely impact jobs or employment opportunities in New York State. This rule would require every individual and small group accident and health insurance policy or contract (other than a grandfathered health plan) delivered or issued for delivery in New York that provides hospital, surgical, or medical expense coverage and every student accident and health insurance policy or contract delivered or issued for delivery in New York to continue providing coverage of at least the enumerated ten categories of essential health benefits ("EHB") if the EHB provisions in 42 U.S.C. § 18022 and 45 C.F.R. 156.100 et seq. are no longer in effect or are modified as determined by the Superintendent of Financial Services. This will ensure that people covered under individual, small group, and student accident and health insurance policies and contracts will continue to have coverage for these important benefits.

In addition, the rule would, with regard to an individual or small group accident and health insurance policy that provides hospital, surgical, or medical expense coverage and a student accident and health insurance policy or contract delivered or issued for delivery in New York State, reaffirm that an issuer is prohibited from discriminating because of race, color, creed, national origin, sex, age, marital status, disability, or a preexisting condition and to clarify the scope of such prohibitions.

Assessment of Public Comment

The agency received no public comment.

EMERGENCY RULE MAKING

Business Conduct of Mortgage Loan Servicers

I.D. No. DFS-46-17-00003-E
Filing No. 938
Filing Date: 2017-10-26
Effective Date: 2017-10-30

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

Action taken: Addition of Part 419 to Title 3 NYCRR.

Statutory authority: Banking Law, art. 12-D

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

Specific reasons underlying the finding of necessity: The legislature required the registration of mortgage loan servicers as part of the Mortgage Lending Reform Law of 2008 (Ch. 472, Laws of 2008, hereinafter, the "Mortgage Lending Reform Law") to help address the existing foreclosure crisis in the state. By registering servicers and requiring that servicers engage in the business of mortgage loan servicing in compliance with rules and regulations adopted by the Superintendent, the legislature intended to help ensure that servicers conduct their business in a manner acceptable to the Department. However, since the passage of the Mortgage Lending Reform Law, foreclosures continue to pose a significant threat to New York homeowners. The Department continues to receive complaints from homeowners and housing advocates that mortgage loan servicers' response to delinquencies and their efforts at loss mitigation are inadequate. These rules are intended to provide clear guidance to mortgage loan servicers as to the procedures and standards they should follow with respect to loan delinquencies. The rules impose a duty of fair dealing on loan servicers in their communications, transactions and other dealings with borrowers. In addition, the rule sets standards with respect to the handling of loan delinquencies and loss mitigation. The rule further requires specific reporting on the status of delinquent loans with the Department so that it has the information necessary to assess loan servicers' performance.

In addition to addressing the pressing issue of mortgage loan delinquencies and loss mitigation, the rule addresses other areas of significant concern to homeowners, including the handling of borrower complaints and inquiries, the payment of taxes and insurance, crediting of payments and handling of late payments, payoff balances and servicer fees. The rule also sets forth prohibited practices such as engaging in deceptive practices or placing homeowners' insurance on property when the servicers has reason to know that the homeowner has an effective policy for such insurance.

Subject: Business conduct of mortgage loan servicers.

Purpose: To implement the purpose and provisions of the Mortgage Lending Reform Law of 2008 with respect to mortgage loan servicers.

Substance of emergency rule (Full text is posted at the following State website: http://www.dfs.ny.gov/legal/regulations/emergency/banking/emergbanking.htm):

Section 419.1 contains definitions of terms that are used in Part 419 and not otherwise defined in Part 418, including "Servicer", "Qualified Written Request" and "Loan Modification".

Section 419.2 establishes a duty of fair dealing for Servicers in connection with their transactions with borrowers, which includes a duty to pursue loss mitigation with the borrower as set forth in Section 419.11.

Section 419.3 requires compliance with other State and Federal laws relating to mortgage loan servicing, including Banking Law Article 12-D, RESPA, and the Truth-in-Lending Act.

Section 419.4 describes the requirements and procedures for handling to consumer complaints and inquiries.

Section 419.5 describes the requirements for a servicer making payments of taxes or insurance premiums for borrowers.

Section 419.6 describes requirements for crediting payments from borrowers and handling late payments.

Section 419.7 describes the requirements of an annual account statement which must be provided to borrowers in plain language showing the unpaid principal balance at the end of the preceding 12-month period, the interest paid during that period and the amounts deposited into and disbursed from escrow. The section also describes the Servicer's obligations with respect to providing a payment history when requested by the borrower or borrower's representative.

Section 419.8 requires a late payment notice be sent to a borrower no later than 17 days after the payment remains unpaid.

Section 419.9 describes the required provision of a payoff statement that contains a clear, understandable and accurate statement of the total amount that is required to pay off the mortgage loan as of a specified date.

Section 419.10 sets forth the requirements relating to fees permitted to be collected by Servicers and also requires Servicers to maintain and update at least semi-annually a schedule of standard or common fees on their website.

Section 419.11 sets forth the Servicer's obligations with respect to handling of loan delinquencies and loss mitigation, including an obligation to make reasonable and good faith efforts to pursue appropriate loss mitigation options, including loan modifications. This Section includes requirements relating to procedures and protocols for handling loss mitigation, providing borrowers with information regarding the Servicer's loss mitigation process, decision-making and available counseling programs and resources.

Section 419.12 describes the quarterly reports that the Superintendent may require Servicers to submit to the Superintendent, including information relating to the aggregate number of mortgages serviced by the Servicer, the number of mortgages in default, information relating to loss mitigation activities, and information relating to mortgage modifications.

Section 419.13 describes the books and records that Servicers are required to maintain as well as other reports the Superintendent may require Servicers to file in order to determine whether the Servicer is complying with applicable laws and regulations. These include books and records regarding loan payments received, communications with borrowers, financial reports and audited financial statements.

Section 419.14 sets forth the activities prohibited by the regulation, including engaging in misrepresentations or material omissions and placing insurance on a mortgage property without written notice when the Servicer has reason to know the homeowner has an effective policy in place.

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 January 23, 2018.

Text of rule and any required statements and analyses may be obtained from: Christine M. Tomczak, New York State Department of Financial Services, One State Street, New York, New York 10004-1417, (212) 709-1642

Regulatory Impact Statement

1. Statutory authority.

Article 12-D of the Banking Law, as amended by the Legislature in the Mortgage Lending Reform Law of 2008 (Ch. 472, Laws of 2008, hereinafter, the "Mortgage Lending Reform Law"), creates a framework for the regulation of mortgage loan servicers. Mortgage loan servicers are individuals or entities which engage in the business of servicing mortgage loans for residential real property located in New York. That legislation also authorizes the adoption of regulations implementing its provisions. (See, e.g., Banking Law Sections 590(2) (b-1) and 595-b.)

Subsection (1) of Section 590 of the Banking Law was amended by the Mortgage Lending Reform Law to add the definitions of "mortgage loan servicer" and "servicing mortgage loans". (Section 590(1)(h) and Section 590(1)(i).)

A new paragraph (b-1) was added to Subdivision (2) of Section 590 of the Banking Law. This new paragraph prohibits a person or entity from engaging in the business of servicing mortgage loans without first being registered with the Superintendent. The registration requirements do not apply to an "exempt organization," licensed mortgage banker or registered mortgage broker.

This new paragraph also authorizes the Superintendent to refuse to register an MLS on the same grounds as he or she may refuse to register a mortgage broker under Banking Law Section 592-a(2).

Subsection (3) of Section 590 was amended by the Subprime Law to clarify the power of the banking board to promulgate rules and regulations and to extend the rulemaking authority regarding regulations for the protection of consumers and regulations to define improper or fraudulent business practices to cover mortgage loan servicers, as well as mortgage bankers, mortgage brokers and exempt organizations. The functions and powers of the banking board have since been transferred to the Superintendent of Financial Services, pursuant to Part A of Chapter 62 of the Laws of 2011, Section 89.

New Paragraph (d) was added to Subsection (5) of Section 590 by the Mortgage Lending Reform Law and requires mortgage loan servicers to engage in the servicing business in conformity with the Banking Law, such rules and regulations as may be promulgated by the Banking Board or prescribed by the Superintendent, and all applicable federal laws, rules and regulations.

New Subsection (1) of Section 595-b was added by the Mortgage Lending Reform Law and requires the Superintendent to promulgate regulations and policies governing the grounds to impose a fine or penalty with

respect to the activities of a mortgage loan servicer. Also, the Mortgage Lending Reform Law amends the penalty provision of Subdivision (1) of Section 598 to apply to mortgage loan servicers as well as to other entities.

New Subdivision (2) of Section 595-b was added by the Mortgage Lending Reform Law and authorizes the Superintendent to prescribe regulations relating to disclosure to borrowers of interest rate resets, requirements for providing payoff statements, and governing the timing of crediting of payments made by the borrower.

Section 596 was amended by the Mortgage Lending Reform Law to extend the Superintendent's examination authority over licensees and registrants to cover mortgage loan servicers. The provisions of Banking Law Section 36(10) making examination reports confidential are also extended to cover mortgage loan servicers.

Similarly, the books and records requirements in Section 597 covering licensees, registrants and exempt organizations were amended by the Mortgage Lending Reform Law to cover servicers and a provision was added authorizing the Superintendent to require that servicers file annual reports or other regular or special reports.

The power of the Superintendent to require regulated entities to appear and explain apparent violations of law and regulations was extended by the Mortgage Lending Reform Law to cover mortgage loan servicers (Subdivision (1) of Section 39), as was the power to order the discontinuance of unauthorized or unsafe practices (Subdivision (2) of Section 39) and to order that accounts be kept in a prescribed manner (Subdivision (5) of Section 39).

Finally, mortgage loan servicers were added to the list of entities subject to the Superintendent's power to impose monetary penalties for violations of a law, regulation or order. (Paragraph (a) of Subdivision (1) of Section 44).

The fee amounts for mortgage loan servicer registration and branch applications are established in accordance with Banking Law Section 18-a.

