
NEW YORK STATE

REGISTER

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State agencies must specify in each notice which proposes a rule the last date on which they will accept public comment. Agencies must always accept public comment: for a minimum of 60 days following publication in the *Register* of a Notice of Proposed Rule Making, or a Notice of Emergency Adoption and Proposed Rule Making; and for 45 days after publication of a Notice of Revised Rule Making, or a Notice of Emergency Adoption and Revised Rule Making in the *Register*. When a public hearing is required by statute, the hearing cannot be held until 60 days after publication of the notice, and comments must be accepted for at least 5 days after the last required hearing. When the public comment period ends on a Saturday, Sunday or legal holiday, agencies must accept comment through the close of business on the next succeeding workday.

For notices published in this issue:

- the 60-day period expires on May 21, 2023
- the 45-day period expires on May 6, 2023
- the 30-day period expires on April 21, 2023

**KATHY HOCHUL
GOVERNOR**

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SECRETARY OF STATE**

NEW YORK STATE DEPARTMENT OF STATE

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NEW YORK STATE REGISTER

Be a part of the rule making process!

The public is encouraged to comment on any of the proposed rules appearing in this issue. Comments must be made in writing and must be submitted to the agency that is proposing the rule. Address your comments to the agency representative whose name and address are printed in the notice of rule making. No special form is required; a handwritten letter will do. Individuals who access the online *Register* (www.dos.ny.gov) may send public comment via electronic mail to those recipients who provide an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings.

To be considered, comments should reach the agency before expiration of the public comment period. The law provides for a minimum 60-day public comment period after publication in the *Register* of every Notice of Proposed Rule Making, and a 45-day public comment period for every Notice of Revised Rule Making. If a public hearing is required by statute, public comments are accepted for at least five days after the last such hearing. Agencies are also required to specify in each notice the last date on which they will accept public comment.

When a time frame calculation ends on a Saturday or Sunday, the agency accepts public comment through the following Monday; when calculation ends on a holiday, public comment will be accepted through the following workday. Agencies cannot take action to adopt until the day after expiration of the public comment period.

The Administrative Regulations Review Commission (ARRC) reviews newly proposed regulations to examine issues of compliance with legislative intent, impact on the economy, and impact on affected parties. In addition to sending comments or recommendations to the agency, please do not hesitate to transmit your views to ARRC:

Administrative Regulations Review Commission
State Capitol
Albany, NY 12247
Telephone: (518) 455-5091 or 455-2731

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KEY: (P) Proposal; (RP) Revised Proposal; (E) Emergency; (EP) Emergency and Proposal; (A) Adoption; (AA) Amended Adoption; (W) Withdrawal

Individuals may send public comment via electronic mail to those recipients who provided an e-mail address in Notices of Proposed Rule Making. This includes Proposed, Emergency Proposed, Revised Proposed and Emergency Revised Proposed rule makings. Choose pertinent issue of the *Register* and follow the procedures on the website (www.dos.ny.gov)

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

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

Department of Audit and Control

NOTICE OF ADOPTION

Deceased Owner

I.D. No. AAC-01-23-00003-A

Filing No. 231

Filing Date: 2023-03-07

Effective Date: 2023-03-22

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

Action taken: Addition of Part 126 to Title 2 NYCRR.

Statutory authority: Abandoned Property Law, section 1414

Subject: Deceased Owner.

Purpose: To clarify that the confirmed date of death of an owner begins the applicable dormancy period as provided in law.

Text or summary was published in the January 4, 2023 issue of the Register, I.D. No. AAC-01-23-00003-P.

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

Text of rule and any required statements and analyses may be obtained from: Marcella Buell, Office of the State Comptroller, 110 State Street, Albany, NY 12236, (518) 473-4138, email: mbuell@osc.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 2026, 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.

Office of Cannabis Management

NOTICE OF ADOPTION

Adult-Use Packaging, Labeling, Marketing and Advertising of Cannabis Products

I.D. No. OCM-24-22-00013-A

Filing No. 230

Filing Date: 2023-03-07

Effective Date: 2023-03-22

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

Action taken: Addition of Parts 128 and 129 to Title 9 NYCRR.

