

RULE MAKING ACTIVITIES

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

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

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

Office of Children and Family Services

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

To Eliminate Requirement That Victims of Domestic Violence Apply for Public Assistance to Pay for Cost of Shelter and Services

I.D. No. CFS-20-19-00001-EP
Filing No. 392
Filing Date: 2019-04-24
Effective Date: 2019-04-24

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

Proposed Action: Amendment of sections 408.4, 408.5, 452.9 and 452.10 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 131-u and 459-f; L. 2019, ch. 56, part J

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

Specific reasons underlying the finding of necessity: These emergency regulations are necessary to effectuate changes in state law and to comply with federal laws and regulations pertaining to the provisions of services for victims of domestic violence, and to avoid the loss of federal Family Violence Prevention Services Act (FVPSA) funding. The regulations are effective as of the date of filing; however, provisions of Part J of Chapter

56 of the Laws of 2019 were effective April 1, 2019. Consistent with Federal regulations prohibiting placing any conditions on the receipt of residential services for victims of domestic violence, amendments were made to Sections 131-u and 459-f of the Social Services Law (SSL) in Part J of Chapter 56 of the Laws of 2019 to eliminate the requirement that victims of domestic violence apply for public assistance to pay for the costs of emergency shelter and services at a residential program for victims of domestic violence, and repealing requirements that providers charge victims a fee for services. The amendments also require that social services districts fiscally responsible for a victim of domestic violence must reimburse a domestic violence residential program at the per diem rate established by the New York State Office of Children and Family Services (OCFS) reduced by any other reimbursement available for such costs.

In response to the legislation, OCFS has amended regulations for local social services districts related to their financial responsibility for victims of domestic violence seeking emergency shelter and services at a residential program for victims of domestic violence to repeal language that stated or implied that victims of domestic violence must apply for public assistance as a condition of receiving services, as well as all references to the assessment or charging of fees to a victim of domestic violence for the receipt of emergency shelter. Language is added to clarify that a social services district cannot impose any condition upon the receipt of residential domestic violence services, including requiring victims of domestic violence to apply for public assistance, nor may victims be charged a fee for services provided.

The regulations clarify that victims of domestic violence may decide to apply for public assistance, and that residential programs for victims of domestic violence must provide victims of domestic violence information so that they may make an informed choice about whether to apply for public assistance.

Existing regulations require the social services district of fiscal responsibility to pay the residential program for victims of domestic violence at the established per diem rate. The amended regulations clarify that the social services district may seek reimbursement from any other funding sources, including and not limited to public assistance and of the federal Social Security Act. The regulations specify that a victim of domestic violence has a choice regarding whether to apply for public assistance, and that a social services district cannot require a victim of domestic violence to apply for public assistance as a condition to receive services.

Lastly, changes have been made related to a social service district's access to information for the purposes of paying the per diem rate to a residential program for victims of domestic violence. A social services district will only have access to non-identifying information such as the admission and discharge dates of the resident and their minor children, the business address of the residential program for victims of domestic violence, and any other information related to service and safety needs of the resident, unless the victim of domestic violence provides informed, written, time-limited consent permitting a residential program for victims of domestic violence to disclose personally identifying information to a social services district.

Subject: To eliminate requirement that victims of domestic violence apply for public assistance to pay for cost of shelter and services.

Purpose: To eliminate requirement that victims of domestic violence apply for public assistance to pay for cost of shelter and services.

Text of emergency/proposed rule: Paragraph (1) of subdivision (c) of Section 408.4 of Title 18 is amended as follows:

(1) When a residential program [makes a determination] *determines* that a person is eligible for admission and admits such person into the program, it must provide notice [by telephone] of such admission to the social services district where the person resided at the time of the domestic violence incident. Such notice must be given on or before the first working day following admission; *provided, however, that personally identifying information may only be disclosed to the social services district if the program has received written, informed and time-limited consent from the*

victim of domestic violence to share that information. If the residential program is not located in the social services district in which the victim of domestic violence resided at the time the domestic violence incident occurred, the person may submit an application for public assistance and care to the district in which the program is located. In such a case, notice [by telephone] of admission must also be given by the residential program to the social services district in which the residential program is located on or before the first working day following such admission. The social services district in which the residential program is located must forward the completed application, within five days of its receipt, to the social services district in which the person resided at the time of the domestic violence incident in accordance with section 311.4(b) of this Title.

Section 408.5 of Title 18 is renamed as follows:

408.5 [Financial eligibility.] *Social services district payment responsibility.*

Paragraph (1) of subdivision (a) of Section 408.5 of Title 18 is amended as follows:

(1) The social services district in which a victim of domestic violence was residing at the time of the domestic violence incident is financially responsible for making payments to a residential program for victims of domestic violence for the costs of temporary shelter, emergency services and care provided to such victim and any minor child of such victim whether or not the victim is financially eligible for public assistance and care [if:

(i) the victim is eligible for admission to the residential program pursuant to section 408.4 of this Part; and

(ii) the social services district receives a public assistance application on behalf of the victim pursuant to subdivision (b) of this section].

New paragraphs (2) and (3) of subdivision (a) of 408.5 of Title 18 are added, and subsequent paragraphs are amended and renumbered as follows:

(2) *A victim of domestic violence shall be provided written information explaining their right to apply for public assistance and care and relevant information to make an informed decision whether to apply for such assistance. This information must include, but is not limited to: understanding what personally identifying information is required, how that information will be used, and what benefits and services are available through public assistance and care.*

(3) *A social services district cannot require that a victim of domestic violence apply for public assistance and care in order to receive domestic violence services.*

([2]4) The social services district in which the victim of domestic violence was residing at the time of the domestic violence incident is responsible for determining the victim's financial eligibility for public assistance and care, *if the victim chooses to apply for public assistance and care, pursuant to subdivision (b) of this section [...] or otherwise providing payment for the costs of emergency shelter and services provided to a victim of domestic violence at the daily reimbursement rate determined by the Office of Children and Family Services pursuant to section 131-u of the Social Services Law reduced by the sum of any other reimbursement available for such costs.*

Subparagraphs (i), (ii) and (iii) of paragraph (1) of subdivision (b) of Section 408.5 of Title 18 are amended as follows:

(i) emergency assistance to needy families [pursuant to section 350-j of the Social Services Law] *with children, pursuant to Part 372 of this Title;*

(ii) [aid to dependent children] *family assistance, pursuant to [section 349 of the Social Services Law] Part 369 of this Title;*

(iii) [home relief] *safety net assistance, pursuant to [sections 157 and 158 of the Social Services Law] Part 370 of this Title; or*

Subparagraphs (i), (ii) and (iii) of paragraph (2) of subdivision (b) of Section 408.5 of Title 18 are amended as follows:

(i) the victim is eligible for admission to a residential program for victims of domestic violence pursuant to section 408.4 of this Part; and

[(ii) the victim applies for public assistance and care pursuant to Part 350 of this Title; and

(iii)] (ii) to the extent such victim remains in the residential program, *and the victim chooses to complete[s] the application process for public assistance and care pursuant to Parts 350 and 351 of this Title [and], if eligible for public assistance and care, the victim [complies] must comply with any statutory or regulatory requirements relating to the receipt of such public assistance and care.*

Paragraph (2) of subdivision (b) of Section 408.5 of Title 18 is repealed, and subsequent Paragraphs (3) and (4) are renumbered and amended as follows:

([3]2) The social services district in which the victim of domestic violence was residing at the time of the domestic violence incident is responsible for determining the victim's eligibility for public assistance and care, *if such victim chooses to apply for public assistance and care, pursuant to Parts 351, 352, and 369 or 370 or 372 of this Title. Such social*

services district cannot require the public assistance applicant or recipient to apply any earned or unearned income toward the unmet shelter cost after the public assistance benefit is applied toward the cost of housing. To the extent that funds are appropriated and a social services district has exhausted its allocation under Title XX of the Federal Social Security Act that is required to be spent on adult protective or domestic violence services, such payments made by a social services district will be subject to the applicable state reimbursement.

([4]3) Persons who are receiving public assistance and care at the time of entry into a residential program for victims of domestic violence must notify the social services district providing such assistance of the change in their circumstances, [and request an additional allowance to pay for the cost of temporary shelter, emergency services and care at the residential program]. *Upon consent of a victim of domestic violence who was receiving public assistance and care at the time of entry into the residential program for victims of domestic violence, or chooses to apply for public assistance and care during the time of residing in such program and is found eligible for public assistance and care, a social services district must apply the shelter allowance portion of the victim of domestic violence's public assistance benefit, up to the daily reimbursement rate determined by the Office of Children and Family Services pursuant to section 131-u of the Social Services Law reduced by the sum of any other reimbursement available for such costs, to reimburse a residential program for victims of domestic violence for the costs of emergency shelter and services.*

Paragraph (2) of subdivision (c) of Section 408.5 of Title 18 is repealed, and new paragraphs are amended as follows:

Subdivision (c) of Section 408.5 of Title 18 is amended as follows:

(c) Reimbursement for services provided to victims of domestic violence who are ineligible *or who do not apply* for public assistance and care.

(1) [When] *Where a social services district determines that a victim of domestic violence is ineligible for public assistance and care, or has chosen not to apply for public assistance and care, [the social services district must determine the victim's ability to pay all or part of the costs of such shelter, services and care based upon the information the victim provided on his or her application for public assistance and care.] a social services district financially responsible for a victim of domestic violence shall reimburse a residential program for victims of domestic violence for the costs of emergency shelter and services provided to such victim at the daily reimbursement rate established by the Office of Children and Family Services reduced by any other reimbursement available for such costs. To the extent funds are appropriated and a social services district has exhausted its allocation under Title XX of the federal Social Security Act that is required to be spent on adult protective or domestic violence services, such expenditures made by a social services district will be subject to applicable State reimbursement.*

(2) *A social services district may choose to seek reimbursement of expenditures for residential domestic violence services through its allocation under Title XX of the federal Social Security Act, or any other funding source, so long as reimbursement is in accordance with the applicable funding source requirements.*

Subdivision (d) of Section 408.5 of Title 18 is repealed.

Subparagraph (xii) of subparagraph (7) of subdivision (a) of Section 452.9 of Title 18 is amended as follows:

(xii) the right to manage one's own financial affairs [;], *including information regarding public assistance and care so that the resident can make an informed decision about whether to apply for benefits, including what benefits are available, what personally identifying information is required for the application, and how that information will be used;*

A new paragraph (2) is added to subdivision (b) of 452.9 of Title 18 as follows and the subsequent paragraphs (2) – (7) are renumbered to (3) – (8) respectively.

(2) *The program must maintain non-personally identifying statistical information for the purpose of reimbursement from a social services district as provided in section 452.10(a)(4)(c) of this Part.*

Subparagraph (c) of subparagraph (ii) of paragraph (4) of subdivision (a) of Section 452.10 of Title 18 is amended as follows:

(c) [to those elements of the resident case record as listed below] *for the purposes of reimbursing a residential program for victims of domestic violence the approved per diem rate, the following non-personally identifying information:*

(1) the [name] *date of admission* of the resident for whom an approved per diem rate will be paid;

(2) the [name of any] *date of admission for each minor child[ren]* for whom an approved per diem rate will be paid;

(3) the business address of the residential program for victims of domestic violence;

(4) the date of the resident's [entered] *departure from* the program;

(5) the date of the resident's *minor children (if any) departure from* the program; [and]

(6) the social services district in which the victim of domestic violence was residing at the time of the domestic violence incident; and

[(6)](7) other relevant information which identifies a resident's service and safety needs;

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 July 22, 2019.

Text of rule and any required statements and analyses may be obtained from: Leslie Robinson, Senior Attorney, Office of Children and Family Services, 52 Washington Street, Rensselaer, NY 12144, (518) 486-9563, email: Regcomments@ocfs.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:

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Office of Children and Family Services (OCFS or the Office) to establish rules and regulations to carry out its powers and duties pursuant to the provisions of the SSL.

Section 459-b of the SSL authorizes the Office to establish regulations governing residential programs for victims of domestic violence.

2. Legislative objectives:

The proposed regulations are necessary to effectuate changes in state law effective as of April 1, 2019 and to comply with federal laws and regulations pertaining to the provisions of services for victims of domestic violence, and to avoid the loss of federal Family Violence Prevention Services Act (FVPSA) funding. Consistent with Federal regulations prohibiting placing any conditions on the receipt of residential services for victims of domestic violence, amendments were made to Sections 131-u and 459-f of the Social Services Law (SSL) in Part J of Chapter 56 of the Laws of 2019 to eliminate the requirement that victims of domestic violence apply for public assistance to pay for the costs of emergency shelter and services at a residential program for victims of domestic violence, and repealing requirements that providers charge victims a fee for services. The amendments also require that social services districts fiscally responsible for a victim of domestic violence, must reimburse a domestic violence residential program at the per diem rate established by the New York State Office of Children and Family Services (OCFS).

3. Needs and benefits:

These emergency regulations are necessary to effectuate changes in state law effective as of April 1, 2019 and to comply with federal laws and regulations pertaining to the provisions of services for victims of domestic violence, and to avoid the loss of federal Family Violence Prevention Services Act (FVPSA) funding.

4. Costs:

The impact of compliance costs is unknown. The changes in statute remove the requirement for victims to apply for public assistance. Victims of domestic violence now have a choice whether to apply for public assistance. Since it is unknown how many victims of domestic violence will choose to utilize public assistance, it is unknown what the exact impact will be. Social services districts can defray the cost of the per diem rate by accessing any other reimbursement available for such costs. This can include funding such as Title XX of the federal Social Security Act. Without these changes in Social Services law and regulations, New York State was deemed out of compliance with federal regulations that prohibit mandating any condition to the receipt of services for victims of domestic violence including assessing fees to victims. As such, federal funding had been halted. The changes in statute and regulations are necessary to avoid further loss of federal funding.

5. Local government mandates:

The proposed regulations will not impose additional mandates on social services districts that operate residential programs for victims of domestic violence. There has been a longstanding requirement for social services districts to offer and fund residential services for victims of domestic violence and to utilize funding sources such as Title XX to reimburse such expenditures when victims are ineligible for public assistance.