2. Legislative objectives.

The Mortgage Lending Reform Law was intended to address various problems related to residential mortgage loans in this State. The law reflects the view of the Legislature that consumers would be better protected by the supervision of mortgage loan servicing. Even though mortgage loan servicers perform a central function in the mortgage industry, there had previously been no general regulation of servicers by the state or the Federal government.

The Mortgage Lending Reform Law requires that entities be registered with the Superintendent in order to engage in the business of servicing mortgage loans in this state. The new law further requires mortgage loan servicers to engage in the business of servicing mortgage loans in conformity with the rules and regulations promulgated by the Banking Board and the Superintendent.

The mortgage servicing statute has two main components: (i) the first component addresses the registration requirement for persons engaged in the business of servicing mortgage loans; and (ii) the second authorizes the Superintendent to promulgate appropriate rules and regulations for the regulation of servicers in this state.

Part 418 of the Superintendent's Regulations, initially adopted on an emergency basis on July 1 2009, addresses the first component of the mortgage servicing statute by setting standards and procedures for applications for registration as a mortgage loan servicer, for approving and denying applications to be registered as a mortgage loan servicer, for approving changes of control, for suspending, terminating or revoking the registration of a mortgage loan servicer as well as setting financial responsibility standards for mortgage loan servicers.

Part 419 addresses the business practices of mortgage loan servicers in connection with their servicing of residential mortgage loans. This part addresses the obligations of mortgage loan servicers in their communications, transactions and general dealings with borrowers, including the handling of consumer complaints and inquiries, handling of escrow payments, crediting of payments, charging of fees, loss mitigation procedures and provision of payment histories and payoff statements. This part also imposes certain recordkeeping and reporting requirements in order to enable the Superintendent to monitor services' conduct and prohibits certain practices such as engaging in deceptive business practices.

Collectively, the provisions of Part 418 and 419 implement the intent of the Legislature to register and supervise mortgage loan servicers.

3. Needs and benefits.

The Mortgage Lending Reform Law adopted a multifaceted approach to the lack of supervision of the mortgage loan industry, particularly with respect to servicing and foreclosure. It addressed a variety of areas in the residential mortgage loan industry, including: i. loan originations; ii. loan foreclosures; and iii. the conduct of business by residential mortgage loans servicers.

Until July 1, 2009, when the mortgage loan servicer registration provisions first became effective, the Department regulated the brokering and making of mortgage loans, but not the servicing of these mortgage loans. Servicing is vital part of the residential mortgage loan industry; it involves the collection of mortgage payments from borrowers and remittance of the same to owners of mortgage loans; to governmental agencies for taxes; and to insurance companies for insurance premiums. Mortgage servicers also act as agents for owners of mortgages in negotiations relating to loss mitigation when a mortgage becomes delinquent. As "middlemen," moreover, servicers also play an important role when a property is foreclosed upon. For example, the servicer may typically act on behalf of the owner of the loan in the foreclosure proceeding.

Further, unlike in the case of a mortgage broker or a mortgage lender, borrowers cannot "shop around" for loan servicers, and generally have no input in deciding what company services their loans. The absence of the ability to select a servicer obviously raises concerns over the character and viability of these entities given the central part of they play in the mortgage industry. There also is evidence that some servicers may have provided poor customer service. Specific examples of these activities include: pyramiding late fees; misapplying escrow payments; imposing illegal prepayment penalties; not providing timely and clear information to borrowers; erroneously force-placing insurance when borrowers already have insurance; and failing to engage in prompt and appropriate loss mitigation efforts.

More than 2,000,000 loans on residential one-to-four family properties are being serviced in New York. Of these over 9% were seriously delinquent as of the first quarter of 2012. Despite various initiatives adopted at the state level and the creation of federal programs such as Making Home Affordable to encourage loan modifications and help at risk homeowners, the number of loans modified, have not kept pace with the number of foreclosures. Foreclosures impose costs not only on borrowers and lenders but also on neighboring homeowners, cities and towns. They drive down home prices, diminish tax revenues and have adverse social consequences and costs.

As noted above, Part 418, initially adopted on an emergency basis on July 1 2009, relates to the first component of the mortgage servicing statute – the registration of mortgage loan servicers. It was intended to ensure that only those persons and entities with adequate financial support and sound character and general fitness will be permitted to register as mortgage loan servicers. It also provided for the suspension, revocation and termination of licensees involved in wrongdoing and establishes minimum financial standards for mortgage loan servicers.

Part 419 addresses the business practices of mortgage loan servicers and establishes certain consumer protections for homeowners whose residential mortgage loans are being serviced. These regulations provide standards and procedures for servicers to follow in their course of dealings with borrowers, including the handling of borrower complaints and inquiries, payment of taxes and insurance premiums, crediting of borrower payments, provision of annual statements of the borrower's account, authorized fees, late charges and handling of loan delinquencies and loss mitigation. Part 419 also identifies practices that are prohibited and imposes certain reporting and record-keeping requirements to enable the Superintendent to determine the servicer's compliance with applicable laws, its financial condition and the status of its servicing portfolio.

Since the adoption of Part 418, 67 entities have been approved for registration or have pending applications and nearly 400 entities have indicated that they are a mortgage banker, broker, bank or other organization exempt from the registration requirements.

All Exempt Organizations, mortgage bankers and mortgage brokers that perform mortgage loan servicing with respect to New York mortgages must notify the Superintendent that they do so, and are required to comply with the conduct of business and consumer protection rules applicable to mortgage loan servicers.

These regulations will improve accountability and the quality of service in the mortgage loan industry and will help promote alternatives to foreclosure in the state.

4. Costs.

The requirements of Part 419 do not impose any direct costs on mortgage loan servicers. Although mortgage loan servicers may incur some additional costs as a result of complying with Part 419, the overwhelming majority of mortgage loan servicers are banks, operating subsidiaries or affiliates of banks, large independent servicers or other financial services entities that service millions, and even billions, of dollars in loans and have the experience, resources and systems to comply with these requirements. Moreover, any additional costs are likely to be mitigated by the fact that many of the requirements of Part 419, including those relating to the handling of residential mortgage delinquencies and loss mitigation (419.11) and quarterly reporting (419.12), are consistent with or substantially similar to standards found in other federal or state laws, federal mortgage modification programs or servicers own protocols.

For example, Fannie Mae and Freddie Mac, which own or insure approximately 90% of the nation's securitized mortgage loans, have similar guidelines governing various aspects of mortgage servicing, including

handling of loan delinquencies. In addition, over 100 mortgage loan servicers participate in the federal Making Home Affordable (MHA) program which requires adherence to standards for handling of loan delinquencies and loss mitigation similar to those contained in these regulations. Those servicers not participating in MHA have, for the most part, adopted programs which parallel many components of MHA.

Reporting on loan delinquencies and loss mitigation has likewise become increasingly common. The OCC publish quarterly reports on credit performance, loss mitigation efforts and foreclosures based on data provided by national banks and thrifts. And, states such as Maryland and North Carolina have adopted similar reporting requirements to those contained in section 419.12.

Many of the other requirements of Part 419 such as those related to handling of taxes, insurance and escrow payments, collection of late fees and charges, crediting of payments derive from federal or state laws and reflect best industry practices. The periodic reporting and bookkeeping and record keeping requirements are also standard among financial services businesses, including mortgage bankers and brokers (see, for example section 410 of the Superintendent's Regulations).

The ability by the Department to regulate mortgage loan servicers is expected to reduce costs associated with responding to consumers' complaints, decrease unnecessary expenses borne by mortgagors, and should assist in decreasing the number of foreclosures in this state.

The regulations will not result in any fiscal implications to the State. The Department is funded by the regulated financial services industry. Fees charged to the industry will be adjusted periodically to cover Department expenses incurred in carrying out this regulatory responsibility.

5. Local government mandates.

None.

6. Paperwork.

Part 419 requires mortgage loan servicers to keep books and records related to its servicing for a period of three years and to produce quarterly reports and financial statements as well as annual and other reports requested by the Superintendent. It is anticipated that the quarterly reporting relating to mortgage loan servicing will be done electronically and would therefore be virtually paperless. The other recordkeeping and reporting requirements are consistent with standards generally required of mortgage bankers and brokers and other regulated financial services entities.

7. Duplication.

The regulation does not duplicate, overlap or conflict with any other regulations. The various federal laws that touch upon aspects of mortgage loan servicing are noted in Section 9 "Federal Standards" below.

8. Alternatives.

The Mortgage Lending Reform Law required the registration of mortgage loan servicers and empowered the Superintendent to prescribe rules and regulations to guide the business of mortgage servicing. The purpose of the regulation is to carry out this statutory mandate to register mortgage loan servicers and regulate the manner in which they conduct business. The Department circulated a proposed draft of Part 419 and received comments from and met with industry and consumer groups. The current Part 419 reflects the input received. The alternative to these regulations is to do nothing or to wait for the newly created federal bureau of consumer protection to promulgate national rules, which could take years, may not happen at all or may not address all the practices covered by the rule. Thus, neither of those alternatives would effectuate the intent of the legislature to address the current foreclosure crisis, help at-risk homeowners vis-à-vis their loan servicers and ensure that mortgage loan servicers engage in fair and appropriate servicing practices.

9. Federal standards.

Currently, mortgage loan servicers are not required to be registered by any federal agencies, and there are no comprehensive federal rules governing mortgage loan servicing. Federal laws such as the Real Estate Settlement Procedures Act of 1974, 12 U.S.C. § 2601 et seq. and regulations adopted thereunder, 24 C.F.R. Part 3500, and the Truth-in-Lending Act, 15 U.S.C. section 1600 et seq. and Regulation Z adopted thereunder, 12 C.F.R. section 226 et seq., govern some aspects of mortgage loan servicing, and there have been some recent amendments to those laws and regulations regarding mortgage loan servicing. For example, Regulation Z, 12 C.F.R. section 226.36(c), was recently amended to address the crediting of payments, imposition of late charges and the provision of payoff statements. In addition, the recently enacted Dodd-Frank Wall Street Reform and Protection Act of 2010 (Dodd-Frank Act) establishes requirements for the handling of escrow accounts, obtaining force-placed insurance, responding to borrower requests and providing information related to the owner of the loan.