Statutory authority: Cannabis Law, sections 13, 81 and 86

Subject: Adult-Use Packaging, Labeling, Marketing and Advertising of Cannabis Products.

Purpose: To protect the health and safety of consumers and help prevent targeting cannabis products to youth by establishing parameters around the packaging, labeling, marketing, and advertising of adult-use cannabis products.

Substance of final rule: Pursuant to the authority vested in the Cannabis Control Board (Board) by Sections 13, 81 and 86 of the Cannabis Law, Chapter II of Subtitle B of Title 9 of the Official Compilation of Codes, Rules, and Regulations of the State of New York is hereby amended, and a new Part 128 and Part 129 are added, to be effective upon publication of a Notice of Adoption in the New York State Register.

§ 128.1 Definitions

This section defines all definitions used for both Part 128 and Part 129, including but not limited to: attractive to individuals under twenty-one (21); brand or branding for purposes of packaging, labeling, marketing and advertising; child-resistant; exit package; principal packaging display panel; special branding material; and universal symbol.

§ 128.2 Cannabis Product Retail Packaging Minimum Standards.

This section provides the minimum standards for retail packaging for adult-use cannabis products, including but not limited to, the requirements that products be packaged in a manner that is child resistant, tamper-evident, resealable if it contains more than one serving, fully enclosed to minimize oxygen exposure and prevent the contamination or degradation of the cannabis product, and is non-toxic. Further, it establishes that an exit package is optional and not required to be labeled, but may include only the retail dispensary's name, logo, and any special branding materials.

§ 128.3 Cannabis Product Retail Packaging Prohibitions.

This section contains the prohibitions for adult-use cannabis product packaging, including but limited to, a ban on any packaging that may appeal to minors (e.g., cartoons, symbols, characters, celebrities, phrases, toys, or games that are commonly used to market products to minors); features which emits scent or sound; and any modification to the packaging appearance through technology, except for anti-counterfeiting purposes. Further, packaging cannot be made of plastic unless it contains at least 25% post-consumer recycled content.

§ 128.4 Retail Packaging Sustainability Program.

This section details product packaging requirements related to sustainability including, but not limited to, submission of a plan for an environmental sustainability program for cannabis product packaging as part of their application for licensure. This section also defines parameters for appropriate product packaging re-use, including safeguards related to sanitization and maintaining child-resistant packaging requirements. All

environmental sustainability plans must be compliant with Title 16 of the Code of Federal Regulations relating to Commercial Practices in Part 260 regarding Guides for the Use of Environmental Marketing Claims. This section also outlines annual reporting requirements for licensees to the Office of Cannabis Management (Office) related to product packaging amount, weight, size, distribution, sales, source, and cost. Licensees may also need to report progress on their environmental sustainability during the licensing renewal process.

§ 128.5 Cannabis Product Labeling Minimum Standards.

This section details minimum standards for retail labeling for adult-use cannabis products, including but not limited to: the requirements that products be labeled in a manner that includes total single serving amount and total per package amount of THC, CBD, and any other marketed cannabinoid or terpene; total number of servings per package, and if applicable, the recommended serving size; total weight; lot number; list of all inactive and active ingredients; names of any solvents used; expiration date; use by date; proper storage conditions; full contact information of processor; universal symbol; required warnings (including font specifications); usage instructions; and a link to a downloadable certificate of analysis of the laboratory results.

§ 128.6 Cannabis Product Labeling Prohibitions.

This section describes the prohibitions for adult-use cannabis product labeling, including but not limited to, labeling done in a manner that is presented with a special attractiveness for individuals under twenty-one (21); includes false or misleading statements; includes the terms “organic,” “craft,” “gluten-free,” “vegan,” or “kosher” unless the product meets certain requirements relevant to each term; creates consumer confusion; depicts cannabis products or paraphernalia; promotes overconsumption, promotes lowered pricing/discounts/or coupons; depicts an individual under twenty-one (21); or includes special branding material unless authorized.