6. Paperwork:

The regulations do not recreate any new reporting requirements. The regulations clarify that victims of domestic violence may decide to apply for public assistance, however, they are no longer required to apply for public assistance, which may reduce the need to complete an application for public assistance. The regulations require two new forms. The regulations clarify that residential programs for victims of domestic violence and social services districts must provide victims of domestic violence with written information so that they may make an informed choice about whether to apply for public assistance. Additionally, the regulations require the use of a consent form by a residential program for victims of domestic violence to share personally identifying information to a social services

district. The regulations clarify that residential programs for victims of domestic violence may only disclose personally identifying information to a social services district only when such program has received the informed, written, time-limited consent from the victim of domestic violence for whom the information pertains.

7. Duplication:

They do not duplicate any other State or federal requirements.

8. Alternatives:

These emergency regulations are necessary to effectuate changes in state law effective as of April 1, 2019 and to comply with federal laws and regulations pertaining to the provisions of services for victims of domestic violence, and to avoid the loss of federal Family Violence Prevention Services Act (FVPSA) funding. Therefore, there are no alternatives to the proposed regulations.

9. Federal standards:

The regulatory amendments do not conflict with any federal standards.

10. Compliance schedule:

The regulations are effective as of the date of filing; however, provisions of Part J of Chapter 56 of the Laws of 2019 were effective April 1, 2019.

Regulatory Flexibility Analysis

1. Effect of rule:

Social services districts and residential programs for victims of domestic violence will be affected by the proposed regulations. There are 66 agencies operating 91 residential programs for victims of domestic violence. There are 58 social services districts in New York State. One social services district operates two residential programs for victims of domestic violence. Of the 66 agencies providing residential services for victims of domestic violence, approximately half meet the definition of a small business.

2. Compliance requirements:

Consistent with Federal regulations prohibiting placing any conditions on the receipt of residential services for victims of domestic violence, amendments were made to Sections 131-u and 459-f of the Social Services Law (SSL) in Part J of Chapter 56 of the Laws of 2019 to eliminate the requirement that victims of domestic violence apply for public assistance to pay for the costs of emergency shelter and services at a residential program for victims of domestic violence, and repealing requirements that providers charge victims a fee for services. The amendments also require that social services districts fiscally responsible for a victim of domestic violence must reimburse a domestic violence residential program at the per diem rate established by the New York State Office of Children and Family Services (OCFS) reduced by any other reimbursement available for such costs.

Regulatory changes in response to federal and state statutory requirements include: repealing the requirement that victims of domestic violence apply for public assistance; addressing changes to local department of social services' reimbursement for residential services for victims of domestic violence; and repealing the levying of fees to victims of domestic violence.

3. Professional services:

It is not anticipated that the proposed regulatory changes will create the need for any new professional services on the part of providers who are small businesses or local governments.

4. Compliance costs:

The impact of compliance costs is unknown. The changes in statute remove the requirement for victims to apply for public assistance. Victims of domestic violence now have a choice whether to apply for public assistance. Since it is unknown how many victims of domestic violence will choose to utilize public assistance, it is unknown what the exact impact will be. Social services districts can defray the cost of the per diem rate by accessing any other reimbursement available for such costs. This can include funding such as Title XX of the federal Social Security Act. Without these changes in Social Services law and regulations, New York State was deemed out of compliance with federal regulations that prohibit mandating any condition to the receipt of services for victims of domestic violence including assessing fees to victims. As such, federal funding had been halted. The changes in statute and regulations are necessary to avoid further loss of federal funding.

5. Economic and technological feasibility:

It is unknown what adverse economic impact the statutory amendments will have on social services districts. Nothing in the proposed rule would require any new technology or the hiring of additional staff.

6. Minimizing adverse impact:

The changes are necessary to comply with federal and state statute and to avoid further loss of federal funding for the provision of services to victims of domestic violence. Amendments to Social Services Law sections 131-u and 459-f provide that the social service district must pay a residential program for victims of domestic violence the costs of emergency shelter and services for victims of domestic violence at the

established per diem rate reduced by the sum of any other reimbursement for such cost. Although the rule prohibits requiring a victim of domestic violence to apply for public assistance, nothing within the rule prohibits a victim of domestic violence from voluntarily opting to apply and use public assistance for their stay at a residential program for victims of domestic violence. The rule requires residential programs for victims of domestic violence to provide victims of domestic violence with information so that they may make an informed choice about whether to apply for public assistance. In addition, other possible sources for reimbursement for social services districts include accessing Title XX of the federal Social Services Act.

7. Small business and local government participation:

The New York State Coalition Against Domestic Violence (NYSCADV) has lobbied for the statutory changes on behalf of their member programs. Their member programs consist of domestic violence programs across New York State, including programs that would constitute a small business. NYSCADV has been very vocal about supporting the statutory change at various meetings and interactions with OCFS. These include monthly meetings with OCFS, with the most recent meeting held on March 28, 2019. OCFS discussed this legislation and proposed regulations. OCFS will address any additional comments or feedback during the public comment period.

In addition, OCFS was present at NYSCADV's Annual Domestic Violence Directors' Summit held on November 27, 2018 and NYSCADV's Annual Membership Meeting on March 25, 2019. Both events included representatives from domestic violence programs that would qualify as a small business. At each event, NYSCADV made it known that New York State needed to make the statutory changes for the betterment of domestic violence programs and victims of domestic violence.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

Social service districts, residential programs for victims of domestic violence will be affected by the proposed regulations. There are 33 agencies in rural areas operating 38 residential programs for victims of domestic violence. There are 44 social services districts in New York State located in rural areas.

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

These emergency regulations are necessary to effectuate changes in state law and to comply with federal laws and regulations pertaining to the provisions of services for victims of domestic violence, and to avoid the loss of federal Family Violence Prevention Services Act (FVPSA) funding. The regulations are effective as of the date of filing; however, provisions of Part J of Chapter 56 of the Laws of 2019 were effective April 1, 2019. Consistent with Federal regulations prohibiting placing any conditions on the receipt of residential services for victims of domestic violence, amendments were made to Sections 131-u and 459-f of the Social Services Law (SSL) in Part J of Chapter 56 of the Laws of 2019 to eliminate the requirement that victims of domestic violence apply for public assistance to pay for the costs of emergency shelter and services at a residential program for victims of domestic violence, and repealing requirements that providers charge victims a fee for services. The amendments also require that social services districts fiscally responsible for a victim of domestic violence must reimburse a domestic violence residential program at the per diem rate established by the New York State Office of Children and Family Services (OCFS) reduced by any other reimbursement available for such costs.

Regulatory changes in response to federal and state statutory requirements include: repealing the requirement that victims of domestic violence apply for public assistance; addressing changes to local department of social services' reimbursement for residential services for victims of domestic violence; repealing the levying of fees to victims of domestic violence.

3. Costs:

It is unknown the impact of compliance costs. The changes in statute remove the requirement for victims to apply for public assistance. Victims of domestic violence now have a choice whether to apply for public assistance. Since it is unknown how many victims of domestic violence will choose to utilize public assistance, it is unknown what the exact impact will be. Social services districts can defray the cost of the per diem rate by accessing any other reimbursement available for such costs. This can include funding such as Title XX of the federal Social Security Act. Without these changes in Social Services law and regulations, New York State was deemed out of compliance with federal regulations that prohibit mandating any condition to the receipt of services for victims of domestic violence including assessing fees to victims. As such, federal funding had been halted. The changes in statute and regulations are necessary to avoid further loss of federal funding.

4. Minimizing adverse impact:

These regulatory changes are necessary to comply with federal and

state statute and to avoid further loss of federal funding for the provision of services to victims of domestic violence. Amendments to Social Services Law sections 131-u and 459-f provides that the social services district must pay a residential program for victims of domestic violence the costs of emergency shelter and services for victims of domestic violence at the established per diem rate reduced by the sum of any other reimbursement for such cost. Although the rule prohibits requiring a victim of domestic violence to apply for public assistance, nothing within the rule prohibits a victim of domestic violence from voluntarily opting to apply and use public assistance for their stay at a residential program for victims of domestic violence. The rule requires residential programs for victims of domestic violence to provide victims of domestic violence with information so that they may make an informed choice about whether to apply for public assistance. In addition, other possible sources for reimbursement for social services districts include accessing Title XX of the federal Social Services Act.

5. Rural area participation:

The New York State Coalition Against Domestic Violence (NYSCADV) has lobbied for the statutory changes on behalf of their member programs. Their member programs consist of domestic violence programs across New York State, including programs that are in rural areas. NYSCADV has been very vocal about supporting the statutory change at various meetings and interactions with OCFS. These include monthly meetings with OCFS, with the most recent meeting held on March 28, 2019. OCFS discussed this legislation and proposed regulations. OCFS will address any additional comments or feedback during the public comment period.

In addition, OCFS was present at NYSCADV's Annual Domestic Violence Directors' Summit held on November 27, 2018 and NYSCADV's Annual Membership Meeting on March 25, 2019. Both events included representatives from domestic violence programs from rural areas. At each event, NYSCADV made it known that New York State needed to make the statutory changes for the betterment of domestic violence programs and victims of domestic violence.

Job Impact Statement

A job impact statement is not required for this rule. The emergency and proposed regulations are not expected to have a negative impact on jobs or employment in either the public or private sector. The proposed regulations are necessary to effectuate changes in state law effective as of April 1, 2019 and to comply with federal laws and regulations pertaining to the provisions of services for victims of domestic violence, and to avoid the loss of federal Family Violence Prevention Services Act (FVPSA) funding. Consistent with Federal regulations prohibiting placing any conditions on the receipt of residential services for victims of domestic violence, amendments were made to Sections 131-u and 459-f of the Social Services Law (SSL) in Part J of Chapter 56 of the Laws of 2019 to eliminate the requirement that victims of domestic violence apply for public assistance to pay for the costs of emergency shelter and services at a residential program for victims of domestic violence, and repealing requirements that providers charge victims a fee for services.

Nature of Impact:

The office does not expect any reduction of employees or employment opportunities at residential programs for victims of domestic violence.

Categories and Numbers Affected:

There are no changes in categories or numbers.

Regions of Adverse Impact:

There are no regions where the regulations would have a disproportionate adverse impact on jobs or employment opportunities.

Self-Employment Opportunities:

No measurable impact on opportunities for self-employment is expected.

Department of Civil Service

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-06-19-00002-A

Filing No. 394

Filing Date: 2019-04-25

Effective Date: 2019-05-15

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

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

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

Subject: Jurisdictional Classification.

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

Text or summary was published in the February 6, 2019 issue of the Register, I.D. No. CVS-06-19-00002-P.

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

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-06-19-00003-A

Filing No. 395

Filing Date: 2019-04-25

Effective Date: 2019-05-15

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

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

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

Subject: Jurisdictional Classification.

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

Text or summary was published in the February 6, 2019 issue of the Register, I.D. No. CVS-06-19-00003-P.

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

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

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-06-19-00004-A

Filing No. 396

Filing Date: 2019-04-25

Effective Date: 2019-05-15

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

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

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

Subject: Jurisdictional Classification.

Purpose: To classify a position in the exempt class.

Text or summary was published in the February 6, 2019 issue of the Register, I.D. No. CVS-06-19-00004-P.

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

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

Assessment of Public Comment

The agency received no public comment.

Division of Criminal Justice Services

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Certified Instructors and Course Directors

I.D. No. CJS-20-19-00003-P

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

Proposed Action: Amendment of Parts 6018-6026; addition of section 6023.3-a to Title 9 NYCRR.

Statutory authority: Executive Law, sections 837(13), 840(1), (3) and 841(1)

Subject: Certified Instructors and Course Directors.

Purpose: Establish/maintain effective procedures governing certified instructors and course directors who deliver MPTC-approved courses.

Substance of proposed rule (Full text is posted at the following State website: <http://www.criminaljustice.ny.gov>): The Municipal Police Training Council (Council or MPTC) is established within the Division of Criminal Justice Services (Division) pursuant to Executive Law § 839.

Executive Law § 840(1) sets forth that the Council may recommend to the Governor rules and regulations with respect to the oversight of police training schools, minimum qualifications for instructors, minimum basic training requirements, categorization of advanced in-service training programs, the development of training programs, and the development of certain written policies and procedures.

Executive Law § 840(3) authorizes the Council to: (1) consult and advise the Commissioner of the Division (Commissioner) with respect to the exercise of his duties, (2) visit and inspect any police training school and correctional programs approved by the Commissioner; (3) make recommendations to the Commissioner, Governor and Legislature regarding the Council's implementation of Executive Law § 840; and (4) perform such acts as are necessary or appropriate to carry out the functions of the Council.

Executive Law § 841(1) sets forth the Commissioner's duties to certify police training schools, certify instructors, and issue certificates to police officers and peace officers who have satisfactorily completed basic training programs.

The Legislature authorized the Council, with the cooperation of the Division, to oversee approved police training schools and set minimum standards for instructors. Thus, the Legislature clearly intended that the Council, in cooperation with the Division, establish and maintain effective procedures governing certified instructors and course directors who deliver MPTC-approved courses.

The proposed regulations will strengthen the Council's and Division's efforts to comply with Executive Law §§ 840 and 841, and ensure MPTC courses are taught in accordance with the Council's standards statewide. The proposed amendments: (1) create a "course director" designation and training course that will allow the Council to certify and train individuals who administer MPTC-course offerings; (2) develop a systematic approach for suspension and revocation by the Division, while securing due process for certified instructors and directors via a hearing process administered by the Council; (3) clarify ambiguous portions of the regulations by certifying completion of MPTC-approved courses versus certifying attendance at non-MPTC courses, requiring course directors to maintain records, defining who may administer approved courses, and requiring inclusion of the course director on curriculums submitted to the Division for approval.

Part 6018: requires the name of the course director on basic course for correction officers curriculums submitted for approval, and only permits course directors to administer the basic course for correction officers.

Part 6019: requires that those who administer pre-employment correction courses be certified as a course director, only permits course directors to administer pre-employment correction courses, and requires a course director certification prior to approval of a pre-employment correction training school.

