

RULE MAKING ACTIVITIES

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

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

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

Office of Alcoholism and Substance Abuse Services

NOTICE OF EXPIRATION

The following notices have expired and cannot be reconsidered unless the Office of Alcoholism and Substance Abuse Services publishes a new notice of proposed rule making in the *NYS Register*:

Credentialing of Addictions Professionals

I.D. No.	Proposed	Expiration Date
ASA-21-18-00025-RP	May 23, 2018	May 23, 2019

Appeal, Hearings and Rulings

I.D. No.	Proposed	Expiration Date
ASA-21-18-00026-P	May 23, 2018	May 23, 2019

Department of Civil Service

NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the Department of Civil Service publishes a new notice of proposed rule making in the *NYS Register*:

Jurisdictional Classification

I.D. No.	Proposed	Expiration Date
CVS-21-18-00022-P	May 23, 2018	May 23, 2019

Department of Environmental Conservation

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Hazardous Waste Management Regulations (FedReg5)

I.D. No. ENV-24-19-00002-P

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

Proposed Action: Amendment of Parts 370-374 and 376 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, art. 3, title 3; art. 27, titles 7, 9; art. 70; art. 71, titles 27 and 35

Subject: Hazardous Waste Management Regulations (FedReg5).

Purpose: To amend regulations pertaining to hazardous waste management.

Public hearing(s) will be held at: 1:00 p.m., August 19, 2019 at Department of Environmental Conservation, 625 Broadway, Rm. 129, Albany, NY.

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 (Full text is posted at the following State website: <https://www.dec.ny.gov/regulations/propregulations.html>): Hazardous Waste Management Regulations

The New York State Department of Environmental Conservation's (DEC) hazardous waste management regulations are contained in 6 NYCRR Parts 370, 371, 372, 373, 374, and 376.

On May 29, 1986, the United States Environmental Protection Agency (EPA) granted New York final base authorization to administer and enforce DEC's July 14, 1985 regulations in lieu of the equivalent federal regulations (51 FR 17737). In order to maintain this authorization, DEC must continually amend the hazardous waste regulations to be consistent with and at least as stringent as the EPA's amendments to the federal hazardous waste management regulations pursuant to Section 3006 of Resource Conservation and Recovery Act (RCRA) as amended.

Federal Rules

The proposed rulemaking incorporates into New York State regulations changes made within 38 federal regulations, promulgated from September 30, 1999 through April 8, 2015 with certain conforming changes through November 28, 2016. In addition, about 80 typographical errors, clarifications and inconsistencies between State and federal regulations are corrected in this rulemaking, along with some modifications to areas where the State is different from federal requirements.

Eleven rules relate to National Emission Standards for Hazardous Air Pollutants for Source Categories, also known as Maximum Achievable Control Technology (MACT) rules. These include Final Standards for Hazardous Air Pollutants for Hazardous Waste Combustors and subsequent technical corrections, interim standards, and subsequent amendments; technical corrections to Hazardous Air Pollutant Standards; and national emissions standards for Surface Coating of Automobiles and Light-Duty Trucks.

Several other federal rules are discussed below. A complete list of Federal Rules and their descriptions is available on DEC's website.

Deletion of Five Waste Streams

The State proposes to revise 6 NYCRR 371.4(c) and Appendix 22 of Part 371 to delist K064, K065, K066, K090, and K091 from the listing of hazardous waste. EPA delisted these five waste streams, since the wastes are no longer generated, or are managed in a fashion that does not warrant listing.

Mineral Processing Spent Materials being Reclaimed as Solid Wastes and TCLP Use with MGP Waste

Two parts of the May 26, 1998 Phase IV Land Disposal Restrictions rule were vacated by a Federal Court. The first part vacated was a provision introduced in 1998 which classified mineral processing characteristic sludges and by-products being reclaimed as solid wastes. With the new 6 NYCRR 371.1(e)(1)(xxii) provision, mineral processing characteristic spent materials will become eligible for a conditional exclusion when being reclaimed. The court also vacated a part of the rule relating to manufactured gas plant (MGP) waste; based on that ruling MGP waste may be handled as non-hazardous solid waste. Most MGP waste is non-hazardous, but some wastes may exceed the Toxicity Characteristic Leaching Procedure (TCLP) limit for benzene. The state will adopt regulations that will allow MGP waste that exceeds the TCLP limit for benzene to be managed as non-hazardous waste under conditions consistent with the Division of Environmental Remediation (DER) Program Policy, Management of Coal Tar Waste & Coal Tar Contaminated Soils from Manufactured Gas Plants (DER-4). The waste must originate from a site being remediated under Department oversight; it must be thermally treated; and it cannot contain a significant percentage of sulfurous purifier waste.

Zinc Fertilizers made from Recycled Hazardous Secondary Materials

Parts 370 and 371 and subpart 374-1 are being amended to adopt the Zinc Fertilizer rule. This rule adopts EPA regulations governing new product specifications for contaminants in zinc fertilizers, and provides a more consistent regulatory framework for the recycling of hazardous secondary materials used to make zinc fertilizer products. The final pollutant standards in these regulations are consistent with the State's standards for solid waste-derived fertilizers.

Treatment Variance for Radioactively Contaminated Batteries

Revisions are being made to 6 NYCRR 376.4(a), Treatment Standards for Hazardous Wastes table, to adopt a treatability variance from the Land Disposal Restrictions standards for the treatment of radioactively contaminated cadmium, mercury and silver batteries. It also designates new waste/treatment subcategories for the safe disposal of residual radioactive contaminated materials.

Recycled Used Oil Management Standards; Clarification

This rule clarifies three aspects of the used oil management standards regulated by RCRA: (1) used oil contaminated with Polychlorinated Biphenyl (PCB); (2) used oil mixed with Conditionally Exempt Small Quantity Generator (CESQG) waste; and (3) the records that the initial marketer of on-specification used oil is required to keep. Changes to 6 NYCRR 374-2 were incorporated into the Petroleum Bulk Storage (PBS) rulemaking, which included amendments to 374-2, which became effective in fall, 2015.

Nonwastewaters from Productions of Dyes, Pigments, and Food, Drug, and Cosmetic Colorants; and Dyes and Pigments Corrections

EPA identifies nonwastewaters generated from the production of certain dyes, pigments & FD&C colorants as hazardous. In addition, this rule adds five components that serve as a basis for classifying wastes as hazardous substances and it establishes land disposal restriction treatment standards for these wastes. Changes are being made to Parts 371 and 376 to adopt this rule.

Methods Innovation Rule and SW-846 Final Update IIIB and Subsequent Correction

EPA amended a variety of testing and monitoring requirements in the RCRA hazardous and nonhazardous regulations and in certain Clean Air Act regulations that relate to hazardous waste combustors, in order to allow more flexibility when conducting RCRA-related sampling & analysis. (State language will not specifically list all methods in SW846 in the incorporation by reference section.) Changes to 6 NYCRR 374-2 are being incorporated into the PBS rulemaking, which includes amendments to 374-2.

Universal Waste: Mercury Containing Equipment and Subsequent Correction

This rule adds mercury-containing equipment to the federal list of universal wastes regulated under the RCRA hazardous waste regulations. EPA has concluded that this change will lead to better management of this equipment and facilitate compliance with hazardous waste requirements. The rule is already implemented in the State using enforcement discretion pursuant to Commissioner Policy-39, Use of Enforcement Discretion for Discarded Mercury-Containing Equipment. Once provisions for this rule are adopted into the hazardous waste management regulations, CP-39 will be formally rescinded by DEC.

Revision of Wastewater Treatment Exemptions for Hazardous Waste Mixtures ("Headworks Exemptions")

6 NYCRR 371.1(d)(1)(ii) is being amended to add benzene and 2 ethoxyethanol to the list of spent solvents that may be contained in wastewaters when going to treatment, and the concentrations at which they may be exempted from the definition of hazardous waste under RCRA. In addition, this subparagraph is being amended to allow generators to directly measure solvent chemical levels at wastewater treatment systems. It also extends the eligibility for the de minimis exemption in 6 NYCRR 371.1(d)(ii) to other hazardous wastes and to non-manufacturing facilities.

RCRA Burden Reduction Incentive

This rule promotes changes to the regulatory requirements of the RCRA hazardous waste program to reduce the paperwork burden to states, EPA and the regulated community. EPA has estimated the annual savings will range from 22,000 to 37,500 in man hours and \$2 million to \$3 million in cost. It will streamline the information collection requirements of the RCRA program. Certain state notification and documentation requirements will be retained throughout the hazardous waste management regulations, and the State requirement for independent professional engineer certification will be retained.

Cathode Ray Tubes (CRTs), and Revisions

This rule streamlines the management requirements for recycling of used CRTs and glass removed from CRTs. This rule is intended to encourage recycling and reuse of used CRTs and CRT glass. The rule is already implemented in the State using enforcement discretion pursuant to CP-57, Use of Enforcement Discretion for Cathode Ray Tube (CRT) Glass. Once provisions for this rule are adopted into the hazardous waste management regulations, CP-57 will be formally rescinded by DEC. EPA's 2014 revisions, which allow EPA to better track exports, will also be adopted.

Hazardous Waste Management System: Identification and Listing of Hazardous Waste; Amendment to Hazardous Waste Code F019

The scope of hazardous waste code F019 is amended in 6 NYCRR 371.4(b) to conditionally exempt wastewater treatment sludges from zinc phosphating, when such phosphating is used in the motor vehicle manufacturing process.