§ 128.7 Retail Packaging and Labeling Violations and Penalties.

This section outlines packaging and labeling violations that may result in the suspension, cancellation, and revocation of a license; including, but not limited to, the transfer, sale, or intent to sell cannabis products that are not in accordance with Part 128. Additionally, this section provides appropriate forms of compliance correction and product return.

§ 128.8 Severability.

This section establishes that if one provision in Part 128 or its application is held invalid, the remainder of Part 128 and its application is not affected.

§ 128.9 Referenced Material.

This section describes the documents incorporated by reference in Part 128.

§ 129.1 Definitions.

This section refers to section 128.1 for the definitions used in Part 129.

§ 129.2 Adult-Use Marketing and Advertising General Requirements.

This section sets forth the standards for marketing and advertisement of adult-use cannabis products including that all branding on labels, signs, advertisements, and other materials be in accordance with Part 128 and 129 as well as requiring that all marketing, advertising, and any advertisements do not jeopardize public health or safety, promote youth use, or be attractive to individuals under twenty-one (21). The licensee must include required language including, but not limited to: age requirements; safe storage; poison center hotline; and responsible consumption, as well as warnings about impairment; habit forming risk; health risks; and pregnancy/breastfeeding risks. This section also details the requirement that licensees must provide reliable evidence that advertisements are reasonably limited to audiences 90% of which is over twenty-one (21) years of age or older. It defines which information is allowed to be included in advertisements at or in connection with sponsored events. It is the onus of the licensee to assure any third-party agreements related to intellectual property marketing or advertisement are in compliance with Part 128 and 129.

§ 129.3 Adult-Use Marketing and Advertising Prohibitions.

This section delineates the prohibitions for adult-use cannabis banning marketing, advertising, and advertisements from certain practices, including but not limited to: depicting cannabis products that are not in compliance with Part 128; using images or audio that appeal to minors; being in the form of a billboard unless otherwise allowed per section 129.4; using colloquial references or slang to depict cannabis unless used in the licensee name or logo; being false or misleading; promoting over/rapid consumption; promoting THC potency; promoting lowered pricing/discounts/or coupons unless part of an environmental sustainability program per section 128.4(a); making health claims or representing that use of cannabis has curative or therapeutic effects; falsely portraying products as compliant with Cannabis Law; asserting safety of product due to oversight by the Office; depicting individuals under twenty-five (25) using cannabis products or depicts a situation that is attractive to those under the age of twenty-one (21); using “organic,” “craft,” “gluten-free,”

“vegan,” or “kosher” unless certain requirements relevant to each term are met; containing obscene or indecent material; being within 500 feet of school grounds and other public places easily accessible to individuals under the age of twenty-one (21); disparaging other cannabis businesses; encouraging illegal transportation of cannabis or other illicit activity; being distributed as handbills in public areas; including medical symbols; using a commercial mascot; including special branding material unless authorized; or permitting use of non-compliant practices by way of a third-party.

§ 129.4 Outdoor Signs.

This section presents the outdoor sign requirements for licensees authorized to conduct retail sales or delivery to consumers. This section establishes the purpose of outdoor signs is for alerting individuals to the location of an adult-use retail dispensary and content is limited to the following: licensee’s name, entity name or doing business as name; dispensary address, phone number, email address, and website; and nature of the business. Licensees are allowed no more than two outdoor signs per licensed premises, and those signs must be affixed to a permanent structure and must not be on a vehicle. Outdoor signs shall be removed if the Office determines that the outdoor sign violates Cannabis Law or this Part. Licensees may not place signs in facilities, including but not limited to, sports venues, stadiums, fairs receiving state allocations, and shopping malls (unless alerting individuals to the location of a retail dispensary within that mall), unless otherwise specified as adult-only facilities.

§ 129.5 Adult-Use Marketing and Advertising Violations and Penalties.

