

# RULE MAKING ACTIVITIES

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

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

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

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## Department of Civil Service

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

#### Supplemental Military Leave Benefits

I.D. No. CVS-23-18-00002-P

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

**Proposed Action:** This is a consensus rule making to amend sections 21.15 and 28-1.17 of Title 4 NYCRR.

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

**Subject:** Supplemental military leave benefits.

**Purpose:** To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2018.

**Substance of proposed rule (Full text is posted at the following State website: <https://www.cs.ny.gov/commission/calendars/May18calendar.pdf>):** The proposed rule amends sections 21.15 and 28-1.17 of the Attendance Rules for Employees in New York State Departments and Institutions to continue the availability of the single grant of supplemental military leave with pay and further leave at reduced pay through December 31, 2018, and to provide for separate grants of the greater of 22 working days or 30 calendar days of training leave at reduced pay during calendar year 2018. Union represented employees already receive these benefits pursuant to memoranda of understanding (MOUs) negotiated with the Governor's Office of Employee Relations (GOER). The proposed rule merely amends section 21.15 of the Attendance Rules consistent with the current MOUs, and amends section 28-1.17 to extend equivalent benefits to employees serving in positions designated managerial or confidential (m/c).

Under current statute, section 242 of the New York State Military Law

provides that public officers and employees who are members of the organized militia or any reserve force or reserve component of the armed forces of the United States may receive the greater of 22 working days or 30 calendar days of leave with pay to perform ordered military duty in the service of New York State or the United States during each calendar year or any continuous period of absence.

Following the events of September 11, 2001, certain State employees have been ordered to extended active military duty, or frequent periods of intermittent active military duty. These employees faced the loss of State salary, with attendant loss of benefits for their dependents, upon exhaustion of the annual grant of Military Law paid leave. Accordingly, supplemental military leave, leave at reduced pay and training leave at reduced pay were made available to such employees pursuant to MOUs negotiated with the employee unions. Corresponding amendments to the Attendance Rules were adopted extending equivalent military leave benefits to employees in m/c designated positions. While these benefits are intended to expire upon a date certain, the benefits described herein have been repeatedly renewed in the wake of the continuing war on terror, including homeland security activities, and the armed conflicts in Afghanistan and Iraq.

With respect to supplemental military leave, eligible State employees federally ordered, or ordered by the Governor, to active military duty (other than for training) in response to the war on terror receive a single, non-renewable grant of the greater of 22 working days or 30 calendar days of supplemental military leave with full pay.

With respect to military leave at reduced pay, upon exhaustion of the military leave benefit conferred by the Military Law, and the single grant of supplemental military leave with pay, and any available accruals (other than sick leave) which an employee elects to use, employees who continue to perform qualifying military duty are eligible to receive military leave at reduced pay. Compensation for such leave is based upon the employee's regular State salary as of his/her last day in full pay status (defined as base pay, plus location pay, plus geographic differential) reduced by military pay (defined as base pay, plus food and housing allowances) received from the United States or New York State for military service, if the former exceeded the latter. While in leave at reduced pay status, employees are eligible to receive leave days due upon his/her personal leave anniversary if such anniversary date falls during a period of military leave at reduced pay, and can accumulate biweekly vacation and sick leave credits for any pay period in which they remain in full pay status for at least seven out of ten days (or a proportionate number of days for employees with work weeks of less than 10 days per bi-weekly pay period.) These leave benefits are available even for employees who do not receive supplemental pay because their military salaries (as defined) exceed their regular State pay.

With respect to training leave at reduced pay, many employees ordered to military duty in response to the war on terror also continue to perform other required military service unrelated to the war on terror. To support employees performing other military duty, including mandatory summer and weekend training and other activation, a new category of leave was established, entitled "training leave at reduced pay." Eligible employees receive the greater of 22 work days or 30 calendar days of training leave at reduced pay following qualifying military duty in response to the war on terror, and after depleting the annual Military Law grant of leave with pay and any leave credits (other than sick leave) that they elect to use. Training leave at reduced pay may then be used for any ordered military duty during the calendar year that is not related to the war on terror. Employees who have already utilized leave at reduced pay receive the same compensation for any periods of training leave at reduced pay. Employees who have not used leave at reduced pay prior to their initial use of training leave at reduced pay are paid according to the employee's regular State salary as of his or her last day in full pay status reduced by military pay received from the United States or New York State for military service, if the former exceeds the latter. Employees on training leave at reduced pay retain the same leave accrual benefits as apply to leave at reduced pay.

The proposed rule extends the availability of supplemental military

leave with pay, leave at reduced pay and training leave at reduced pay through December 31, 2018. Employees must establish eligibility for supplemental military leave (provided they have not already depleted the single grant of such leave), leave at reduced pay and training leave at reduced pay during 2018 by performing qualifying military service.

Employees on leave at reduced pay or training leave at reduced pay on January 1, 2018, have their rate of pay calculated from their base State pay as of January 1, 2018, reduced by the military pay rate applied to their most recent period in either reduced pay category prior to 2018. For employees who have used leave at reduced pay or training leave at reduced pay prior to year 2018, their pay for either type of reduced pay leave at any point between January 1, 2018 and December 31, 2018, will be calculated from their base State pay as of their last day in full pay status after January 1, 2018, prior to their initial use of leave of reduced pay or training leave at reduced pay, offset by the rate of military pay from their most recent period of reduced pay leave, prior to 2018. Employees whose initial use of either reduced pay leave category occurs during 2018 will have their pay rate determined by their base State pay on their last day of full pay status, minus military pay. For all employees receiving leave at reduced pay or training leave at reduced pay in 2018, the initial pay calculation will apply to all subsequent periods of reduced pay leave.

The proposed amendment provides that in no event shall supplemental military leave, leave at reduced pay or training leave at reduced pay be granted for military service performed after December 31, 2018, nor shall such leaves be available to employees who have voluntarily separated from State service or who are terminated for cause.

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

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

**Public comment will be received until:** 60 days after publication of this notice.

#### Consensus Rule Making Determination

Section 6(1) of the Civil Service Law authorizes the State Civil Service Commission to prescribe and amend suitable rules and regulations concerning leaves of absence for employees in the Classified Service of the State.

Since September 11, 2001, certain State employees have been federally ordered, or ordered by the Governor, to active military duty. The New York State Military Law provides for the greater of 22 working days or 30 calendar days of military leave at full (State) pay for ordered service during each calendar year or continuous period of absence. Employees ordered to prolonged active duty, or repeatedly ordered to intermittent periods of active duty, faced exhaustion of the Military Law leave with pay benefit. Further periods of military service would then subject these employees to economic hardship from the loss of their regular State salaries and deprive their dependents of needed benefits derived from State employment.

To support State employees called to military duty after September 11, 2001, the Governor's Office of Employee Relations (GOER) executed memoranda of understanding (MOUs) with the employee unions to provide for a supplemental grant of military leave with pay and leave at reduced pay. Subsequent MOUs established a new benefit entitled training leave at reduced pay. These military leave benefits have been repeatedly renewed in the wake of the ongoing War on Terror, including homeland security activities and military operations in Afghanistan and Iraq.

The Governor's Office of Employee Relations has executed new MOUs with the Classified Service employee unions extending the availability of the single grant of supplemental military leave with pay and leave at reduced pay, and training leave at reduced pay through December 31, 2018. The State Civil Service Commission shall amend the Attendance Rules in accordance with the MOUs and extend equivalent benefits to employees serving in m/c designated positions.

The Civil Service Commission has received no public comments after publication of prior amendments to the Attendance Rules establishing or re-authorizing the benefits now put forward for renewal. Previous re-adoptions of the proposed amendments have been proposed and adopted as consensus rules. As no person or entity is likely to object to the rule as written, the proposed rule is advanced as a consensus rule pursuant to State Administrative Procedure Act (SAPA) § 202(1)(b)(i).

#### Job Impact Statement

By amending Title 4 of the NYCRR to extend the availability of supplemental military leave, leave at reduced pay and training leave at reduced pay for eligible employees subject to the Attendance Rules for Employees in New York State Departments and Institutions, these rules will positively

impact jobs or employment opportunities for eligible employees, as set forth in section 201-a(2)(a) of the State Administrative Procedure Act (SAPA). Therefore, a Job Impact Statement (JIS) is not required by section 201-a of such Act.

## Department of Financial Services

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

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

I.D. No. DFS-23-18-00001-P

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

**Proposed Action:** Addition of sections 52.1(r), 52.17(a)(39) and 52.18(a)(14) to Title 11 NYCRR.

**Statutory authority:** Financial Services Law, sections 202, 302; Insurance Law, sections 301, 1120, 3201, 3216(i)(17), 3217, 3217(d), 3217-g, 3221(l)(8), 4303(j) and 4306-f

**Subject:** Minimum Standards for Form, Content, and Sale of Health Insurance, Including Standards for Full and Fair Disclosure.

**Purpose:** To require coverage for maternal screening and referrals.

**Text of proposed rule:** Section 52.1(r) is added as follows:

(r) It is the policy of this State that individuals have access to comprehensive preventive care services. A critical component of such comprehensive preventive care services is maternal depression screening and prompt referrals for treatment. Sections 52.17(a)(39) and 52.18(a)(14) of this Part make explicit that health insurance policies, including child health insurance plan policies, that cover maternal depression screening and prompt referrals for treatment must provide coverage under the mother's policy and under the policy in which the infant is covered as such services are an important preventive service for both the mother and the infant.