Alternative Requirements for Hazardous Waste Determination and Accumulation of Unwanted Material at Laboratories Owned by Colleges and Universities and Other Eligible Academic Entities

New 6 NYCRR 372.2(e) is adopted to provide an alternative set of regulations which allow eligible academic entities the flexibility to make hazardous waste determinations in the laboratory; at an on-site central accumulation area; or at an on-site treatment, storage, or disposal facility (TSDF). This rule also provides incentives for eligible academic entities to clean-out old and expired chemicals that may pose unnecessary risk. Further, this rule requires the development of a Laboratory Management Plan (LMP). Eligible academic entities may choose to remain subject to the pre-existing hazardous waste generator requirements. Eligible academic entities are colleges and universities, and teaching hospitals and nonprofit research institutes that are either owned by or formally affiliated with a college or university.

Delisting of Saccharin and Its Salts (U202)

Saccharin and its salts are removed from the lists of hazardous wastes and hazardous constituents in Parts 371 and 376.

Revision of Treatment Standards for Carbamate Wastes

This rule revises the Land Disposal Restrictions (LDR) treatment standards in 6 NYCRR 376.4(a), Treatment Standards for Hazardous Wastes table, and in 6 NYCRR 376.4(j), Universal Treatment Standards table. This is for hazardous wastes from the production of carbamates and carbamate commercial chemical products, off-specification or manufacturing chemical intermediates and container residues that become hazardous wastes when they are discarded or intended to be discarded. The rule allows the use of the best demonstrated available technologies (BDAT) as an alternate standard for treating these wastes. In addition, this action removes carbamate regulated constituents from the Universal Treatment Standards table.

Response to Vacatures of the Comparable Fuels Rule and the Gasification Rule

This rule revises regulations associated with the comparable fuels exclusion and the gasification exclusion. These revisions implement vacatures ordered by the US Court of Appeals on June 27, 2014.

State Initiatives

Most of the state initiatives address clarifications and improvements to the regulations. Three particular proposed changes which clarify regulatory intent are discussed below.

The definition of "small quantity generator" in 370.2(b) is being revised to clarify the meaning, and to conform to EPA's revised definition, published in the Federal Register on November 28, 2016.

Clause 373-1.5(a)(2)(viii)('a') is modified to clarify that permit applications address prevention of hazards for loading as well as unloading areas, and including spills in addition to physical hazards.

Clause 373-1.7(c)(15)(ii)(b') is modified to specifically address federal Class 2 permit modifications. This change allows federal Class 2 modifications which meet the criteria for a state minor modification to be processed as a minor modification.

In summary, the proposed amendment to 6 NYCRR Parts 370-374 and 376 will: (1) update several provisions that are required for compatibility with federal regulations; and (2) simplify, clarify and update language.

Text of proposed rule and any required statements and analyses may be obtained from: Michelle Ching, NYS Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7256, (518) 402-8651, email: hwregs@dec.ny.gov

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

Public comment will be received until: Five days after the last scheduled public hearing.

Additional matter required by statute: Pursuant to the State Environmental Quality Review Act (ECL Article 8), the Short Environmental Assessment Form (including determination of significance) and Coastal Assessment Form have been prepared and are on file with the Department.

Summary of Regulatory Impact Statement (Full text is posted at the following State website: <https://www.dec.ny.gov/regulations/proregulations.html>):

1. Statutory Authority

Article 3, Title 3; Article 27, Titles 7 and 9; Article 70; and Article 71, Titles 27 and 35 of the Environmental Conservation Law (ECL) authorize this regulatory package. The New York State Department of Environmental Conservation (DEC) is authorized to promulgate regulations and standards applicable to the generation, storage, transportation, treatment and disposal of hazardous waste, as necessary to protect human health and the environment. By statute (ECL Section 27-0900), these regulations and standards must be at least as stringent as those established by the United States Environmental Protection Agency (EPA) under authority of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA) (42 USC Sections 6901 et seq.).

2. Legislative Objectives

The statutory authority for DEC to amend Parts 370-374 and 376 is found in Chapter 639, Laws of 1978, ECL Article 27, Title 7, and ECL Article 27, Title 9, and is consistent with ECL Article 27, Title 21 and ECL Article 27, Title 26. The full Regulatory Impact Statement summarizes each of these statutory sections.

3. Needs and Benefits

DEC's hazardous waste management regulations are contained in 6 NYCRR Parts 370, 371, 372, 373, 374, and 376.

On May 29, 1986, the EPA granted New York final base authorization to administer and enforce DEC's July 14, 1985 regulations in lieu of the equivalent federal regulations (51 FR 17737). In order to maintain this authorization, DEC must continually amend the hazardous waste regulations to be consistent with and at least as stringent as the EPA's amendments to the federal hazardous waste management regulations pursuant to Section 3006 of RCRA and HSWA.

The proposed rulemaking incorporates changes made within 38 federal registers, promulgated from September 30, 1999 through April 8, 2015, with certain conforming changes through November 28, 2016, into New York State regulations. These changes will reduce regulatory duplication for the regulated community and improve consistency with EPA. The rule will be protective of human health and the environment, while encouraging environmentally sound recycling and reclamation. Adoption of some provisions is necessary to incorporate improved worker safety and environmental protection. Because some of the federal provisions are more stringent, DEC must adopt these provisions in order to maintain authorization for the RCRA program. For several of the rules, significant cost savings and paperwork reductions will be recognized by the regulated community while protection of human health and the environment will be maintained. Some changes to state regulation are administrative, others address corrections or clarifications to regulations.

In addition, about 80 typographical errors, clarifications and inconsistencies between state and federal regulations are corrected along with some modifications to areas where state requirements are different from federal requirements. While some of the state initiatives may be seen as more, or less, stringent than existing regulation, any decrease in stringency is administrative in nature, and the regulations continue to be at least as stringent as analogous federal requirements.

The proposed rulemaking reflects what is presently effective at the federal level. The proposed rulemaking includes amendments to 6 NYCRR Parts 370, 371, 372, 373, 374, and 376. A general description of the amendments can be found in the Summary of Express Terms.

Maintaining RCRA and HSWA authorization and keeping current with the federal regulations is beneficial to the state and the regulated community:

a. New York would continue to have primary responsibility for management of the federal hazardous waste management program and any related compliance and enforcement activities.

b. Less confusion occurs when the regulated community can follow one set of regulations (i.e., New York's). This will eliminate dual regulation and the need for the regulated community to obtain two permits. New York State would be the sole permitting authority upon delegation.

c. Where EPA has promulgated amended HSWA regulations that are more stringent than existing state regulations, the regulated community must meet two different regulatory standards for the same regulated activity. The resulting confusion is resolved when the state adopts the new federal standards and matches the revised federal regulations.

d. The state's management of the hazardous waste regulatory program is more sensitive to local conditions, concerns and needs.

e. The state would obtain maximum grant support from the EPA.

f. Limited state, federal and private resources can be more effectively used to protect human health and the environment.

g. The state would maintain a comprehensive set of regulations regarding air, water, and solid and hazardous waste programs, managing all environmental aspects of industrial and commercial facilities.

The federal registers referenced in the Summary of Express Terms provide greater detail on the environmental benefits resulting from the federally based proposed changes. The federal registers also provide further discussion on areas where revised standards will simplify waste management or encourage recycling while still being protective of human health and the environment.

The proposed change to clarify that permit application documents address prevention of hazards for loading as well as unloading areas, and expand the examples of hazards to include spills in addition to physical hazards will increase environmental protection.

4. Costs

a. Costs to the Regulated Community

DEC is adopting the majority of EPA's updated regulations without substantive change. The adoption of these proposed amendments should not result in substantial additional costs to the regulated community or other branches of local or state government. In some instances, the cost of regulatory conformance will decrease. These changes will also increase consistency between New York State regulations and federal regulations.

There were no cost increases to the regulated community noted in the federal registers that DEC is proposing to adopt. In six federal registers proposed for adoption, the EPA identifies national cost savings:

The Mercury-Containing Equipment rule: The cost savings in New York is estimated to be about \$17 thousand annually.

The revisions to the "Headworks Exemption:" New York entities could realize savings of \$830 thousand to \$3.5 million annually.

The federal Burden Reduction rule: While not all of the federal changes were adopted, New York facilities could realize an annual savings of up to 748 to 1,258 in work-hours and \$68,000 to \$102,000 in cost.

The Cathode Ray Tubes Rule: A net savings of about \$365,000 in 2005 dollars could be realized.

The Academic Labs Rule: Annual savings of around \$30,000 in 2008 dollars could be realized if two entities that are large quantity generators and six entities that are small quantity generators participate in the Academic Labs Rule.

The removal of saccharin and its salts from the list of hazardous constituents is expected to result in net savings and reduction in paperwork to regulated entities.

The EPA did not identify cost increases in any federal registers proposed for adoption.

b. Costs to DEC, State, and Local Government

The actual costs to DEC for implementing these changes should not be substantial. The proposed regulations require no additional statutory authority, do not create new regulatory programs, do not expand existing regulatory programs, and do not increase the universe of the regulated community beyond that which is already required by the federal regulations.

- Adoption of the "Headworks Exemptions" will require additional staff time of about 27 hours.

- Adoption of the CRT Rule will result in additional workload to DEC because the rule encourages more entities to recycle CRTs.

- Adoption of the Academic Labs Rule will require approximately 3 hours of additional staff time per participating entity.

Other costs to DEC should be minimal. Conformance with these amendments should not result in substantial additional costs to other branches of local or state governments.