A licensee shall remove or discontinue advertisements if the Board determines that the marketing or advertising violates the provisions of Cannabis Law or this Part, or if the licensee fails to provide records to the Office upon request that establishes the marketing or advertising meets the requirements of Cannabis Law and this Part, including appropriate action against third-party entities who are out of compliance. Penalties also include, but are not limited to, recommendations to the Board for suspension cancellation or revocation of a license as well as imposition of any fees or fines.

§ 129.6 Severability.

This section establishes that if one provision in Part 129 or its application is held invalid, the remainder of Part 129 and its application is not affected.

§ 129.7 Referenced Material.

This section describes the documents incorporated by reference in Part 129.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections sections 128.1(c)(7), (f), 128.3(a)(5), 128.4(b)(1), (d)(1), 128.5(b)(1), (f)(4), 128.6(a)(1), (2), 128.9, 129.2(c)(1), (2), (d)(4), (f), (i)(1)(i), (j), 129.5(b), 129.3(a)(12)-(14) and 129.7.

Revised rule making(s) were previously published in the State Register on December 14, 2022.

Text of rule and any required statements and analyses may be obtained from: Diana Yang, Office of Cannabis Management, 1220 Washington Avenue, Albany, NY 12226, (888) 626-5151, email: regulations@ocm.ny.gov

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

A Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not being submitted with these rules because the changes are technical and do not necessitate any changes to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Assessment of Public Comment

On November 22, 2022, the Cannabis Control Board (Board) directed the Office of Cannabis Management (the Office) to file revisions to the proposed Part 128 and 129 of Title 9 of the New York Codes, Rules and Regulations for Packaging and Labeling & Marketing and Advertising concerning the packaging, labeling, marketing, and advertising of adult-use cannabis products. Notice of the revised rulemaking appeared on the Office’s website on November 22, 2022 and in the State Register on December 14, 2022. Public comments were received from December 14, 2022 through January 30, 2022. More than 75 individuals and organizations submitted comments on the proposed regulations. Commenters included: individuals, cannabis industry organizations, public health associations, medical associations, environmental groups, broadcasting/media organizations, and other stakeholders.

This summary of the Assessment of Public Comment provides an overview of comments frequently received during the public comment period and the Office’s responses. Only grammatical and technical changes were made in response to comments received. The full Assessment of Public Comment provides a response to all comments received during the

public comment period and can be viewed on the Office's website at: cannabis.ny.gov/regulations.

Comments were received on the definition of "attractive to individuals under twenty-one." Commenters requested additional clarification on what exact factors, such as the specific colors or specific fonts, would cause packaging, labeling, marketing, and advertising to be attractive to individuals under twenty-one (21). Although the regulations were not changed as a result of this comment, the Office has issued guidance on its website to further clarify allowable colors and fonts.

Commenters suggested changes to various definitions with the intent of making marketing and advertising requirements apply only to "paid" advertisements. Restrictions that would only limit these requirements to paid advertisements would increase the cost to the Office of determining compliance and would not protect public health and safety. No changes were made to the regulations as a result of this comment.

Commenters requested clarification on the use of brand representatives as such term is used in the proposed regulations and the associated guidance document. Commenters expressed concern that such a definition could prevent them from setting up tables at events. The proposed regulations do not prevent a licensee from using a brand representative at events or inside dispensaries. The proposed regulations intend to minimize the likelihood that individuals under twenty-one (21) will be exposed to adult-use cannabis product advertisements, and these requirements are necessary to achieve this purpose. No changes were made to the regulations as a result of this comment.

Commenters suggested that child resistance be required on the exit package instead of the retail package. The proposed change is not acceptable because it would increase the risk that children and pets are accidentally exposed to cannabis products and this requirement is included in statute. No changes were made to the regulations as a result of this comment.

Commenter recommended banning certain materials in cannabis product packaging. Commenters specifically suggested a ban on all single-use plastic and any material containing Per- and Polyfluorinated Substances (PFAS). The Board and Office acknowledge this comment and will continue to examine and minimize the environmental impact of New York's cannabis industry. The proposed regulations require licensees to submit information about key packaging metrics. This information will be used, alongside other information, to inform future decisions related to cannabis product packaging and labeling and policies relating to the material composition of cannabis product packaging. No changes have been made to the proposed regulations as a result of this comment.