Additionally, the newly created Bureau of Consumer Financial Protection established by the Dodd-Frank Act may soon propose additional regulations for mortgage loan servicers.

10. Compliance schedule.

Similar emergency regulations first became effective on October 1, 2010.

Regulatory Flexibility Analysis

1. Effect of the Rule:

The rule will not have any impact on local governments. The Mortgage Lending Reform Law of 2008 (Ch. 472, Laws of 2008, hereinafter, the "Mortgage Lending Reform Law") requires all mortgage loan servicers, whether registered or exempt from registration under the law, to service mortgage loans in accordance with the rules and regulations promulgated by the Banking Board or Superintendent. The functions and powers of the Banking Board have since been transferred to the Superintendent of Financial Services, pursuant to Part A of Chapter 62 of the Laws of 2011, Section 89. Of the 67 entities which have been approved for registration or have pending applications and the nearly 400 entities which have indicated that they are exempt from the registration requirements, it is estimated that very few are small businesses.

2. Compliance Requirements:

The provisions of the Mortgage Lending Reform Law relating to mortgage loan servicers has two main components: it requires the registration by the Department of servicers who are not a bank, mortgage banker, mortgage broker or other exempt organizations (the "MLS Registration Regulations") , and it authorizes the Department to promulgate rules and regulations that are necessary and appropriate for the protection of consumers, to define improper or fraudulent business practices, or otherwise appropriate for the effective administration of the provisions of the Mortgage Lending Reform Law relating to mortgage loan servicers (the "Mortgage Loan Servicer Business Conduct Regulations").

The provisions of the Mortgage Lending Reform Law requiring registration of mortgage loan servicers which are not mortgage bankers, mortgage brokers or exempt organizations became effective on July 1, 2009. Part 418 of the Superintendent's Regulations, initially adopted on an emergency basis on July 1 2009, sets for the standards and procedures for applications for registration as a mortgage loan servicer, for approving and denying applications to be registered as a mortgage loan servicer, for approving changes of control, for suspending, terminating or revoking the registration of a mortgage loan servicer as well as the financial responsibility standards for mortgage loan servicers.

Part 419 implements the provisions of the Mortgage Lending Reform Law by setting the standards by which mortgage loan servicers conduct the business of mortgage loan servicing. The rule sets the standards for handling complaints, payments of taxes and insurance, crediting of borrower payments, late payments, account statements, delinquencies and loss mitigation, fees and recordkeeping.

3. Professional Services:

None.

4. Compliance Costs:

The requirements of Part 419 do not impose any direct costs on mortgage loan servicers. Although mortgage loan servicers may incur some additional costs as a result of complying with Part 419, the overwhelming majority of mortgage loan servicers are banks, operating subsidiaries or affiliates of banks, large independent servicers or other financial services entities that service millions, and even billions, of dollars in loans and have the experience, resources and systems to comply with these requirements. Moreover, any additional costs are likely to be mitigated by the fact that many of the requirements of Part 419, including those relating to the handling of residential mortgage delinquencies and loss mitigation (419.11) and quarterly reporting (419.12), are consistent with or substantially similar to standards found in other federal or state laws, federal mortgage modification programs or servicers own protocols.

For example, Fannie Mae and Freddie Mac, which own or insure approximately 90% of the nation's securitized mortgage loans, have similar guidelines governing various aspects of mortgage servicing, including handling of loan delinquencies. In addition, over 100 mortgage loan servicers participate in the federal Making Home Affordable (MHA) program which requires adherence to standards for handling of loan delinquencies and loss mitigation similar to those contained in these regulations. Those servicers not participating in MHA have, for the most part, adopted programs which parallel many components of MHA.

Reporting on loan delinquencies and loss mitigation has likewise become increasingly common. The OCC publishes quarterly reports on credit performance, loss mitigation efforts and foreclosures based on data provided by national banks and thrifts. And, states such as Maryland and North Carolina have adopted similar reporting requirements to those contained in section 419.12.

Many of the other requirements of Part 419 such as those related to handling of taxes, insurance and escrow payments, collection of late fees and charges, crediting of payments derive from federal or state laws and reflect best industry practices. The periodic reporting and bookkeeping and record keeping requirements are also standard among financial services businesses, including mortgage bankers and brokers (see, for example section 410 of the Superintendent's Regulations).

Compliance with the rule should improve the servicing of residential mortgage loans in New York, including the handling of mortgage delinquencies, help prevent unnecessary foreclosures and reduce consumer complaints regarding the servicing of residential mortgage loans.

5. Economic and Technological Feasibility:

For the reasons noted in Section 4 above, the rule should impose no adverse economic or technological burden on mortgage loan servicers that are small businesses.

6. Minimizing Adverse Impacts:

As noted in Section 1 above, most servicers are not small businesses. Many of the requirements contained in the rule derive from federal or state laws, existing servicer guidelines utilized by Fannie Mae and Freddie Mac and best industry practices.

Moreover, the ability by the Department to regulate mortgage loan servicers is expected to reduce costs associated with responding to consumers' complaints, decrease unnecessary expenses borne by mortgagors, help borrowers at risk of foreclosure and decrease the number of foreclosures in this state.

7. Small Business and Local Government Participation:

The Department distributed a draft of proposed Part 419 to industry representatives, received industry comments on the proposed rule and met with industry representatives in person. The Department likewise distributed a draft of proposed Part 419 to consumer groups, received their comments on the proposed rule and met with consumer representatives to discuss the proposed rule in person. The rule reflects the input received from both industry and consumer groups.

Rural Area Flexibility Analysis

Types and Estimated Numbers: Since the adoption of the Mortgage Lending Reform Law of 2008 (Ch. 472, Laws of 2008, hereinafter, the "Mortgage Lending Reform Law"), which required mortgage loan servicers to be registered with the Department unless exempted under the law, 67 entities have pending applications or have been approved for registration and nearly 400 entities have indicated that they are a mortgage banker, broker, bank or other organization exempt from the registration requirements. Only one of the non-exempt entities applying for registration is located in New York and operating in a rural area. Of the exempt organizations, all of which are required to comply with the conduct of business contained in Part 419, approximately 400 are located in New York, including several in rural areas. However, the overwhelming majority of exempt organizations, regardless of where located, are banks or credit unions that are already regulated and are thus familiar with complying with the types of requirements contained in this regulation.

Compliance Requirements: The provisions of the Mortgage Lending Reform Law relating to mortgage loan servicers has two main components: it requires the registration by the Department of servicers that are not a bank, mortgage banker, mortgage broker or other exempt organization (the "MLS Registration Regulations") , and it authorizes the Department to promulgate rules and regulations that are necessary and appropriate for the protection of consumers, to define improper or fraudulent business practices, or otherwise appropriate for the effective administration of the provisions of the Mortgage Lending Reform Law relating to mortgage loan servicers (the "MLS Business Conduct Regulations").

The provisions of the Mortgage Lending Reform Law of 2008 requiring registration of mortgage loan servicers which are not mortgage bankers, mortgage brokers or exempt organizations became effective on July 1, 2009. Part 418 of the Superintendent's Regulations, initially adopted on an emergency basis on July 1, 2010, sets forth the standards and procedures for applications for registration as a mortgage loan servicer, for approving and denying applications to be registered as a mortgage loan servicer, for approving changes of control, for suspending, terminating or revoking the registration of a mortgage loan servicer as well as the financial responsibility standards for mortgage loan servicers.

Part 419 implements the provisions of the Mortgage Lending Reform Law of 2008 by setting the standards by which mortgage loan servicers conduct the business of mortgage loan servicing. The rule sets the standards for handling complaints, payments of taxes and insurance, crediting borrower payments, late payments, account statements, delinquencies and loss mitigation and fees. This part also imposes certain recordkeeping and reporting requirements in order to enable the Superintendent to monitor services' conduct and prohibits certain practices such as engaging in deceptive business practices.

Costs: The requirements of Part 419 do not impose any direct costs on mortgage loan servicers. The periodic reporting requirements of Part 419 are consistent with those imposed on other regulated entities. In addition, many of the other requirements of Part 419, such as those related to the handling of loan delinquencies, taxes, insurance and escrow payments, collection of late fees and charges and crediting of payments, derive from federal or state laws, current federal loan modification programs, servicing guidelines utilized by Fannie Mae and Freddie Mac or servicers' own protocols. Although mortgage loan servicers may incur some additional costs as a result of complying with Part 419, the overwhelming majority of mortgage loan servicers are banks, credit unions, operating subsidiaries or affiliates of banks, large independent servicers or other financial services entities that service millions, and even billions, of dollars in loans and have the experience, resources and systems to comply with these requirements. Of the 67 entities that have been approved for registration or that have pending applications, only one is located in a rural area of New York State. Of the few exempt organizations located in rural areas of New York, virtually all are banks or credit unions. Moreover, compliance with the rule should improve the servicing of residential mortgage loans in New York, including the handling of mortgage delinquencies, help prevent unnecessary foreclosures and reduce consumer complaints regarding the servicing of residential mortgage loans.

Minimizing Adverse Impacts: As noted in the "Costs" section above, while mortgage loan servicers may incur some higher costs as a result of complying with the rules, the Department does not believe that the rule will impose any meaningful adverse economic impact upon private or public entities in rural areas.

In addition, it should be noted that Part 418, which establishes the application and financial requirements for mortgage loan servicers, authorizes the Superintendent to reduce or waive the otherwise applicable financial responsibility requirements in the case of mortgage loans servicers that service not more than 12 mortgage loans or more than $5,000,000 in aggregate mortgage loans in New York and which do not collect tax or insurance payments. The Superintendent is also authorized to reduce or waive the financial responsibility requirements in other cases for good cause. The Department believes that this will ameliorate any burden on mortgage loan servicers operating in rural areas.

Rural Area Participation: The Department issued a draft of Part 419 in December 2009 and held meetings with and received comments from industry and consumer groups following the release of the draft rule. The Department also maintains continuous contact with large segments of the servicing industry though its regulation of mortgage bankers and brokers and its work in the area of foreclosure prevention. The Department likewise maintains close contact with a variety of consumer groups through its community outreach programs and foreclosure mitigation programs. The Department has utilized this knowledge base in drafting the regulation.