Cost savings to DEC will result from DEC's adoption of the federal rules addressing the standards for hazardous air pollutants by decreasing duplication of effort in the permitting process. Cost savings to DEC will also result from eliminating the requirement for generators of certain recyclable materials to submit notifications to DEC, called "c7" notifications.

The costs involved for DEC to complete this rulemaking process are those associated with printing the amendments, notifying the regulated community, procuring reference documents, conducting the public hearings, and staff time.

Failure to promulgate any of these proposed regulations would result in revocation of New York's authorization to administer its hazardous waste program by the EPA, thereby leading to a reduction in EPA grant monies and confusion in the regulated community. It will also result in New York State regulations being less stringent than their federal counterpart.

The Federal Registers proposing and adopting these changes to federal regulation provided cost/benefit analysis. For those federal rules promulgated under HSWA authority which increase stringency, these rules are already in effect pursuant to federal law. There is no additional cost to the regulated community for the state to adopt them. The rulemaking will allow the state to also enforce these rules and, once authorized, to enforce the rules in lieu of EPA.

Federal rules promulgated under RCRA which increase stringency do not become effective in authorized states until the state adopts them. New York State is mandated by statute to adopt these changes. Additional analysis beyond what has been presented here for these rulemaking changes can be found in the Federal Register. This federal analysis also addresses environmental benefit. The proposed rules are either mandated by statute and/or will decrease costs to the regulated community. A listing of all the federal rules proposed for adoption is included in the Summary of Express Terms.

c. Basis of Cost Estimates

EPA completed full cost analysis for each federal rule and the cost information from these federal analyses were used as the basis for the development of the cost estimates included in the discussion above. Data from the "National Biennial RCRA Hazardous Waste Report (2009)" and from DEC's computer data systems were used to assist in determining New York State's component of national costs.

5. Local Government Mandates

No additional record keeping, reporting, or other requirements will be imposed just on local governments by this rulemaking.

6. Paperwork

Some of the proposed regulations may result in added paperwork. Some of the changes will make existing regulations less stringent and reduce paperwork requirements. In most cases, paperwork may now be submitted and maintained in electronic format.

7. Duplication

The proposed amendments will not result in a duplication of state regulations. Instead, by adopting the recent federal regulations, New York will not only retain authorization, but also reduce duplicative state and federal regulation of hazardous waste in New York State.

8. Alternatives

For the federal changes which increase stringency, amending the existing Part 370 series regulations is the only viable regulatory alternative available for maintaining DEC's regulations as stringent as EPA's. Similarly, there are no viable non-regulatory options.

The "no-action" alternative would result in the state's loss of authorization. If this were to occur, the regulated community would have to satisfy two sets of regulations (i.e., federal and pre-existing state) and DEC would suffer a loss of federal grant monies for the state program which amounts to approximately \$5 million annually. DEC may choose the "no-action" alternative for those federal changes which are less stringent than existing state regulation and adopt only those amendments necessary to maintain authorization. This would impose different standards on the regulated community than those mandated by EPA, with negligible anticipated environmental benefit. New York's failure to implement this rulemaking would cause confusion and regulatory implementation difficulties for interstate activities as the regulated community tries to determine which regulatory requirements apply and at what point.

9. Federal Standards

The proposed changes will increase consistency between state and federal regulations. Certain federal changes that increase stringency must be adopted to maintain authorization for DEC. Other amendments are adopted to more closely parallel federal regulations. Some of proposed changes to state regulations will result in rules that exceed a federal minimum standard.

10. Compliance Schedule

As the proposed regulations are currently existing federal regulations, regulated persons must comply with those that are more stringent than existing state regulations. Existing federal regulations being adopted here that are more stringent than current state regulations are already in effect. Regulatory changes that decrease the regulatory burden do not require any substantive changes by the regulated community. The rulemaking takes effect 60 days after publication by the Department of State. The regulated community will be able to meet this compliance schedule.

Regulatory Flexibility Analysis

1. Effect of Rule:

The proposed rulemaking does not place any additional burdens on

small businesses or local governments, create new regulatory programs, expand existing regulatory programs or increase the universe of regulatory requirements applicable to the regulated community beyond that which is already required by the federal regulations.

Accordingly, the number of small businesses and local governments affected by the rulemaking will not be more than those already affected by the existing regulations. Small businesses which are affected by the hazardous waste regulations range from dentists to auto maintenance facilities to manufacturers.

Small businesses and local governments who are impacted by the hazardous waste management regulations are typically either conditionally exempt small quantity generators (CESQGs) or small quantity generators (SQGs). CESQGs are those that generate no more than 100 kilograms of hazardous waste in a month. SQGs are those that generate between 100 and 1,000 kilograms of hazardous waste in a month, no more than 1 kilogram of acute hazardous waste, and store less than 6,000 kilograms on-site.

SQGs and CESQGs have certain management and disposal requirements that must be met for the hazardous waste they generate. Large quantity generators (LQGs) generate the vast majority of the waste in the state and are subject to greater regulation. If an education entity chooses to use the new regulatory option for management of laboratory waste, they may change from LQG status to SQG status and thus decrease their regulatory burden.

SQGs must manifest their hazardous waste when it is shipped off site. Based on hazardous waste manifest records, approximately 5,500 SQGs each year ship hazardous waste for management. Over a 5 year period (2008 to 2012) 10,000 New York SQGs shipped hazardous waste for management. There are far more CESQGs in the State than SQGs. These generators are not required to manifest their waste.

2. Compliance Requirements:

There are no new reporting, recordkeeping, or other compliance requirements for small quantity generators as a result of the proposed rulemaking. The proposed rulemaking principally adopts the existing United States Environmental Protection Agency (EPA) regulations or adopts new EPA regulations which are less stringent than present state regulations with which the regulated community already has to comply. Adoption of the proposed rulemaking will reduce duplication of effort in complying with both federal and state regulations.

3. Professional Services:

The quantity and types of service needed will remain close to the present level. The proposed rulemaking does not involve any major program changes, with regard to the scope of the program, which are not already mandated by federal regulation. New York State Department of Environmental Conservation (DEC) continues to operate an outreach program for small quantity generators including phone and e-mail access to DEC staff for assistance.

4. Compliance Costs:

Small businesses and local governments should not incur any additional costs, either initial capital costs or annual compliance costs, to comply with the proposed rulemaking. New federal rule changes that impose additional requirements would be enforced by the EPA even if New York State chose not to adopt them. Other changes will make existing rules more consistent with federal rules and generally less stringent than existing state regulations.

5. Economic and Technological Feasibility:

As these rule changes either implement federal regulations already in effect or decrease the regulatory burden on small businesses and local governments, implementation of these rule changes will be economically and technologically feasible for small businesses and local governments.

6. Minimizing Adverse Impact:

It is DEC's belief that the proposed amendments will not cause a significant economic burden to the small business community or local governments. In general, most small businesses that generate hazardous wastes are already required to comply with the federal small quantity generator requirements. These requirements are intended to be less complex and less costly than the hazardous waste management regulations that large businesses must satisfy.

7. Small Business and Local Government Participation:

NYDEC has an ongoing education programs for small businesses that include small quantity generators of hazardous waste. As part of this program, workshops are conducted with trade associations throughout the state on a periodic basis. In addition, DEC has a handbook available that explains the small quantity generator regulations. In July 2009, information on this rulemaking and request for comments was mailed to all New York hazardous waste large quantity generators, small quantity generators, and management facilities which had manifested or received hazardous waste in the previous year. In addition, information and request for comments was published in DEC's Environmental Notice Bulletin and on DEC's public web site. The public comment period extended from July

24, 2009 to November 1, 2009. Small businesses and local governments were included in this Statewide Outreach effort, and no significant comments were received from these stakeholders. From February through April 2015, a second public comment period was held, including notice in DEC's ENB, and on DEC's public website. A webinar and a public meeting were also held during this time period. DEC also utilizes a listserv to reach interested parties. During the 2015 public comment period, few comments were received; commenters found a draft change to the definition of Small Quantity Generator to be confusing. Revisions have been made to make the definition more clear.

Rural Area Flexibility Analysis

1. Types and Estimated Numbers of Rural Areas:

For purposes of this Rural Area Flexibility Analysis, "rural area" means those portions of the state so defined by Executive Law section 481(7). SAPA section 102(10). Under Executive Law section 481(7), rural areas are defined as "counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, programs and such other entities or resources as are found therein. In counties of two hundred thousand or greater population, "rural areas" means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein." There are 44 counties in New York State that have populations of less than 200,000 people and 71 towns in non-rural counties where the population densities are less than 150 people per square mile. This rule will apply statewide so it applies to all rural areas of New York State (State).

2. Reporting, Recordkeeping, Other Compliance Requirements; and Need for Professional Services:

No additional reporting, recordkeeping, compliance requirements, or professional services will be imposed solely on local governments by this rulemaking. The proposed rulemaking principally adopts the existing United States Environmental Protection Agency (EPA) regulations or adopts new EPA regulations which are less stringent than present state regulations with which rural areas already have to comply. State initiated changes address clarifications and improvements to the regulations. While some of these changes may be seen as more stringent or less stringent than existing regulation, they are primarily administrative in nature.

3. Costs:

No local mandates will be created by this rule, nor will this rule impose any costs on rural areas. Economic impacts to existing rural area facilities which handle hazardous wastes are small since the proposed rulemaking principally adopts the existing EPA regulations with which the regulated community in rural areas must already comply. Conformance with these amendments should not result in substantial additional costs to the regulated community.