Section 52.17(a)(39) is added as follows:

(39) An insurer issuing a policy subject to the provisions of Insurance Law sections 1120, 3216(i)(17), 3217-g, 4303(j) or 4306-f or Public Health Law section 4406-f that provides coverage for direct access to screening and referral for maternal depression performed by a provider of obstetrical, gynecologic, or pediatric services of the mother's choice, shall provide coverage for the screening and referral for maternal depression under the mother's policy. However, if the infant is covered under a different policy than the mother and the screening and referral are performed by a provider of pediatric services, coverage for the screening and referral shall also be provided under the policy in which the infant is covered.

Section 52.18(a)(14) is added as follows:

(14) An insurer issuing a policy subject to the provisions of Insurance Law sections 3217-g, 3221(l)(8), 4303(j) or 4306-f or Public Health Law section 4406-f that provides coverage for direct access to screening and referral for maternal depression performed by a provider of obstetrical, gynecologic, or pediatric services of the mother's choice, shall provide coverage for the screening and referral for maternal depression under the mother's policy. However, if the infant is covered under a different policy than the mother and the screening and referral are performed by a provider of pediatric services, coverage for the screening and referral shall also be provided under the policy in which the infant is covered.

**Text of proposed rule and any required statements and analyses may be obtained from:** Nathaniel Dorfman, Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 473-4824, email: Nathaniel.Dorfman@dfs.ny.gov

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

**Public comment will be received until:** 60 days after publication of this notice.

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

#### Regulatory Impact Statement

1. Statutory authority: Financial Services Law ("FSL") sections 202 and 302 and Insurance Law ("IL") sections 301, 1120, 3201, 3216(i)(17), 3217, 3217(d), 3217-g, 3221(l)(8), 4303(j), and 4306-f.

FSL section 202 establishes the office of the Superintendent of Financial Services ("Superintendent"). FSL section 302 and IL section 301, in pertinent part, authorize the Superintendent to prescribe regulations

interpreting the IL and to effectuate any power granted to the Superintendent in the IL, FSL, or any other law.

IL section 1120 permits the Superintendent to authorize an insurer and a health maintenance organization (“HMO”) to issue child health insurance plan (“CHIP”) policies and contracts and to take certain actions related thereto.

IL section 3201 establishes certain requirements for accident and health insurance policies.

IL sections 3216(i)(17), 3221(l)(8), and 4303(j) require every policy or contract delivered or issued for delivery in New York that provides hospital, surgical, or medical care coverage, except for a grandfathered health plan, to provide coverage for certain preventive care and screenings, including maternal depression screenings, at no cost-sharing.

IL section 3217 authorizes the Superintendent to issue regulations to establish minimum standards, including standards for full and fair disclosure, for the form, content and sale of accident and health insurance policies and subscriber contracts of corporations organized under IL Article 32 and Article 43, and Public Health Law Article 44.

IL section 3217(d) states that when a regulation adopted pursuant to IL section 3217 so provides, all forms of the policies or contracts that do not comply with the regulation will be deemed to be disapproved for use without any further or additional notice after a date to be specified in the regulation, which may not be less than 60 days following the regulation’s effective date.

IL sections 3217-g and 4306-f provide that to the extent a policy or contract provides coverage for maternal depression screenings, an insurer or IL Article 43 corporation, including an HMO, may not limit a patient insured’s direct access to maternal depression screening and referral, from a provider of obstetrical, gynecologic, or pediatric services of the insured’s choice.

2. Legislative objectives: IL sections 3216(i)(17), 3221(l)(8), and 4303(j) require every policy or contract delivered or issued for delivery in New York that provides hospital, surgical, or medical care coverage, except for a grandfathered health plan, to provide coverage for certain preventive care and screenings, including maternal depression screenings, at no cost-sharing. IL sections 3217-g and 4306-f and Public Health Law section 4406-f provide that to the extent a policy or contract provides coverage for maternal depression screenings, an insurer or IL Article 43 corporation, including an HMO, may not limit a patient insured’s direct access to screening and referral for maternal depression.

This proposed amendment to 11 NYCRR 52 (Insurance Regulation 62) accords with the public policy objectives that the Legislature sought to advance in IL sections 3216(i)(17), 3217-g, 3221(l)(8), 4303(j), and 4306-f and Public Health Law section 4406-f by requiring a policy or contract, including a CHIP policy or contract, that provides coverage for direct access to maternal depression screening and referral performed by a provider of obstetrical, gynecologic, or pediatric services of the mother’s choice, to provide coverage for the screening and referral under the mother’s policy and also under the infant’s policy if the infant is covered under a different policy than the mother and a pediatric provider performs the screening and referral.

3. Needs and benefits: It is the policy of New York State that individuals have prompt access to comprehensive preventive care services, including coverage of maternal depression screening and referrals for treatment. Currently, the IL requires maternal depression screening and referrals for treatment to be covered under health insurance policies and contracts. However, the mother may not always have an insurance policy or contract in place. To ensure that all mothers get the maternal depression screening and prompt referrals they need for the health of both themselves and their infants, this regulation also requires the infant’s policy or contract to provide coverage for the screening and referral if the infant is covered under a policy or contract, including a CHIP policy or contract, that is different than the mother’s policy or contract and the screening and referral are performed by a pediatric services provider. Maternal depression screening and referral are an important preventive service for both the mother and the infant. This regulation ensures that no coverage barriers exist for maternal depression screenings and referrals from the health care provider the mother most frequently visits following her infant’s birth for well-baby checkups (i.e., the infant’s pediatrician).

4. Costs: Insurers and HMOs may incur costs because they will need to file new rates and policy forms to provide coverage for maternal depression screenings and referrals under an infant’s policy or contract when the infant is covered under a policy or contract, including a CHIP policy or contract, that is different than the mother’s policy or contract and the screening and referral are performed by a pediatric services provider. However, any additional costs should be minimal because the insurers and HMOs are just providing coverage for maternal depression screening and referral and not additional treatment.

This amendment may impose compliance costs on the Department of Financial Services (“Department”) because the Department will need to

review amended policy and contract forms and rates. However, any additional costs incurred by the Department should be limited. As such, the costs to the Department should be minimal and the Department expects to absorb the costs in its ordinary budget.

This amendment will not impose compliance costs on state or local governments.

5. Local government mandates: This amendment does not impose a new mandate on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: As noted, insurers may need to file new policy and contract rates and forms with the Superintendent to provide coverage for maternal depression screenings and referrals under an infant’s policy or contract when the infant is covered under a policy or contract that is different than the mother’s policy or contract and the screening and referral are performed by a pediatric services provider.

7. Duplication: This amendment does not duplicate or conflict with any existing state or federal rules or other legal requirements.

8. Alternatives: There were no significant alternatives to consider.

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

10. Compliance schedule: The amendment will take effect 60 days after publication of the Notice of Adoption in the State Register.

#### **Regulatory Flexibility Analysis**

1. Effect of rule: This amendment to the regulation applies to insurers, including health maintenance organizations, in New York State that provide hospital, surgical, or medical care coverage. Although most insurers are not small businesses, industry has asserted previously that certain insurers, in particular mutual insurers, subject to the regulation are small businesses but has not provided the Department of Financial Services (“Department”) with specific insurers or the number of such entities. The amendment does not apply to local governments.

2. Compliance requirements: Any insurer that is a small business affected by this amendment may be subject to reporting, recordkeeping, or other compliance requirements as the insurer may need to file new policy and contract forms and rates with the Superintendent of Financial Services (“Superintendent”) to provide coverage for maternal depression screenings and referrals under an infant’s policy or contract when the infant is covered under a policy or contract, including a child health insurance plan (“CHIP”) policy or contract, that is different than the mother’s policy or contract and the screening and referral are performed by a pediatric services provider.

No local government will have to undertake any reporting, recordkeeping, or other affirmative acts to comply with the amendment.

3. Professional services: It is not anticipated that any insurer that is a small business affected by this amendment will need to retain professional services, such as lawyers or auditors, to comply with this amendment.

4. Compliance costs: This amendment may impose compliance costs on insurers that are small businesses because they may need to file new policy and contract forms and rates with the Superintendent to provide coverage for maternal depression screenings and referrals under an infant’s policy or contract when the infant is covered under a policy or contract, including a CHIP policy or contract, that is different than the mother’s policy or contract and the screening and referral are performed by a pediatric services provider. The Department has no current basis to estimate such additional costs but expects that any additional costs will be minimal because the insurers are just providing coverage for a maternal depression screening and referral and not additional treatment.

5. Economic and technological feasibility: No insurer that is a small business affected by this amendment should experience any economic or technological impact as a result of the amendment.

6. Minimizing adverse impact: The Department considered the criteria in State Administrative Procedures Act (“SAPA”) section 202-b(1) but the Department could not design the amendment to minimize any adverse impact on insurers that are small businesses because insureds covered under policies or contracts issued by these insurers would not have the coverage to which insureds covered under policies or contracts issued by other insurers would be entitled.

7. Small business and local government participation: The Department will comply with SAPA section 202-b(6) by publishing the proposed amendment in the State Register and posting the proposed amendment on the Department’s website.