Job Impact Statement

Article 12-D of the Banking Law, as amended by the Mortgage Lending Reform Law (Ch. 472, Laws of 2008), requires persons and entities which engage in the business of servicing mortgage loans after July 1, 2009 to be registered with the Superintendent. Part 418 of the Superintendent's Regulations, initially adopted on an emergency basis on July 1, 2009, sets forth the application, exemption and approval procedures for registration as a mortgage loan servicer, as well as financial responsibility requirements for applicants, registrants and exempted persons.

Part 419 addresses the business practices of mortgage loan servicers in connection with their servicing of residential mortgage loans. Thus, this part addresses the obligations of mortgage loan servicers in their communications, transactions and general dealings with borrowers, including the handling of consumer complaints and inquiries, handling of escrow payments, crediting of payments, charging of fees, loss mitigation procedures and provision of payment histories and payoff statements. This part also imposes certain recordkeeping and reporting requirements in order to enable the Superintendent to monitor services' conduct and prohibits certain practices such as engaging in deceptive business practices.

Compliance with Part 419 is not expected to have a significant adverse effect on jobs or employment activities within the mortgage loan servicing industry. The vast majority of mortgage loan servicers are sophisticated financial entities that service millions, if not billions, of dollars in loans and have the experience, resources and systems to comply with the requirements of the rule. Moreover, many of the requirements of the rule reflect derive from federal or state laws and reflect existing best industry practices.

New York State Joint Commission on Public Ethics

EMERGENCY RULE MAKING

Records Access

I.D. No. JPE-34-17-00002-E
Filing No. 945
Filing Date: 2017-10-31
Effective Date: 2017-10-31

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

Action taken: Amendment of Part 937 of Title 19 NYCRR.

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

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

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

Subject: Records access.

Purpose: To update regulations governing records access.

Text of emergency rule: PART 937
ACCESS TO PUBLICLY AVAILABLE RECORDS
§ 937.1 Scope and purpose
These regulations provide information concerning the procedures by which [the publicly available record set forth in section 94 (17) (a) of the Executive Law may be obtained from the New York State Commission on Public Integrity ('Commission") These records include:] records of the Joint Commission on Public Ethics (''Commission'') shall be available for public inspection and copying. Pursuant to Executive Law section 94(19)(a) the only records of the Commission which shall be available for public inspection and copying are set forth below:
(a) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except the categories of value or amount, which shall remain confidential, and any other item of information deleted pursuant to Section 94(9)(h) [and (m)] of the Executive Law *(Effective until January 1, 2013)*;
(b) The information set forth in an annual statement of financial disclosure filed pursuant to section 73-a of the Public Officers Law except information deleted pursuant Section 94 (9)(h) of the Executive Law (Effective January 1, 2013);
([b]*c*) Notices of Delinquency sent pursuant to section 94(1[1]2) of the Executive Law;
[(c) Notices of Reasonable Cause sent pursuant to section 94(12)(b) of the Executive Law;]
(d) Notices of Civil Assessments imposed pursuant to section 94(1[3]*4*) of the Executive Law that shall include a description of the nature of the alleged wrongdoing, the procedural history of the complaint, the findings and determinations made by the Commission, and any sanction imposed;
(e) The terms of any Settlement Agreement or compromise of a complaint or referral that includes a fine, penalty or other remedy; [and]
(f) Those records required to be held or maintained publicly available pursuant to article one-A of the Legislative Law[.]*;and*
(g) Substantial basis investigation reports issued by the Commission pursuant to section 94 (14-a) and (14-b) of the Executive Law. With respect to reports concerning members of the Legislature or legislative employees or candidates for member of the Legislature, the Commission shall not publicly disclose or otherwise disseminate such reports except in conformance with the requirements of section 80(9)(b) of the Legislative Law.
§ 937.2 Designation of records access officer
(a) The Commission designates its Public Information Officer to act as the Records Access Officer.
(b) The Records Access Officer is responsible for ensuring compliance with the regulations herein.
(c) The Records Access Officer is responsible for ensuring that Commission staff perform the following actions:
(1) assist the requester in identifying the record sought, if necessary;
(2) upon locating the requested record:
(i) make the record [promptly] available for inspection in accordance with Subparts 937.3 and 937.4 herein; or
(ii) make copies free of charge unless the request is for more than 40 pages, in which case the Commission shall charge $ 0.25 per copy or the cost of electronic reproduction.
[(iii) upon request, certify that a record is a true copy or reproduction.]
§ 937.3 Requests for access to publicly available records
(a) A request for access to records shall be in writing or on a form approved by the Commission.
(b) A request shall reasonably describe the record sought. To the extent possible, a requesting person should supply identifying details such as the name of the person, entity or title associated with the record sought and dates or filing period.
(c) A response to a request that reasonably describes the record sought shall be made within five business days of receipt of the request by:
(1) granting access to the record; or
(2) acknowledging the receipt of the request in writing, including an approximate date when the request will be granted, which shall be reasonable under the circumstances and shall not be more than twenty business days after the date of the acknowledgement, or providing a statement in writing indicating the reason for the inability to grant the request within that time and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted; or
(3) if receipt of the request was acknowledged in writing and included an approximate date when the request would be granted within twenty business days of such acknowledgement, but circumstances prevent disclosure within that time, providing a statement in writing within twenty business days of such acknowledgement specifying the reason for the inability to do so and a date certain, within a reasonable period under the circumstances of the request, when the request will be granted.
§ 937.4 Location of records for inspection
(a) [Upon arranging an appointment with the] *Once granted, access to records will be arranged by the* Records Access Officer, *and* the records [set forth in Subpart 937.1 shall be available for public inspection at the Commission's office.] *will be made available in a convenient and appropriate manner.*
(b) [Such] *A*[a]ppointments *for public inspection of records at the Commission's office* shall be arranged on days that the Commission is regularly open for business and during the hours of 9a.m.- 4:30p.m.
§ 937.5 Deletion of certain items of information from financial disclosure statements
(a) Prior to making any financial disclosure statement publicly available, the Records Access Officer shall delete [the categories of value or amount and] any other item of information that the Commission has determined to delete pursuant to section 94(9)(h) [and (m)] of the Executive Law[.]*, and for filings prior to January 1, 2013, the categories of value and amount.*
(b) In accordance with the rules set forth in 19 NYCRR 941.[19]*17*(b)(1), pending any application for deletion to the executive director or notice of appeal filed with the members of the Commission, all information which is the subject or a part of the application or appeal shall remain confidential. Upon an adverse determination on appeal by the members of the Commission, the reporting individual may request, within five calendar days of receipt of an adverse determination, and upon such request the Commission shall provide, that any information which is the subject or part of the application remain confidential for a period of thirty days following notice of such determination. In the event that the reporting individual resigns from office prior to the issuance of a determination and holds no other office subject to the jurisdiction of the Commission, the information shall not be made public and shall be expunged in its entirety.
937.6 Records access appeals
(a) The General Counsel, or Deputy General Counsel in the General Counsel's stead, shall act as the Records Access Appeals Officer.
(b) Any person denied access in whole or in part to a record or records requested may within thirty days appeal in writing such denial to the Records Access Appeals Officer who shall within ten business days of the receipt of such appeal fully explain in writing to the person requesting the record the reasons for further denial, or provide access to the record sought. This shall constitute the final determination of the Commission.

This notice is intended to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. JPE-34-17-00002-EP, Issue of August 23, 2017. The emergency rule will expire December 29, 2017.

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

Regulatory Impact Statement

1. Statutory Authority: Section 9(c) of the Executive Law provides the Joint Commission on Public Ethics ("Commission") with authority to adopt, amend, and rescind regulations to govern the procedures of the Commission. Section 94(19) of the Executive Law further provides which records of the Commission shall be available for public inspection and copying.

2. Legislative Objectives: The Public Integrity Reform Act of 2011 ("PIRA") established the Commission and authorized the Commission to exercise the powers and duties set forth in section 94 of the Executive Law with respect to record access. This regulation provides updates to a preceding regulation on the gaining of record access.

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

4. Costs:

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

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

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

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

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

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

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

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

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

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

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Proposed Rulemaking because the proposed rulemaking will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. The Joint Commission on Public Ethics makes this finding based on the fact that the rule implements current law and, therefore, imposes no new requirements on such entities.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not submitted with this Notice of Proposed Rulemaking because the proposed rulemaking will not impose any adverse economic impact on rural areas, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of rural areas. The Joint Commission on Public Ethics makes this finding based on the fact that the rule implements current law and, therefore, imposes no new requirements on such entities. Rural areas are not affected.

Job Impact Statement

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

Assessment of Public Comment

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

NOTICE OF ADOPTION

Records Access

I.D. No. JPE-34-17-00002-A
Filing No. 944
Filing Date: 2017-10-31
Effective Date: 2017-11-15

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

Action taken: Amendment of Part 937 of Title 19 NYCRR.

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

Subject: Records access.

Purpose: To update regulations governing records access.

Text or summary was published in the August 23, 2017 issue of the Register, I.D. No. JPE-34-17-00002-EP.

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

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

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

State Liquor Authority

NOTICE OF ADOPTION

Repeal of Archaic Rules Regarding Local Boards, Removals of Package Stores, and Retail Price Affirmations

I.D. No. LQR-33-17-00009-A
Filing No. 940
Filing Date: 2017-10-30
Effective Date: 2017-11-15

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

Action taken: Repeal of sections 40.6, 65.7, Parts 45 and 66 of Title 9 NYCRR.

Statutory authority: Alcoholic Beverage Control Law, section 101-b(4)

Subject: Repeal of archaic rules regarding local boards, removals of package stores, and retail price affirmations.

Purpose: To repeal archaic rules regarding local boards, removals of package stores, and retail price affirmations.

Text or summary was published in the August 16, 2017 issue of the Register, I.D. No. LQR-33-17-00009-P.