EPA has determined there are cost savings affecting state entities in six of the thirty-eight federal registers, which publish the rules to be proposed for adoption, as follows:

The EPA identifies cost savings in the August 5, 2005 (pages 45509-45522; Corrections June 29, 2007 pages 35666), the October 4, 2005 (pages 57769-57785), the April 4, 2006 (pages 16861-16915), the July 28, 2006 (pages 42928-42949), the December 1, 2008 (pages 72912-72960), and the December 17, 2010 (pages 78918-78926) federal registers proposed for adoption. The Mercury-Containing Equipment Rule, the Revisions to the Headworks Exemptions, the Burden Reduction Rule, the Cathode Ray Tubes Rule, the Academic Labs Rule and the Delisting of Saccharin and Its Salts are viewed as favorable in terms of economic impacts for the regulated community.

The Mercury-Containing Equipment rule: EPA has estimated annual savings nationwide of about \$273,000, of which \$200,000 would be savings to generators. About \$73,000 in savings are expected to retorters and waste brokers. Based on information on waste generation in the "National Biennial RCRA Hazardous Waste Report (2009)," in which the state is said to represent 7.3 percent of the total waste generators in the United States and 3.4 percent of the receiving facilities, the cost savings in the state is estimated to be \$17 thousand annually.

The revisions to the "Headworks Exemption:" EPA has estimated annual savings nationwide of \$11.4 million to \$48.6 million, affecting over 10,000 facilities nationally. Based on information on waste generation in the "National Biennial RCRA Hazardous Waste Report (2009)," in which the state is said to represent 7.3 percent of the total waste generators in the United States, New York entities could realize savings of \$830 thousand to \$3.5 million annually.

The federal Burden Reduction rule: EPA has estimated that the annual savings nationwide will range from 22,000 to 37,500 in work hours and \$2 million to \$3 million in cost. The vast majority of these changes impact receiving facilities. According to the "National Biennial RCRA Hazardous Waste Report (2009)" data, 3.4 percent of the receiving facilities in the country are located in the state. While not all of the federal changes were

adopted, based on this percentage, New York facilities could realize an annual savings of up to 748 to 1,258 in work-hours and \$68,000 to \$102,000 in cost.

The Cathode Ray Tubes Rule: EPA estimates savings of approximately \$5 million nationally for all entities compared with handling CRTs as fully-regulated hazardous wastes. Based on the state's percentage of generators of about 7.3% in the "National Biennial RCRA Hazardous Waste Report (2009)," this would result in a net savings for all entities in the state of about \$365,000 in 2005 dollars.

The Academic Labs Rule: Participation by eligible academic entities is voluntary. EPA estimated that participating Large Quantity Generators would realize annual savings of about \$12,200 in 2008 dollars; and participating Small Quantity Generators would realize annual savings of about \$1000 based on 2008 dollars. In the state, this is expected to result in annual savings of around \$30,000 in 2008 dollars if two entities that are large quantity generators and six entities that are small quantity generators participate in the Academic Labs Rule.

The removal of saccharin and its salts from the list of hazardous constituents is expected to result in net savings and reduction in paperwork to regulated entities. EPA did not estimate costs. Approximately 3.89 tons of these wastes were generated or shipped as hazardous waste in the state from 2007-2012.

The EPA did not identify cost increases to the regulated community in any federal registers proposed for adoption.

4. Minimizing Adverse Impact:

These regulations will not have any adverse impact in rural areas. These changes will increase consistency between state and federal regulations. The proposed rulemaking principally adopts the existing EPA regulations or adopts new EPA regulations which are less stringent than present state regulations with which rural areas already have to comply.

5. Rural Area Participation:

In July 2009, information on this rulemaking and request for comments was mailed to all state hazardous waste large quantity generators, small quantity generators, and management facilities which had manifested or received hazardous waste in the previous year. In addition, information and request for comments was published in the New York State Department of Environmental Conservation's (DEC) Environmental Notice Bulletin and on DEC's public web site. The public comment period extended from July 24, 2009 to November 1, 2009. From February through April 2015, a Draft for Public Consideration was published on DEC's website, and a second public comment period was held, including notice in DEC's ENB, and on DEC's public website. A webinar and a public meeting were also held during this time period. DEC also utilized a listserv to reach interested parties. Rural areas were included in this statewide outreach effort. The proposed rulemaking principally adopts the existing EPA regulations or adopts new EPA regulations which are less stringent than present state regulations with which rural areas already have to comply. These federal regulatory changes have already been through a public review and comment process on a federal level. Past experience indicates general support from the interested public for keeping state hazardous waste management regulations up to date with corresponding federal regulations. Based on the above, this level of early public outreach was deemed sufficient.

Job Impact Statement

A Job Impact Statement has not been prepared for this rule as it is not expected to create a substantial adverse impact on jobs and employment opportunities in New York State (State).

The United States Environmental Protection Agency continues to amend the federal hazardous waste management regulations to address existing and emerging issues relating to hazardous waste management. In order for the state to maintain its authorization, the state's hazardous waste management regulations must not be less stringent or less broad than the federal regulations. Therefore, New York State Department of Environmental Conservation (DEC) must amend its regulations to incorporate more stringent federal requirements, which are already in effect. Several of the changes currently being proposed for adoption are considered less stringent than previous federal regulation and existing state standards. DEC has decided to propose adoption of most of these standards, to streamline and simplify the regulations. Since more stringent regulations are already in place on a federal level, adoption of these requirements will have no impact on jobs in the state. The less stringent federal regulations and state-initiated changes deal with hazardous waste management issues and are not expected to impact jobs in the state.

The proposed rule is not expected to result in a decrease of more than one hundred full-time annual jobs and employment opportunities which would otherwise be available to the residents of the state in the next two years.

Department of Financial Services

NOTICE OF ADOPTION

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

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

Filing No. 530

Filing Date: 2019-05-28

Effective Date: 2019-08-11

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

Action taken: Addition of sections 52.1(r), 52.17(a)(39) and 52.18(a)(14) (Regulation 62) to Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 1120, 3201, 3216(i)(17), 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 or summary was published in the June 6, 2018 issue of the Register, I.D. No. DFS-23-18-00001-P.

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

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

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The New York State Department of Financial Services (“Department”) received comments from a law firm that represents health insurers and a health plan trade organization.

Comment: The law firm commented that the proposed amendment directly conflicts with Insurance Law Sections 3216(c)(3) (individual policies) and 4235(f)(1)(A) (group policies) because it requires that services provided to an individual be covered by a policy under which the individual is not an insured.

Response: As explained in an informational bulletin issued by the Center for Medicaid and CHIP Services, “maternal depression is a serious and widespread condition that not only affects the mother, but may have a lasting, detrimental impact on the child’s health. Maternal depression presents a significant early risk to proper child development, the mother-infant bond, and the family.” See CMCS Informational Bulletin from Vicki Wachino, Director, Center for Medicaid and CHIP Services, on Maternal Depression Screening and Treatment: A Critical Role for Medicaid in the Care of Mothers and Children (May 22, 2016) at <https://www.medicaid.gov/federal-policy-guidance/downloads/cib051116.pdf>. Citing to a Harvard University working paper, the bulletin notes that children who are raised by clinically depressed mothers “may perform lower on cognitive, emotional, and behavioral assessments than children of non-depressed caregivers, and are at risk for later mental health problems, social adjustment difficulties, and difficulties in school.” Id. The bulletin further states that “[m]aternal depression screening and treatment is an important tool to protect the child from the potential adverse physical and developmental effects of maternal depression.” Id.

As a result, assessment of a mother’s mental health is a health benefit to the child. Therefore, the Department did not make any changes to address this comment.

Comment: The law firm commented that the proposed amendment would require maternal depression screenings to be covered under both the mother’s policy and the child’s policy when the child is covered under a different policy than the mother. The law firm stated that it believes that this is not the intent of the proposed amendment because the regulatory impact statement raises concerns about coverage for maternal depression screening for women who do not have health coverage. The law firm recommended that the Department remove the word “also” from the last sentences of 11 NYCRR Sections 52.17(a)(39) and 52.18(a)(14) so that the sentences read: “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 be provided under the policy under which the infant is covered.” This would prevent the possibility that two claims for the same services are paid under different policies while providing coverage where the mother is uninsured.

Response: The amendment does not create any different rules regarding coordination of benefits between different policies. 11 NYCRR Section 52.23 provides for coordination of benefits under blanket and group policies and contracts and those rules equally apply here. Coordination of benefit provisions are not permitted in individual policies and group policies may not coordinate benefits with individual policies pursuant to 11 NYCRR Section 52.23. The Department finds that it is unnecessary to establish a separate special rule just for these circumstances. Therefore, the Department did not make any changes to address this comment.

Comment: The law firm commented that federal law prohibits extending the requirement that a maternal depression screening and referral for the mother be covered under the child’s policy to the Child Health Plus program because federal law requires ensuring that “only targeted low-income children are furnished child health assistance under the state child health plan.”

Response: As explained above, assessment of a mother’s mental health is a health benefit to the child. Therefore, the Department did not make any changes to address this comment.

Comment: The health plan trade organization requested confirmation that health plans may use the ICD-10 screening code for maternal depression in programming their claims systems.

Response: It is outside the purview of the Department to decide which codes should be used when health plans program their claim systems.

Comment: The health plan trade organization requested that coverage for maternal depression screenings be limited to one-year postpartum.

Response: The United States Preventive Services Task Force has published recommendations for depression screenings, including screenings for pregnant and postpartum women. These recommendations do not include a recommendation for how long health care providers should perform maternal depression screenings. Therefore, health plans may use reasonable medical management techniques to determine the frequency, scope and setting for the provision of the preventive service, and may review claims for medical necessity.