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

The Department of Financial Services finds that this amendment to Part 52, which requires an insurance policy or contract, including a child health insurance plan policy or contract, that provides coverage for direct access to maternal depression screening and referral performed by a provider of obstetrical, gynecologic, or pediatric services of the mother’s choice, to provide coverage for the screening and referral under the mother’s policy and also under the infant’s policy if the infant is covered under a different

policy than the mother and a pediatric provider performs the screening and referral, does not impose any additional burden on persons located in rural areas, and will not have an adverse impact on rural areas. This amendment applies uniformly to regulated parties that do business in both rural and non-rural areas of New York State. This amendment will not impose any additional costs on rural areas.

#### **Job Impact Statement**

The Department of Financial Services finds that this amendment to Part 52 should have no negative impact on jobs or employment opportunities in this state. The amendment requires an insurance policy or contract, including a child health insurance plan policy or contract, that provides coverage for direct access to maternal depression screening and referral performed by a provider of obstetrical, gynecologic, or pediatric services of the mother's choice, to provide coverage for the screening and referral under the mother's policy and also under the infant's policy if the infant is covered under a different policy than the mother and a pediatric provider performs the screening and referral.

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## Department of Health

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### NOTICE OF ADOPTION

#### **Medical Use of Marijuana**

**I.D. No.** HLT-43-17-00001-A

**Filing No.** 485

**Filing Date:** 2018-05-21

**Effective Date:** 2018-06-06

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

**Action taken:** Amendment of sections 1004.3, 1004.4, 1004.22 and 1004.23 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 3369-a

**Subject:** Medical Use of Marijuana.

**Purpose:** To allow certain defined facilities to become a designated caregiver for a certified patient in NYS's Medical Marijuana Program.

**Text or summary was published** in the October 25, 2017 issue of the Register, I.D. No. HLT-43-17-00001-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.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 2023, which is no later than the 5th year after the year in which this rule is being adopted.

#### **Assessment of Public Comment**

The Department of Health ("Department") received comments from various stakeholders, including representatives of hospitals, nursing homes and assisted living providers. Comments were received regarding the storage and administration of medical marijuana products, the process for registering as a designated caregiver facility, the federal status of marijuana, and various other topics. Based on the comments received, no changes are being made to the proposed rulemaking.

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## Higher Education Services Corporation

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### NOTICE OF ADOPTION

#### **Income Used to Determine Financial Aid Awards**

**I.D. No.** ESC-12-18-00005-A

**Filing No.** 487

**Filing Date:** 2018-05-22

**Effective Date:** 2018-06-06

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

**Action taken:** Amendment of section 2202.3; repeal of section 2202.5 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 653, 655 and 663

**Subject:** Income used to determine financial aid awards.

**Purpose:** To conform the regulations to a recently enacted statutory provision.

**Text or summary was published** in the March 21, 2018 issue of the Register, I.D. No. ESC-12-18-00005-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Cheryl B. Fisher, NYS Higher Education Services Corporation, 99 Washington Avenue, Room 1325, Albany, New York 12255, (518) 474-5592, email: regcomments@hesc.ny.gov

#### **Assessment of Public Comment**

The agency received no public comment.

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## New York State Joint Commission on Public Ethics

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### NOTICE OF ADOPTION

#### **Financial Disclosure Statements**

**I.D. No.** JPE-42-17-00003-A

**Filing No.** 488

**Filing Date:** 2018-05-22

**Effective Date:** 2018-06-06

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

**Action taken:** Amendment of Parts 935, 936, 941 and 942 of Title 19 NYCRR.

**Statutory authority:** Executive Law, section 94(9)(c), (k), (i-1), (14), (17); Public Officers Law, section 73-a(8)(b-1), (b-2) and (c)

**Subject:** Financial Disclosure Statements.

**Purpose:** To add a right of appeal to provisions governing exemptions related to filing a financial disclosure statement.

**Substance of final rule:** Parts 935 and 942 are amended to provide that applications for exemption from filing a financial disclosure statement or from disclosing client information in a financial disclosure statement are decided in the initial instance by the Executive Director, and a denial by the Executive Director may be appealed to the Commission pursuant to the provisions in Part 941. Part 941 is amended to provide a procedure by which the Executive Director's denial of an application under Part 935 or 942 is appealed to the Commission. Part 936 is amended for a technical change, and includes no substantive amendments.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 935.2(j)(5) and 942.4(f).

**Revised rule making(s) were previously published in the State Register** on April 18, 2018.

**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

**Revised Regulatory Impact Statement**

A Revised Regulatory Impact Statement is not submitted with this Notice of Adoption because changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement.

**Revised Regulatory Flexibility Analysis**

A Revised Regulatory Flexibility Analysis is not submitted with this Notice of Adoption because changes made to the last published rule do not necessitate revision to the previously published Regulatory Flexibility Analysis.

**Revised Rural Area Flexibility Analysis**

A Revised Rural Area Flexibility Analysis is not submitted with this Notice of Adoption because changes made to the last published rule do not necessitate revision to the previously published Rural Area Flexibility Analysis.

**Revised Job Impact Statement**

A Revised Job Impact Statement is not submitted with this Notice of Adoption because changes made to the last published rule do not necessitate revision to the previously published Job Impact Statement.

**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 2023, 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.

## Office of Mental Health

### NOTICE OF ADOPTION

**Procedure for Treatment and Hospitalization of Certain Mentally Ill Prisoners in Jail**

**I.D. No.** OMH-09-18-00004-A

**Filing No.** 482

**Filing Date:** 2018-05-16

**Effective Date:** 2018-06-06

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

**Action taken:** Amendment of section 18.7 of Title 14 NYCRR.

**Statutory authority:** Corrections Law, section 508

**Subject:** Procedure for Treatment and Hospitalization of Certain Mentally Ill Prisoners in Jail.

**Purpose:** To confirm implementing regulations with a change in the authorizing statute.

**Text or summary was published** in the February 28, 2018 issue of the Register, I.D. No. OMH-09-18-00004-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Kelly Grace, New York State Office of Mental Health, 44 Holland Avenue, Albany, New York 12229, (518) 474-1331, email: regs@omh.ny.gov

**Assessment of Public Comment**

The agency received no public comment.

## Public Service Commission

### NOTICE OF ADOPTION

**Certain Commission Requirements Related to Blockable Central Office Codes**

**I.D. No.** PSC-22-17-00007-A

**Filing Date:** 2018-05-17

**Effective Date:** 2018-05-17

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

**Action taken:** On 5/17/18, the PSC adopted an order approving Verizon New York Inc.'s (Verizon) petition to exclude certain central office codes from blocking service options offered to customers.

**Statutory authority:** Public Service Law, sections 94(2) and 97(2)

**Subject:** Certain Commission requirements related to blockable central office codes.

**Purpose:** To approve Verizon's petition related to blockable central office codes.

**Substance of final rule:** The Commission, on May 17, 2018, adopted an order approving Verizon New York Inc.'s petition to exclude certain central office codes from blocking service options offered to customers. This order directs all carriers who offer blocking services to remove the central office codes listed in Appendix A from the blocking service options in their respective tariffs and/or Customer Service Guides, within 90 days of the issuance of this Order. The Model Tariff currently available on the Department of Public Service website shall also be updated accordingly. Within 90 days of the date of this Order, providers shall submit evidence of the translations updates in their switches and the LERG Routing Guide (LERG). The Commission also directs Department of Public Service Staff to work with North American Numbering Plan Administrator and affected carriers on an implementation plan that includes procedures and actions needed to ensure compliance with this Order, including the establishment of a mechanism to ensure accurate administration of the LERG and other databases by providers. Such plan shall be filed within 60 days of the date of this Order, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(17-C-0278SA1)

### NOTICE OF ADOPTION

**Revised Plastic Fusion Requirements**

**I.D. No.** PSC-46-17-00009-A

**Filing Date:** 2018-05-18

**Effective Date:** 2018-05-18

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

**Action taken:** On 5/17/18, the PSC adopted an order adopting further improvements in plastic fusion practices on natural gas systems and directed all local distribution companies (LDCs) to comply with all 16 NYCRR Part 255 requirements.

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

**Subject:** Revised plastic fusion requirements.

**Purpose:** To adopt further improvements and direct all LDCs to comply with requirements.

**Substance of final rule:** The Commission, on May 17, 2018, adopted an order adopting further improvements in plastic fusion practices on natural gas systems and directed Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Central Hudson Gas and Electric Corporation, National Fuel Gas Distribution Corporation, Orange and Rockland Utilities, Inc., Rochester and Gas Electric Corporation, Brooklyn Union Gas Company d/b/a National Grid NY, KeySpan Gas East Corporation d/b/a National Grid, Niagara Mohawk Power Corporation d/b/a National Grid, Corning Natural Gas Corporation, St. Lawrence Gas Company, Inc., Valley Energy, Inc., Bath Electric, Gas Water Systems, Fillmore Gas Company, Reserve Gas Company, Woodhull Municipal Gas Company, Chautauqua Utilities, Inc., N.E.A. Cross of New York, Inc., and the Village of Hamilton Municipal Utility Commission (collectively, LDCs) to comply with all 16 NYCRR Part 255 requirements that refer to or apply directly to the completion and inspection of plastic fuses, as well as qualification of all plastic fusers and inspectors working on behalf of each company. Each LDC shall also hold ratepayers harmless with respect to all the costs incurred for the assessment and remediation of fusions that were completed by non-qualified workers. This includes the cost to assess and remediate any future periods of non-compliance (which shall be reported immediately to the Commission) and includes the periods in

which contractors completed work when out of compliance with operator qualification requirements, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(14-G-0212SA4)

## NOTICE OF ADOPTION

### Plastic Fusion Requirements and Compliance Reporting

**I.D. No.** PSC-46-17-00010-A

**Filing Date:** 2018-05-18

**Effective Date:** 2018-05-18

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

**Action taken:** On 5/17/18, the PSC adopted an order directing 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:** Plastic fusion requirements and compliance reporting.