Part 6020: requires the name of the course director on basic course for police officers curriculums submitted for approval, and only permits course directors to administer the basic course for police officers.

Part 6021: requires the name of the course director on course in police supervision curriculums submitted for approval, and only permits course directors to administer the course in police supervision.

Part 6022: requires that those who administer MPTC in-service courses be certified as a course director, makes the course director and sponsoring agency both responsible for document submission and record keeping, requires the name of the course director on MPTC-certified in-service training course curriculums submitted for approval, and permits self-issuance of non-MPTC certificates of attendance.

Part 6023: sets forth the requirements for attaining course director certification, sets forth the procedure for the suspension or revocation of an instructor or course director certification, provide instructors and directors an opportunity to cure suspensions, creates a hearing structure within the Council, and sets forth the requirements for conducting a police or peace officer training course.

Part 6024: sets forth the procedure for suspension or revocation of a firearms instructor certification, provides firearm instructors an opportunity to cure suspensions, and creates a hearing structure within the Council.

Part 6025: requires the name of the course director on basic course for peace officers curriculums submitted for approval, and only permits course directors to administer the basic course for peace officers.

Part 6026: requires that those who administer pre-employment police training courses be certified as a course director.

Text of proposed rule and any required statements and analyses may be obtained from: Natasha Harvin-Locklear, Esq., Division of Criminal Justice Services, 80 S. Swan St., Albany, NY 12210, (518) 457-8413, email: dcjslegalrulemaking@dcjs.ny.gov

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

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

Regulatory Impact Statement

1. Statutory authority: Executive Law § 840(1), (3); Executive Law § 841(1); Executive Law § 837(13).

The Municipal Police Training Council (Council or MPTC) is established within the Division of Criminal Justice Services (Division) pursuant to Executive Law § 839.

Executive Law § 840(1) sets forth that the Council may recommend to the Governor rules and regulations with respect to the oversight of police training schools, minimum qualifications for instructors, minimum basic training requirements, categorization of advanced in-service training programs, the development of training programs, and the development of certain written policies and procedures.

Executive Law § 840(3) authorizes the Council to: (1) consult and advise the Commissioner of the Division (Commissioner) with respect to the exercise of his duties, (2) visit and inspect any police training school and correctional programs approved by the Commissioner; (3) make recommendations to the Commissioner, Governor and Legislature regarding the Council's implementation of Executive Law § 840; and (4) perform such acts as are necessary or appropriate to carry out the functions of the Council.

Executive Law § 841(1) sets forth the Commissioner's duties to certify police training schools, certify instructors, and issue certificates to police officers and peace officers who have satisfactorily completed basic training programs.

Executive Law § 837(13) authorizes the Division to adopt, amend or rescind regulations "as may be necessary or convenient to the performance of the functions, powers and duties of the [D]ivision."

2. Legislative objectives: The Legislature authorized the Council, with the cooperation of the Division, to oversee approved police training schools and set minimum standards for instructors. Thus, the Legislature clearly intended that the Council, in cooperation with the Division, establish and maintain effective procedures governing certified instructors and course directors who deliver MPTC-approved courses.

3. Needs and benefits: These proposed regulations will strengthen the Council's and Division's efforts to comply with Executive Law §§ 840 and 841, and ensure MPTC courses are taught in accordance with the Council's standards statewide. The proposed amendments: (1) create a "course director" designation and training course that will allow the Council to certify and train individuals who administer MPTC-course offerings; (2) develop a systematic approach for suspension and revocation by the Division, while securing due process for certified instructors and directors via a hearing process administered by the Council; (3) clarify ambiguous portions of the regulations by certifying completion of MPTC-approved courses versus certifying attendance at non-MPTC courses, requiring course directors to maintain records, defining who may administer approved courses, and requiring inclusion of the course director on curriculums submitted to the Division for approval.

4. Costs: a. Costs to regulated parties for the implementation of and continuing compliance with the rule. Each applicant requesting course director certification must: (a) possess a high school diploma or its equivalent; (b) if a police or peace officer, be employed as such at the time such

officer requests a course director certification and have successfully completed MPTC-approved Basic Course for Police Officers or Basic Course for Peace Officers, as appropriate; (c) if not a police or peace officer, be sponsored by his or her employing police or peace officer agency, or be appointed by a pre-employment police officer training school, municipality, governing board or organization that administers approved police or peace officer training courses; and (d) have successfully completed an instructor development course (IDC) and a course director orientation course (CDOC) approved by the Commissioner.

The online training will be provided to course directors for free.

b. Costs to agency, the state and local governments for the implementation and continuation of the rule.

The costs are expected to be negligible.

c. The cost analysis is based on the fact that the online training will be provided to course directors for free. There will be a cost associated with the development of the course, but no more than usually expected with the development of online trainings.

5. Local government mandates: The mandates on local governments are minimum. The proposed regulations that will amend 9 NYCRR Parts 6018-6026 are as follows:

Part 6018: requires the name of the course director on basic course for correction officers curriculums submitted for approval, and only permits course directors to administer the basic course for correction officers.

Part 6019: requires that those who administer pre-employment correction courses be certified as a course director, only permits course directors to administer pre-employment correction courses, and requires a course director certification prior to approval of a pre-employment correction training school.

Part 6020: requires the name of the course director on basic course for police officers curriculums submitted for approval, and only permits course directors to administer the basic course for police officers.

Part 6021: requires the name of the course director on course in police supervision curriculums submitted for approval, and only permits course directors to administer the course in police supervision.

Part 6022: requires that those who administer MPTC in-service courses be certified as a course director, makes the course director and sponsoring agency both responsible for document submission and record keeping, requires the name of the course director on MPTC-certified in-service training course curriculums submitted for approval, and permits self-issuance of non-MPTC certificates of attendance.

Part 6023: sets forth the requirements for attaining course director certification, sets forth the procedure for the suspension or revocation of an instructor or course director certification, provide instructors and directors an opportunity to cure suspensions, creates a hearing structure within the Council, and sets forth the requirements for conducting a police or peace officer training course.

Part 6024: sets forth the procedure for suspension or revocation of a firearms instructor certification, provides firearm instructors an opportunity to cure suspensions, and creates a hearing structure within the Council.

Part 6025: requires the name of the course director on basic course for peace officers curriculums submitted for approval, and only permits course directors to administer the basic course for peace officers.

Part 6026: requires that those who administer pre-employment police training courses be certified as a course director.

6. Paperwork: Among other things, the proposed regulations will require course directors and sponsoring agencies to submit and maintain documents and records, and require the inclusion of the course director on curriculums submitted to the Division for approval.

7. Duplication: There are no other federal or State legal requirements that duplicate the proposed regulations.

8. Alternatives: There are no alternatives. The goal of the regulations is to increase and clarify oversight and enforcement capabilities by establishing effective procedures governing certified instructors and course directors who deliver MPTC-approved courses.

9. Federal standards: There are no federal standards.

10. Compliance schedule: Regulated parties are expected to be able to comply with the proposed regulations as soon as the regulations are adopted.

Regulatory Flexibility Analysis

1. Effect of rule: The proposed rule applies mostly to course instructors and directors throughout New York State. The mandates on local governments are minimal.

2. Compliance requirements: Executive Law § 840(1) sets forth that the Municipal Police Training Council (MPTC or Council) may recommend to the Governor rules and regulations with respect to the oversight of police training schools, minimum qualifications for instructors, minimum basic training requirements, categorization of advanced in-service training programs, the development of training programs, and the development of certain written policies and procedures.

Executive Law § 840(3) authorizes the Council to: (1) consult and advise the Commissioner of the Division of Criminal Justice Services (Division) with respect to the exercise of his duties, (2) visit and inspect any police training school and correctional programs approved by the Commissioner of the Division (Commissioner); (3) make recommendations to the Commissioner, Governor and Legislature regarding the Council's implementation of Executive Law § 840; and (4) perform such acts as are necessary or appropriate to carry out the functions of the Council.

The proposed regulations that will amend 9 NYCRR Parts 6018-6026 are as follows:

Part 6018: requires the name of the course director on basic course for correction officers curriculums submitted for approval, and only permits course directors to administer the basic course for correction officers.

Part 6019: requires that those who administer pre-employment correction courses be certified as a course director, only permits course directors to administer pre-employment correction courses, and requires a course director certification prior to approval of a pre-employment correction training school.

Part 6020: requires the name of the course director on basic course for police officers curriculums submitted for approval, and only permits course directors to administer the basic course for police officers.

Part 6021: requires the name of the course director on course in police supervision curriculums submitted for approval, and only permits course directors to administer the course in police supervision.

Part 6022: requires that those who administer MPTC in-service courses be certified as a course director, makes the course director and sponsoring agency both responsible for document submission and record keeping, requires the name of the course director on MPTC-certified in-service training course curriculums submitted for approval, and permits self-issuance of non-MPTC certificates of attendance.

Part 6023: sets forth the requirements for attaining course director certification, sets forth the procedure for the suspension or revocation of an instructor or course director certification, provide instructors and directors an opportunity to cure suspensions, creates a hearing structure within the Council, and sets forth the requirements for conducting a police or peace officer training course.

Part 6024: sets forth the procedure for suspension or revocation of a firearms instructor certification, provides firearm instructors an opportunity to cure suspensions, and creates a hearing structure within the Council.

Part 6025: requires the name of the course director on basic course for peace officers curriculums submitted for approval, and only permits course directors to administer the basic course for peace officers.

Part 6026: requires that those who administer pre-employment police training courses be certified as a course director.

3. Professional services: No professional services will be needed to comply with the proposed rule.

4. Compliance costs: The costs are expected to be negligible. The online training will be provided to course directors for free. There will be a cost associated with the development of the course, but no more than usually expected with the development of online trainings.

5. Economic and technological feasibility: No economic or technological impediments to compliance have been identified.

6. Minimizing adverse impact: The proposed rule mostly applies to course instructors and directors throughout New York State. The mandates on local governments are minimal. The Division attempted to minimize adverse impact on regulated parties by establishing effective procedures governing certified instructors and course directors who deliver MPTC-approved courses.

7. Small business and local government participation: The proposed rule was discussed and approved by the Council, which consists of members who are sheriffs, chiefs of police or commissioners of police, and the commissioner of New York City.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: The proposed rule applies mostly to course instructors and directors throughout New York State, an undetermined number of which may be located in a rural area.

2. Reporting, recordkeeping and other compliance requirements; and professional services: Executive Law § 840(1) sets forth that the Municipal Police Training Council (MPTC or Council) may recommend to the Governor rules and regulations with respect to the oversight of police training schools, minimum qualifications for instructors, minimum basic training requirements, categorization of advanced in-service training programs, the development of training programs, and the development of certain written policies and procedures.

Executive Law § 840(3) authorizes the Council to: (1) consult and advise the Commissioner of the Division of Criminal Justice Services (Division) with respect to the exercise of his duties, (2) visit and inspect any police training school and correctional programs approved by the

Commissioner of the Division (Commissioner); (3) make recommendations to the Commissioner, Governor and Legislature regarding the Council's implementation of Executive Law § 840; and (4) perform such acts as are necessary or appropriate to carry out the functions of the Council.

The proposed regulations that will amend 9 NYCRR Parts 6018-6026 are as follows:

Part 6018: requires the name of the course director on basic course for correction officers curriculums submitted for approval, and only permits course directors to administer the basic course for correction officers.

Part 6019: requires that those who administer pre-employment correction courses be certified as a course director, only permits course directors to administer pre-employment correction courses, and requires a course director certification prior to approval of a pre-employment correction training school.

Part 6020: requires the name of the course director on basic course for police officers curriculums submitted for approval, and only permits course directors to administer the basic course for police officers.

Part 6021: requires the name of the course director on course in police supervision curriculums submitted for approval, and only permits course directors to administer the course in police supervision.

Part 6022: requires that those who administer MPTC in-service courses be certified as a course director, makes the course director and sponsoring agency both responsible for document submission and record keeping, requires the name of the course director on MPTC-certified in-service training course curriculums submitted for approval, and permits self-issuance of non-MPTC certificates of attendance.

Part 6023: sets forth the requirements for attaining course director certification, sets forth the procedure for the suspension or revocation of an instructor or course director certification, provide instructors and directors an opportunity to cure suspensions, creates a hearing structure within the Council, and sets forth the requirements for conducting a police or peace officer training course.

Part 6024: sets forth the procedure for suspension or revocation of a firearms instructor certification, provides firearm instructors an opportunity to cure suspensions, and creates a hearing structure within the Council.

Part 6025: requires the name of the course director on basic course for peace officers curriculums submitted for approval, and only permits course directors to administer the basic course for peace officers.

Part 6026: requires that those who administer pre-employment police training courses be certified as a course director.

3. Costs: The costs are expected to be negligible. The online training will be provided to course directors for free. There will be a cost associated with the development of the course, but no more than usually expected with the development of online trainings.

4. Minimizing adverse impact: The Division attempted to minimize adverse impact on regulated parties by establishing effective procedures governing certified instructors and course directors who deliver courses approved by the MPTC.

5. Rural area participation: The proposed rule was discussed and approved by the Council, which consists of members who represent entities throughout New York State, including those in rural areas.

Job Impact Statement

A Job Impact Statement is not being submitted with this notice because it is evident from the subject matter of the regulation that it will have no adverse impact on jobs or employment opportunities.

Department of Environmental Conservation

NOTICE OF ADOPTION

Management of Striped Bass

I.D. No. ENV-07-19-00018-A

Filing No. 402

Filing Date: 2019-04-30

Effective Date: 2019-05-15

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

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

Statutory authority: Environmental Conservation Law, sections 11-0303, 13-0105, 13-0339 and 13-0347

Subject: Management of Striped Bass.

Purpose: To revise regulations concerning commercial striped bass fishing season.

Text or summary was published in the February 13, 2019 issue of the Register, I.D. No. ENV-07-19-00018-P.

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

Text of rule and any required statements and analyses may be obtained from: Carol Hoffman, New York State Department of Environmental Conservation, 205 Belle Mead Road, Suite 1, East Setauket, NY 11733, (631) 444-0476, email: carol.hoffman@dec.ny.gov

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

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 Environmental Conservation (DEC) received 40 letters and e-mails during the public comment period for the proposed rulemaking.