Department of Health

NOTICE OF ADOPTION

Hospital Policies for Human Trafficking Victims

I.D. No. HLT-51-18-00015-A

Filing No. 521

Filing Date: 2019-05-22

Effective Date: 2019-06-12

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

Action taken: Amendment of Part 405 and section 751.5 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 2803(2)(a) and 2805-y(4)

Subject: Hospital Policies for Human Trafficking Victims.

Purpose: To establish policies and procedures for the identification, assessment, treatment, and referral of human trafficking victims.

Text or summary was published in the December 19, 2018 issue of the Register, I.D. No. HLT-51-18-00015-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 requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2022, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The Department of Health (“Department”) received comments from various stakeholders during the public comment period. Those comments are summarized below along with the Department’s responses.

Comment: One commenter requested clarification on how the new requirement for diagnostic and treatment centers (D&TCs) in 10 NYCRR § 751.5 will apply to freestanding chronic renal dialysis centers.

Response: Freestanding chronic renal dialysis centers are licensed as D&TCs and are thus included in the definition of “subject facility” in Public Health Law (PHL) § 2805-y(1)(b). Under PHL § 2805-y(2), the policies and procedures under PHL § 2805-y shall apply to all subject facility service units. PHL § 2805-y(1)(d) contains a nonexclusive list of service units that could be included in a subject facility. In the case of a freestanding chronic renal dialysis center that has a “dialysis unit,” 10 NYCRR § 751.5 applies to the entire center regardless of whether the center considers the “dialysis unit” to be a service unit. A freestanding chronic renal dialysis center would be required to develop policies and procedures pertaining to human trafficking victims as required by this regulation. No changes were made to the regulation as a result of this comment.

Comment: The New York City Department of Health and Mental Hygiene (NYCDOHMH) requested clarification on whether the proposed rule would apply to clinics, such as Sexual Health, Tuberculosis, and Immunization clinics, operated by NYCDOHMH, and whether the requirement to develop policies and procedures would apply, since the proposed amendment to section 751.5 does not specifically refer to the development of policies and procedures.

Response: If the NYCDOHMH clinics are licensed as D&TCs, then section 751.5 would be applicable; if the clinics are licensed as hospital extension clinics, then section 405.20 applies. In either case, NYCDOHMH clinics would be included in the definition of “subject facility” in PHL § 2805-y(1)(b). Under PHL § 2805-y(2), the policies and procedures under PHL § 2805-y shall apply to all subject facility service units. PHL § 2805-y(1)(d) contains a nonexclusive list of service units that could be included in a subject facility. In the case of a Sexual Health, Tuberculosis, or Immunization clinic, the regulations apply to the entire clinic regardless of whether the clinic is considered a “service unit.”

Under section 751.5 (Operating policies and procedures), a D&TC must develop policies and procedures which include the human trafficking policies and procedures specified in the new paragraph (8) of subdivision (a) of section 751.5.

No changes have been made to the regulation in response to these comments.

Comment: An organization that advocates to end human trafficking commented that the proposed amendments should include a requirement that training for personnel should be guided or delivered “by experts with clinical experience and expertise in serving patients impacted by human trafficking.”

Response: Under PHL § 2805-y(3), “training may be incorporated as part of the subject facility’s existing training programs, provided that the training includes all of the requirements of this section.” Under PHL § 2805-y(4), the Department “may identify organizations or providers for consideration by subject facilities to provide training under this section.” The Department agrees that any training for personnel should be guided or delivered by experts with clinical experience and expertise in serving patients impacted by human trafficking. No changes have been made to the regulation in response to these comments.

NOTICE OF ADOPTION

Clinical Laboratory Directors

I.D. No. HLT-51-18-00017-A

Filing No. 522

Filing Date: 2019-05-22

Effective Date: 2019-06-12

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

Action taken: Amendment of Part 19 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 573

Subject: Clinical Laboratory Directors.

Purpose: Recognize additional accrediting boards for qualification of clinical laboratory directors to obtain a certification of qualification.

Substance of final rule: Pursuant to the authority vested in the Public Health and Health Planning Council and the Commissioner of Health by section 573 of the Public Health Law, Part 19 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective upon publication of a Notice of Adoption in the New York State Register, as follows:

Section 19.1 is amended to include definitions for “assistant director,” “board certified,” “earned doctoral degree,” “training,” and “experience.” The definitions of “acceptable laboratory” and “category” are also revised

and clarified. Section 19.1 is further revised to expressly recognize physicians and dentists who are licensed in the countries in which they practice as being able to qualify as directors or assistant directors of clinical laboratories or blood banks.

Section 19.2 is amended to recognize additional accrediting boards for purposes of certifying that applicants meet the educational and training requirements needed to be a director or assistant director of a clinical laboratory or blood bank.

Section 19.3 is amended to provide the Department more flexibility in updating the certificate of qualification categories. Amendments to this section will also allow the Department to issue certificates of qualification with limitations based on an applicant’s specific experience. In addition, this section is amended to include additional director responsibilities, such as ensuring staff competency, specifying in writing the responsibilities and duties of all laboratory personnel, having standard operating procedure manuals, and participating in acceptable proficiency testing.

Section 19.4 is amended for clarity and to remove references to New York City laboratory permits, which are obsolete.

Final rule as compared with last published rule: Nonsubstantive changes were made in sections 19.2(d)(2) and 19.3(d)(12).

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: regsqa@health.ny.gov

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

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and 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 2024, 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 the American Osteopathic Association, the American Board of Bioanalysis, and members of the public. These comments are summarized below along with the Department’s responses.

COMMENT: The American Osteopathic Association (AOA) stated overall support of the proposed regulation but suggested the following amendments:

- Using general AOA board certification equivalency language to address a recent name change of the certifying board from “Laboratory Medicine” to “Clinical Pathology / Laboratory Medicine;”
- Amending the definition of earned doctoral degree to include doctor of medicine and doctor of osteopathic medicine;
- Including the American Osteopathic Board of Pathology in Laboratory Medicine or Clinical Pathology/Laboratory Medicine and the American Osteopathic Board of Internal Medicine in Hematology as recognized certifying boards for Certificate of Qualification candidates in the specialty of transfusion services;
- Including the American Osteopathic Board of Dermatology as a recognized certifying board for Certificate of Qualification candidates in the specialty of dermatopathology;
- Including the American Board of Internal Medicine in Hematology or Hematology and Oncology as recognized certifying boards for Certificate of Qualification candidates in specialty of hematology;
- Updating the term “doctor of osteopathy” to “doctor of osteopathic medicine.”

RESPONSE: The Department uses the generic term “laboratory medicine” in the proposed regulation which the Department deems equivalent to either naming convention used by AOA.

The Department acknowledges the AOA’s suggestions to further expand the list of recognized certifying boards; however, additional review of board eligibility criteria must be performed to determine acceptability. These suggestions will be taken into consideration for future rulemaking.

Doctor of medicine and doctor of osteopathic medicine are not included in the definition of an earned doctoral degree because they are defined as professional degrees, not earned doctoral degrees. The Department has made a technical change to the regulation, replacing the term “doctor of osteopathy” with the term “doctor of osteopathic medicine.” No other changes to the regulation are necessary as a result of this comment.

COMMENT: The American Board of Bioanalysis stated overall support for the proposed regulation but suggested recognizing several laboratory director certifications offered by the American Board of Bioanalysis including: Bioanalyst Clinical Laboratory Director; Public Health Laboratory Director; Embryology Laboratory Director; and Andrology Laboratory Director. The American Board of Bioanalysis also suggested that the

proposed post-doctoral experience required for an individual certified as a High Complexity Clinical Laboratory Director be reduced from four years to two years, or that all clinical laboratory experience be considered regardless of whether it was obtained pre- or post-doctoral, provided that two years of such experience is at the supervisory level.

RESPONSE: Certification as a High Complexity Clinical Laboratory Director by the American Board of Bioanalysis includes all areas of clinical laboratory science that are offered under the suggested certifications, including Bioanalyst Clinical Laboratory Director, Public Health Laboratory Director, Embryology Laboratory Director, and Andrology Laboratory Director. Therefore, the Department has determined that recognizing these additional certifications is not necessary. Since 1992, the Department has required that relevant clinical laboratory experience must be obtained after receiving an earned doctoral degree. No changes to the regulation were made as a result of these comments.

COMMENT: Comments were received in support of the regulatory amendments. These comments included positive statements about the inclusion of the American Board of Bioanalysis certification as High Complexity Clinical Laboratory Director (HCLD) on the list of recognized certifying boards to qualify candidates for a Certificate of Qualification.

RESPONSE: The Department acknowledges these comments in support of the proposed regulation. No changes to the regulation are necessary as a result of these comments.

Long Island Power Authority

NOTICE OF ADOPTION

Commercial System Relief Program and Distribution Load Relief Program in the Authority's Tariff for Electric Service

I.D. No. LPA-09-19-00014-A

Filing Date: 2019-05-28

Effective Date: 2019-05-28

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

Action taken: The Long Island Power Authority adopted modifications to its Tariff for Electric Service to allow behind-the-meter battery storage to participate in the Authority's Commercial System Relief Program and Distribution Load Relief Program.

Statutory authority: Public Authorities Law, section 1020-f(u) and (z)

Subject: Commercial System Relief Program and Distribution Load Relief Program in the Authority's Tariff for Electric Service.

Purpose: To update the Tariff to allow incentives for a behind-the-meter battery storage program from PSEG Long Island's Utility 2.0 Plan.