Commenters made various suggestions on the universal symbol that would change the number of colors it uses or other aspects of the symbol. The universal symbol is intended to demark the product clearly and visibly as one that contains THC and is intended for individuals twenty-one (21) years of age and older. Alterations to the universal symbol that would make it smaller or less recognizable would diminish its ability to be easily recognized by consumers. The New York State universal symbol was tested with focus groups and optimized for ease of understanding. No changes were made to the proposed regulations as a result of this comment.

Commenters stated that phrasing such as "any other information required by the Board" should be removed from the proposed regulations because it is too vague and "all-encompassing." Additionally, commenters emphasized that licensees should be offered flexibility in complying with rules as they change and requested licensees be allowed to submit "corrective action plans" or other opportunities to come into compliance as requirements change. In the event that additional information is required, or additional requirements are identified, the Board and Office will communicate such changes to relevant licensees and may, depending on the nature of the change and the reason for the change, allow sell-down periods, phase-in compliance, or otherwise consider licensee cost in the implementation of such change. No changes have been made to the proposed regulations as a result of this comment.

Commenters stated the importance of flexibility in brand events to promote business and increase brand awareness. Commenters suggested that limitations regarding the information that can be included in advertisements at events be removed at any events which consist entirely of individuals who are at least twenty-one (21). Regardless of the composition of the individuals invited to an event, many charitable, sporting, or similar events are held in public areas or areas that are visible to the general public. Because of this, the proposed regulations limit the information a licensee can use when advertising at, or in connection with, such events. No changes have been made to the proposed regulations as a result of this comment.

Commenters expressed concern that the proposed regulations would require too many warning statements for audio-only ads and believed the proposed regulations would make "15 or 30-second radio spots" ineffective advertising for cannabis products. Commenters stated that they believe the proposed regulations conflict with the Office's guidance docu-

ment on whether these warnings were required. The proposed regulations give the Office the authority to approve advertisements that do not include the rotating warning or NYS HOPEline information. The guidance document referenced by these commenters, which is available at www.cannabis.ny.gov/packaging-and-labeling-guidance, approves all advertisements that contain only auditory elements to not include the rotating warning and NYS HOPEline information. As such, the guidance document and the proposed regulations do not conflict. No changes have been made to the proposed regulations as a result of this comment.

Commenters stated the proposed regulations would preclude licensees that did not sell products to consumers from having branded apparel. Commenters suggested that there be no limitation on where a licensee could sell its apparel. Cannabis brand-related apparel is one way in which cannabis products are made attractive to individuals under twenty-one (21), including to teens and young adults. While restricting apparel to adult sizes may make it unappealing to young children, restrictions on where apparel can be sold are necessary to minimize the appeal to teens and young adults. No changes have been made to the proposed regulations as a result of this comment.

Commenters suggested warning language regarding the "National Poison Control Center" be altered to remove the word "National" because it would mislead callers to believe there is only one center, whereas calls are routed to a local poison center, and to remove the word "Control" because the poison centers have rebranded to remove that word from their name. A technical change has been made to the proposed regulations as a result of this comment to remove the words "National" and "Control."

Commenters suggest proposed regulations are overly strict on limiting promotions and giveaways, including free promotional items. Section 86 of the Cannabis Law requires these regulations prohibit advertising that promotes or implements discounts. Moreover, the proposed regulations do not prohibit all discounts or free promotional items and include language which would permit a licensee to advertise discounts or through free promotional items if such advertisement was part of an approved environmental sustainability program or otherwise approved by the Office. No changes have been made to the proposed regulations as a result of this comment.

Commenters suggested it was "unrealistic" to require that individuals consent before viewing advertisements that are pop-ups or banners. The proposed regulations would allow this consent to be associated with the website on which the advertisement is viewed and its age-gating mechanism and do not require this consent be associated with each unique advertisement. Banner and pop-up ads are forms of advertising which have a history of being presented to consumers aggressively and without consumer consent or desire. Allowing these types of advertisements to be used in that manner would be against the public interest. No changes have been made to the proposed regulations as a result of this comment.