Comment: General support for the proposed rulemaking.

Comments were received from 23 commercial fishers expressing support for the proposal. Four commenters stated that opening the commercial striped bass fishing season at an earlier date would be good for their business and would also enable local restaurants and fish markets to have fresh, locally caught fish for Memorial Day. One person commented that, if the rule were in effect, he could keep fish in May that he otherwise would have to throw back dead. Another stated that the proposed rule would be good because the weather has been bad in the fall, limiting his fishing opportunities. DEC Response: DEC acknowledges these statements of support.

Seventeen comments expressed opposition to the proposal. Some commenters stated more than one reason why they were against the proposal, but they are addressed separately for purposes of this assessment.

Comment: One commenter stated that all species of fish should have alternating years of commercial fishing versus recreational fishing, i.e., only commercial fishing for one year; only recreational fishing for the next year.

DEC Response: DEC does not consider this to be a viable option because of the adverse impacts it would have on both commercial fishers and recreational anglers. It would deprive commercial fishers of the opportunity to earn their livelihood and would generally disrupt New York's fish markets by limiting supply. It would also unnecessarily deprive recreational anglers of the opportunity to enjoy their sport, and it would have detrimental economic impacts on businesses associated with New York's recreational striped bass fishery (such as bait sellers).

Comment: Five commenters stated that DEC should shut down the commercial fishery, making striped bass a gamefish-only species.

DEC Response: DEC allows both commercial and recreational harvest of striped bass in New York. DEC is required by statute (ECL § 13-0105) to "optimize the benefits of resource use so as to provide valuable recreational experiences and viable business opportunities for commercial and recreational fisheries." The National Oceanographic and Atmospheric Administration estimated that commercial striped bass fishery in New York landed a dockside value of 2.2 million dollars in 2016, the latest year for which data are available.

Comment: Three commenters stated that, if the rule were in effect, there would be fewer fish available for recreational anglers. Nine commenters stated that opening the commercial season at an earlier date would put more pressure on the striped bass population.

DEC Response:

This rulemaking does not increase the number of striped bass that commercial fishers are allowed to harvest, and consequently the Department does not anticipate that this rulemaking will result in adverse impacts to the recreational fishery.

The recreational fishing season for striped bass starts on April 1 for the Hudson River, and April 15 in the Marine and Coastal District. The proposed striped bass commercial season would start on May 15, at least one month after the start of the recreational fishing season. Recreational anglers of New York do not have any quota for striped bass. The recreational harvest is controlled by size limits and daily bag limits. New York recreational anglers harvested more than 8.8 million pounds of striped bass in 2017, the last year for which there is complete data. On an annual basis, the New York recreational fishery usually takes more than ten times as much striped bass as the state's commercial fishery.

Commercial striped bass fishers are issued a specific amount of serially numbered tags prior to the start of the fishing season in order to limit commercial harvest. This rule does not increase the amount of tags commercial fishers will receive. Commercial fishers are required to immediately tag all the legally sized striped bass that they catch. If they fill all of their tags before the end of the fishing season, they are required to stop fishing for striped bass. New York's striped bass commercial fishers are subject to a strict yearly quota set by the Atlantic States Marine Fisheries Commission (ASMFC), which has been 795,795 pounds since the 2015 fishing season. The fishery will close early if the quota is met before the end of the fishing season. Additionally, if New York's commercial fishers harvest more than their quota, the quota will be reduced in the following year. The commercial striped bass fishery has been under-harvested by an average of 17% over the last 15 years.

Comment: Two commenters expressed concern that the commercial fishery "targets" the striped bass spawning stock biomass.

DEC Response: DEC's regulations for both the commercial and recreational fisheries in the Marine and Coastal District of New York require a 28-inch total length minimum size, as do the coastal areas of most states on the eastern seaboard. A 28-inch minimum size allows the females to spawn at least once before they are harvested. The commercial fishery also has a maximum 38-inch size limit. Having a 28 - 38 inch commercial slot size limit protects the larger, more fecund, spawning females.

Comment: Twelve commenters were opposed to the proposal because they are concerned that the striped bass population is in a steep decline.

DEC Response: In 2018, the Northeast Fisheries Science Center (NEFSC) of the National Oceanographic and Atmospheric Administration (NOAA) conducted a stock assessment workshop and peer review of an ASMFC benchmark stock assessment for striped bass. A summary report indicates that too many fish are being taken annually and that the striped bass population is below a preferred level of abundance. While the striped bass population is slightly below 1995 levels, it is nowhere near the very low levels in the 1980's when the fishery was previously closed. The ASMFC Management Board will decide how to address these problems in the striped bass fishery and solutions may include additional restrictions for commercial and/or recreational fishermen.

Department of Financial Services

NOTICE OF ADOPTION

Principle-Based Reserving

I.D. No. DFS-52-18-00001-A

Filing No. 401

Filing Date: 2019-04-30

Effective Date: 2019-05-15

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

Action taken: Addition of Part 103 (Regulation 213) to Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 102, 201, 202, 301, 302; Insurance Law, sections 301, 4217 and 4517

Subject: Principle-Based Reserving.

Purpose: To allow principal-based reserving for certain individual and group life insurance policies and annuity contracts.

Text or summary was published in the December 26, 2018 issue of the Register, I.D. No. DFS-52-18-00001-EP.

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

Text of rule and any required statements and analyses may be obtained from: Joana Lucashuk, Department of Financial Services, One State Street, New York, NY 10004, (212) 480-2125, email: Joana.Lucashuk@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 agency received no public comment.

NOTICE OF ADOPTION

Paid Family Leave Risk Adjustment Fund**I.D. No.** DFS-02-19-00008-A**Filing No.** 393**Filing Date:** 2019-04-24**Effective Date:** 2019-05-15

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

Action taken: Addition of Part 364 (Regulation 214) to Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 3201, 3217, 3221, 4235; Workers' Compensation Law, sections 204(2)(a), 208(2) and 209(3)(b)

Subject: Paid Family Leave Risk Adjustment Fund.

Purpose: To establish the Paid Family Leave Risk Adjustment Fund.

Text or summary was published in the January 9, 2019 issue of the Register, I.D. No. DFS-02-19-00008-P.

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

Text of rule and any required statements and analyses may be obtained from: Eamon G. Rock, Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 474-4567, email: Eamon.Rock@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 agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Electronic Filings and Submissions**I.D. No.** DFS-20-19-00002-P

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

Proposed Action: Addition of Part 6 (Regulation 195) to Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301 and 316

Subject: Electronic Filings and Submissions.

Purpose: To require certain filings or submissions to be made electronically.

Text of proposed rule: Section 6.1. Definitions

(a) Accident and health insurance company shall have the meaning set forth in Insurance Law section 107(a)(1).

(b) Article 43 corporation means a corporation organized pursuant to Insurance Law Article 43.

(c) Insurer means an insurer authorized to do an insurance business in this State, including an Article 43 corporation and a health maintenance organization.

(d) Life insurance company shall have the meaning set forth in Insurance Law section 107(a)(28).

(e) NAIC means the National Association of Insurance Commissioners.

(f) SERFF means the NAIC's System for Electronic Rates and Forms Filing or any system designated by the superintendent as substantially similar.

(g) Filer means an insurer or other person or entity required to make a filing with or submission to the superintendent.

Section 6.2. Required electronic filings and submissions

(a) Except where the Insurance Law requires a filer to submit a hard copy, a filer shall submit to the superintendent the following electronically, in a form and manner acceptable to the superintendent:

(1) Insurance Fraud Prevention Plans and Reports. A report required by Insurance Law section 405(a) and a fraud prevention plan, subsequent plan amendments, and annual reports required by Insurance Law section 409(a), (d), and (g).

(2) Rates and Forms. Through SERFF, a rate, rating plan, rating rule, rating manual, rating classification, territory, or insurance contract or policy form, except when the filer is a charitable annuity society or assessment cooperative but including when the filer is a student health plan certified pursuant to Insurance Law section 1124.

(3) Compensation Schedules. Through SERFF, a schedule of rates of commissions, compensation and other fees or allowances to agents and brokers as required by Insurance Law section 4216(e) and sections 185.9 and 187.8 of this Title.

(4) Annual and Quarterly Statements. An annual financial statement and the required independently audited financial statement of a student health plan certified pursuant to Insurance Law section 1124 or municipal cooperative health benefit plan certified pursuant to Insurance Law Article 47 and a quarterly financial statement of such a municipal cooperative health benefit plan. In addition, the filer also shall file the statements as hard copies.

(5) Risk Retention and Purchasing Group Documents. The information required by Insurance Law sections 5903, 5904, and 5908(a) and (d).

(6) Holding Company and Parent Corporation Applications and Reports. The following holding company and parent corporation applications and reports:

(i) an application for acquisition or retention of control or a notice of proposed divestiture of control submitted pursuant to Insurance Law section 1506 and section 80-1.6 of this Title;

(ii) an application for a determination of non-control submitted pursuant to Insurance Law section 1501(c) and section 80-1.3 of this Title;

(iii) a report submitted pursuant to section 80-1.4 of this Title and 10 NYCRR 98-1.1.16(e);

(iv) a request for approval of a transaction and a notice of a proposed transaction submitted pursuant to Insurance Law section 1505(c) and (d) and section 80-1.5 of this Title or 10 NYCRR 98-1.10(c) and 10 NYCRR 98-1.11(b);

(v) notice to acquire, divest, invest in, or organize pursuant to Insurance Law section 1603, 1701, 1705 or 1710 or section 81-1.1 of this Title;

(vi) a registration and any amendment thereto submitted pursuant to Insurance Law section 1604(a) or 1717(a);

(vii) notification of a transaction submitted pursuant to Insurance Law section 1608(e) or 1712(b);

(viii) a report submitted pursuant to section 81-1.2 of this Title;

(ix) a request for a waiver submitted pursuant to section 81-1.3 or 81-2.10 of this Title;

(x) a report submitted pursuant to Insurance Law section 1708 and section 81-2.4 of this Title; and

(xi) a report submitted pursuant to section 81-2.3 or 81-2.5 of this Title.

(7) Agreement for an advance or borrowing; surplus note or principal or interest payments. An agreement submitted for approval pursuant to Insurance Law section 1307(d) and an application for approval of the issuance of a surplus note or principal and interest payments pursuant to Insurance Law section 1307.

(8) Dividend distributions. An application or notice of intent to declare and distribute a dividend when required to notify the superintendent.

(9) Medicare supplement insurance advertising filing. Through SERFF, a filing made pursuant to section 215.5(d) of this Title.

(10) Free trade zone report. A financial report submitted pursuant to section 16.7(a) of this Title.

(b)(1) An insurer shall file electronically with the NAIC:

(i) its annual and quarterly statements pursuant to Insurance Law section 307 or 308 or the Public Health Law and regulations promulgated thereunder;

(ii) its New York supplement or New York data requirement, with regard to health maintenance organizations; and

(iii) its audited financial statement.

(2) The electronic submission shall include all of the schedules, supplements, and exhibits, except for the NAIC Supplemental Compensation Exhibit.

(3) An insurer that files a statement, schedule, supplement, or exhibit electronically pursuant to this subdivision also shall file a hard copy with the superintendent, provided, however, that a foreign insurer, other than a life insurance company or accident and health insurance company, need not file a hard copy of a statement, schedule, supplement, or exhibit other than the New York supplement jurat page containing the original signature of the insurer's principal officers and the notary administering the oath.

(c) Notwithstanding any provision of this section, a filer shall submit to the superintendent a hard copy of all notarized documents and witness statements.

Section 6.3. Exemptions from electronic filing and submission requirements

(a) A filer required to make an electronic filing or a submission pursuant to section 6.2 of this Part may apply to the superintendent for an exemption from the requirement that the filing or submission be electronic by submitting a written request to the superintendent for approval at least 30 days before the filer shall submit to the superintendent the particular filing or submission that is the subject of the request.

(b) *The request for an exemption shall:*

(1) *set forth the filer's NAIC number or license number, if applicable;*
 (2) *identify the specific filing or submission for which the filer is applying for the exemption;*

(3) *specify whether the filer is making the request for an exemption based upon undue hardship, impracticability, or good cause, and set forth a detailed explanation as to the reason that the superintendent should approve the request; and*

(4) *specify whether the request for an exemption extends to future filings or submissions, in addition to the specific filing or submission identified in paragraph (2) of this subdivision.*

(c) *The filer requesting an exemption shall submit, upon the superintendent's request, any additional information necessary for the superintendent to evaluate the filer's request for an exemption.*

(d) *The filer shall be exempt from the electronic filing or submission requirement upon the superintendent's written determination so exempting the filer, where the determination specifies the basis upon which the superintendent is granting the request and to which filings or submissions the exemption applies.*

(e) *If the superintendent approves a filer's request for an exemption from the electronic filing or submission requirement, then the filer shall make a filing or submission in a form and manner acceptable to the superintendent.*

Text of proposed rule and any required statements and analyses may be obtained from: Joana Lucashuk, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 480-2125, email: Joana.Lucashuk@dfs.ny.gov

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

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

Regulatory Impact Statement

1. Statutory authority: Financial Services Law §§ 202 and 302 and Insurance Law §§ 301 and 316.

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

Insurance Law § 316 permits the Superintendent to promulgate regulations to require an insurer or other person or entity making a filing or submission with the Superintendent pursuant to the Insurance Law (a "filer") to submit the filing or submission to the Superintendent by electronic means. If the Superintendent requires that a filing or submission be made by electronic means, then a filer may submit a request to the Superintendent for an exemption from the electronic filing requirement upon a demonstration of undue hardship, impracticability, or good cause, subject to the Superintendent's approval (a "hardship exception request").

2. Legislative objectives: Insurance Law § 316 permits the Superintendent to promulgate regulations to require a filer to make a filing or submission electronically and allows a filer to make a hardship exception request. This rule accords with the public policy objectives that the Legislature sought to advance in Insurance Law § 316 by requiring filers to make certain filings and submissions electronically and permits a filer to make a hardship exception request.