Text of final rule: The Long Island Power Authority (the "Authority") staff proposes to revise the Authority's Tariff for Electric Service to enable incentives in support of PSEG Long Island's planned behind-the-meter energy storage program. The incentives will be offered through the Authority's existing dynamic load management tariffs.

Each year, PSEG Long Island submits an annual update to its Utility 2.0 Long Range Plan, in which it proposes new initiatives to enhance the customer experience, modernize the Long Island electric grid, and promote New York State's Reforming the Energy Vision policies. As part of its 2018 Utility 2.0 annual update, filed on June 29, 2018, PSEG Long Island proposed to introduce an innovative, open solicitation program opportunity for third-party aggregators to install behind-the-meter batteries for PSEG Long Island customers¹. The goal of the program is to catalyze the local availability of energy storage for the commercial and residential market while providing load relief, especially in those defined areas of the grid where peak demand needs are most critical. On November 1, 2018, the Department of Public Service ("DPS") recommended adoption of PSEG Long Island's behind-the-meter battery program².

The Authority's existing Dynamic Load Management ("DLM") programs include a peak load-shaving Commercial System Relief Program (the "CSR") and a local reliability supporting Distribution Load Relief Program (the "DLRP"). The behind-the-meter battery program will make use of the Authority's existing CSR and DLRP tariffs to offer incentives for qualifying battery storage equipment. This proposal will modify those tariffs consistent with the behind-the-meter battery program to enable incentives in support of the Utility 2.0 behind-the-meter battery storage program to be paid through the Authority's existing CSR and DLRP tariffs.

¹Case No. 14-01299, In the Matter of PSEG-LI Utility 2.0 Long Range Plan, Item No. 48.

² Case No. 14-01299, In the Matter of PSEG-LI Utility 2.0 Long Range Plan, Item No. 57.

Final rule as compared with last published rule: Nonsubstantive changes were made in section XIII.B.d.

Text of rule and any required statements and analyses may be obtained from: Justin Bell, Long Island Power Authority, 333 Earle Ovington Blvd., Suite 403, Uniondale, NY 11553, (516) 719-9886, email: tariffchanges@lipower.org

Revised Regulatory Impact Statement

A revised regulatory impact statement 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.

Revised Regulatory Flexibility Analysis

A revised regulatory flexibility analysis 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.

Revised Rural Area Flexibility Analysis

A revised rural area flexibility analysis 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.

Revised Job Impact Statement

A revised job impact statement 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.

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.

Public Service Commission

NOTICE OF ADOPTION

Request for Limited Waivers

I.D. No. PSC-05-19-00012-A

Filing Date: 2019-05-22

Effective Date: 2019-05-22

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

Action taken: On 5/16/19, the PSC adopted an order approving Frontier Communications of New York, Inc.'s (Frontier) petition for limited waivers associated with its proposed cable television franchise agreement with the Village of Washingtonville, Orange County.

Statutory authority: Public Service Law, sections 215, 216 and 221

Subject: Request for limited waivers.

Purpose: To approve Frontier's petition for limited waivers.

Substance of final rule: The Commission, on May 16, 2019, adopted an order approving Frontier Communications of New York, Inc.'s petition for limited waivers of certain of the Commission's rules in Parts 890 and 895 associated with its proposed cable television franchise agreement with the Village of Washingtonville, Orange County, 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, 3 Empire State Plaza, Albany, New York 12223-1350, (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-V-0719SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-07-19-00014-A

Filing Date: 2019-05-22

Effective Date: 2019-05-22

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

Action taken: On 5/16/19, the PSC adopted an order approving Sunrise Solars, LLC's (Sunrise Solars) notice of intent to submeter electricity at 2 and 3 Solar Way, Latham, New York.

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

Subject: Submetering of electricity.

Purpose: To approve Sunrise Solars' notice of intent to submeter electricity.

Substance of final rule: The Commission, on May 16, 2019, adopted an order approving Sunrise Solars, LLC's notice of intent to submeter electricity at 2 and 3 Solar Way, Latham, New York, located in the service territory of Niagara Mohawk Power Corporation d/b/a National Grid, 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, 3 Empire State Plaza, Albany, New York 12223-1350, (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.

(19-E-0052SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-07-19-00015-A

Filing Date: 2019-05-22

Effective Date: 2019-05-22

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

Action taken: On 5/16/19, the PSC adopted an order approving 812 Amsterdam LLC's (812 Amsterdam) petition to submeter electricity at 814-816 Amsterdam 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: Submetering of electricity.

Purpose: To approve 812 Amsterdam's petition to submeter electricity.

Substance of final rule: The Commission, on May 16, 2019, adopted an order approving 812 Amsterdam LLC's petition to submeter electricity at 814-816 Amsterdam Avenue, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (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.

(19-E-0051SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-09-19-00006-A

Filing Date: 2019-05-22

Effective Date: 2019-05-22

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

Action taken: On 5/16/19, the PSC adopted an order approving 16 Sheridan Avenue LLC's (16 Sheridan) notice of intent to submeter electricity at 16 Sheridan Avenue, Albany, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 16 Sheridan's notice of intent to submeter electricity.

Substance of final rule: The Commission, on May 16, 2019, adopted an order approving 16 Sheridan Avenue LLC's notice of intent to submeter electricity at 16 Sheridan Avenue, Albany, New York, located in the service territory of Niagara Mohawk Power Corporation d/b/a National Grid, 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, 3 Empire State Plaza, Albany, New York 12223-1350, (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.

(19-E-0070SA1)

NOTICE OF ADOPTION

Request for Limited Waivers

I.D. No. PSC-09-19-00012-A

Filing Date: 2019-05-22

Effective Date: 2019-05-22

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

Action taken: On 5/16/19, the PSC adopted an order approving Citizens Telecommunications Company of New York, Inc.'s (Frontier) petition for limited waivers associated with its proposed cable television franchise agreement with the Town of Highland, Sullivan County.

Statutory authority: Public Service Law, sections 215, 216 and 221

Subject: Request for limited waivers.

Purpose: To approve Frontier's petition for limited waivers.

Substance of final rule: The Commission, on May 16, 2019, adopted an order approving Citizens Telecommunications Company of New York, Inc. d/b/a Frontier Communications of New York's petition for limited waivers of certain of the Commission's rules in Parts 890 and 895 associated with its proposed cable television franchise agreement with the Town of Highland, Sullivan County, 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, 3 Empire State Plaza, Albany, New York 12223-1350, (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.

(19-V-0040SA1)

NOTICE OF ADOPTION

Postponement of Levelization Surcharge Mechanism

I.D. No. PSC-12-19-00001-A

Filing Date: 2019-05-22

Effective Date: 2019-05-22

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

Action taken: On 5/22/19, the PSC adopted an order adopting the emergency rule on a permanent basis, authorizing New York American Water Company, Inc. (NYAW) to postpone the levelization surcharge mechanism from April 1, 2019 to April 1, 2020.

Statutory authority: Public Service Law, sections 89-b and 89-c(10)

Subject: Postponement of levelization surcharge mechanism.

Purpose: To adopt the emergency rule on a permanent basis.

Substance of final rule: The Commission, on May 22, 2019, adopted an order adopting the emergency rule on a permanent basis, authorizing New York American Water Company, Inc. (NYAW) to postpone the levelization surcharge mechanism, scheduled to become effective for Service Area 1 customers on April 1, 2019 to April 1, 2020, 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, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov An IRS employer ID no. or social security no. is required from firms or persons to be billed 25 cents per page. Please use tracking number found on last line of notice in requests.

Assessment of Public Comment

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

(16-W-0259SA8)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Three-Year Pilot for Inspecting Gas Services at Intervals Longer Than Existing Regulations Require

I.D. No. PSC-24-19-00003-P

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

Proposed Action: The Commission is considering a petition filed by Consolidated Edison Company of New York, Inc. to commence a three-year pilot to test elongated intervals for leakage surveys and corrosion inspections of gas service lines.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Three-year pilot for inspecting gas services at intervals longer than existing regulations require.

Purpose: To use risk-based reasoning for gas service lines inspection intervals on a pilot basis.

Substance of proposed rule: The Public Service Commission (Commission) is considering the Petition to Extend Survey and Inspection Intervals (Petition), filed by Consolidated Edison Company of New York, Inc. (Con Edison) on May 15, 2019. In the petition, Con Edison seeks Commission authority, as part of Con Edison's Distribution Integrity Management Program (DIMP), to commence a three-year pilot to conduct interior gas service line leakage surveys and atmospheric corrosion inspections (inspections) at longer intervals than existing regulations require.

To support its petition, Con Edison states it completed its baseline inside gas service inspections as required by the Commission's April 20, 2017 Order Establishing Statewide Inspection Schedules and Procedural Requirements (April 2017 Order). In that order, the Commission adopted "inspection requirements pursuant to the Commission's State authority over safe operation of gas companies and the designated authority from [the Pipeline and Hazardous Materials Administration] to develop inspection requirements. . . in accordance with state certifications authorized in 49 USC § 60106." April 2017 Order at 3.

In its proposed pilot, Con Edison seeks to re-inspect, over the three-year period, a statistically significant number of random locations of services already inspected in Con Edison's baseline inspections. As such,

Con Edison bases its request for testing longer intervals on (1) the results of Con Edison's baseline inspections required by the Commission's April 2017 Order, and (2) a Gas Technology Institute (GTI) study analysis. Con Edison states the GTI study showed, based on randomly selected and opportunistic inspections (i.e., when the Company was inside a building for other purposes), that among Con Edison's services (including Points of Entry in basements), 80% of inspection sites showed "none/minimal" corrosion, 20% showed low corrosion, .07% showed medium corrosion, and zero had high corrosion levels, with 99.9% of gas pipes showing no leak indications.