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

Text of rule and any required statements and analyses may be obtained from: Paul Karamanol, Senior Attorney, State Liquor Authority, 80 South Swan Street, Suite 900, Albany, NY 12210, (518) 474-3114, email: paul.karamanol@sla.ny.gov

Assessment of Public Comment

The agency received no public comment.

Office for People with Developmental Disabilities

NOTICE OF ADOPTION

Agency Name Change Update

I.D. No. PDD-36-17-00014-A
Filing No. 943
Filing Date: 2017-10-31
Effective Date: 2017-11-15

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

Action taken: Amendment of Parts 630 and 671 of Title 14 NYCRR.

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

Subject: Agency name change update.

Purpose: To update the agency name in Title 14 NYCRR Parts 630 and 671.

Text or summary was published in the September 6, 2017 issue of the Register, I.D. No. PDD-36-17-00014-P.

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

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

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

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.

Public Service Commission

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-38-15-00008-A

Filing Date: 2017-10-25

Effective Date: 2017-10-25

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

Action taken: On 10/19/17, the PSC adopted an order approving Community Counseling and Mediation's (CC&M) notice of intent to submeter electricity at 226 Linden Boulevard, Brooklyn, New York.

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

Subject: Submetering of electricity.

Purpose: To approve CC&M's notice of intent to submeter electricity.

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving Community Counseling and Mediation's notice of intent to submeter electricity at 226 Linden Boulevard, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(15-E-0249SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-13-16-00009-A

Filing Date: 2017-10-26

Effective Date: 2017-10-26

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

Action taken: On 10/19/17, the PSC adopted an order approving Franklin Place Condominium's (Franklin) notice of intent to submeter electricity at 5 Franklin Place, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve Franklin's notice of intent to submeter electricity.

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving Franklin Place Condominium's notice of intent to submeter electricity at 5 Franklin Place, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(16-E-0082SA1)

NOTICE OF ADOPTION

Waiver Request of 16 NYCRR Part 96

I.D. No. PSC-38-16-00006-A

Filing Date: 2017-10-25

Effective Date: 2017-10-25

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

Action taken: On 10/19/17, the PSC adopted an order approving Community Counseling and Mediation's (CC&M) request for a waiver of 16 NYCRR Part 96.

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: Waiver request of 16 NYCRR Part 96.

Purpose: To approve CC&M's request for a waiver of 16 NYCRR Part 96.

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving Community Counseling and Mediation's request for waiver of the energy audit and energy efficiency plan requirements in 16 NYCRR Part 96, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(15-E-0249SA2)

NOTICE OF ADOPTION

Electric Metering Equipment

I.D. No. PSC-45-16-00011-A

Filing Date: 2017-10-26

Effective Date: 2017-10-26

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

Action taken: On 10/19/17, the PSC adopted an order approving Landis+Gyr Inc.'s (L+G) petition to use the Focus AXe and RXRe electric meters, with L+G Gridstream series 5 wireless mesh communications for electric metering applications in New York State.

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

Subject: Electric metering equipment.

Purpose: To approve L+G's petition to use electric metering equipment in New York State.

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving Landis+Gyr Inc.'s (L+G) petition to use the Focus AXe and RXRe electric meters in meter writing Forms 1S, 2S, 2Se, 3S, 4S, 12S and 25S with L+G Gridstream series 5 wireless mesh radio frequency communications for electric metering applications in New York State, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(16-E-0549SA1)

NOTICE OF ADOPTION

Interest on Reimbursement Amount

I.D. No. PSC-04-17-00010-A

Filing Date: 2017-10-25

Effective Date: 2017-10-25

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

Action taken: On 10/19/17, the PSC adopted an order clarifying the interest requirement on the reimbursement amount between Niagara Mohawk Power Corporation d/b/a National Grid (Niagara Mohawk) and Glenwyck Development, LLC (Glenwyck).

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

Subject: Interest on reimbursement amount.

Purpose: To clarify the interest requirement on the reimbursement amount between Niagara Mohawk and Glenwyck.

Substance of final rule: The Commission, on October 19, 2017, adopted an order clarifying the interest requirement on the reimbursement amount between Niagara Mohawk Power Corporation d/b/a National Grid (Niagara Mohawk) and Glenwyck Development, LLC (Glenwyck) for past trenching costs. Niagara Mohawk is not required to pay interest on the $11,309.10 payment to Glenwyck pursuant to the October 17, 2016 Order Granting Relief and Ordering Tariff Changes, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(15-E-0560SA2)

NOTICE OF ADOPTION

Water Metering Equipment

I.D. No. PSC-11-17-00006-A

Filing Date: 2017-10-26

Effective Date: 2017-10-26

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

Action taken: On 10/19/17, the PSC adopted an order approving New York American Water Company, Inc.'s (NYAW) petition to use the Itron 100W+ water meter endpoint (AMR) ancillary device for use in water meter applications in New York State.

Statutory authority: Public Service Law, section 89-d(1)

Subject: Water metering equipment.

Purpose: To approve NYAW's petition to use the Itron 100W+ for water metering applications in New York State.

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving New York American Water Company, Inc.'s petition to use the Itron 100W+ water meter endpoint automatic meter reading (AMR) ancillary device for use in water meter applications in New York State, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(17-W-0090SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-11-17-00009-A

Filing Date: 2017-10-25

Effective Date: 2017-10-25

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

Action taken: On 10/19/17, the PSC adopted an order approving 8th and C HDFC's (8th and C) petition to submeter electricity at 334 East 8th Street, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 8th and C's notice of intent to submeter electricity.

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving 8th and C HDFC's petition to submeter electricity at 334 East 8th Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(17-E-0052SA1)

NOTICE OF ADOPTION

Submetering of Electricity and Waiver Request

I.D. No. PSC-14-17-00019-A

Filing Date: 2017-10-25

Effective Date: 2017-10-25

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

Action taken: On 10/19/17, the PSC adopted an order approving 125 Metropolitan LLC and 125 Metropolitan LI LLC's (125 Metro) notice of intent to submeter electricity at 94 North 3rd Street, Brooklyn, New York and request for waiver of 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: Submetering of electricity and waiver request.

Purpose: To approve 125 Metro's notice of intent to submeter electricity and request for waiver of 16 NYCRR section 96.5(k)(3).

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving 125 Metropolitan LLC and 125 Metropolitan LI LLC's notice of intent to submeter electricity at 94 North 3rd Street, Brooklyn, New York, located in the service territory of Consolidated Edison

Company of New York, Inc. and request for waiver of the energy audit and energy efficiency plan requirements in 16 NYCRR § 96.5(k)(3), subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(17-E-0107SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-24-17-00015-A

Filing Date: 2017-10-26

Effective Date: 2017-10-26

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

Action taken: On 10/19/17, the PSC adopted an order approving 522-528 LLC's (522-528) notice of intent to submeter electricity at 509 Pacific Street, Brooklyn, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 522-528's notice of intent to submeter electricity.

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving 522-528 LLC's notice of intent to submeter electricity at 509 Pacific Street, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(17-E-0235SA1)

NOTICE OF ADOPTION

Submetering of Electricity and Waiver Request

I.D. No. PSC-26-17-00006-A

Filing Date: 2017-10-26

Effective Date: 2017-10-26

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

Action taken: On 10/19/17, the PSC adopted an order approving Our Lady of Lourdes' (Lourdes) notice of intent to submeter electricity at multiple addresses and request for waiver of 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: Submetering of electricity and waiver request.

Purpose: To approve Lourdes' notice of intent to submeter electricity and request for waiver of 16 NYCRR section 96.5(k)(3).

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving Our Lady of Lourdes' notice of intent to submeter electricity at 11 De Sales Place, 21 De Sales Place and 1875 Broadway, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. and request for waiver of the energy audit and energy efficiency plan requirements in 16 NYCRR § 96.5(k)(3), subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(17-E-0201SA1)

NOTICE OF ADOPTION

Submetering of Electricity and Waiver Request

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

Filing Date: 2017-10-25

Effective Date: 2017-10-25

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

Action taken: On 10/19/17, the PSC adopted an order approving 606 West 57 LLC's (606 West) notice of intent to submeter electricity at 606 West 57th Street, New York, New York and request for waiver of 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: Submetering of electricity and waiver request.

Purpose: To approve 606 West's notice of intent to submeter electricity and request for waiver of 16 NYCRR section 96.5(k)(3).

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving 606 West 57 LLC's notice of intent 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. and request for waiver of the energy audit and energy efficiency plan requirements in 16 NYCRR § 96.5(k)(3), subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(17-E-0155SA1)

NOTICE OF ADOPTION

Tariff Amendments

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

Filing Date: 2017-10-25

Effective Date: 2017-10-25

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

Action taken: On 10/19/17, the PSC adopted an order approving Consolidated Edison Company of New York, Inc.'s (Con Edison) tariff amendments to P.S.C. No. 9—Gas.

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

Subject: Tariff amendments.

Purpose: To approve Con Edison's tariff amendments to P.S.C. No. 9—Gas.

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving Consolidated Edison Company of New York, Inc.'s tariff amendments to P.S.C. No. 9 – Gas, to modify the Daily Delivery Service Program and the treatment of certain non-firm revenues in response to the Order Approving Tariff Amendments, issued on October 17, 2016, in Case 16-G-0406, subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(17-G-0405SA1)

NOTICE OF ADOPTION

Waiver Request of 16 NYCRR Section 96.2(b)(3)

I.D. No. PSC-33-17-00014-A

Filing Date: 2017-10-25

Effective Date: 2017-10-25

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

Action taken: On 10/19/17, the PSC adopted an order approving 8th and C HDFC's (8th and C) request for a waiver of 16 NYCRR section 96.2(b)(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: Waiver request of 16 NYCRR section 96.2(b)(3).

Purpose: To approve 8th and C's request for a waiver of 16 NYCRR section 96.2(b)(3).

Substance of final rule: The Commission, on October 19, 2017, adopted an order approving 8th and C HDFC's request for waiver of the participation requirement in demand response or the deployment of an on-site cogeneration plant or alternative, advanced energy efficiency design in 16 NYCRR § 96.2(b)(3), subject to the terms and conditions set forth in the order.