3. Needs and benefits: While most filers voluntarily make certain filings or submissions electronically, there is currently no requirement that they make these filings or submissions electronically. This rule requires a filer to make certain filings or submissions electronically, such as filings and submissions of insurance fraud prevention plans and reports, rates and forms, annual and quarterly statements and supplements, and holding company and parent corporation applications and reports. Requiring electronic filings will allow the Department of Financial Services ("DFS") to reduce the amount of paper records it must store and will make it easier for Department staff to review filings and submissions, especially voluminous filings and submissions.

While certain sections of the rule specifically mention student health plans certified pursuant to Insurance Law § 1124, a student health plan also is a "filer" under other sections of the rule to the extent that the filings are required by Insurance Law § 1124.

The rule also allows a filer to apply to the Superintendent for an exemption from making a filing or submission electronically by submitting a written request to the Superintendent for approval at least 30 days before the filer must submit to the Superintendent the particular filing or submission that is the subject of the request. If the Superintendent approves a filer's request for an exemption from the electronic filing or submission requirement, then the filer must make a filing or submission in a form and manner acceptable to the Superintendent.

4. Costs: This rule may impose compliance costs on filers. However,

any costs should be minimal as most filers already file electronically and for those filers who are unable to file electronically, they may make a hardship exception request.

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

This rule does not impose compliance costs on any local government.

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

6. Paperwork: Filers will not incur additional paperwork because this rule requires that filers make certain filings or submissions electronically.

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

8. Alternatives: DFS considered moving electronic filing requirements from other rules into this rule so that they are all in one rule. However, DFS ultimately decided to leave the other electronic filing requirements in the rules in which they are currently located.

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

10. Compliance schedule: A filer must comply with this rule within 180 days after publication in the State Register.

Regulatory Flexibility Analysis

1. Effect of rule: Insurance Law § 316 permits the Superintendent of Financial Services ("Superintendent") to promulgate regulations to require an insurer or other person or entity to make a filing or submission electronically (a "filer") and allows a filer to make a hardship exception request. This rule requires a filer to make certain filings and submissions electronically. If the Superintendent requires that a filing or submission be made by electronic means, then a filer affected thereby may submit a request to the Superintendent for an exemption from the electronic filing requirement upon a demonstration of undue hardship, impracticability, or good cause, subject to the Superintendent's approval (a "hardship exception request"). As such, it should not affect local governments.

This rule mainly is directed at insurers or persons or entities who make filings or submissions on behalf of insurers. In addition, this rule is in part directed at student health plans and municipal cooperative health benefit plans. The Department of Financial Services ("DFS") does not believe the foregoing fall within the definition of a "small business" as defined by State Administrative Procedure Act § 102(8) because in general they are not independently owned and do not have fewer than 100 employees.

Industry asserts that certain insurers, in particular co-op insurers and mutual insurers, subject to the rule are small businesses. DFS believes that the ability to make a hardship exception request under the rule will exclude any insurers that may be small businesses from being subject to electronic filing or submission requirements.

Insurance producers and insurance adjusters that may be small businesses should not be affected by the rule.

2. Compliance requirements: No local government will have to undertake any reporting, recordkeeping, or other affirmative acts to comply with the rule because the rule does not apply to any local government.

An insurer that is a small business affected by this rule, if any, will be subject to reporting, recordkeeping, or other compliance requirements because the rule requires filings or submissions to be submitted electronically. In some instances, an insurer that is a small business will need to file both an electronic version and a hard copy.

3. Professional services: No local government will need professional services to comply with this rule because the rule does not apply to any local government. No insurer that is a small business affected by the rule, if any, should need to retain professional services to comply with this rule.

4. Compliance costs: No local government will incur any costs to comply with this rule because the rule does not apply to any local government. An insurer that is a small business affected by this rule, if any, may incur additional compliance costs. However, any costs should be minimal as most filers already file electronically and for those filers who are unable to file electronically, they may make a hardship exception request.

5. Economic and technological feasibility: This rule does not apply to any local government. Therefore, no local government should experience any economic or technological impact as a result of the rule. An insurer that is a small business affected by this rule, if any, may experience a technological impact as a result of the rule because the rule requires electronic filings or submissions. However, any technological impact should be minimal as most filers already file electronically and for those filers who are unable to file electronically, they may make a hardship exception request.

An insurer that is a small business affected by this rule, if any, may incur an economic impact. However, any economic impact should be minimal as most insurers already file electronically and for those insurers who are unable to file electronically, they may make a hardship exception request.

6. Minimizing adverse impact: There will not be an adverse impact on any local government because the rule does not apply to any local government. This rule should not have an adverse impact on an insurer that is a small business affected by the rule, if any, because the rule uniformly affects all insurers that are subject to the rule and merely requires an insurer to make a filing or submission electronically, which most already do. For those filers who are unable to file electronically, they may make a hardship exception request.

7. Small business and local government participation: Small businesses and local governments will have an opportunity to participate in the rule-making process when the proposed rule is published in the State Register and posted on DFS's website.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Insurers and other persons and entities affected by this rule ("filers") operate in every county in this state, including rural areas as defined by State Administrative Procedure Act § 102(10).

2. Reporting, recordkeeping and other compliance requirements; and professional services: The rule imposes additional reporting, recordkeeping, and other compliance requirements on filers in rural areas because the rule requires filings or submissions to be submitted electronically. In some instances, a filer will need to file both an electronic version and a hard copy. Filers in a rural area should not need to retain professional services to comply with this rule.

3. Costs: A filer in a rural area may incur additional compliance costs. However, any costs should be minimal as most filers in rural areas already file electronically and for those filers who are unable to file electronically, they may submit a request to the Superintendent of Financial Services ("Superintendent") for an exemption from the electronic filing requirement upon a demonstration of undue hardship, impracticability, or good cause, subject to the Superintendent's approval.

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

5. Rural area participation: Filers in rural areas will have an opportunity to participate in the rule-making process when the proposed rule-making is published in the State Register and posted on the Department of Financial Service's website.

Job Impact Statement

This rule should not adversely impact jobs or employment opportunities in New York State. This rule merely requires insurers and other persons and entities to make certain filings and submissions electronically (a "filer") and permits a filer to submit a request to the Superintendent of Financial Services ("Superintendent") for an exemption from the electronic filing requirement upon a demonstration of undue hardship, impracticability, or good cause, subject to the Superintendent's approval (a "hardship exception request"). Most filers voluntarily make certain filings or submissions electronically. For those filers who are unable to file electronically, they may make a hardship exception request.

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

Valuation of Individual and Group Accident and Health Insurance Reserves

I.D. No. DFS-20-19-00004-P

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

Proposed Action: This is a consensus rule making to amend Part 94 (Regulation 56) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 1303, 1304, 1305, 1308, 4117, 4217, 4310 and 4517

Subject: Valuation of Individual and Group Accident and Health Insurance Reserves.

Purpose: To adopt the 2016 Cancer Claim Cost Valuation Tables.

Text of proposed rule: Section 94.4(b)(1)(ii)(a)(1)(ii)(A) is amended to read as follows:

(A) in order to calculate the claim reserve as of December 31, [2001] 2002 an insurer may increase the adjusted termination rates for months 10 through 24 by 10 percent but must use 100 percent of the adjusted termination rates for all claim durations beyond the 24th month;

Section 94.10(a)(1)(iii)(a) is amended to read as follows:

(a) Contract Reserves. *In establishing contract reserves:*

(1) For contracts issued on or after January 1, 1986 and prior to January 1, 2019: The 1985 NAIC Cancer Claim Cost Tables, ATTACH-

MENT FOUR – D, NAIC Proceedings - 1986 Vol. I, pp. 601 through 624¹ shall be used. A copy of such document as adopted by the National Association of Insurance Commissioners, 2301 McGee Street, Suite 800, Kansas City, MO 64108-2662, in 1986 is available for public inspection at the Department of Financial Services' offices at One Commerce Plaza, Albany, New York 12257 and at One State Street, New York, New York 10004.

(2) For contracts issued on or after January 1, 2019:

(i) For first occurrence and hospitalization benefits: The 2016 Cancer Claim Cost Valuation Tables (2016 CCCVT)² shall be used.

(ii) For all other benefits: an insurer shall use assumptions based on company experience, relevant industry experience, and actuarial judgment. These assumptions should be appropriate for valuation that considers margin for adverse experience.

(3) An insurer may elect to apply the morbidity standards described in subclause (2) of this clause for contracts issued on or after January 1, 2018 and prior to January 1, 2019, provided the same standards are applied to all contracts issued on or after the date elected.

Footnote 10 in section 94.10(a)(1)(iv)(a) is renumbered as footnote 11.

Footnote 11 in section 94.10(c)(1) is renumbered as footnote 12.

¹ NAIC PROCEEDINGS – 1986 VOL. I © Copyright 1986 by National Association of Insurance Commissioners, in Kansas City, Missouri.

² 2016 Cancer Claim Cost Valuation Tables (2016 CCCVT), published by the National Association of Insurance Commissioners, are hereby incorporated by reference in this Part. The 2016 CCCVT are readily available without charge at the following internet address: www.naic.org/documents/01_naic_2017_cancer_claim_cost_valuation_table.xlsx. The 2016 CCCVT are also available for public inspection and copying at the New York State Department of Financial Services, One State Street, New York, NY 10004.

Text of proposed rule and any required statements and analyses may be obtained from: Amanda Fenwick, Department of Financial Services, One Commerce Plaza, Albany, New York 12257, (518) 474-7929, email: amanda.fenwick@dfs.ny.gov

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

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

Consensus Rule Making Determination

This proposed rulemaking adopts the 2016 Cancer Claim Cost Valuation Tables (2016 CCCVT) for first occurrence and hospitalization cancer expense benefit contracts issued on or after January 1, 2019, or if optionally elected, on or after January 1, 2018, replacing the 1985 NAIC Cancer Claim Cost Tables. The 2016 CCCVT is only applicable for first occurrence and hospitalization benefits; therefore, the proposed rulemaking also specifies that assumptions based on relevant experience shall be used for all other cancer expense benefits. The proposed valuation standards are the same standards that were adopted by the National Association of Insurance Commissioners (NAIC) in 2017, and were vetted with the life industry during the NAIC adoption process. Adoption of these valuation standards will result in the same reserve requirements for both domestic and non-domestic insurers doing business in New York. In addition, a correction is being made to the date included in Section 94.4(b)(1)(ii)(a)(1)(ii)(A) as it had been inadvertently changed previously. For these reasons, no person or entity is likely to object to the adoption of this rulemaking.

Accordingly, this rulemaking is determined to be a consensus rulemaking, as defined in State Administrative Procedure Act ("SAPA") § 102(11), and is proposed pursuant to SAPA § 202(1)(b)(i). Therefore, this rulemaking is exempt from the requirement to file a Regulatory Impact Statement, Regulatory Flexibility Analysis for Small Businesses and Local Governments, or a Rural Area Flexibility Analysis.

Job Impact Statement

The proposed amendment to Insurance Regulation 56 should have no impact on jobs and employment opportunities. This proposed rulemaking adopts the 2016 Cancer Claim Cost Valuation Tables (2016 CCCVT) for first occurrence and hospitalization cancer expense benefit contracts issued on or after January 1, 2019, or if optionally elected, on or after January 1, 2018, replacing the 1985 NAIC Cancer Claim Cost Tables. The 2016 CCCVT is only applicable for first occurrence and hospitalization benefits; therefore, the proposed rulemaking also specifies that assumptions based on relevant experience shall be used for all other cancer expense benefits. In addition, a correction is being made to the date included in Section 94.4(b)(1)(ii)(a)(1)(ii)(A) as it had been inadvertently changed previously. Insurers should not need to hire additional employees or independent contractors to comply with these amendments.

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

Security at Automated Teller Facilities

I.D. No. DFS-20-19-00005-P

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

Proposed Action: Amendment of section 301.6 of Title 3 NYCRR.

Statutory authority: Banking Law, sections 10, 14, 75-g, 75-n, art. II-AA; Financial Services Law, sections 102, 201, 202, 301 and 302

Subject: Security at automated teller facilities.

Purpose: To update the regulation to ensure the removal of obsolete language from the reporting requirements under Part 301.

Text of proposed rule: Section 301.6 is amended to read as follows:

(a) (1) The semi-annual report of compliance required to be filed pursuant to the provisions of section 75-g of the Banking Law shall be filed with the Department of Financial Services no later than the 15th day of January and July of each year or the following business day if that day is not a business day. This report shall be certified, under the penalties of perjury, and shall be on a form prescribed by the superintendent. [contain language substantially similar to the following: I, _____, (person at the institution charged with enforcing compliance with article II-AA of the Banking Law) hereby certify, under the penalties of perjury, that all answers contained herein are true, accurate and complete.

(i) All of the automated teller machine facilities operated by _____ (name of institution) which are subject to the provisions of article II-AA of the Banking Law (choose one or more of the following, as applicable):

(a) _____ are in full compliance with the provisions of that article; and/or

(b) _____ are in full compliance with the variance or exemption (as the case may be) granted by the superintendent for the automated teller machine facility (or facilities) located at _____ (specific address); and/or

(c) _____ are not in compliance with the provisions of article II-AA.

(ii) _____ (name of institution) uses and maintains only T-120 (commercial/industrial) grade video tapes, or better, in accordance with the provisions of section 301.5 of this Part.

(2) In cases in which some or all of a banking institution's automated teller machine facilities are not in compliance with the provisions of article II-AA, the semi-annual report shall indicate the following additional information:

(i) the specific address of each such facility;

(ii) the manner in which each such facility fails to meet the requirements of that article and the reasons for such non-compliance; and

(iii) a plan to remedy such non-compliance at each such facility, including the expected correction date.