Con Edison posits that a three-year pilot will provide further support for a potential future Commission determination that could allow Con Edison's DIMP program to include "(1) a five-year survey/inspection interval for both business districts and non-business districts (not to exceed 63 months); (2) a ten-year survey/inspection interval for room set (inside) locations (not to exceed 123 months); and (3) for newly constructed services, an initial survey/inspection after installation of 10 years (not to exceed 123 months) with all subsequent surveys/inspections to be completed at five-year intervals (not to exceed 63 months)."

In 2009, PHMSA proposed that such a change could be warranted if, in an operator's DIMP, it provided support for longer intervals with risk-based studies. Further, 16 NYCRR § 255.1013 allows operators to seek elongated inspection intervals "only where the operator has developed and implemented an integrity management program that provides an equal or improved overall level of safety despite the reduced frequency of periodic inspections." Current regulations require that inspections of gas lines "exposed to the atmosphere" be conducted "at least once every three calendar years, but with intervals not exceeding 39 months" (16 NYCRR § 255.481(a)) and that leakage surveys occur "at intervals not exceeding 15 months, but at least once each calendar year, in business districts." 16 NYCRR § 255.723(b). For non-business districts, the current rules require that leakage surveys occur "at least once every 5 calendar years at intervals not exceeding 63 months." 16 NYCRR § 255.723(c).

Commission regulations and PHMSA's adoption of DIMPs, however, permit operators to seek a reduced frequency for the inspections "on the basis of the engineering analysis and risk assessment." Further, the Public Service Commission may accept any such proposal, with or without conditions and limitations, if an operator's proposal shows that "the adjusted interval will provide an equal or greater overall level of safety." 16 NYCRR § 1013(a) and (b).

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. 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

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

Public comment will be received until: 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-G-0244SP3)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Municipal Gross Receipts Taxes

I.D. No. PSC-24-19-00004-P

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

Proposed Action: The Commission is considering a proposal filed by Rochester Gas and Electric Corporation to modify its gas tariff schedule, P.S.C. No. 16, regarding municipal gross receipts taxes.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Municipal Gross Receipts Taxes.

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 Rochester Gas and Electric Corporation (RG&E) on May 17, 2019, to amend its gas tariff schedule, P.S.C. No. 16.

RG&E's proposed modifications would allow for the recovery of municipal gross receipts taxes on transmission and delivery service related to customers who receive commodity service third party providers, prospectively and upon request by a city or a village to RG&E. The proposed amendments have an effective date of October 1, 2019.

The full text of the tariff filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the 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

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

Public comment will be received until: 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.

(19-G-0376SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Non-Firm Demand Response Service Classes

I.D. No. PSC-24-19-00005-P

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

Proposed Action: The Commission is considering a proposal filed by The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) to modify its gas tariff schedule, P.S.C. No. 12, to create non-firm demand response service classes.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Non-Firm Demand Response service classes.

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 The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY) on May 8, 2019, to amend its gas tariff schedule, P.S.C. No. 12 to create non-firm demand response service classes.

KEDNY's filing is in response to the Commission's Order Approving Tariff Revisions and Directing Further Tariff Filings issued February 7, 2019, in Cases 16-G-0059, et al. (the Order). The Order directed KEDNY to create and/or revise its current non-firm service classes to blend the existing temperature controlled (TC) and interruptible (IT) services and implement two pricing tiers determined by a customer's switching equipment. In response to the Order, KEDNY proposes to revise Service Classification (SC) No. 18 – Non-Core Transportation Service and establish a new SC No. 22 – Non-Firm Demand Response Sales Service to blend the existing TC and IT services that would otherwise be found under cancelled service classifications (SC No. 5A – On-System Large Volume Sales Service, SC No. 6C – Temperature Controlled Service – Commercial/Industrial, SC No. 6G – Temperature Controlled Service - Governmental, SC No. 6M – Temperature Controlled Service – Multi-Family). Both SC 18 and SC 22 establish two pricing tiers determined by the customer's switching equipment.

KEDNY also filed revisions pursuant to the Order to address the treatment of critical care customers discussed in submitted written comments from Case 18-G-0565, and the November 2018 IT service technical conference. KEDNY's proposed revisions address the consequences of those customers incurring two violations in one winter season or failing to stop the use of natural gas when directed by the Company. The proposed amendments have an effective date of November 1, 2019.

The full text of the tariff filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the 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

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

Public comment will be received until: 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.

(19-G-0371SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Municipal Gross Receipts Taxes

I.D. No. PSC-24-19-00006-P

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

Proposed Action: The Commission is considering a proposal filed by Rochester Gas and Electric Corporation to modify its electric tariff schedules, P.S.C. Nos. 18 and 19, regarding municipal gross receipts taxes.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Municipal Gross Receipts Taxes.

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 Rochester Gas and Electric Corporation (RG&E) on May 17, 2019, to amend its electric tariff schedules, P.S.C. Nos. 18 and 19.

RG&E's proposed modifications would allow for the recovery of municipal gross receipts taxes on transmission and delivery service related to customers who receive commodity service third party providers, prospectively and upon request by a city or a village to RG&E. The proposed amendments have an effective date of October 1, 2019.

The full text of the tariff filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the 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

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

Public comment will be received until: 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.

(19-E-0377SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Municipal Gross Receipts Taxes

I.D. No. PSC-24-19-00007-P

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

Proposed Action: The Commission is considering a proposal filed by New York State Electric & Gas Corporation to modify its gas tariff schedules, P.S.C. Nos. 87 and 88, regarding municipal gross receipts taxes.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Municipal Gross Receipts Taxes.

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 New York State Electric & Gas Corporation (NYSEG) on May 17, 2019, to amend its gas tariff schedules, P.S.C. Nos. 87 and 88.

NYSEG's proposed modifications would allow for the recovery of municipal gross receipts taxes on transmission and delivery service related to customers who receive commodity service third party providers, prospectively and upon request by a city or a village to NYSEG. The proposed amendments have an effective date of October 1, 2019.

The full text of the tariff filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the 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

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

Public comment will be received until: 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.

(19-G-0374SP1)

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

Non-Firm Demand Response Service Classes

I.D. No. PSC-24-19-00008-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 proposal filed by KeySpan Gas East Corporation d/b/a National Grid (KEDLI) to modify its gas tariff schedule, P.S.C. No. 1, to create non-firm demand response service classes.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Non-Firm Demand Response service classes.

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 KeySpan Gas East Corporation d/b/a National Grid (KEDLI) on May 8, 2019, to amend its gas tariff schedule, P.S.C. No. 1 to create non-firm demand response service classes.

KEDLI's filing is in response to the Commission's Order Approving Tariff Revisions and Directing Further Tariff Filings issued February 7, 2019, in Cases 16-G-0058, et al. (the Order). The Order directed KEDLI to create and/or revise its current non-firm service classes to blend the existing temperature controlled (TC) and interruptible (IT) services and implement two pricing tiers determined by a customer's switching equipment. In response to the Order, KEDLI proposes to establish two new service classifications (SC): SC No. 18 – Non-Firm Demand Response Sales Service and SC No. 19 – Non-Firm Demand Response Transportation Service to blend the existing TC and IT services that would otherwise be found under cancelled service classifications (SC No. 4 – Interruptible Gas Service, SC No. 12 – Temperature-Controlled Service Non-Residential, SC No. 13 – Temperature-Controlled Transportation). Both SC 18 and SC 19 include two pricing tiers determined by the customer's switching equipment. KEDLI proposes to revise SC No. 7 – Interruptible Transportation Service to remove references for interruptible service.

KEDLI also filed revisions pursuant to the Order to address the treatment of critical care customers discussed in submitted written comments from Case 18-G-0565, and the November 2018 IT service technical conference. KEDLI's proposed revisions address the consequences of those customers incurring two violations in one winter season or failing to stop the use of natural gas when directed by the Company. The proposed amendments have an effective date of November 1, 2019.

The full text of the tariff filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the 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

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

Public comment will be received until: 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.

(19-G-0370SP1)

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

Municipal Gross Receipts Taxes

I.D. No. PSC-24-19-00009-P

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

Proposed Action: The Commission is considering a proposal filed by New York State Electric & Gas Corporation to modify its electric tariff schedules, P.S.C. Nos. 120 and 121, regarding municipal gross receipts taxes.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Municipal Gross Receipts Taxes.

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 New York State Electric & Gas Corporation (NYSEG) on May 17, 2019, to amend its electric tariff schedules, P.S.C. Nos. 120 and 121.

NYSEG's proposed modifications would allow for the recovery of municipal gross receipts taxes on transmission and delivery service related to customers who receive commodity service third party providers, prospectively and upon request by a city or a village to NYSEG. The proposed amendments have an effective date of October 1, 2019.

The full text of the tariff filing and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the 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

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

Public comment will be received until: 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.

(19-E-0375SP1)

Office of Victim Services

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Conduct Contributing Related to Burial Awards

I.D. No. OVS-24-19-00001-EP

Filing No. 523

Filing Date: 2019-05-23

Effective Date: 2019-06-26

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

Proposed Action: Amendment of sections 525.11(b), 525.12(m)(iv); renumbering of section 525.12(m)(2) to (m)(3); addition of new (m)(2) to Title 9 NYCRR.

Statutory authority: Executive Law, sections 623(3) and 631(5)(g)

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

Specific reasons underlying the finding of necessity: I determined that it is necessary for the preservation of the general welfare that this amendment be adopted on an emergency basis as authorized by section 202(6) of the State Administrative Procedure Act, to be effective June 26, 2019.