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

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

Assessment of Public Comment

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

(17-E-0052SA2)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Drift Marketplace, Inc.'s Petition for Rehearing

I.D. No. PSC-46-17-00004-P

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

Proposed Action: The Commission is considering a petition filed on October 16, 2017 by Drift Marketplace, Inc. requesting rehearing of the Commission's September 15, 2017 Order Denying Drift Marketplace Inc.'s Petition.

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

Subject: Drift Marketplace, Inc.'s petition for rehearing.

Purpose: To consider the petition for rehearing filed by Drift Marketplace, Inc.

Substance of proposed rule: The New York State Public Service Commission (Commission) is considering a Petition for Rehearing and Clarification of the Order Denying Drift Marketplace Inc.'s Petition of Waiver of the Prohibition on Service to Low-Income Customers by Energy Service Companies (Petition), filed on October 16, 2017, by Drift Marketplace Inc. (Drift). Drift's Petition seeks rehearing of the Commission's Order Denying Drift Marketplace Inc.'s Petition of Waiver of the Prohibition on Service to Low-Income Customers by Energy Service Companies (Order), issued on September 15, 2017, with respect to the following issues: (1) the standard of review used by the Commission in determining the suitability of a guaranteed savings program; and (2) whether information provided to Department of Public Service Staff was addressed in the Order. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. Upon conducting its evaluation of the Petition, the Commission may reaffirm its initial decision or adhere to it with additional rationale in denying the Petition, modify or reverse the decision in granting the Petition in whole or in part, or take other action as it deems necessary with respect to the Petition. However, the Commission will limit its review to the issues raised by the Petition.

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

(12-M-0476SP28)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

To Consider Further Proposed Amendments to the Original Criteria to Grandfathering Established in the Transition Plan

I.D. No. PSC-46-17-00005-P

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

Proposed Action: The Commission is considering a filing by Solar Alliance Freedom, Inc. on October 24, 2017, requesting an extension of time from two October 26, 2017 project payment deadlines imposed by the New York State Standardized Interconnection Requirements.

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

Subject: To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan.

Purpose: To modify grandfathering criteria.

Substance of proposed rule: The Public Service Commission (Commission) is considering a filing made by Solar Alliance Freedom, Inc. on October 24, 2017, requesting an extension of time from the October 26, 2017 deadline imposed by the New York State Standardized Interconnection Requirements (SIRs) to pay the 25% estimated interconnection fee for two solar photovoltaic projects proposed in Central Hudson Gas & Electric service territory. 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 relief, 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-0151SP7)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

To Consider Further Proposed Amendments to the Original Criteria to Grandfathering Established in the Transition Plan

I.D. No. PSC-46-17-00006-P

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

Proposed Action: The Commission is considering two petitions filed by Solar Liberty Energy Systems, Inc. on August 10, 2017 requesting that the Commission clarify or grant relief so that five of its solar photovoltaic projects may retain monetary crediting grandfathering.

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

Subject: To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan.

Purpose: To modify grandfathering criteria.

Substance of proposed rule: The Public Service Commission (Commission) is considering multiple filings made by Solar Liberty Energy Systems, Inc., on August 10, 2017, requesting amendments to the Commission's Transition Plan 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 (Transition Plan Order) and the Commission's Order Modifying Transition Plan and Making Other Findings (Modifying Order) issued December 16, 2016 in the same cases. The filings request that the Commission consider amending the Transition Plan milestones adopted in the Modifying Order to extend the November 30, 2017 mechanical completion milestone, and extend the December 31, 2017 in-service milestone, and request that the Commission confirm that completion of a grandfathered project in NYSERDA's NY-Sun MW Block Program, or that a state, municipal, district, or local governmental entity has solicited will retain grandfathered status even if the project is not in-service by the Transition Plan Order's December 31, 2017 default deadline. The full text of the filings 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 amendments and exceptions to the Transition Plan, 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-0151SP4)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Petition to Issue Unsecured Debt Obligations

I.D. No. PSC-46-17-00007-P

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

Proposed Action: The Commission is considering a petition filed by New York American Water Company, Inc. requesting authority to issue unsecured debt obligations.

Statutory authority: Public Service Law, section 89-f

Subject: Petition to issue unsecured debt obligations.

Purpose: To consider the Company's request to issue unsecured debt obligations.

Substance of proposed rule: The Public Service Commission is considering a petition filed by New York American Water Company, Inc. (the Company), on October 16, 2017, requesting authority to issue unsecured debt obligations of the Company having a maturity of more than one year. The requested authority would permit the Company to refinance up to $15,000,000 in aggregate principal amount of unsecured debt obligations of the Company having a maturity of more than one through March 31, 2021; and to issue and sell up to $63,500,000 of unsecured debt obligations having a maturity of more than one year through March 31, 2021. 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-W-0618SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Consequences Pursuant to the Commission's Uniform Business Practices (UBP)

I.D. No. PSC-46-17-00008-P

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

Proposed Action: The Public Service Commission is considering whether to impose consequences on an energy services company (ESCO), MPower Energy LLC (MPower), for apparent non-compliance with Commission requirements.

Statutory authority: Public Service Law, sections 4, 65 and 66

Subject: Consequences pursuant to the Commission's Uniform Business Practices (UBP).

Purpose: To consider whether to impose consequences on MPower for its apparent non-compliance with Commission requirements.

Substance of proposed rule: The Public Service Commission (Commission) is considering whether to impose consequences, pursuant to section two of the Commission's Uniform Business Practices (UBP), on MPower Energy LLC (MPower), an energy services company (ESCO). On October 20, 2017, the Commission issued an Order Instituting Proceeding and to Show Cause (Show Cause Order), which explained the results of an investigation showing multiple instances where MPower apparently failed to comply with Commission requirements. The Show Cause Order stated that the Commission may revoke MPower's eligibility to operate in New York, or may impose any of the consequences set forth in the UBP section 2.D.6.b. The Show Cause Order required MPower to respond explaining why its ability to enroll new residential and non-residential customers should not be suspended until the Commission orders otherwise; and its eligibility to operate in New York should not be revoked or why other consequences should not be imposed. The full case record 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-M-0552SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Requirements Pertaining to Inspections and Reporting on Plastic Fusions Installed in Gas Company Service Territories

I.D. No. PSC-46-17-00009-P

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

Proposed Action: The Commission is considering modifications to the requirements pertaining to inspections and reporting on plastic fusions installed in gas company service territories and implementing new inspection protocols.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Requirements pertaining to inspections and reporting on plastic fusions installed in gas company service territories.

Purpose: To clarify prior requirements and establish new requirements for plastic fusion qualifications and inspections.

Substance of proposed rule: The Commission is considering modifying the requirements set forth in its Order Requiring Local Distribution Companies to Follow and Complete Remediation Plans as Modified by this Order and to Implement New Inspection Protocols, issued May 15, 2015 (May 15 Order). The May 15 Order required that all completed plastic fusions be inspected by a person other than the fuser before being placed into service. The Commission may now require that the inspector of a plastic fusion may not be an equal or subordinate of the person completing the plastic fusion and that the inspector (commonly referred to as "peer inspector") has been qualified by appropriate training or experience in evaluating the acceptability of plastic pipe joints made under the applicable joining procedures and this training and experience has been verified through documented evaluation(s). Regarding collaboration between the fuser and the inspector, the Commission is considering authorizing such collaboration with two caveats: that such collaboration should (1) not be routinely used for all inspections; and (2) once a fuse is signed off on by the fuser, all collaboration should cease. The Commission is also considering adding specific requirements to Quality Assurance (QA) programs at local distribution companies (LDCs) to make sure the QA programs are robust and most effective. The Commission is considering that QA programs must require that a statistically significant number of random checks would be performed on work that has been deemed finally completed. Two other QA program requirements being considered include, first, re-digging of completed jobs for inspection some time after the work was completed. Second, the Commission is considering requiring QA inspectors to have been qualified by appropriate training or experience in evaluating the acceptability of plastic pipe joints made under the applicable joining procedures, as well as other required construction tasks including, but not limited to, installation of tracer wire, depth of cover clearance from other underground structures, etc., and that this training and experience be verified through documented evaluation(s). The Commission is also considering requiring that both positive and negative inspection results be recorded and reported. That is, the results of any plastic fusion that failed visual inspection, whether or not the fuse was placed into service, would be documented. While this will likely require that each step of the installation of a completed fusion is recorded, the need exists to make sure fusers who repeatedly produce visually failing fuses and second person inspectors who approve visually unacceptable fuses are identified (even if the fuse ultimately placed into service passed inspection) because recently adopted Commission rules require that people who complete plastic fusions must be requalified after each visually failed fuse. With respect to reporting requirements, the Commission is considering reducing the reporting requirements of fusions inspected in the normal course of business. That is, in any month in which an LDC finds zero fuses that failed visual inspection, no reporting is necessary. LDC's monthly reporting, required by the May 15 Order, would continue only for visually failed fuses found in the regular course of business; monthly reporting on each fuse found to be visually defective would continue until the fuse is remediated or replaced. The Commission will consider a new, annual, reporting requirement summarizing the prior years' passes and fails, to replace the current monthly reporting requirements. It would remain in the LDC's discretion whether to remediate or replace a visually failed fuse found in the normal course of business based upon the fuse's location or the type of fuse. If a fuse is removed, the Commission is considering the requirement that each fuse removed be destructively tested and the results reported in the new, annual, plastic fusion reporting being considered. If, upon discovery of a visually failed fuse, it is impossible to replace or remediate the fuse immediately, LDCs would have six months to replace or remediate the fuse but would need to keep the fuse under regular surveillance until it was replaced or remediated. While LDCs have been directed by the Department of Public Service's Chief of Pipeline Safety to track the costs of their assessment and remediation of plastic fuses completed by non-qualified workers, the Commission is considering requiring each LDC to hold ratepayers harmless with respect to the costs incurred by LDCs for the assessment and remediation after having found improper plastic fusion qualifications or lapses. In other words, in each LDCs' next rate filing, such costs would be identified, normalized out and removed from the historic test year data upon which rates will be set. This would ensure the specific costs will be excluded when setting future LDC delivery rates. The full case record 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 and may resolve related matters.