(b) After notice of any violation of the provisions of section 75-c of the Banking Law is provided to the Department in any semi-annual report or such banking institution is notified of any violation of section 75-c of the Banking Law, such banking institution shall file a report of corrective action pursuant to section 75-g(2) of the Banking Law no later than 10 business days following the filing of the semi-annual report or receipt of such notification of violation. That report shall be certified, under the penalties of perjury, and shall contain language substantially similar to the following:

I, _____, (person at the institution charged with enforcing compliance with article II-AA of the Banking Law) hereby certify, under the penalties of perjury, that all answers contained herein are true, accurate and complete. The automated teller machine facility operated by _____ (name of institution) located at _____ (specific address) which is the subject of one or more violations of the provisions of section 75-c of the Banking Law, is (choose one of the following):

(1) _____ in full compliance with the provisions of section 75-c as of _____ (date); or

(2) _____ not presently in compliance with the provisions of section 75-c and the annexed remedial plan has been implemented and shall be completed by _____; upon the date of completion of the remedial plan, _____ (name of institution) shall file a certified report of compliance with the Department of Financial Services stating that the location meets the requirements of section 75-c. Annexed hereto is a description of the remedial plan.]

Text of proposed rule and any required statements and analyses may be obtained from: Eamon Rock, New York State Department of Financial Services, One Commerce Plaza, Executive Office, Albany, NY 12257, (518) 474-4567, email: Eamon.Rock@dfs.ny.gov

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

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

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

Regulatory Impact Statement

1. Statutory authority: Banking Law (or "BL") Sections 10, 14, 75-g, 75-n, and Article II-AA; Financial Services Law (or "FSL") Sections 102, 201, 202, 301, and 302.

BL § 10 sets forth a declaration of policy, including that banking institutions will be regulated in a manner to insure safe and sound conduct and maintain public confidence.

BL § 14 references, without limitation, the policy of BL § 10 and sets forth certain powers of the Superintendent under the Banking Law, including the power to "make, alter and amend orders, rules and regulations not inconsistent with law" and, under certain enumerated circumstances, to "make variations from the requirements" of the Banking Law, provided such variations are "in harmony with the spirit of the law."

BL Article II-AA is the ATM Safety Act, which was enacted to ensure safety of automated teller machine use by establishing security and reporting requirements for automated teller machine facilities.

BL § 75-g establishes a report of compliance with the requirements of Article II-AA.

BL § 75-n provides that the Superintendent is empowered to promulgate any rules and regulations necessary to define and implement the provisions of Article II-AA of the BL.

FSL § 102 sets forth the purpose and goals of the Financial Services Law including, as relevant, to "establish a modern system of regulation, rule making and adjudication" and to ensure "the prudent conduct of the providers of financial products and services, through responsible regulation and supervision."

FSL § 201 sets forth a declaration of policy for the Department of Financial Services (the "Department") and states, as relevant, that the Superintendent shall take such actions as the Superintendent believes necessary to "foster the growth of the financial industry in New York and spur state economic development through judicious regulation and vigilant supervision."

FSL § 202 establishes the Superintendent of Financial Services and provides the Superintendent with broad rights, powers, duties and discretion with respect to matters under the Financial Services Law, the Banking Law, and the Insurance Law.

FSL § 301 sets forth the powers of the Superintendent under relevant law.

FSL § 302 sets forth the power of the Superintendent to prescribe, withdraw or amend rules and regulations involving financial products and services, including in effectuating and interpreting the provisions of the Financial Services Law, the Banking Law, and the Insurance Law, and in governing the procedures to be followed in the practice of the Department.

2. Legislative objectives: The proposed amendment merely removes the obsolete language contained in current 3 NYCRR Section 301.6; it does not change the requirement to make the report, which is contained in Banking Law Section 75-g. The proposed amendment will ensure that the goals of accurate and timely reporting of compliance with Article II-AA, as anticipated by Section 75-g, are more fully realized.

3. Needs and benefits: Without this amendment the language contained in current 3 NYCRR Section 301.6, which is obsolete language, will continue to be required when fulfilling the report requirements of BL Section 75-g. The proposed amendment will allow the Department to ensure that language required in reporting under Article II-AA of the Banking Law will be current at all times.

4. Costs: The amendment will impose no cost to the Department, as the rule does not change the total amount of submissions required to be made to the Department. The Department does not anticipate that the proposed amendment will have any impact because the statute and not the rule requires the reporting, and the amendment merely removes obsolete language and allows the Department to ensure all future form language remains current.

5. Local government mandates: This amendment would impose no new mandates on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: The rule does not require any additional reporting requirements or paperwork. The statute and not the rule requires the reporting, and the amendment merely removes obsolete language and allows the Department to ensure form language remains current.

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

8. Alternatives: There are no viable alternatives to this regulation. The Department considered not proposing the amendment; however, without the amendment the obsolete language of the current regulation will

continue to be required, and the Department would not be able to ensure that the language of the reporting remains current.

9. Federal standards: There are no minimum standards of the federal government for the same or similar subject areas.

10. Compliance schedule: As the statute and not the rule requires the reporting, and the amendment merely removes obsolete language and allows the Department to ensure form language remains current, there should be no time needed to come into compliance with the regulation.

Regulatory Flexibility Analysis

The Department finds that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments in New York State. The proposed amendment merely eliminates obsolete language from the regulation and ensures that the Department is able to keep reporting forms up to date with current language. The statute, not the regulation – either as it is currently composed or as it would be if the proposed amendment was adopted – creates the reporting requirement; the proposed amendment would not affect this requirement or create any new obligation.

Rural Area Flexibility Analysis

The Department finds that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas in New York State. The proposed amendment merely eliminates obsolete language from the regulation and ensures that the Department is able to keep reporting forms up to date with current language. The statute, not the regulation – either as it is currently composed or as it would be if the proposed amendment was adopted – creates the reporting requirement; the proposed amendment would not affect this requirement or create any new obligation.

Job Impact Statement

The Department finds that the rule will not have a substantial adverse impact on jobs and employment opportunities as apparent from its nature and purpose in New York State. The proposed amendment merely eliminates obsolete language from the regulation and ensures that the Department is able to keep reporting forms up to date with current language. The statute, not the regulation – either as it is currently composed or as it would be if the proposed amendment was adopted – creates the reporting requirement; the proposed amendment would not affect this requirement or create any new obligation.

New York State Gaming Commission

NOTICE OF ADOPTION

Amendment of Multiple Medication Violation (MMV) Penalty Enhancement Rule

I.D. No. SGC-40-18-00006-A

Filing No. 399

Filing Date: 2019-04-29

Effective Date: 2019-05-15

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

Action taken: Amendment of sections 4045.1, 4045.3 and 4045.4 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Amendment of multiple medication violation (MMV) penalty enhancement rule.

Purpose: To enable the Commission to enhance the integrity and safety of thoroughbred pari-mutuel racing.

Text or summary was published in the October 3, 2018 issue of the Register, I.D. No. SGC-40-18-00006-P.

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

Text of rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, PO Box 7500, Schenectady, New York 12031-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Treatment of Thoroughbred Horses with Ultrasound or Electro/Medical Equipment Before a Race

I.D. No. SGC-01-19-00002-A

Filing No. 400

Filing Date: 2019-04-29

Effective Date: 2019-05-15

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

Action taken: Amendment of section 4043.13 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Treatment of thoroughbred horses with ultrasound or electro/medical equipment before a race.

Purpose: To enhance the safety and integrity of pari-mutuel racing.

Text or summary was published in the January 2, 2019 issue of the Register, I.D. No. SGC-01-19-00002-P.

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

Text of rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, PO Box 7500, Schenectady, New York 12031-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Safety Helmet and Vest Requirements

I.D. No. SGC-01-19-00017-A

Filing No. 398

Filing Date: 2019-04-29

Effective Date: 2019-05-15

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

Action taken: Amendment of sections 4006.7 and 4006.8 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Safety helmet and vest requirements.

Purpose: To enhance the integrity and safety of Thoroughbred racing.

Text or summary was published in the January 2, 2019 issue of the Register, I.D. No. SGC-01-19-00017-P.

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

Text of rule and any required statements and analyses may be obtained from: Kristen M. Buckley, Gaming Commission, One Broadway Center, PO Box 7500, Schenectady, New York 12031-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 5th year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Department of Health

NOTICE OF ADOPTION

Update Standards for Adult Homes and Standards for Enriched Housing Programs

I.D. No. HLT-37-18-00008-A

Filing No. 408

Filing Date: 2019-05-02

Effective Date: 2019-05-15

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

Action taken: Amendment of sections 486.7, 487.4, 488.4, 490.4 and 494.4 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 461 and 461-l(5)

Subject: Update Standards for Adult Homes and Standards for Enriched Housing Programs.

Purpose: To prohibit residential providers from excluding an applicant based solely on the individual's status as a wheelchair user.

Text or summary was published in the September 12, 2018 issue of the Register, I.D. No. HLT-37-18-00008-P.

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

Text of rule and any required statements and analyses may be obtained from: 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

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 Health (Department) received comments from seven entities regarding the proposed amendments to sections 486.7, 487.4, 488.4, 490.4 and 494.4 and of Title 18 (Social Services) of the Official Compilation of Codes, Rules and Regulations of the State of New York.

Comment: Several comments were received expressing concern that the proposed regulations prohibit adult homes or enriched housing programs from admitting individuals with mobility impairments or other disabilities, including individuals who require assistance to walk or climb stairs, in violation of the federal Americans with Disabilities Act (ADA) and other federal anti-discrimination statutes.

Response: The proposed regulations mandate that adult homes and enriched housing program operators may not exclude individual applicants or residents on the sole basis of an individual's use of a wheelchair for mobility and that operators make reasonable accommodations to the extent necessary to admit such individuals, consistent with the requirements of the ADA and other laws. The Department expects that all licensed adult homes and enriched housing programs have policies and procedures in place to protect the rights of prospective and current residents under all applicable state and federal laws and regulations. No changes were made to the regulation as a result of this comment.

Comment: Several comments were received expressing concerns that the proposed regulation may prevent adult homes or enriched housing programs from admitting individuals who are bedfast, dependent upon medical equipment, experiencing unmanaged urinary or bowel incontinence, or other types of skilled nursing care are summarily barred from admission and retention in adult homes and enriched housing programs. Commenters asserted that the amended regulations do not afford person-centered, individualized assessments of residents, or contemplate reasonable accommodation.

Response: Adult homes and enriched housing programs are not intended to serve individuals requiring continual nursing care or supervision. Instead, adult homes and enriched housing programs are intended to provide lower-level personal care and supervision to individuals unable or substantially unable to live independently but who do not require higher levels of care. Admission and retention standards ensure that the prospective resident's needs can be safely and thoughtfully accommodated. The operator of an adult home or enriched housing program must assess each applicant and resident in a person-centered manner and with full consideration of the existing population served by the facility. No changes were made to the regulation as a result of this comment.

Comment: The Department received a comment seeking clarification as to the effect the regulation will have on the current operations of an adult home or enriched housing program.

Response: The amended regulations require that the operator not exclude an individual on the sole basis that such individual is a person who primarily uses a wheelchair for mobility. The regulations also remove provisions prohibiting operators from accepting any person who is "chronically chairfast and unable to transfer or chronically requires the physical assistance of another person to transfer." Admissions should be based on the provider's ability to meet the individual needs of each prospective resident. This includes, but is not limited to, the reasonable accommodation of the individual's needs, and the ability to safely evacuate in the event of an emergency. The Department expects that each provider has sufficient staff at all times to meet the needs of the residents it admits and retains in accordance with existing regulations. No changes were made to the regulation as a result of this comment.

Comment: Several comments were received asserting that the regulation creates confusion for some operators. The commenters assert that operators with additional certifications for different levels of care are subject to different admission/retention standards which appear in conflict with the proposed admission/retention standards affecting their base licenses.

Response: The proposed regulation does not require that an operator of an adult home or enriched housing program admit or retain any individual(s) for whom, by virtue of any license or certification conditions, the operator is unable to provide safe and appropriate care. No changes were made to the regulation as a result of this comment.

Comment: Several comments were received by the Department claiming that the proposed regulations require adult homes and enriched housing programs to obtain excessive documentation of applicants' medical and mental health conditions, conflicting with federal laws that prohibit overly broad pre-admission inquiries. The commenters requested that the Department prohibit adult homes and enriched housing programs from making overly broad pre-admission inquiries concerning applicants' physical and mental health.

Response: Consistent with the Rehabilitation Act of 1973, as amended in 1992 and 1998, and the Americans with Disabilities Act of 1990, individuals with disabilities and impairments must be identified, placed appropriately, and provided with the necessary services and supports to promote their highest level of functioning and independence. Pre-admission inquiries concerning the applicants' physical, mental, and medical conditions are necessary to ensure that the applicant is in the most appropriate setting and receiving the necessary services, as well as the safety and security of those already receiving services in those settings. Applicants who believe that their pre-admission inquiries were improperly broad are encouraged to notify the Department for review. No changes were made to the regulation as a result of this comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Schroon Lake Water District

I.D. No. HLT-20-19-00006-P

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

Proposed Action: Repeal of section 114.20 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 201(1)(l) and 1100

Subject: Schroon Lake Water District.

Purpose: The regulation is no longer needed since Horseshoe Pond no longer serves as the public drinking water source.

Text of proposed rule: Pursuant to the authority vested in the Commissioner of Health by Public Health Law (PHL) §§ 201(1)(l) and 1100, section 114.20 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed, in its entirety.

Text of proposed 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

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

Statutory Authority:

Public Health Law (PHL) § 201(1)(l) authorizes the Commissioner to regulate the sanitary aspects of water supplies and to control the pollution

of waters within the State of New York. PHL § 1100 authorizes the Commissioner to promulgate regulations to protect from contamination the public water supplies of the State, the United States, and the institutions, parks, reservations and posts within the State of New York.

Legislative Objectives:

The statutes cited above are intended to empower the Department of Health (Department) to protect public water supplies from contamination.

Needs and Benefits:

10 NYCRR § 114.20 is no longer needed. The regulation was originally promulgated in 1932 to protect Horseshoe Pond, and all watercourses and drainage areas tributary to it, as the primary water supply for the Town of Schroon, in Essex County, New York. The year prior, a dam was constructed at the outlet of Horseshoe Pond, creating a 44-acre reservoir. The New York State Water Power and Control Commission granted the Town of Schroon permission to construct a water supply reservoir at Horseshoe Pond on State-owned lands in the Forest Preserve.