This amendment is adopted as an emergency measure because time is of the essence. The effective date of the underlying chapter law of 2018 which makes this amendment necessary is June 26, 2019. To ensure consistent and fair claim determinations, and not delay the processing of crime victim claims, these rules must be in place by that date.

Subject: Conduct contributing related to burial awards.

Purpose: Adopt rules necessary as the result of chapter 494 of the Laws of 2018, when considering the victim's own conduct.

Text of emergency/proposed rule: Subdivision (b) of section 525.11 is amended to read as follows:

(b) A request for an emergency award may be approved if it appears to the office that such claim is one with respect to which an award probably will be made and undue hardship will result to the claimant if immediate payment is not made. The determination by the office of an emergency award request shall include, at a minimum, the consideration of: (1) whether a crime did in fact occur, (2) the eligibility of the person to receive an award pursuant to section 624 of the Executive Law, (3) whether, *if the crime upon which the claim is based did not result in the death of such person*, the person contributed to their injuries because of their conduct pursuant to subdivision 5 of section 631 of the Executive Law, (4) the office as payer of last resort, pursuant to subdivision 4 of section 631 of the Executive Law, (5) whether the claimant and/or victim failed to cooperate with the reasonable requests of law enforcement authorities, including prosecutors, and (6) the out-of-pocket loss, as defined in section 626 of the Executive law, upon which the request for an emergency award is made.

Paragraph (iv) of subdivision (m) of section 525.12 amended to read as follows:

(iv) 25 percent reduction of award. All other conduct on part of the victim, not considered in subparagraph (i), (ii) or (iii) of this paragraph, as indicated in the investigation of the claim pursuant to subdivision (b) of section 52[2]5.5 of this Part.

Subdivision (m) of section 525.12 is amended to add (2) to read as follows:

(2) *Notwithstanding the provisions paragraph (1) of this subdivision, if the crime upon which the claim is based resulted in the death of the victim, awards made pursuant to Executive Law article 22 and this Part shall be reduced for conduct contributing in the following manner:*

(i) *50 percent denial of award. Any conduct on part of the victim, as indicated by law enforcement in the investigation of the claim pursuant to subdivision (b) of section 525.5 of this Part, constituting felonies or misdemeanors involving violence. For the purpose of this subparagraph, the term "violence" shall include, but not be limited to: gang activity, the dealing of illegal drugs, being the initial aggressor, and the use or brandishing of illegal firearms or other dangerous instruments at or near the time of the crime.*

(ii) *25 percent reduction of award. Any conduct on part of the victim, as indicated by law enforcement in the investigation of a claim pursuant to subdivision (b) of section 525.5 of this Part, constituting any other felony not considered in subparagraph (i) of this paragraph.*

(iii) *Any other conduct on part of the victim, not considered in subparagraph (i) or (ii) of this paragraph, as indicated in the investigation of the claim pursuant to subdivision (b) of section 525.5 of this Part, shall not be considered a reason to reduce an award.*

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire August 20, 2019.

Text of rule and any required statements and analyses may be obtained from: John Watson, Counsel, Office of Victim Services, 80 South Swan Street, 2nd Floor, Albany, NY 12210, (518) 457-8062, email: john.watson@ovs.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.

Regulatory Impact Statement

1. **Statutory authority:** New York State Executive Law, section 623(3) grants the Office of Victim Services (OVS or Office) the authority to adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions and purposes of Article 22 of the Executive Law. Executive Law, section 631(5)(g) provides that in determining the amount of an award, if the crime upon which the claim is based resulted in the death of the victim, the Office shall determine whether, because of his or her conduct, the victim contributed to the infliction of his or her injury and that the Office shall reduce the amount of the award by no more than 50%, in accordance with such determination.

2. **Legislative objectives:** The legislative intent is clear that the purpose of OVS is to assist innocent victims of crime. By enacting the New York State Executive Law, section 631(5)(g) provides that in determining the amount of an award, if the crime upon which the claim is based resulted in the death of the victim, the Office shall determine whether, because of his or her conduct, the victim contributed to the infliction of his or her injury, the Legislature limited the Office to reducing the amount of the award by no more than 50%, in accordance with such determination.

3. **Needs and benefits:** It is clear from the OVS' legislative intent and the other provisions in the Executive Law that the awards made by the agency are meant for the benefit of innocent victims of crime. By enacting the New York State Executive Law, section 631(5), the Legislature sought to ensure that the Office would reduce the amount of an award or reject a claim altogether based upon the victim's own conduct. Under current regulations, "conduct contributing" is defined as, ". . . culpable conduct logically and rationally related to the crime by which the victim was victimized and contributing to the injury suffered by the victim." [9NYCRR525.3(b)] The regulations further provide that both the investigation of, and decision on a claim consider the victim's conduct contributing. [9NYCRR525.5(b) and 9NYCRR525.6(b)] The current regulations surrounding this provision provide standards when determining how a victim's conduct contributed to their injury or death and how such conduct should impact their award. [9NYCRR525.12(m)]

The current regulations establish standards for such determinations to be made in a consistent manner. The standards created under these regulations are also tied to the facts collected during the investigation of the claim, to establish a record-based relationship between the victim's conduct and the crime upon which the claim is based. These regulations were drafted to codify the type of conduct which the Office would consider as "logically and rationally related to the crime by which the victim was victimized" and how such conduct should impact an award after a 2013, Appellate Division, Second Department decision. [Matter of Cox (110 A.D.3d 797, 973 N.Y.S.2d 242)]

OVS recognized that there is a difference between surviving victims who are claimants themselves, and eligible claimants filing a claim based upon a crime-related death of a victim, and the Legislature agreed. Chapter 494 of the Laws of 2018 added a new paragraph (g) to subdivision 5 of section 631. This new paragraph provides that in determining the amount of an award, if the crime upon which the claim is based resulted in the death of the victim, the Office shall determine whether, because of his or her conduct, the victim contributed to the infliction of his or her injury and that the Office shall reduce the amount of the award by no more than 50%, in accordance with such determination. The proposed regulations are necessary to implement the statutory intent of this new law, while keeping consistent with other claim decisions in which conduct contributing is a factor.

4. Costs:

a. **Costs to regulated parties.** It is not expected that the proposed regulations would impose any additional costs to the agency or State. The implementation of these regulatory changes should prove to create operational efficiencies within the Office and save the State money.

b. **Costs to local governments.** These proposed regulations do not apply to local governments and would not impose any additional costs on local governments.

c. Costs to private regulated parties. The proposed regulations do not impose any additional costs on private regulated parties.

5. Local government mandates: These proposed regulations do not impose any program, service duty or responsibility upon any local government.

6. Paperwork: These proposed regulations do not require any additional paperwork requirements than are currently required of the Office's claimants.

7. Duplication: These proposed regulations do not duplicate any other existing state or federal requirements.

8. Alternatives: The current regulations do not take into consideration the statutory changes made by Chapter 494 of the Laws of 2018. The current regulatory scheme creates standards necessary to make consistent determinations when considering conduct contributing. Chapter 494 and the rest of the enacting statute's provisions are clear that the Office's awards are meant to take into consideration the conduct of the victim to decrease the benefits awarded by the Office instead of making an outright denial. The new, 50% reduction mirrors the same considerations in the existing 100% denial reasons and the new, 25% reduction mirrors the same considerations in the existing, 75% reduction. The conduct considered for each reduction could have included more or less factors, but it has been determined that the standards by which they are determined, as written, are the fairest to make such determinations – mirroring the existing denial and reduction factors which are considered for surviving crime victims.

9. Federal standards: The OVS is funded, in part by the federal Victims of Crime Act (VOCA). The statute which determines how state crime victim compensation programs may determine awards is enumerated in 42 USCS 10602. This rule change does not contradict any of the federal provisions of section 10602 and is permissible under such provisions.

10. Compliance schedule: The regulations will be effective on June 26, 2019.

Regulatory Flexibility Analysis

The Office of Victim Services projects there will be no adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments in the State of New York as a result of this proposed rule change. This proposed rule change is simply designed to provide standards when determining how a victim's conduct contributed to their death and how such conduct may impact a claimant's subsequent award. Since nothing in this proposed rule change will create any adverse impacts on any small businesses or local governments in the state, no further steps were needed to ascertain these facts and none were taken. As apparent from the nature and purpose of this proposed rule change, a full Regulatory Flexibility Analysis is not required and therefore one has not been prepared.

Rural Area Flexibility Analysis

The Office of Victim Services projects there will be no adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas in the State of New York as a result of this proposed rule change. This proposed rule change is simply designed to provide standards when determining how a victim's conduct contributed to their death and how such conduct may impact a claimant's subsequent award. Since nothing in this proposed rule change will create any adverse impacts on any public or private entities in rural areas in the state, no further steps were needed to ascertain these facts and none were taken. As apparent from the nature and purpose of this proposed rule change, a full Rural Area Flexibility Analysis is not required and therefore one has not been prepared.

Job Impact Statement

The Office of Victim Services projects there will be no adverse impact on jobs or employment opportunities in the State of New York as a result of this proposed rule change. This proposed rule change is simply designed to provide standards when determining how a victim's conduct contributed to their death and how such conduct may impact a claimant's subsequent award. Since nothing in this proposed rule change will create any adverse impacts on jobs or employment opportunities in the state, no further steps were needed to ascertain these facts and none were taken. As apparent from the nature and purpose of this proposed rule change, a full Job Impact Statement is not required and therefore one has not been prepared.