**Purpose:** To direct NFG to comply with plastic fusion training requirements and to report compliance failures.

**Substance of final rule:** The Commission, on May 17, 2018, adopted an order directing National Fuel Gas Distribution Corporation (NFG) to comply with plastic fusion training requirements and to report compliance failures, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(14-G-0212SA5)

## NOTICE OF ADOPTION

### Minor Rate Filing on Increase in Annual Revenues

**I.D. No.** PSC-49-17-00010-A

**Filing Date:** 2018-05-18

**Effective Date:** 2018-05-18

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

**Action taken:** On 5/17/18, the PSC adopted an order authorizing Pennsylvania Electric Company (Penelec) to increase its annual revenues by \$300,000, or 5.2% per year, effective June 1, 2018.

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

**Subject:** Minor rate filing on increase in annual revenues.

**Purpose:** To authorize Penelec to increase its annual revenues.

**Substance of final rule:** The Commission, on May 17, 2018, adopted an order authorizing Pennsylvania Electric Company (Penelec) to increase its annual revenues by \$300,000 per year, or a 5.2% increase in total revenues, by filing further tariff revisions in P.S.C. No. 6 – Electricity, establishing the approved rates as shown in Appendix C and any other tariff changes consistent with the discussion in the body of this Order, effective June 1, 2018. Penelec is directed to file a cancellation supplement, effective on not less than one day's notice, on or before May 29, 2018, cancelling the tariff amendments listed in Appendix A, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(17-E-0685SA1)

## NOTICE OF ADOPTION

### Waiver of PSC Regulations

**I.D. No.** PSC-06-18-00011-A

**Filing Date:** 2018-05-18

**Effective Date:** 2018-05-18

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

**Action taken:** On 5/17/18, the PSC adopted an order approving Central Hudson Gas and Electric Corporation's (Central Hudson) petition for a waiver of certain Article VII application requirements as set forth in 16 NYCRR.

**Statutory authority:** Public Service Law, sections 4 and 122

**Subject:** Waiver of PSC regulations.

**Purpose:** To approve Central Hudson's petition for a waiver of certain Article VII application requirements.

**Substance of final rule:** The Commission, on May 17, 2018, adopted an order approving Central Hudson Gas and Electric Corporation's petition for a waiver of certain Article VII application requirements as set forth in 16 NYCRR § 86.3(a)(1), 86.3(a)(2), 86.3(b)(2) and 88.4(a)(4) is granted, subject to certain additional requirements related to § 86.3(a)(2) and 86.3(b)(2), as discussed herein, 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-T-0816SA1)

## NOTICE OF ADOPTION

### Water Service Agreement and Tariff Waiver

**I.D. No.** PSC-06-18-00015-A

**Filing Date:** 2018-05-21

**Effective Date:** 2018-05-21

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

**Action taken:** On 5/17/18, the PSC adopted an order approving Saratoga Water Services, Inc.'s (Saratoga Water) Agreement for the Provision of Water Service and request for waivers on Saratoga Water's tariff, P.S.C. No. 3 — Water.

**Statutory authority:** Public Service Law, sections 4(1), 20(1) and 89-b

**Subject:** Water service agreement and tariff waiver.

**Purpose:** To approve Saratoga Water's water service agreement and request for tariff waiver.

**Substance of final rule:** The Commission, on May 17, 2018, adopted an order approving Saratoga Water Services, Inc.'s (Saratoga Water) Agreement for the Provision of Water Service with KNC Holdings, Inc., M.A.L. Donut Venture of Saratoga, Ltd., and Malta Diner, Inc., and the extension of water service to fulfill said agreement is reasonable and in the public interest. The Commission also approved Saratoga Water's requested waivers of Sections XI (1) and XIII, on Leaves 44 and 45 of Saratoga Water

Services, Inc.'s tariff; P.S.C No. 3 – Water and 16 NYCRR § 501.2, 501.3, 501.4, 501.6, 501.9, 501.10, and 502.3. Saratoga Water is directed to file with the Secretary to the Commission, within 30 days of issuance by the Department of Environmental Conservation, a copy of the permit authorizing the extension of water service, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

An assessment of public comment is not submitted with this notice because the rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.  
(18-W-0017SA1)

## NOTICE OF ADOPTION

### Disputes Regarding Negative Revenue Adjustments (NRAs)

**I.D. No.** PSC-08-18-00004-A

**Filing Date:** 2018-05-17

**Effective Date:** 2018-05-17

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

**Action taken:** On 5/17/18, the PSC adopted an order adopting the terms of a joint proposal executed by National Fuel Gas Distribution Corporation (NFG) and trial staff of the Department of Public Service (Staff).

**Statutory authority:** Public Service Law, sections 5, 65 and 66

**Subject:** Disputes regarding Negative Revenue Adjustments (NRAs).

**Purpose:** To adopt the terms of a joint proposal resolving disputes regarding NRAs.

**Substance of final rule:** The Commission, on May 17, 2018, adopted an order adopting the terms of a joint proposal executed by National Fuel Gas Distribution Corporation (NFG) and trial staff of the Department of Public Service (Staff) resolving disputes between Staff and NFG regarding Negative Revenue Adjustments (NRAs) assessed against NFG under the Gas Safety Performance Mechanism established by the Commission's 2014 Rate Order in this proceeding. Consistent with the terms of the Joint Proposal adopted herein, NFG shall withdraw its Petition for Rehearing of the Order on Appeal filed September 26, 2017; its Appeal of Staff's 2015 NRA Determination Letter filed May 9, 2017; its request for an evidentiary hearing in connection with the 2015 NRA Determination Letter filed August 31, 2017; and its request for an evidentiary hearing in connection with the 2016 Records Audit Letter filed August 25, 2017. NFG is also directed to allocate \$930,000 in shareholder funds to a Leak Prone Pipe Replacement and Safety Fund, 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.  
(13-G-0136SA7)

## NOTICE OF ADOPTION

### Transfer of Street Lighting Facilities

**I.D. No.** PSC-09-18-00011-A

**Filing Date:** 2018-05-21

**Effective Date:** 2018-05-21

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

**Action taken:** On 5/17/18, the PSC adopted an order approving New York State Electric and Gas Corporation's (NYSEG) petition to transfer certain

street lighting facilities in the Village of Owego to the Village of Owego (Owego).

**Statutory authority:** Public Service Law, section 70

**Subject:** Transfer of street lighting facilities.

**Purpose:** To approve NYSEG's petition to transfer certain street lighting facilities to Owego.

**Substance of final rule:** The Commission, on May 17, 2018, adopted an order approving New York State Electric and Gas Corporation's petition to transfer certain street lighting facilities in the Village of Owego to the Village of Owego, subject to the requirement that the proceeds recorded to the depreciation reserve shall be net of the federal and state tax liabilities, 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.  
(18-E-0025SA1)

## PROPOSED RULE MAKING HEARING(S) SCHEDULED

### Proposed Major Rate Increase of Approximately \$11.7 Million to Cover Its Franklin and St. Lawrence Counties Expansion Project

**I.D. No.** PSC-23-18-00014-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 proposal filed by St. Lawrence Gas Company, Inc. to make various changes in the rates, charges, rules and regulations contained in its Schedule P.S.C. No. 3 — Gas.

**Statutory authority:** Public Service Law, sections 5, 65 and 66

**Subject:** Proposed major rate increase of approximately \$11.7 million to cover its Franklin and St. Lawrence Counties expansion project.

**Purpose:** To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

**Public hearing(s) will be held at:** 10:00 a.m., August 6, 2018 and continuing daily as needed at Department of Public Service, Agency Building Three, 3rd Fl. Hearing Rm., Albany, NY. (Evidentiary Hearing)\*

\*On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website ([www.dps.ny.gov](http://www.dps.ny.gov)) under Case 18-G-0133.

**Interpreter Service:** Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

**Accessibility:** All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

**Substance of proposed rule:** The Commission is considering a proposal filed by St. Lawrence Gas Company, Inc. (St. Lawrence or the Company) on February 26, 2018, to continue a temporary revenue surcharge for its Franklin and St. Lawrence Counties expansion areas that is set to expire in late 2018. St. Lawrence states that actual expansion costs through September 30, 2017, are approximately \$11.7 million, or 29%, over budget. The Company proposes to recover its costs by: (1) increasing the current temporary revenue surcharge; (2) reducing the current contribution in aid of construction (CIAC) surcharges; and (3) extending the temporary revenue and CIAC surcharges by 15 years. The Company is not proposing an increase to base delivery rates. St. Lawrence claims that with its proposed changes to the temporary revenue and CIAC surcharges, residential, commercial, and industrial customers will see decreases in their monthly gas bills of 10.4%, 10.1%, and 8.7% respectively. In addition, the Company states that if the proposed plan is approved, it will allow St. Lawrence to complete the Expansion Project, which will provide substantial financial benefits for new customers and economic benefits to the communities. The initial suspension period for the proposed filing runs

through July 29, 2018. The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

*Public comment will be received until:* October 29, 2018.