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

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

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

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement
Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.
(14-G-0212SP4)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Compliance with Plastic Fusion Requirements

I.D. No. PSC-46-17-00010-P

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

Proposed Action: The Commission is considering whether to require National Fuel Gas Distribution Corporation (NFG) to comply with plastic fusion training requirements and to report compliance failures.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Compliance with plastic fusion requirements.

Purpose: To consider requiring NFG to comply with current and new plastic fusion requirements and report compliance failures.

Substance of proposed rule: The Commission is considering whether to require National Fuel Gas Distribution Corporation (NFG) to comply with all plastic fuser and Operator Qualification requirements for the completion of plastic fuses and to report to the Commission, in the future, if it, or any of its contractors, have failed to comply with the Order Requiring Local Distribution Companies to Follow and Complete Remediation Plans as Modified by this Order and to Implement New Inspection Protocols, issued May 15, 2015 (May 15 Order) or new plastic fuser or inspector qualification requirements adopted by the Commission. NFG experienced a severe gas incident in 2004 due to NFG's failure to properly qualify its plastic fusion workforce. Despite having been warned of the company's improper plastic fuser qualification problems by the 2004 incident in its Pennsylvania service territory, NFG, after the May 15 Order, reported a second breach of the plastic fuser qualification requirements. The full case record 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 and may resolve related matters.

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

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

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

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

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

(14-G-0212SP5)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

M&R Energy Resource Corp.'s Petition for Rehearing

I.D. No. PSC-46-17-00011-P

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

Proposed Action: The Commission is considering a petition filed on October 16, 2017 by M&R Energy Resource Corp. requesting rehearing of the Commission's September 15, 2017 Order Denying M&R Energy Resource Corp.'s Petition.

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

Subject: M&R Energy Resource Corp.'s petition for rehearing.

Purpose: To consider the petition for rehearing filed by M&R Energy Resource Corp.

Substance of proposed rule: The New York State Public Service Commission (Commission) is considering a Petition for Rehearing and Clarification of the Order Denying M&R Energy Resource Corp.'s Petition of Waiver of the Prohibition on Service to Low-Income Customers by Energy Service Companies (Petition), filed on October 16, 2017, by M&R Energy Resource Corp. (M&R). M&R's Petition seeks rehearing of the Commission's Order Denying M&R Energy Resource Corp.'s Petition of Waiver of the Prohibition on Service to Low-Income Customers by Energy Service Companies (Order), issued on September 15, 2017, with respect to the following issues: (1) the standard of review used by the Commission in determining the suitability of a guaranteed savings program; and (2) whether information provided to Department of Public Service Staff was addressed in the Order. The full text of the petition may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. Upon conducting its evaluation of the Petition, the Commission may reaffirm its initial decision or adhere to it with additional rationale in denying the Petition, modify or reverse the decision in granting the Petition in whole or in part, or take other action as it deems necessary with respect to the Petition. However, the Commission will limit its review to the issues raised by the Petition.

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

(12-M-0476SP29)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

To Consider Further Proposed Amendments to the Original Criteria to Grandfathering Established in the Transition Plan

I.D. No. PSC-46-17-00012-P

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

Proposed Action: The Commission is considering a filing by SolarCity Corporation d/b/a Tesla Energy, on October 16, 2017, requesting that the Commission clarify or grant relief so that its Hamilton College solar project may retain monetary crediting grandfathering.

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

Subject: To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan.

Purpose: To modify grandfathering criteria.

Substance of proposed rule: The Public Service Commission (Commission) is considering a filing made by SolarCity Corporation d/b/a Tesla Energy, on October 16, 2017, requesting that the Commission clarify that Hamilton College's solar project will continue to retain monetary credits despite not achieving the November 30, 2017 physical completion milestone imposed by the Commission's Order Modifying Transition Plan and Making Other Findings (Modifying Order) issued December 16, 2016. The filing requests that the Commission clarify that the NYSERDA Program Opportunity Notice or NY-Sun MW Block Program deadline controls, and the Hamilton College project will retain monetary credits throughout the full term of the existing MW block award. 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 amendments and exceptions to the Transition Plan, 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-0151SP6)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Annual Reconciliation of Gas Expenses and Gas Cost Recoveries

I.D. No. PSC-46-17-00013-P

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

Proposed Action: The Public Service Commission is considering the filings made by various local gas distribution companies (LDCs) and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

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

Subject: Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Purpose: To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Substance of proposed rule: The Commission is considering the filings made by various local gas distribution companies (LDCs) and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries. The LDCs pass the cost of the gas commodity on to customers. Once a year the LDCs are required to reconcile the commodity related expenses actually incurred during the 12 month period ended August 31 and reconcile those with the amounts actually recovered from customers. Any over- or under- recoveries may be passed back or recovered from customers during the following calendar year. The full text of the filings 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 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-0454SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

To Consider Further Proposed Amendments to the Original Criteria to Grandfathering Established in the Transition Plan

I.D. No. PSC-46-17-00014-P

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

Proposed Action: The Commission is considering a filing by the Town of DeWitt on October 6, 2017, requesting that the Commission clarify or grant relief so that its solar photovoltaic project may retain monetary crediting grandfathering.

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

Subject: To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan.

Purpose: To modify grandfathering criteria.

Substance of proposed rule: The Public Service Commission (Commission) is considering a filing made by the Town of DeWitt on October 6, 2017, requesting amendments to the Commission's Transition Plan 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 (Transition Plan Order) and the Commission's Order Modifying Transition Plan and Making Other Findings (Modifying Order) issued December 16, 2016 in the same cases. The Town of DeWitt requests an extension of the Transition Plan Modifying Order's mechanically complete milestone to March 31, 2018, and an extension of the default in-service deadline to December 31, 2018. Furthermore, the Town of DeWitt requests that the Commission clarify that the town, as a relevant government entity, has the authority to establish the in-service deadline. 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 amendments and exceptions to the Transition Plan, 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-0151SP5)

Urban Development Corporation

EMERGENCY
RULE MAKING

Life Sciences Initiative Program

I.D. No. UDC-46-17-00002-E
Filing No. 937
Filing Date: 2017-10-26
Effective Date: 2017-10-26

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

Action taken: Addition of Part 4255 to Title 21 NYCRR.

Statutory authority: Urban Development Corporation Act, sections 5(4), 9-c and 16-aa; L. 2017, ch. 58, part TT

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

Specific reasons underlying the finding of necessity: Regulatory action is needed immediately to implement the statutory changes contained in Part TT of Chapter 58 of the Laws of 2017. The emergency rule implements the Capital Assistance component of the Life Sciences Initiative Program. The Capital Assistance component is designed to attract new life sciences technologies to New York State, promote critical public and private sector investment in emerging life sciences fields in New York State and create and expand life sciences related businesses and employment. The rule creates the administrative procedures of the program. It is critical to implement this program immediately because life science companies interested in locating or expanding their activities in New York state are approaching UDC in an effort to access funding for their proposed projects. By waiting for the standard rulemaking process to unfold, the State risks losing important economic development opportunities to states with competing life sciences incentive programs.

Subject: Life Sciences Initiative Program.

Purpose: Allow Corporation to implement the Capital Assistance component of the Life Sciences Initiatives program.

Text of emergency rule: *Part 4255 Life Sciences Initiative Program*
Section 4255.1 Purpose and General Description.

The Life Sciences Initiatives Program (the "Program") is established for the purpose of nurturing, growing and retaining new life sciences companies in New York State, attracting existing companies from outside New York State, promoting critical public and private sector investment in emerging life sciences fields in the State, and creating and expanding life sciences related businesses and employment. It is intended to operate in areas identified by the New York State Urban Development Corporation ("the Corporation") as having significant potential for economic growth in New York, or in which the application of new life sciences technologies could significantly enhance the productivity and stability of New York businesses.

The first component of this Program, Capital Assistance, is a critical component to this Initiative as it endeavors to attract new life sciences technologies to the State, promote critical public and private sector investment in emerging life sciences fields in the State and create and expand life sciences related businesses and employment throughout the State. The Corporation anticipates the other elements of the program to include support for venture investments as well as the support of research labs and medical centers. The Corporation may allocate funds from the Program to cover the Corporation's administrative costs associated with the Program.

If the proposal satisfies the applicable requirements and Program funding is available, the proposal may be presented to the Corporation's Directors or President/Chief Executive Officer for consideration and approval in accordance with applicable law and regulations. The Directors normally meet once a month. If the project is approved for funding and if it involves the acquisition, construction, reconstruction, rehabilitation, alteration or improvement of any property, the Corporation will schedule a public hearing in accordance with the Act and will take such further action as may be required by the Act and applicable law and regulations. After approval by the Corporation and a public hearing, if required, the project may then be reviewed by the State Public Authorities Control Board ("PACB"), which also generally meets once a month, in accordance with PACB requirements and policies. Following Directors' approval, and

PACB approval, if required, documentation will be prepared by the Corporation. Notwithstanding the foregoing, no Program project shall be funded if sufficient Program monies are not received by the Corporation for such project.

Section 4255.2 Capital Assistance Program

(a) Definitions. For the purposes of this section, the terms below shall have the following meaning:

(1) "Life Sciences" shall mean advanced and applied sciences that expand the understanding of human physiology and have the potential to lead to medical advances or therapeutic applications including, but not limited to, academic medical centers, agricultural biotechnology, biogenerics, bioinformatics, biomedical engineering, biopharmaceuticals, biotechnology, chemical synthesis, chemistry technology, diagnostics, genomics, image analysis, marine biology, marine technology, medical devices, nanotechnology, natural product pharmaceuticals, proteomics, regenerative medicine, RNA interference, stem cell research, clinical trials, including, but not limited to, neurological clinical trials and veterinary science.