Since the dam was constructed, the New York State Department of Environmental Conservation (DEC), and its predecessor agencies, have been responsible for maintaining the dam in accordance with relevant standards. The Town of Schroon, as the owner and operator of the water system, is responsible for reimbursing DEC for the cost of any maintenance work, and for paying DEC a yearly fee as compensation for the use of Forest Preserve resources as the Town's water supply.

To comply with the federal Surface Water Treatment Rule, the Town of Schroon replaced the unfiltered Horseshoe Pond source with two drilled wells. These wells have supplied the Town's water needs since 2001, after which Horseshoe Pond was considered a backup water supply.

Recently, the Town determined that it no longer wishes to use Horseshoe Pond as a backup water supply, and in April of 2014 passed a resolution to that effect. The Department and DEC agree with the Town that this arrangement is no longer necessary because the Town has an adequate water supply.

Thus, the continued regulation of Horseshoe Pond as a public water supply source is no longer needed and represents an unnecessary cost to both State and local government. Additionally, removing Horseshoe Pond's designation as a public water supply would allow certain recreational activities to occur in the area that are currently prohibited.

Finally, DEC has indicated that after the repeal of this regulation the agency will move forward with removal of the dam, consistent with the desires of the Town, thereby resulting in savings to the State.

Costs:

Repealing this regulation would not result in any increased costs, but would result in cost savings to both State and local government.

Local Government Mandates:

Repealing this regulation would not create any local government mandates.

Paperwork:

Repealing this regulation would not create any increased paperwork.

Duplication:

No federal or State rules or legal requirements duplicate, overlap or conflict with this rule.

Alternatives:

The alternative would be to leave the regulation in place, continuing an unnecessary regulation that imposes costs on both State and local government.

Federal Standards:

Repealing this regulation would not result in exceedance of any minimum standards of the Federal government.

Compliance Schedule:

The repeal of this regulation will become effective upon the publication of the Notice of Adoption in the State Register.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is required pursuant to section 202-(b)(3)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse economic impact on small businesses or local governments, and it does not impose reporting, record keeping or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for these amendments is not being submitted because the amendments will not impose any adverse impact or significant reporting, record keeping or other compliance requirements on public or private entities in rural areas. There are no professional services, capital, or other compliance costs imposed on public or private entities in rural areas as a result of the proposed amendments.

Job Impact Statement

A Job Impact Statement for these amendments is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities.

Office for People with Developmental Disabilities

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Site Based Prevocational Services

I.D. No. PDD-20-19-00007-P

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

Proposed Action: This is a consensus rule making to amend section 635-10.5 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.07, 13.09(b), 13.15(a) and 16.00

Subject: Site Based Prevocational Services.

Purpose: To make technical corrections.

Text of proposed rule: Existing Paragraph 635-10.5(ag)(7) is renumbered and amended as follows:

(5[7]) *Limits on billable service time.*

(i) *On a given weekday, a maximum of the following may be reimbursed for site based prevocational services:*

(a) *One unit of site based prevocational services; or*

(b) *The combination of:*

(1) *One half unit of group day habilitation, or four hours of community prevocational services; and*

(2) *One half unit of site based prevocational services.*

(c) *Additional combinations:*

(1) *For individuals residing in individualized residential alternatives (IRAs), community residences (CRs) and family care homes:*

(i) *One half unit of group day habilitation, or four hours of community habilitation or community prevocational services or a combination of both; and*

(ii) *One half unit of site based prevocational services.*

(2) *For individuals who receive one half unit of supplemental group day habilitation:*

(i) *One half unit of group day habilitation services, or four hours of community prevocational services and one half unit of site based prevocational services; or*

(ii) *One unit of site based prevocational services*

(3) *For individuals who receive one full unit of supplemental group day habilitation, one half unit of site based prevocational services.*

(ii) *Delivery of site based prevocational services is not permitted on a weekend day for individuals residing in IRAs, CRs, and Family Care Homes.*

(iii) *On a given weekend day, a maximum of the following may be reimbursed for site based prevocational services for individuals not residing in IRAs, CRs, and Family Care Homes:*

(a) *One unit of site based prevocational services; or*

(b) *The combination of:*

(1) *One half unit of site based prevocational services;*

and

(2) *Four hours of community prevocational services*

(c) *Additional combinations:*

(1) *For individuals who receive one half unit of supplemental group day habilitation, six hours of community prevocational services or one full unit of site based prevocational services.*

(2) *For individuals who receive one full unit of supplemental group day habilitation, four hours of community prevocational services or one half unit of site based prevocational services.*

(d) *Services specified in clauses (a)-(c) of this subparagraph cannot be provided simultaneously with community habilitation.*

(iv) *Allowable Community Based Prevocational services provided without the individual present may be delivered when the individual is simultaneously receiving another direct Medicaid service. Allowable Site Based Prevocational services provided with the individual present may not be delivered when the individual is simultaneously receiving another direct Medicaid service. An exception is the provision of Medicaid Service Coordination/Care Coordination, which may be provided simultaneously with allowable Site Based Prevocational services activities.*

Existing Paragraph 635-10.5(ag)(5) is renumbered as follows:

(6[5]) *Documentation.* Reimbursement is contingent on compliance with documentation requirements as follows.

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

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

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

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

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

Consensus Rule Making Determination

OPWDD is amending Title 14 NYCRR Section 635-10.5 to correct inadvertent deletion of pertinent regulatory sections. This correction is necessary to ensure providers bill for services in the appropriate manner.

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

Job Impact Statement

A Job Impact Statement for the amendments is not being submitted because it is apparent from the nature and purposes of the amendments that they will not have a substantial adverse impact on jobs and/or employment opportunities.

The regulations amend Title 14 NYCRR 635-10.5 to add back regulatory sections to the regulation which were inadvertently deleted in a previous amendment, regarding billable service time for Site Based Prevocational Services. The amendments will not result in costs, including staffing costs, or new compliance requirements for providers and consequently, the amendments will not have a substantial impact on jobs or employment opportunities in New York State.

Public Service Commission

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-39-18-00007-A

Filing Date: 2019-04-24

Effective Date: 2019-04-24

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

Action taken: On 4/18/19, the PSC adopted an order denying, in part and modifying, in part, National Fuel Gas Distribution Corporation's (NFG) petition for amendments to P.S.C. No. 9 — Gas, implementing a safety pilot program and enhanced energy efficiency initiatives.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments.

Purpose: To deny, in part and modify, in part, NFG's petition for amendments to P.S.C. No. 9 — Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order denying, in part and modifying, in part, National Fuel Gas Distribution Corporation's (NFG) petition for amendments to P.S.C. No. 9 — Gas, implementing a safety pilot program and enhanced energy efficiency initiatives. The use of unspent Conservation Incentive Program funds for Safety Pilot Programs and the enhancement of NFG's existing Low Income Usage Reduction Program and Furnace Repair and Replacement Program is denied. NFG's proposal for a two-year extension of its existing System Modernization Tracker sunset provision is approved, with modifications, to a one-year extension from March 31, 2020 to March 31, 2021 contingent upon NFG not filing a base rate case to become effective prior to April 1, 2021. The tariff amendment filed by NFG is authorized to become effective on May 1, 2019, provided that NFG files a further tariff revision, consistent with the discussion in the Order, on not less than five days' notice, to become effective May 1, 2019, 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-G-0553SA1)

NOTICE OF ADOPTION

Initial Rate Filing

I.D. No. PSC-41-18-00003-A

Filing Date: 2019-04-24

Effective Date: 2019-04-24

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

Action taken: On 4/18/19, the PSC adopted an order approving Three Bears Water Supply, Inc.'s (Three Bears Water) initial electronic tariff schedule, P.S.C. No. 1 — Water, effective May 1, 2019.

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

Subject: Initial rate filing.

Purpose: To approve Three Bears Water's initial electronic tariff schedule, P.S.C. No. 1 — Water.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Three Bears Water Supply, Inc.'s (Three Bears Water) initial electronic tariff schedule, P.S.C. No. 1 — Water, effective May 1, 2019. Three Bears Water is directed to file a supplement cancelling its entire original tariff schedule, P.S.C. No. 1 — Water, on or before April 30, 2019. Three Bears Water is also granted a waiver of the Commission's rate setting authority pursuant to Public Service Law § 5(4), 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-W-0600SA1)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-44-18-00011-A

Filing Date: 2019-04-24

Effective Date: 2019-04-24

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

Action taken: On 4/18/19, the PSC adopted an order directing Niagara Mohawk Power Corporation d/b/a National Grid (National Grid) to file tariff amendments to the Electric Supply Reconciliation Mechanism Whitepaper.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments.

Purpose: To direct National Grid to file tariff amendments to the Electric Supply Reconciliation Mechanism Whitepaper.

Substance of final rule: The Commission, on April 18, 2019, adopted an order directing Niagara Mohawk Power Corporation d/b/a National Grid to file tariff amendments consistent with those provided in the attachment to the Electric Supply Reconciliation Mechanism Whitepaper on not less than three days' notice to become effective May 1, 2019, 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.

(17-E-0238SA4)

NOTICE OF ADOPTION

Termination of the IEAM

I.D. No. PSC-45-18-00003-A

Filing Date: 2019-04-24

Effective Date: 2019-04-24

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

Action taken: On 4/18/19, the PSC adopted an order directing the Joint Utilities to terminate the Interconnection Earnings Adjustment Mechanism (IEAM).

Statutory authority: Public Service Law, sections 4(1), 5(1), (2), 65, 66(1) and (12)

Subject: Termination of the IEAM.

Purpose: To direct the Joint Utilities to terminate the IEAM.

Substance of final rule: The Commission, on April 18, 2019, adopted an order directing Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc. and Rochester Gas and Electric Corporation to terminate the Interconnection Earnings Adjustment Mechanism efforts, 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-M-0429SA5)

NOTICE OF ADOPTION

Modification of National Grid's 2017 Estimating Metric Project List

I.D. No. PSC-47-18-00006-A

Filing Date: 2019-04-24

Effective Date: 2019-04-24

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

Action taken: On 4/18/19, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) petition to modify its 2017 estimating metric project list by excluding 15 projects.

Statutory authority: Public Service Law, sections 5 and 66

Subject: Modification of National Grid's 2017 estimating metric project list.

Purpose: To approve National Grid's petition to modify its 2017 estimating metric project list.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) petition for modifications to its 2017 estimating metric project list by excluding 15 projects. National Grid is also directed to defer on its books from shareholder funds a ratepayer credit of \$2 million, 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.

(12-E-0201SA9)

NOTICE OF ADOPTION

2018 Outcome-Based EAM Collaborative Report

I.D. No. PSC-51-18-00011-A

Filing Date: 2019-04-25

Effective Date: 2019-04-25

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

Action taken: On 4/18/19, the PSC adopted an order approving the recommendations of Consolidated Edison Company of New York, Inc.'s (Con Edison) 2018 Outcome-Based Earnings Adjustment Mechanisms (EAM) Collaborative Report.

Statutory authority: Public Service Law, sections 4(1) and 66(1)

Subject: 2018 Outcome-Based EAM Collaborative Report.

Purpose: To approve the recommendations of Con Edison's 2018 Outcome-Based EAM Collaborative Report.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving the recommended metrics, targets, and allocation of financial incentives contained in Consolidated Edison Company of New York, Inc.'s 2018 Outcome-Based Earnings Adjustment Mechanisms Collaborative Report, 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-E-0060SA8)

NOTICE OF ADOPTION

Community Development Fund Pilot Program

I.D. No. PSC-51-18-00014-A

Filing Date: 2019-04-25

Effective Date: 2019-04-25

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

Action taken: On 4/18/19, the PSC adopted an order approving New York State Electric & Gas Corporation's (NYSEG) petition to waive the expiration and extend the Community Development Fund Pilot Program.

Statutory authority: Public Service Law, section 66

Subject: Community Development Fund Pilot Program.

Purpose: To approve NYSEG's petition to waive the expiration and extend the Community Development Fund Pilot Program.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving New York State Electric & Gas Corporation's (NYSEG) petition to waive the expiration and extend the Community Development Fund (CDF) Pilot Program. NYSEG is authorized to use up to \$80,000 of the CDF Program funds established in the Order Approving Electric and Gas Rate Plans in Accord with Joint Proposal, issued June 15, 2016, to match third party grants and offset the Town of Maine's gas line extension cost, 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.
(15-G-0284SA2)

NOTICE OF ADOPTION**Agreement for the Provision of Water Service and Tariff Waivers**

I.D. No. PSC-01-19-00009-A

Filing Date: 2019-04-25

Effective Date: 2019-04-25

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

Action taken: On 4/18/19, the PSC adopted an order approving the terms of the Agreement for the Provision of Water Service by and between Saratoga Water Services Inc. (SWS) and RM Dalrymple Company, Inc. (RM) and waivers of SWS's tariff, P.S.C. No. 3 — Water.

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

Subject: Agreement for the provision of water service and tariff waivers.

Purpose: To approve the terms of SWS and RM's Agreement for the Provision of Water Service and SWS's tariff waivers.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving the terms and conditions of the Agreement for the Provision of Water Service dated January 7, 2016, by and between Saratoga Water Services Inc. and RM Dalrymple Company, Inc. The requested waivers of Saratoga Water Services, Inc.'s tariff PSC No. 3 — Water, § XI(1) and XIII, and 16 NYCRR § 501.2, 501.3, 501.4, 501.6, 501.9, and 502.3 are granted, 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-0030SA1)

NOTICE OF ADOPTION**Submetering of Electricity**

I.D. No. PSC-01-19-00010-A

Filing Date: 2019-04-26

Effective Date: 2019-04-26

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

Action taken: On 4/18/19, the PSC adopted an order approving 100 East 53rd Street Condominium's (100 East) notice of intent to submeter electricity at 100 East 53rd Street, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 100 East's notice of intent to submeter electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving 100 East 53rd Street Condominium's notice of intent to submeter electricity at 100 East 53rd Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 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-E-0735SA1)

NOTICE OF ADOPTION**Modifications to National Grid's Economic Development Plan**

I.D. No. PSC-01-19-00012-A

Filing Date: 2019-04-24

Effective Date: 2019-04-24

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

Action taken: On 4/18/19, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's modifications to its Economic Development Plan.