**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.

(18-G-0133SP1)

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

**Whether to Impose Consequences on Aspiry for Its Non-Compliance with Commission Requirements**

**I.D. No.** PSC-23-18-00006-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 service company (ESCO), Aspiry Energy LLC (Aspiry), for non-compliance with Commission requirements.

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

**Subject:** Whether to impose consequences on Aspiry for its non-compliance with Commission requirements.

**Purpose:** To ensure the provision of safe and adequate energy service at just and reasonable rates.

**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 Aspiry Energy LLC (Aspiry), an energy services company (ESCO). On May 18, 2018, 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 Aspiry failed to comply with Commission requirements. The Show Cause Order stated that the Commission may revoke Aspiry'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 Aspiry to respond, explaining why its eligibility to operate in New York should not be revoked or why other consequences should not be imposed. The full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

*Public comment will be received until:* 60 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.

(18-M-0217SP1)

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

**Eligibility for Value Stack Compensation**

**I.D. No.** PSC-23-18-00007-P

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

**Proposed Action:** The Commission is considering the Staff Proposal on Value Stack Eligibility Expansion recommending eligibility for Value Stack compensation be extended to CES Tier 1 Eligible Resources that were not eligible for NEM and stand-alone storage.

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

**Subject:** Eligibility for Value Stack compensation.

**Purpose:** To ensure just and reasonable rates, including compensation, for distributed energy resources.

**Substance of proposed rule:** The Public Service Commission is considering the Staff Proposal on Value Stack Eligibility Expansion (Proposal), filed by the Department of Public Service Staff (Staff) on May 22, 2018. The proposal describes principles for Value of Distributed Energy Resources (VDER) eligibility expansion and recommends that the Commission extend eligibility for Value Stack compensation to Clean Energy Standard (CES) Tier 1 Eligible Resources that were not eligible for net energy metering (NEM) and stand-alone storage, as well as regenerative braking. The proposal also recommends that the Commission eliminate customer-type-based technology and size limits for Value Stack Compensation. The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

*Public comment will be received until:* 60 days after publication of this notice.

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

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

(15-E-0751SP13)

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

**Issuance of Promissory Notes and the Assumption of the Costs and Benefits of Certain Derivative Instruments**

**I.D. No.** PSC-23-18-00008-P

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

**Proposed Action:** The Commission is considering a petition of Central Hudson Gas & Electric Corporation requesting authority to enter into multi-year credit agreements not to exceed \$200 million and to issue up to an aggregate of \$425 million of long-term indebtedness.

**Statutory authority:** Public Service Law, section 69

**Subject:** Issuance of promissory notes and the assumption of the costs and benefits of certain derivative instruments.

**Purpose:** To refund/refinance debt at a lower rate and provide funding for safety and reliability capital projects to benefit customers.

**Substance of proposed rule:** The Commission is considering a petition filed by Central Hudson Gas & Electric Corporation (Central Hudson), on May 8, 2018, that seeks authorization to (a) negotiate a replacement for its senior unsecured revolving credit facility not to exceed an aggregate of \$200 million and (b) issue up to an aggregate of \$425 million of long-term indebtedness at any time through December 31, 2021. Central Hudson's

petition seeks authorization to enter into multi-year credit agreements and to issue long-term debt in the above amount for the stated purpose of refunding maturing long-term debt obligations, refinancing variable rate debt into fixed rate debt, funding mandated safety and reliability construction works and funding expansion of the company's gas and electric service within its existing service territory. The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

*Public comment will be received until:* 60 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.

(18-M-0271SP1)

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

**Treatment of Value Stack Credits**

**I.D. No.** PSC-23-18-00009-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 permitting interzonal crediting by Distributed Energy Resources receiving Value Stack compensation, as described in the Notice Soliciting Comments on Staff Proposal and Related Matters.

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

*Subject:* Treatment of Value Stack credits.

*Purpose:* To ensure just and reasonable rates, including compensation, for distributed energy resources.

*Substance of proposed rule:* The Public Service Commission is considering permitting interzonal crediting by Distributed Energy Resources receiving Value Stack compensation, as described in the Notice Soliciting Comments on Staff Proposal and Related Matters (Notice), issued on May 22, 2018. The notice asks whether a Distributed Energy Resource (DER), eligible for and receiving compensation based on the VDER Value Stack tariff, be permitted to apply the credits it receives to the bills of customers in the same utility territory as the DER but a different New York Independent System Operator (NYISO) load zone, either through CDG or through single-customer remote crediting. The notice explains that currently, this is not permitted as, based on the volumetric crediting arrangement used for Net Energy Metering (NEM) CDG projects and some remote NEM projects, the credits would be valued at the customer's usage meter, in a different load zone than where the electricity was injected. However, with Value Stack monetary crediting, the electricity would be valued at the point of generation, based on the load zone of the project, and compensation would be applied to customer bills as monetary credits calculated based on those values. The full text of the notice and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

*Public comment will be received until:* 60 days after publication of this notice.

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

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

(15-E-0751SP14)

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

**Community Distributed Generation Project Rules**

**I.D. No.** PSC-23-18-00010-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 reducing the minimum subscription size for Community Distributed Generation project members, as described in the Notice Soliciting Comments on Staff Proposal and Related Matters.

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

*Subject:* Community Distributed Generation project rules.

*Purpose:* To ensure just and reasonable rates, including compensation, for distributed energy resources.

*Substance of proposed rule:* The Public Service Commission is considering reducing the minimum subscription size for Community Distributed Generation project members, as described in the Notice Soliciting Comments on Staff Proposal and Related Matters (Notice), issued on May 22, 2018. The notice explains that currently, each CDG member must take a percentage of the DER facility's output that amounts to at least a minimum of 1,000 kWh annually and asks whether that minimum should be reduced to facilitate the participation of customers who wish to take smaller subscriptions. The full text of the notice and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject, or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

*Public comment will be received until:* 60 days after publication of this notice.

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

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

(15-E-0751SP15)

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

**Proposed Rate Filing in Hudson Valley Water Companies, Inc.'s Annual Revenues of Approximately \$24,370 or 13.0%**

**I.D. No.** PSC-23-18-00011-P

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

*Proposed Action:* The Commission is considering a proposal filed by Hudson Valley Water Companies, Inc. to increase its annual revenues by \$24,370 or 13.0%.

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

*Subject:* Proposed rate filing in Hudson Valley Water Companies, Inc.'s annual revenues of approximately \$24,370 or 13.0%.

*Purpose:* To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

**Substance of proposed rule:** The Commission is considering a proposal filed by Hudson Valley Water Companies, Inc. (Hudson Valley or the Company), on May 15, 2018, to amend its tariff entitled P.S.C. No. 2 – Water, to increase its annual revenues by approximately \$24,370 or 13.0%. Hudson Valley provides general metered water service in the Towns of Hurley, Saugerties, Rosendale, and Olive, Ulster County. The Company also provides public fire protection service. Hudson Valley states that this increase is necessary to cover current and projected increased operating expenses, as well as to obtain a return on capital improvements made since 2015. The proposed amendments have an effective date of October 1, 2018. The full text of the rate filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

**Public comment will be received until:** 60 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.

(18-W-0310SP1)

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

**Petition to Submeter Electricity**

**I.D. No.** PSC-23-18-00012-P

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

**Proposed Action:** The Commission is considering the petition of 41-45 Property Owner, LLC to submeter electricity at 520 Park Avenue, 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:** Petition to submeter electricity.

**Purpose:** To ensure adequate submetering equipment and consumer protections are in place.

**Substance of proposed rule:** The Commission is considering the petition filed by 41-45 Property Owner, LLC on March 27, 2018, to submeter electricity at 520 Park Avenue, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison). By stating its intent to submeter electricity, 41-45 Property Owner, LLC has requested authorization to take electric service from Con Edison and then distribute and meter that electricity to tenants. Submetering of electricity to residential tenants is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96. The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

**Public comment will be received until:** 60 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.

(18-E-0194SP1)

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

**Implementation of a Uniform Statewide Customer Satisfaction Survey**

**I.D. No.** PSC-23-18-00013-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 a Staff recommendation to implement a uniform customer satisfaction survey to be conducted by major investor owned utilities.

**Statutory authority:** Public Service Law, sections 37, 66, 80, 89-c and 111  
**Subject:** Implementation of a uniform statewide customer satisfaction survey.