Only technical and grammatical changes were made to the proposed regulations. The full Assessment of Public Comment provides a response to all comments received during the public comment period and can be viewed on the Office's website at: cannabis.ny.gov/regulations.

Initial Review of Rule

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

NOTICE OF ADOPTION

Cannabis Laboratories

I.D. No. OCM-24-22-00014-A

Filing No. 232

Filing Date: 2023-03-07

Effective Date: 2023-03-22

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

Action taken: Addition of Part 130 to Title 9 NYCRR.

Statutory authority: Cannabis Law, sections 13, 43, 89, 105 and 129

Subject: Cannabis Laboratories.

Purpose: To protect public health and safety through regulating and permitting laboratories to ensure accurate and reliable results are released by such laboratories and aiding in the determination that final cannabis products accurately reflect potency and meet regulatory limits for contaminants.

Substance of final rule: A new Part 130 is added to Chapter II, of Subtitle B of Title 9 (Executive) of the Official Compilation of Codes, Rules and Regulations of the State of New York, regulating cannabis testing labora-

tories in New York State to be effective upon publication of a Notice of Adoption in the New York State Register.

§ 130.1 Definitions. Section 130.1 defines terms used in Part 130, including but not limited to: analyte, analyte withdrawal, approved method, cannabis laboratory permit, certificate of analysis, data integrity training, laboratory regulatory audit, lead technical director, permit year, phytocannabinoid, proficiency test (PT), PT provider, PT provider accreditor, quality assurance officer, quality system, state reference laboratory, and technical director; as a result of public comments, amendments were made to PT provider and state reference laboratory and a new definition of true party of interest was added.

§ 130.2. Cannabis Laboratory Permit Application. Establishes a process under the Office of Cannabis Management (Office) for a cannabis laboratory to apply for a permit which includes the minimum requirements necessary to fill out an application to be authorized as a cannabis laboratory, including but not limited to requirements regarding required information submissions, analyte approvals, performance on proficiency test and proficiency test sample, quality documentation, facility requirements and withdrawal of an application. Amended to authorize laboratories certified by the Department of Health as provisional permittees.

§ 130.3 Cannabis Laboratory Fees. Establishes a process under the Office whereby a cannabis laboratory seeking a permit shall pay a non-refundable application fee of \$1,000 and an annual permit fee based on its gross annual receipts, which this regulation establishes minimum criteria to calculate based on varying permitting scenarios. The permit year is April 1 – March 31.

§ 130.4 Cannabis Laboratory Permit Renewal Application. Establishes a process under the Office for a cannabis laboratory to renew its permit annually, including timeframes for renewals. A cannabis laboratory will need to pay a non-refundable application fee of \$1,000 as part of the renewal process.

§ 130.5 Cannabis Laboratory Permit Issuance. Establishes a process under the Office for a cannabis laboratory to receive a provisional permit and full cannabis laboratory permit. This section lists the requirements that a laboratory shall have, including ISO 17025 ISO/IEC 17025 accreditation; qualified technical staff; an acceptable proficiency test history; and paid all applicable fees. In addition to meeting the requirements for a provisional permit, a laboratory shall have successfully completed a laboratory regulatory audit performed by the Office of Cannabis Management.

§ 130.6 Cannabis Laboratory Permit or Renewal Denial. Establishes a process under the Office for a cannabis laboratory's permit to be denied. This section also lists several reasons as to why a cannabis laboratory's permit may be denied, including, but not limited to, failure to submit a completed application; failure to pay an application fee; failure of laboratory staff to meet the personnel qualifications of education, training, and experience; and failure to successfully analyze and report proficiency test results.