Statutory authority: Public Service Law, sections 4, 5 and 66

Subject: Modifications to National Grid's Economic Development Plan.

Purpose: To approve National Grid's modifications to its Economic Development Plan.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's modifications to its Economic Development Plan, 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.

(17-E-0238SA5)

NOTICE OF ADOPTION**Submetering of Electricity**

I.D. No. PSC-02-19-00011-A

Filing Date: 2019-04-26

Effective Date: 2019-04-26

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

Action taken: On 4/18/19, the PSC adopted an order approving Victor Nomad LLC's (Victor Nomad) notice of intent to submeter electricity at 277 Fifth 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 Victor Nomad's notice of intent to submeter electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Victor Nomad LLC's notice of intent to submeter electricity at 277 Fifth 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.

(18-E-0763SA1)

NOTICE OF ADOPTION

Use of NRA Gas Safety Performance Settlement Funds

I.D. No. PSC-02-19-00012-A**Filing Date:** 2019-04-24**Effective Date:** 2019-04-24

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

Action taken: On 4/18/19, the PSC adopted an order authorizing National Fuel Gas Distribution Corporation (NFG) to use all remaining negative revenue adjustment (NRA) gas safety performance settlement funds.

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

Subject: Use of NRA gas safety performance settlement funds.

Purpose: To authorize NFG to use NRA gas safety performance settlement funds.

Substance of final rule: The Commission, on April 18, 2019, adopted an order authorizing National Fuel Gas Distribution Corporation (NFG) to use all remaining negative revenue adjustment (NRA) gas safety performance settlement funds approved in Case 13-G-0136 for its proposed first responder program, subject to it preparing a written plan, within 60 days of the issuance of the Order, detailing how the funds will be distributed and obtaining approval of the Chief of the Pipeline Safety Section prior to disbursing funds. NFG is directed to file quarterly reports beginning July 1, 2019, until all funding is depleted or until otherwise directed by the Commission, identifying the level of funds that have been disbursed, and who the recipients were during the quarter and cumulatively, 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.

(13-G-0136SA8)

NOTICE OF ADOPTION

Tariff Amendments

I.D. No. PSC-02-19-00013-A**Filing Date:** 2019-04-25**Effective Date:** 2019-04-25

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

Action taken: On 4/18/19, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's (National Grid) tariff amendments to P.S.C. No. 219 — Gas, effective May 1, 2019.

Statutory authority: Public Service Law, sections 65 and 66

Subject: Tariff amendments.

Purpose: To approve National Grid's tariff amendments to P.S.C. No. 219 — Gas.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's tariff amendments to P.S.C. No. 219 — Gas, to establish minimum delivery requirements and make clarifying revisions to its Capacity Release Program under Service Classification No. 11 — Load Aggregation, to become effective on May 1, 2019, 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-G-0738SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-04-19-00003-A**Filing Date:** 2019-04-26**Effective Date:** 2019-04-26

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

Action taken: On 4/18/19, the PSC adopted an order approving 283 Greene LLC's (283 Greene) notice of intent to submeter electricity at 283 Greene Avenue, Brooklyn, New York.

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

Subject: Submetering of electricity.

Purpose: To approve 283 Greene's notice of intent to submeter electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving 283 Greene LLC's notice of intent to submeter electricity at 283 Greene Avenue, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 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-E-0776SA1)

NOTICE OF ADOPTION

Certificate of Confirmation and Petition for Limited Waivers

I.D. No. PSC-05-19-00010-A**Filing Date:** 2019-04-24**Effective Date:** 2019-04-24

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

Action taken: On 4/18/19, the PSC adopted an order approving Frontier Communications of New York, Inc.'s (Frontier) Certificate of Confirmation and petition for limited waivers for its cable television franchise with the Town of Wallkill, Orange County.

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

Subject: Certificate of Confirmation and petition for limited waivers.

Purpose: To approve Frontier's Certificate of Confirmation and petition for limited waivers.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving Frontier Communications of New York, Inc.'s application for a Certificate of Confirmation and petition for limited waivers of certain of the Commission's rules in Parts 890 and 895 for its Cable Television Franchise with the Town of Wallkill, 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-0725SA1)

NOTICE OF ADOPTION

Submetering of Electricity

I.D. No. PSC-05-19-00011-A

Filing Date: 2019-04-26

Effective Date: 2019-04-26

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

Action taken: On 4/18/19, the PSC adopted an order approving W2005/Hines West Fifty-Third Realty, LLC's (W2005/Hines) notice of intent to submeter electricity at 53 West 53rd Street, New York, New York.

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

Subject: Submetering of electricity.

Purpose: To approve W2005/Hines's notice of intent to submeter electricity.

Substance of final rule: The Commission, on April 18, 2019, adopted an order approving W2005/Hines West Fifty-Third Realty, LLC's notice of intent to submeter electricity at 53 West 53rd Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc., subject to the terms and conditions set forth in the order.

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

Text of rule may be obtained from: John Pitucci, Public Service Commission, 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-E-0769SA1)

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

Reporting on Energy Sources

I.D. No. PSC-20-19-00008-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 petition filed by Sustainable Westchester, Inc. requesting the Commission revise the rules for the Environmental Disclosure Program (EDP) and the New York Generation Attribute Tracking System (NYGATS).

Statutory authority: Public Service Law, sections 5(1), (2), 53, 65(1), 66(1), (2) and (3)

Subject: Reporting on energy sources.

Purpose: To ensure accurate reporting and encourage clean energy purchases.

Substance of proposed rule: The Commission is considering a petition filed by Sustainable Westchester, Inc., on August 17, 2018, to modify the Commission's Environmental Disclosure Program (EDP) and the New York Generation Attribute Tracking System (NYGATS) to provide separate labels for municipalities in Community Choice Aggregation (CCA) and to increase the frequency of data reporting (the Petition).

Sustainable Westchester is a municipal partnership in Westchester County and the parent organization for the Westchester Power CCA program. The EDP provides customers with verified labels showing the proportions of energy that were purchased from various generator types by the load-serving entity (LSE) providing their energy. The New York Generation Attribute Tracking System tracks the ownership of Generation Attribute Certificates, including Renewable Energy Certificates, and assists in the preparation of Environmental Disclosure Program labels.

The petition requests that the Commission revise the EDP and NYGATS rules or otherwise provide appropriate guidance such that separate EDP labels can be generated for a specific CCA's load, rather than continuing to have all load served by a particular LSE being combined into one label. The petition also requests that more frequent NYGATS and/or EDP reporting be made available.

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.

(14-M-0224SP18)

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

Petition to Submeter Electricity

I.D. No. PSC-20-19-00009-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 the petition of 533 48th Avenue Condominium LLC to submeter electricity at 5-33 48th Avenue, Queens, New York.

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

Subject: Petition to submeter electricity.

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

Substance of proposed rule: The Commission is considering the petition filed by 533 48th Avenue Condominium LLC on March 28, 2019, requesting authorization to submeter electricity at 5-33 48th Avenue, Queens, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

In the petition, 533 48th Avenue Condominium LLC, requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its residents. Submetering of electricity to residential residents is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. 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-0204SP1)

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

Compensation Policies for Certain CHP Projects

I.D. No. PSC-20-19-00010-P

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

Proposed Action: The Commission is considering a petition filed by several ratepayers seeking relief related to combined heat and power (CHP) generation resources installed prior to 2017 in Consolidated Edison Company of New York, Inc.'s service territory.

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

Subject: Compensation policies for certain CHP projects.

Purpose: To consider appropriate rules for compensation of certain CHP resources.

Substance of proposed rule: The Public Service Commission (Commission) is considering the Petition Asking The Public Service Commission To Remedy Certain Actions And Practices petition (Petition), filed on February 28, 2019 by several residential customers (Petitioners) of Consolidated Edison Company of New York, Inc. (Con Edison).

The petition requests that the Commission grant relief regarding decisions, policies and practices of Con Edison that, the petition contends, have caused significant economic damage to the Petitioners as well as certain other Con Edison customers that installed combined heat and power (CHP) generation resources prior to 2017. The petition states that the Petitioners developed CHP resources based on the understanding that energy generated by the CHP resources, which receive net metering compensation under Public Service Law (PSL) § 66-j, would result in credits equivalent to their electric rates and available to be carried over from month to month. The petition explains that instead, Con Edison has carried over surplus credits each month at a significantly lower rate or cashed them out at the same lower rate. The petition requests that the Commission direct Con Edison to carry over monthly credits at a level equivalent to the electric rate each month.

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.

(19-E-0189SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Petition to Submeter Electricity

I.D. No. PSC-20-19-00011-P

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

Proposed Action: The Commission is considering the petition of P8/SILVERBACK 24-16 QPS OWNER LLC, to submeter electricity at 24-16 Queens Plaza South, Long Island City, New York.

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

Subject: Petition to submeter electricity.

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

Substance of proposed rule: The Commission is considering the petition filed by P8/SILVERBACK 24-16 QPS OWNER LLC, on April 2, 2019, to submeter electricity at 24-16 Queens Plaza South, Long Island City, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

By stating its intent to submeter electricity, P8/SILVERBACK 21-16 QPS OWNER LLC, requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its residents. Submetering of electricity to residential residents is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the petition and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. 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-0247SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Waiver of 16 NYCRR Section 894.4(b)(2) Pertaining to Publishing Notice of the RFP in National Publications

I.D. No. PSC-20-19-00012-P

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

Proposed Action: The Public Service Commission is considering a petition for certain waivers filed by the Town of Stephentown, Rensselaer County, in connection with soliciting and awarding an initial cable television franchise for the Town of Stephentown.

Statutory authority: Public Service Law, section 216(1)

Subject: Waiver of 16 NYCRR section 894.4(b)(2) pertaining to publishing notice of the RFP in national publications.

Purpose: To determine whether to waive any rules and regulations.

Substance of proposed rule: The Commission is considering a petition, filed on April 18, 2019, by the Town of Stephentown, Rensselaer County (Town), for a waiver of 16 NYCRR Section 894.4(b)(2), with respect to the solicitation and award of an initial cable television franchise in the Town.

The Town requests a waiver of 16 NYCRR section 894.4(b)(2), which requires publication of the public notice of request for proposals (RFP) in national publications. The Town seeks a waiver of this regulation in order to expedite the franchising process and in light of the rural nature of the Town and the fact that the Town is already aware of two companies interested in providing cable television service in the Town.

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.

(19-V-0291SP1)

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

Notice of Intent to Submeter Electricity and Waiver of Energy Audit

I.D. No. PSC-20-19-00013-P

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

Proposed Action: The Commission is considering the notice of intent of 260 Kent LLC to submeter electricity at 260 Kent Avenue, Brooklyn, New York and request for a waiver of 16 NYCRR section 96.5(k)(3).

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

Subject: Notice of intent to submeter electricity and waiver of energy audit.

Purpose: To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.

Substance of proposed rule: The Commission is considering the notice of intent filed by 260 Kent Avenue LLC on April 11, 2019, to submeter electricity at 260 Kent Avenue, Brooklyn, New York, located in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

By stating its intent to submeter electricity, 260 Kent LLC requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its residents. Submetering of electricity to residential residents is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96. The Commission is also considering the Owner's request for a waiver of 16 NYCRR § 96.5(k)(3), which requires proof that an energy audit has been conducted when 20 percent or more of the residents receive income-based housing assistance.

The full text of the notice of intent and 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-0273SP1)

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

Transfer of Street Lighting Facilities

I.D. No. PSC-20-19-00014-P

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

Proposed Action: The Commission is considering a petition filed by New York State Electric & Gas Corporation requesting approval to transfer certain street lighting facilities to the City of Oneonta, Otsego County, NY.

Statutory authority: Public Service Law, section 70(1)

Subject: Transfer of street lighting facilities.

Purpose: To consider the transfer of street lighting facilities to the City of Oneonta.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed by New York State Electric & Gas Corporation (NYSEG or the Company) on April 17, 2019, requesting approval to transfer ownership of its system of street lighting facilities

installed through the City of Oneonta (City). The street lighting facilities consist of a system of street lighting poles, luminaries, lamps, mast arms, electrical connections and wiring. NYSEG requests the Commission's approval of the transaction pursuant to Public Service Law § 70(1), as the original cost of the proposed assets to be transferred is greater than \$100,000.

Based on plant records, NYSEG represents that the original book cost of the facilities is approximately \$482,651 and the net book value, as of December 31, 2018, is \$188,067. The Company proposes to transfer the street lighting facilities to the City for \$437,892. Upon the closing date of the sale, the City will become solely responsible and liable for the operation, maintenance, and condition of the street lighting facilities. The transfer will not impact the reliability, safety, operation, or maintenance of NYSEG's electric distribution system.

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.

(19-E-0284SP1)

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

Establishment of the Regulatory Regime Applicable to an Approximately 105.8 MW Electric Generating Facility

I.D. No. PSC-20-19-00015-P

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

Proposed Action: The Commission is considering a petition filed by Number Three Wind LLC requesting approval for a lightened regulatory regime in connection with its approximately 105.8 MW electric generating facility, located in Lewis County, New York.

Statutory authority: Public Service Law, sections 2(12), (13), (22), 5(1)(b), 64, 65, 66, 67, 68, 69, 69-a, 70, 71, 72, 72-a, 78, 79, 105-114, 114-a, 115, 117, 118, 119-b and 119-c

Subject: Establishment of the regulatory regime applicable to an approximately 105.8 MW electric generating facility.

Purpose: Consideration of a lightened regulatory regime for an approximately 105.8 MW electric generating facility.

Substance of proposed rule: The New York State Public Service Commission (Commission) is considering a petition filed by Number Three Wind LLC (NTW) on April 17, 2019 requesting approval of a lightened regulatory regime in connection with the approximately 105.8 MW electric generating facility that NTW is developing in Lewis County, New York.

NTW requests an order providing that it will be regulated as an electric corporation under a lightened regulatory regime that may be applied to owners-operators participating in competitive wholesale markets.

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.

(19-E-0287SP1)