(2) "Life Sciences Entity" shall mean a non-retail business corporation, partnership, firm, or any other non-retail business entity, not for profit organization or academic medical center, unincorporated association, or other entity engaged in life sciences research, development, manufacturing or commercialization.

(3) "Corporation" shall mean the New York State Urban Development Corporation doing business as Empire State Development.

(4) "Life Sciences Economic Development Benefits" means the creation, expansion, enhancement or acceleration of life sciences programs throughout the State that leads to:

i. the commercialization of life sciences in New York State;

ii. the creation or retention of jobs in the life sciences industry employing full time permanent employees;

iii. the promotion of the life science ecosystem within a region of the State;

iv. new patents in life science;

v. additional commercial laboratory space; or

vi. additional venture capital money for Life Sciences Entities in New York State.

(5) "Evaluation Criteria" shall mean the criteria set forth in paragraph d of this Section 4255.2 to be applied by the Corporation in evaluating applications for Capital Assistance Program funding.

(6) "Full Time Permanent Employee" shall mean (i) a full-time, permanent, private-sector employee on a Life Sciences Entity's payroll, who has worked at the Project Location for a minimum of 35 hours per week for not less than four consecutive weeks and who is entitled to receive the usual and customary fringe benefits extended by the entity to other employees with comparable rank and duties; or (ii) two part-time, permanent, private-sector employees on the Life Sciences Entity's payroll, who have worked at the project location for a combined minimum of 35 hours per week for not less than four consecutive weeks and who are entitled to receive the usual and customary fringe benefits extended by the entity to other employees with comparable rank and duties.

(b) Available Capital Assistance.

The Capital Assistance Program makes available financial assistance in the form of grants or loans (secured or unsecured), or a combination of such assistance, in the Corporation's discretion, for use by Life Sciences Entities for Eligible Uses as set forth in paragraph e of this Section 4255.2.

(c) Application Process.

(1) Applications from Life Sciences Entities will be accepted on a rolling basis throughout the year. Life Sciences Entities requesting Capital Assistance shall provide the following information about the project and the applicant, as applicable, in a form provided by, or otherwise acceptable to, the Corporation:

i. a description of the project or activity, including information indicating how the proposed project or activity will create, expand, enhance or accelerate the commercial life science industry through programs, research, job creation and retention within New York state and will result in the other Life Sciences Economic Development Benefits as defined in paragraph A (4) of this Section 4255.2;

ii. the number and amount of other funding, including federal, that the applicant has applied for, is eligible for or has received for the same initiative;

iii. the number of jobs in the life sciences industry employing Full Time Permanent Employees to be created or retained as a result of the proposed project or activity, the titles or classifications of such jobs and the average annual salaries associated with each;

iv. information about the applicant, including but not limited to, its history, ownership, size, primary products offered or services rendered, major customers, its market and marketing strategy;

v. information about the proposed project financing including, but not limited to, total project cost, total Program assistance requested, a budget breakdown of the sources and proposed uses of all funding, a description of the need for the requested Program funding and justification for the amount requested;

vi. a description of how the project will be implemented, including a project schedule, and the current status of the project;

vii. anticipated project results; and

viii. information with respect to the site of the project and the impact, if any, on the environment and any landmark or historic properties.

(2) Depending on the nature of the project or activity (such as acquisition of machinery and equipment; acquisition, construction or renovation of property, etc.) and the type of assistance requested, Life Science Entities may be required to provide other information about the project, including some or all of the following, as may be appropriate:

i. a complete set of financial statements for at least the three preceding fiscal years, operating pro formas going forward three years, and current financial statements for any proposed guarantors;

ii. a list of proposed collateral, with any available appraisals;

iii. resumes of principal officers and a list of owners, shareholders, or partners;

iv. a copy of any related real estate purchase option or contract for sale;

v. a legal description and survey of the property;

vi. a construction-to-occupancy schedule; and

vii. copies of any preliminary architectural drawings, scope of work, cost estimates and schematics.

(3) Applications may include a request for funding for single or multiple Life Sciences projects or activities.

(4) Upon receipt of the application, the Corporation shall review the application for eligibility, completeness, and conformance with the applicable requirements of these guidelines. Applications shall be processed in full compliance with the applicable provisions of section 16-aa of the Urban Development Corporation Act.

(d) Evaluation Criteria.

The Corporation shall evaluate applications for Capital Assistance in accordance with the following criteria as applicable:

(1) the financial condition of the entity undertaking the project, including its profitability or potential to generate profits; liquidity; ability to service debt and its leverage ratio;

(2) management experience, ability and relevant knowledge and the relevant entity's general ability to carry out the project;

(3) satisfactory credit references;

(4) the absence of state or local tax judgments; provided however, in the case of a tax certiorari proceeding a life sciences entity would not be considered in arrears until a final decision is made with respect to such proceeding;

(5) whether the applicant clearly demonstrates how the proposal will result in Life Sciences Economic Development Benefits and the likelihood that the project will result in Life Sciences Economic Development Benefits to the State;

(6) the availability of other sources of funding, including offers of assistance from locations outside of the State, including the federal government, and the amount of private financing leveraged by Program funds; and

(7) the Corporation may consider the terms of any economic development assistance available as an incentive for the location of the proposed project outside the State.

(e) Eligible Uses.

Capital Assistance Program funds may be used for:

(1) new construction, renovation or leasehold improvements;

(2) the acquisition or leasing of land, buildings, machinery and equipment;

(3) working capital, including, without limitation, workforce development; and

(4) feasibility or planning studies.

(f) Ineligible Uses.

Institutions that are exclusively health care providers and/or requests for the purchase of equipment associated with standard healthcare delivery are not eligible for Capital Assistance Program funding.

(g) Reporting Requirements.

Applicants shall submit an annual report satisfactory to the Corporation on the operation and accomplishments of the project including, without limitation, a description of the activities undertaken, the economic impact of the project, the number and amount of other sources of funding for the project including federal funds, jobs employing Full Time Permanent Employees created and retained, and the average salary of such jobs.

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 January 23, 2018.

Text of rule and any required statements and analyses may be obtained from: Thomas P. Regan, New York State Urban Development Corporation, 625 Broadway, Albany, NY 12245, (518) 292-5123, email: thomas.regan@esd.ny.gov

Regulatory Impact Statement

STATUTORY AUTHORITY:

Part TT of Chapter 58 of the Laws of 2017 requires the New York State Urban Development Corporation ("UDC") to establish criteria for the Life Sciences Initiatives Program via rulemaking.

LEGISLATIVE OBJECTIVES:

The rulemaking accords with the public policy objectives the Legislature sought to advance since it creates the administrative framework for the Life Sciences Capital Assistance Program. The program is designed to create and expand life sciences businesses and employment throughout New York State.

NEEDS AND BENEFITS:

The Capital Assistance Program is designed to attract new life sciences technologies to New York State, promote critical public and private sector investment in emerging life sciences fields in New York State and create and expand life sciences related businesses and employment. The rule creates the administrative procedures of the program. It is critical to implement this program immediately because life science companies interested in locating or expanding their activities in New York state are approaching UDC in an effort to access funding for their proposed projects. By waiting for the standard rulemaking process to unfold, the State risks losing important economic development opportunities to states with competing life sciences incentive programs.

COSTS:

A. Costs to private regulated parties: None. There are no regulated parties in the Life Sciences Capital Assistance Program, only voluntary participants.

B. Costs to the agency, the State, and local governments: UDC does not anticipate substantial extra costs associated with running the program outlined in this rulemaking. The program appropriation makes funding available for the Corporation's administrative costs. There is no additional cost to local governments.

C. Costs to the State government: The money to fund this grant program is part of the Governor's $320 million Life Sciences Initiative passed in FY 2018 budget. The Corporation believes the costs of this program will be offset by the positive economic impact of the program.

LOCAL GOVERNMENT MANDATES:

None. Local governments are not eligible to participate in the Life Sciences Capital Assistance Program.

PAPERWORK:

The emergency rule will require applicants to fill out an application to participate in the Life Sciences Capital Assistance program. Such application will require applicants to provide certain business financial information to the Corporation as part of the process.

DUPLICATION:

The emergency rule conforms to provisions of section 16-aa of the New York State Urban Development Corporation Act and does not otherwise duplicate any state or federal statutes or regulations.

ALTERNATIVES:

No alternatives were considered with regard to implementing this rulemaking.

FEDERAL STANDARDS:

There are no federal standards with regard to the Life Sciences Capital Assistance Program. Therefore, the emergency rule does not exceed any Federal standard.

COMPLIANCE SCHEDULE:

The period of time the state needs to assure compliance is negligible.

Regulatory Flexibility Analysis

The Life Sciences Capital Assistance Program is a statewide grant program. Although there are small businesses in New York State that are eligible to participate in the program, participation by the businesses is entirely at their discretion. The emergency rule will not have a substantial adverse economic impact on small businesses and local governments. On the contrary, because the rule creates a grant program designed to attract business and jobs to New York State, it will have a positive economic impact on the State. Accordingly, a regulatory flexibility analysis for small business and local governments is not required and one has not been prepared.

Rural Area Flexibility Analysis

The Capital Assistance component of the Life Sciences Initiative Program is a statewide program. Although there are businesses in rural areas of New York State that are eligible to participate in the program, participation by the businesses is entirely at their discretion. The emergency rule imposes no additional reporting, record keeping or other compliance requirements on public or private entities in rural areas. Therefore, the emergency rule will not have a substantial adverse economic impact on rural areas or reporting, record keeping or other compliance requirements on public or private entities in such rural areas. Accordingly, a rural area flexibility analysis is not required and one has not been prepared.

Job Impact Statement

The proposed rule relates to the Capital Assistance component of the Life Sciences Initiative Program. This Program will enable New York State to provide financial assistance to life sciences companies that commit to create or retain jobs and/or to make significant capital investment in the State. This Program, given its design and purpose, will have a substantial positive impact on job retention and creation, and employment opportunities. Because this rule will authorize the Corporation to immediately begin offering financial incentives to life sciences businesses that commit to creating or retaining jobs, it will only have a positive impact on job and employment opportunities. Accordingly, a job impact statement is not required and one has not been prepared.