**Purpose:** To encourage consumer protections and safe and adequate service.

**Substance of proposed rule:** The Commission is considering a recommendation from the May 14, 2018 Staff Report to implement a uniform statewide customer satisfaction survey to be conducted by major investor owned utilities as directed in its August 4, 2017 Order in this proceeding. The goal of the survey is to establish a uniform measurement of customer satisfaction. The survey would commence January 2019 as a pilot which would be revisited by the parties after one year to discuss further steps. The Commission also directed Brooklyn Union Gas Company d/b/a National Grid NY and KeySpan Gas East Corporation d/b/a National Grid in its December 16, 2016 Order (Cases 16-G-0058, et al.) to convene a meeting with interested parties and align their current survey methodologies. This process was subsumed under this case with the same deadlines. The full text of the Staff Report and Proposal on the Uniform Statewide Customer Satisfaction Survey and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

**Public comment will be received until:** 60 days after publication of this notice.

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

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

(15-M-0566SP2)

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

**Appointment of a New Temporary Operator of the Painted Apron Water Co**

**I.D. No.** PSC-23-18-00015-P

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

**Proposed Action:** The Commission is considering appointing a new temporary operator of the Painted Apron Water Co.

**Statutory authority:** Public Service Law, sections 89-b and 112-a

**Subject:** Appointment of a new temporary operator of the Painted Apron Water Co.

**Purpose:** To ensure the provision of safe and reliable water service.

**Text of proposed rule:** The Commission is considering appointing a new temporary operator of the Painted Apron Water Co. (the Company). More specifically, the Commission is considering transferring the role of the temporary operator of the Company from the Painted Apron Water Com-

mittee (the Committee) to New York American Water Company, Inc. (NYAW), effective October 1, 2018. The Committee has been acting as the temporary operator of the Company's water system since being so appointed by the Commission on July 22, 2013, and it has indicated its willingness to transfer the temporary operator role to NYAW, which has also indicated its willingness to assume the temporary operator role for this water system. The full text of the filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: [www.dps.ny.gov](http://www.dps.ny.gov). The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

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

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

**Public comment will be received until:** 60 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.

(18-W-0302SP1)

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## Department of State

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### NOTICE OF ADOPTION

#### Cease and Desist Zone for the Incorporated Village of Chestnut Ridge, NY

**I.D. No.** DOS-07-18-00010-A

**Filing No.** 484

**Filing Date:** 2018-05-21

**Effective Date:** 2018-07-01

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

**Action taken:** Amendment of section 175.17 of Title 19 NYCRR.

**Statutory authority:** Real Property Law, section 442-h

**Subject:** Cease and desist zone for the Incorporated Village of Chestnut Ridge, NY.

**Purpose:** To adopt a cease and desist zone for the Incorporated Village of Chestnut Ridge, NY.

**Text or summary was published** in the February 14, 2018 issue of the Register, I.D. No. DOS-07-18-00010-P.

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

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

#### Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 3rd year after the year in which this rule is being adopted.

#### Assessment of Public Comment

The Department has received numerous comments in support of this proposal, and since the publication of the Notice of Proposed Rulemaking, collected no less than 100 additional letters in support, and/or examples of solicitations by real estate brokers, salespersons or other persons regularly engaged in the trade or business of buying and selling real estate, from members of the community in the designated area, as well as from neighboring areas; some of the comments from the neighboring communities requested an expansion of the proposed zone, while those within the Village of Chestnut generally supported the proposal in its entirety. The Department notes, that several comments were received after the close of the official comment period, but were timely postmarked, and were therefore considered. Four comments in opposition to the regulation were

received, however, for the reasons to follow, the Department finds such comments and general objections do not justify changes to the rulemaking.

One comment suggested that the rule should not be adopted, in part, because "It is too late for chestnut ridge...." The Department rejects this comment and believes that adoption of the rule will provide a meaningful remedy to those in the community that are being subjected to intense and repeated solicitations. Inasmuch as this comment offers no alternative other than abandonment of the rule, the Department finds this comment does not warrant any change.

One comment, from a licensed real estate broker, opposes the rule, in part, citing that only actual trespass, or harassment should be "penalized", and that homeowners receiving unsolicited mail should "toss away" such mail. The comment notes, that the solicitations complained of are not exclusively from licensed agents and that some solicitations are beneficial to the consumer because they provide important information. The Department notes that this proposal does not create a blanket rule regarding unwanted solicitations but rather prohibits certain individuals from soliciting a home that has specifically requested not to be solicited; as such the rule does not penalize everyone (or exclusively agents), while at the same time permitting some owners to receive information that they deem important or desirable. Inasmuch as this comment offers no alternative other than abandonment of the rule, the Department finds this comment does not warrant any change.

One comment suggested that the Department should rely upon existing investigative powers to discipline licensees that may be engaging in "over-reaching" and "aggressive door-to-door marketing" as opposed to advancing a cease and desist regulation. While the Department maintains investigative powers over licensees and can commence a disciplinary proceeding for licensee misconduct, regardless of the instant proposal, the Department lacks similar authority over non-license holders that are engaged in similar "overreaching" and "aggressive door-to-door marketing" that has been complained of by the residents of Chestnut Ridge. The Department's proposal will help alleviate the concern raised by the community by permitting the Department to enforce these reasonable restrictions against those, including non-license holders, that solicit a homeowner that wishes not to be disturbed at their home. Inasmuch as this comment offers no alternative other than abandonment of the rule, the Department finds this comment does not warrant any change.

One comment suggested that the Department should not adopt the rule, advances an Anti-Semitic sentiment and that the rule is "superfluous". First, the Department rejects entirely the proposal is Anti-Semitic; the rule without regard to religion, permits a homeowner within a specific area to request that his/her home not be solicited by real estate brokers, salespersons or other persons regularly engaged in the trade or business of buying and selling real estate. After reviewing the record (e.g., number of solicitations, comments from the public, information from elected public officials) the Department found that a zone was appropriate. The Department's findings are supported by data collected and not based on religion or as the comment suggests: "to keep religious Jews out." This rule applies equally to owners, and potential solicitors, regardless of religion and is not religiously motivated. As to the position that the rule is "superfluous", the Department believes that adoption will provide meaningful relief to homeowners, as similar rules have in the past for other communities. Inasmuch as this comment offers no alternative other than abandonment of the rule, the Department finds this comment does not warrant any change.

Additional comments were received from several homeowners in areas not included within the proposal. These commenters generally favored the creation of "cease and desist zones" citing, inter alia, the intense and repeated solicitations they have suffered, but requested that the boundaries of the proposed areas be enlarged to include their communities. The Department is concerned about the conditions these homeowners are facing; however, there is insufficient data at this time to suggest these specific communities, as a whole, are subject to intense and repeated solicitation. Because there is insufficient data to support increasing the boundaries of the proposed zones, the Department finds that it cannot amend the rule to accommodate these comments.

### NOTICE OF ADOPTION

#### Education Qualifications for Real Estate Broker's License

**I.D. No.** DOS-12-18-00006-A

**Filing No.** 486

**Filing Date:** 2018-05-22

**Effective Date:** 2018-09-01

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

**Action taken:** Amendment of section 176.4 of Title 19 NYCRR.

**Statutory authority:** Real Property Law, section 442-k

**Subject:** Education qualifications for real estate broker's license.

**Purpose:** To update course requirements to meet current industry needs.

**Text or summary was published** in the March 21, 2018 issue of the Register, I.D. No. DOS-12-18-00006-P.

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

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

#### Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 3rd year after the year in which this rule is being adopted.

#### Assessment of Public Comment

The agency received no public comment.

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## State University of New York

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

#### Proposed Amendments to the Traffic and Parking Regulations at State University of New York at Potsdam

I.D. No. SUN-23-18-00003-P

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

**Proposed Action:** Amendment of Part 567 of Title 8 NYCRR.

**Statutory authority:** Education Law, section 360(1)

**Subject:** Proposed amendments to the traffic and parking regulations at State University of New York at Potsdam.

**Purpose:** Amend existing regulations to update traffic and parking regulations.

**Substance of proposed rule (Full text is posted at the following State website [https://www.suny.edu/sunypp/ documents.cfm?doc\\_id=107](https://www.suny.edu/sunypp/ documents.cfm?doc_id=107)):** The operation of a motor vehicle on the property of the State University of New York at Potsdam is covered under section 360 of the Education Law which authorizes the State University to adopt and make applicable to its campuses any and all provisions of the Vehicle and Traffic Law. The regulations have been developed and are enforced to provide for the safety and convenience of students, faculty, employees and visitors upon the State University of New York at Potsdam campus. The proposed rule makes certain technical changes and amends existing regulations in regard to registration, permits, penalties, parking lots, fines and appeals.

**Text of proposed rule and any required statements and analyses may be obtained from:** Lisa Campo, State University of New York, System Administration, State University Plaza, S-313, Albany, NY 12246, (518) 320-1400, email: Lisa.Campo@SUNY.edu

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

**Public comment will be received until:** 60 days after publication of this notice.

#### Regulatory Impact Statement

1. Statutory authority: Education Law § 360(1) authorizes the State University Trustees to make rules and regulations relating to parking, vehicular and pedestrian traffic and safety on the State-operated campuses of the State University of New York.

2. Legislative objectives: The present measure makes technical amendments to the parking and traffic regulations applicable to the State University of New York at Potsdam.

3. Needs and benefits: The amendments are necessary to update existing regulations as a result of changes.

4. Costs: None.

5. Local government mandates: None.

6. Paperwork: None.

7. Duplication: None.

8. Alternatives: There are no viable alternatives.

9. Federal standards: There are no related Federal standards.

10. Compliance schedule: The College at Potsdam will notify those affected as soon as the rule is effective. Compliance should be immediate.

#### Regulatory Flexibility Analysis

No regulatory flexibility analysis is submitted with this notice because this proposal does not impose any requirements on small businesses and local governments. This proposed rule making will not impose any adverse economic impact on small businesses and local governments or impose any reporting, recordkeeping or other compliance requirements on small businesses and local governments. The proposal addresses internal parking and traffic regulations on the campus of the State University of New York at Potsdam.

#### Rural Area Flexibility Analysis

No rural area flexibility analysis is submitted with this notice because this proposal will not impose any adverse economic impact on rural areas or impose any reporting, record keeping or other compliance requirements on public or private entities in rural areas. The proposal addresses internal parking and traffic regulations on the campus of the State University of New York at Potsdam.

#### Job Impact Statement

No job impact statement is submitted with this notice because this proposal does not impose any adverse economic impact on existing jobs or employment opportunities. The proposal addresses internal parking and traffic regulations on the campus of the State University of New York at Potsdam.

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## Workers' Compensation Board

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

#### Fees for Medical Testimony

I.D. No. WCB-23-18-00004-P

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

**Proposed Action:** Amendment of sections 301.1, 301.3; repeal of sections 301.2, 301.4, 301.5 and 301.6 of Title 12 NYCRR.

**Statutory authority:** Workers' Compensation Law, sections 117 and 141

**Subject:** Fees for Medical Testimony.

**Purpose:** To increase fees for medical testimony and eliminate fee reductions for multiple appearances as this provision is not used.

**Text of proposed rule:** Sections 301.1 and 301.3 is hereby amended to read as follows and sections 301.2, 301.4, 301.5 and 301.6 are hereby repealed:

Section 301.1. Fees for attendance of physicians and podiatrists at hearings

Whenever the attendance of the injured employee's treating or consultant physician or podiatrist at a hearing is required, such physician or podiatrist shall be entitled to an attendance fee of \$450 [\$400 for one case at one hearing point]. In instances involving special circumstances, should the Board in its [Workers' Compensation Law judge in his or her] judgment deem that the appropriate fee specified above is inadequate, the Board [Workers' Compensation Law judge] may fix a fee in an amount greater than said sum for such hearing, such increased fee to be commensurate with the circumstances in the particular case. The circumstances to be considered are the period of time the physician or podiatrist has consumed in testifying, and traveling time from the physician's or podiatrist's office to the hearing point. Where the attendance is pursuant to a subpoena issued by the board, the Workers' Compensation Law judge, or any officer of the board so designated by the chair, the attendance fee may be limited to no more than \$100.

Section 301.3. Fees for attendance of chiropractors and psychologists at hearings

Whenever the attendance of the injured employee's treating or consultant chiropractor or psychologist at a hearing is required, such chiropractor or psychologist shall be entitled to an attendance fee of \$350 [\$300 for one case at one hearing point]. In instances involving special circumstances, [should the Workers' Compensation Law judge in his or her] judgment deem that the appropriate fee specified herein is inadequate, the Workers' Compensation Law judge [the board] may fix a fee in an amount greater than the said sum, such increased fee to be commensurate with the circumstances in the particular case. Where the attendance is pursuant to a subpoena issued by the board, the Workers' Compensation Law judge or any officer of the board so designated by the chair, the attendance fee may be limited to no more than \$70.

**Text of proposed rule and any required statements and analyses may be obtained from:** Heather MacMaster, Workers' Compensation Board, 328 State Street, Schenectady, NY 12305-2318, (518) 486-9564, email: regulations@wcb.ny.gov

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

**Public comment will be received until:** 60 days after publication of this notice.

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

#### **Regulatory Impact Statement**

##### 1. Statutory Authority

The Chair of the Workers' Compensation Board (Board) is authorized to amend Part 301 of 12 NYCRR. The Board's authority is derived from Workers' Compensation Law (WCL) § 117(1), which authorizes the Chair to adopt reasonable regulations consistent with and supplemental to the provisions of the WCL and the Labor Law.

##### 2. Legislative Objectives

WCL 117(1) authorizes the Chair to adopt reasonable regulations to supplement the WCL. Given that Part 301 has not been updated since 1990, the proposed rule will bring a much-needed update to the medical testimony fees that may be awarded to claimants' medical providers.

##### 3. Needs and Benefits

The Board believes that the proposed amendments are necessary to bring Part 301 up to date with the current economy and wages, given that testimony fees have not increased in 28 years (since 1990). The increase in the fees is \$50. This change also reflects the fact that nearly all testimony is taken by deposition at the medical provider's office.

##### 4. Costs

The proposed rule imposes minimal costs on insurance carriers and self-insured employers to the extent that the proposed rule increases the rate at which a claimant's medical provider may be compensated for providing testimony. Nevertheless, the proposed increase is minimal and long overdue, as the fees have not increased in 28 years (since 1990).

##### 5. Local Government Mandates

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

##### 6. Paperwork

The proposed regulation does not impose any reporting requirements.

##### 7. Duplication

There is no duplication of State or federal regulations or standards.

##### 8. Alternatives

No significant alternatives to the proposed regulation were considered.

##### 9. Federal Standards

There are no applicable federal standards which address the standards contained in the proposed regulation.

##### 10. Compliance Schedule

The only obligations this rule imposes is on carriers and self-insured employers to pay the testimony fee. Given that these parties must already pay claimants' medical providers, and this rule only minimally increases that fee amount, parties are expected to be able to comply upon the effective date of the regulation.

#### **Regulatory Flexibility Analysis**

##### 1. Effect of rule

The Board does not expect the proposed rule to have any impact on small businesses or local governments within New York State. The proposed regulation merely provides an overdue update to the testimony fees that claimants' medical providers can be awarded.

##### 2. Compliance requirements

Small businesses and local governments will not have to engage in any reporting, recordkeeping or other affirmative acts as a result of the proposed amendment.

##### 3. Professional services

The Board does not expect that small businesses and local governments will need to obtain professional services due to the proposed amendment.

##### 4. Compliance costs

The proposed rule imposes no specific compliance requirements on small businesses and local governments.

##### 5. Economic and technological feasibility

The Board does not expect small businesses or local governments to bear economic or technological costs as a result of the amendments to Part 301.

##### 6. Minimizing adverse impact

The Board does not anticipate that the proposed rule will have an adverse economic impact on small businesses or local governments. Indeed, the proposed amendments to Part 301 are expected to benefit claimants' medical providers, who may practice in a small business setting, insofar as the proposed rule will provide the first increase in their testimony fees since 1990.

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

The Board will duly consider all public comments made by small business and local government stakeholders in response to the proposed rulemaking.

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

The proposed regulation should not affect employers, as defined in WCL § 2(3), in rural areas, including municipal corporations, fire districts, public authorities and political subdivisions, who appear before the Board on matters relating to Workers' Compensation claims. The proposed regulation does not require any action by small businesses or local governments in rural areas. The proposed regulation does not impose or require any reporting requirements or additional paperwork on the part of small businesses or local governments in rural areas. Small businesses and local governments in rural areas will not have to engage any professional services as a result of the proposed regulation. Small businesses and local governments in rural areas will not incur any capital costs, annual operating costs or any compliance costs as a result of the proposed regulation.

#### **Job Impact Statement**

The proposed rule will not have an adverse impact on jobs. The proposed rule would amend Part 301 of the Board's regulations to provide the first increase in testimony fees for claimants' medical providers since 1990. The rule does not eliminate any existing process, procedure, or program, and will not result in an adverse impact on jobs.

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

#### **Medical Fee Schedules**

**I.D. No.** WCB-23-18-00005-P

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

**Proposed Action:** Amendment of sections 329-1.3, 333.2, 343.2 and 348.2 of Title 12 NYCRR.

**Statutory authority:** Workers' Compensation Law, sections 13, 117 and 141

**Subject:** Medical Fee Schedules.

**Purpose:** Update the fees paid for medical treatment in workers' compensation claims.

**Text of proposed rule:** Section 329-1.3 of Title 12 NYCRR is hereby amended to read as follows:

(a) The medical fee schedule for medical, physical therapy and occupational therapy services shall be the Official New York Workers' Compensation Medical Fee Schedule, updated June [1]6, 201[2]8, prepared by the board and published by OptumInsight, which is herein incorporated by reference.

(b) The Official New York Workers' Compensation Medical Fee Schedule incorporated by reference herein may be examined at the office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the board. Copies may be purchased from OptumInsight, by writing to Official New York Workers' Compensation Fee Schedule, PO Box 88050, Chicago, IL 60680-9920; by telephone at 1-800-464-3649, option 1; or online at [www.optum360coding.com](http://www.optum360coding.com) keyword New York or <https://www.optum360coding.com/Product/40508/>.

Section 333.2 of Title 12 NYCRR is hereby amended to read as follows:

(a) The psychology fee schedule for psychology services shall be the Official New York Workers' Compensation Psychology Fee Schedule, updated June [1]6, 201[2]8, prepared by the board and published by OptumInsight, which is herein incorporated by reference.

(b) The Official New York Workers' Compensation Psychology Fee Schedule incorporated by reference herein may be examined at the office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the board. Copies may be purchased from OptumInsight, by writing to Official New York Workers' Compensation Fee Schedule, PO Box 88050, Chicago, IL 60680-9920; by telephone at 1-800-464-3649, option 1; or online at [www.optum360coding.com](http://www.optum360coding.com) keyword New York or <https://www.optum360coding.com/Product/40508/>.

Section 343.2 of Title 12 NYCRR is hereby amended to read as follows:

(a) The podiatry fee schedule for podiatry services shall be the Official New York Workers' Compensation Podiatry Fee Schedule, updated June [1]6, 201[2]8, prepared by the board and published by OptumInsight, which is herein incorporated by reference.

(b) The Official New York Workers' Compensation Podiatry Fee Schedule incorporated by reference herein may be examined at the office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the board. Copies may be purchased from OptumInsight, by writing to Official New York Workers' Compensation Fee Schedule, PO Box 88050, Chicago, IL 60680-9920; by telephone at 1-800-464-3649, option 1; or online at [www.optum360coding.com](http://www.optum360coding.com) keyword New York or <https://www.optum360coding.com/Product/40508/>.

Section 348.2 of Title 12 NYCRR is hereby amended to read as follows:

(a) The chiropractic fee schedule for chiropractic services shall be the Official New York Workers' Compensation Chiropractic Fee Schedule, updated June [1]6, 201[2]8, prepared by the board and published by OptumInsight, which is herein incorporated by reference.

(b) The Official New York Workers' Compensation Chiropractic Fee Schedule incorporated by reference herein may be examined at the office of the Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231, the Legislative Library, the libraries of the New York State Supreme Court, and the district offices of the board. Copies may be purchased from OptumInsight, by writing to Official New York Workers' Compensation Fee Schedule, PO Box 88050, Chicago, IL 60680-9920; by telephone at 1-800-464-3649, option 1; or online at [www.optum360coding.com](http://www.optum360coding.com) keyword New York or <https://www.optum360coding.com/Product/40508/>.

**Text of proposed rule and any required statements and analyses may be obtained from:** Heather MacMaster, Workers' Compensation Board, 328 State Street, Schenectady, NY 12305-2318, (518) 486-9564, email: [regulations@wcb.ny.gov](mailto:regulations@wcb.ny.gov)

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

**Public comment will be received until:** 60 days after publication of this notice.

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

#### Regulatory Impact Statement

##### 1. Statutory Authority:

The Chair of the Workers' Compensation Board (WCB) is required to promulgate fee schedules governing charges and fees for medical treatment and care within the workers' compensation system in New York State. Workers' Compensation Law (WCL) § 117(1) authorizes the Chair to make reasonable regulations consistent with the provisions of the WCL and the Labor Law. WCL § 13(a) requires the Chair to prepare and establish a schedule for the state or regional schedules, of the fees and charges for medical treatment care that employers must provide. Additionally, §§ 13-k, 13-l, and 13-m requires the Chair to prepare and establish fee schedules for podiatry, chiropractic, and psychology services.

##### 2. Legislative Objectives:

The WCL requires the Chair to set fee schedules for medical treatment provided to injured workers. The proposed regulations incorporate by reference the latest versions of the workers' compensation fee schedules for medical, podiatry, chiropractic, and psychological treatment of injured or ill workers. There have been no increases in the fees paid to medical providers who treat injured workers in New York State since 1996. The updated fee schedules increase fees by at least 5% overall, and areas with shortages of medical providers authorized to treat injured workers may see further increases. In order to ensure that injured workers receive medical care for work related injuries and that treating providers are paid a reasonable fee for their services, these regulations are essential.

##### 3. Needs and Benefits:

The workers' compensation fee schedules regulate the amount that providers can charge for treatment and care in the workers' compensation system. The proposed regulations are necessary to incorporate the new fee schedule revisions and make them applicable to treatment provided under the WCL. The proposed regulatory amendments replace the June 1, 2012 fee schedules (medical, podiatry, chiropractic, and psychology).

Fees are increasing at least 5% overall, and areas with shortages may have higher increases to reflect the increased cost of purchase. It has been more than twenty years since the last increase in medical fees. These increases are necessary to ensure high quality medical care in the workers' compensation system.

##### 4. Costs:

Fees that medical providers may charge for services is increasing 5% overall. Because it has been more than 20 years since the last update to the medical fee schedules, a change is necessary, and this reflects the cost of ensuring that good quality care is given to injured workers.

Medical providers, self-insured employers, insurance carriers, the State Insurance Fund, and third-party administrators will have to purchase the new fee schedules. The fee schedules will be available for purchase as a hard copy for \$100 or in electronic format for \$400. This is a modest

increase over the price of the current hard copy fee schedule which is priced at \$85. There is no change to the price of the electronic version.

##### 5. Local Government Mandates:

The medical fee schedules apply throughout the state, including the State Insurance Fund. The same rules apply to local governments as private self-insured employers, insurance carriers, or third-party administrators. All will need to incorporate the new fee schedules into their processes.

##### 6. Paperwork:

There is no additional paperwork to be completed as a result of the proposed regulations, but payers and medical providers will need to acquire a copy of the new fee schedules.

##### 7. Duplication:

The proposed regulations do not duplicate or conflict with any state or federal requirements.

##### 8. Alternatives:

The Chair is required to prepare and establish these fee schedules by statute. The Chair did consider different fee increases, but an increase of at least 5% was determined to be the optimal increase that ensures that medical providers are paid a fair rate and can continue providing quality medical care to treat injured workers.

##### 9. Federal Standards:

There are no federal standards applicable to fee schedules to treat injuries and illnesses sustained by workers covered by the New York State Workers' Compensation Law.

##### 10. Compliance Schedule:

The revised fee schedule will go into effect October 1, 2018.

#### Regulatory Flexibility Analysis

##### 1. Effect of Rule:

Medical providers authorized by the Chair to treat claimants (some of whom may be small businesses) will be affected by this rule. Additionally, group self-insured trusts and third-party administrators hired by private insurance carriers and self-insured employers may also be impacted, as well as political subdivisions or other local governments who are self-insured. Most small business employers are not self-insured and thus would not be affected by this rule.

The proposed rule updates the medical, podiatry, chiropractic, and psychology fee schedules ("fee schedules") that apply to all medical providers, insurance carriers, self-insured employers, group self-insurance trusts, and third-party administrators involved in the NYS workers' compensation system. It increases fees overall by 5%, with possible higher increases in areas where shortages exist.

##### 2. Compliance Requirements:

The workers' compensation fee schedules are mandatory for all medical providers, insurance carriers, self-insured employers, group self-insurance trusts, and third-party administrators. Medical providers will be required to bill in accordance with the updated fee schedules and payers will be required to pay according to them.

##### 3. Professional Services:

It is not expected that the updated fee schedules will require any additional need for professional services, as changes to the fee amounts do not significantly alter the nature of the medical fee schedules.

##### 4. Compliance Costs:

The updated fee schedules do impose some costs for medical services in the form of increased fees (by 5% overall). The additional costs reflect the fact that it has been more than 20 years since the last change in the fee schedule and the need for continuing to provide high quality care to injured workers.

Medical providers and third-party administrators will also have to purchase the new fee schedules, including those in rural areas. The fee schedules will be available for purchase for \$100, and electronic versions will be available for purchase for \$400.

##### 5. Economic and Technological Feasibility:

There are no additional implementation or technology costs to comply with the change in fee schedules. The fee schedules will be available in hard copy and electronically.

##### 6. Minimizing Adverse Impact:

The Chair considered raising the fees by a greater amount, but 5% was determined to be the optimal increase to ensure that medical providers are paid a fair rate and can continue providing quality medical care to treat injured workers.

There should be no adverse impact on providers, self-insured employers, group self-insured trusts, and third-party administrators who are small businesses or local governments. Competitive reimbursement rates are necessary to retain and attract medical providers. Quality medical care is an essential part of the workers' compensation system as it ensures that injured workers recover as quickly as possible. The increase in the fee schedules reflects the need for updated fees while also trying to keep costs reasonable.

##### 7. Small Business and Local Government Participation:

The Chair requested input from the Medical Society of the State of New

York, the NYS osteopathic medical society, and the hospital association of NYS, as well as all of the medical practice committees established by the Board.

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

1. Types and estimated numbers of rural areas:

The proposed regulation incorporating the medical, podiatry, chiropractic, and psychology fee schedules ("fee schedules") will apply to all medical providers authorized to treat claimants under the workers' compensation system, to insurance carriers, the State Insurance Fund, self-insured employers, self-insured local governments, group self-insured trusts, and third-party administrators across the state. These individuals and entities exist and do business in all areas of the state, including rural areas.

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

The fee schedules are mandatory for all the above-mentioned parties in the workers' compensation system, including those located in rural areas. The new fee schedules change the fees, but do not create any new reporting, recordkeeping or other compliance requirements, and the proposed regulations simply incorporate those fee schedules by reference.

3. Costs:

The fee schedules increase fees by 5% overall, with possible increased cost in areas that may have shortages.

Medical providers, self-insured employers, insurance carriers, the State Insurance Fund, and third-party administrators will have to purchase the new fee schedules, including those in rural areas. The fee schedules will be available for purchase for \$100 for hard copy and \$400 for an electronic version.

4. Minimizing adverse impact:

The Chair considered raising the fees by a greater amount, but 5% was determined to be the optimal increase to ensure that medical providers are paid a fair rate and can continue providing quality medical care to treat injured workers. The increase is the same across the state, including in rural areas.

There should be no adverse impact on claimants or providers in rural areas. Competitive reimbursement rates are necessary to retain and attract quality medical providers. The increase in the fee schedules reflects the need for updated fees while also trying to keep costs reasonable.

5. Rural area participation:

The Chair requested input from the Medical Society of the State of New York, the NYS osteopathic medical society, and the hospital association of NYS, all of which have members across the state.

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

The proposed regulation will not have an adverse impact on jobs. The proposed amendments merely modify the publication date and contact information for the publisher of the Official New York Workers' Compensation Medical Fee Schedule, the Official New York Workers' Compensation Psychology Fee Schedule, the Official New York Workers' Compensation Podiatry Fee Schedule, and the Official New York Workers' Compensation Chiropractic Fee Schedule and incorporate by reference the June 6, 2018 publication date of such Fee Schedules. The June 6, 2018 Fee Schedules increase fees by 5% to reflect that it has been 6 years since the last update to the fee schedules, but is not expected to have an adverse impact on jobs.