§ 130.7 General Cannabis Laboratory Requirements. Establishes a process under the Office whereby a cannabis laboratory maintains a permit, which includes a list of requirements that a laboratory shall have, including, but not limited to: ISO 17025 ISO/IEC 17025 accreditation; qualified technical staff; a periodic laboratory regulatory audit performed by the Office; completed proficiency tests; and no interest in a registered organization, adult-use cultivator, processor, distributor, retail dispensary, cooperative, microbusiness, delivery, nursery, on-site consumption, registered organization cultivator processor distributor retail dispensary, registered organization cultivator processor distributor, cannabinoid hemp processor, any other license pursuant to the Cannabis Law; and, is located in New York State, until such time interstate commerce of cannabis is permissible. Amendments were made to include parameters surrounding cannabis laboratory ownership interests, authorization for additional temporary emergency measures to address laboratory capacity as needed, and to test samples in the order in which they were received.

§ 130.8 Required Proficiency Testing. Establishes a process under the Office requiring a potential or permitted cannabis laboratory to participate in proficiency testing, which includes but is not limited to: submitting reports directly to the proficiency testing provider, receiving testing results, obtain and maintain approval for given analytes or groups of analytes; supplemental proficiency tests; and supplying proficiency test scores. Amendments were made that required a list of proficiency test providers and analytes to be proficiency tested available on the Office's website and authorizing unscheduled proficiency tests to serve as a supplemental proficiency tests, and to clarify timeframe requirements for satisfactory proficiency tests.

§ 130.9 Unsatisfactory Proficiency Test Performance. Provides a list of the reasons why a cannabis laboratory's approval for an analyte or group of analytes may be unapproved, which include failing two (2) out of three (3) most recent proficiency tests attempted for a particular analyte or group of analytes; or failing to provide a corrective action report to the Office within thirty (30) calendar days of a request for a corrective action report

from the Office. This section also provides the conditions that a cannabis laboratory must meet to regain approval for an analyte or group of analytes. A cannabis laboratory shall re-establish a proficiency test history of two (2) successful proficiency test results out of the three (3) most recent attempts for an analyte or group of analytes tested. Amendments were made to update the timeframes for laboratories to submit a written plan of correction to within 30 days of the laboratory regulatory audit.

§ 130.10 Laboratory Regulatory Audit. Establishes the requirements for a cannabis laboratory to be periodically audited as well as audited to ISO 17025 ISO/IEC 17025 accreditation by a laboratory accreditation authority approved by the Office and contains the required process for a cannabis laboratory to respond to any findings as a result of laboratory regulatory audit by the Office.

§ 130.11 General Cannabis Personnel Qualification. Lists requirements for personnel employed by cannabis laboratories, including minimum age requirements, establishment of an employee training program and implementation of data integrity training for each employee of the cannabis laboratory. Clarifying language was included that this section that applies to cannabis laboratory personnel and that the laboratory must comply with all applicable laws and regulations, which include health and safety, hazardous materials and handling hazardous materials.

§ 130.12 Cannabis Technical Director Qualifications. Provides the minimum educational and experience requirements for a cannabis laboratory technical director and includes an exemption for an individual who meets the experience requirements but not the educational and/or credential requirements of this Part. Clarifying language was included that an individual without the educational requirements but has been functioning as a technical director before Part 130 regulations are adopted can qualify as a technical director for the cannabis laboratory.

§ 130.13 Cannabis Quality Assurance Officer Qualifications. Provides the minimum educational and experience requirements for a quality assurance officer of a cannabis laboratory and includes the duties and responsibilities of a quality assurance officer.

§ 130.14 Cannabis Laboratory Technician Qualifications. Provides the minimum educational and experience requirements for a cannabis laboratory technician and was amended to reduce the experience timeframe for laboratory technicians to 6 months.

§ 130.15 Approval of Laboratory-Developed Methods. Details the data and information that shall be submitted by a cannabis laboratory seeking approval for use of a laboratory-developed method as an alternative to using a currently approved method and the process the Office takes to respond or deny a request for method approval, including conducting an independent review of any approved method to substantiate or refute its technical merit.

§ 130.16 Laboratory Sampling Firm Approval. Establishes the requirements under the Office of Cannabis Management whereby a laboratory sampling firm obtains approval, which is granted for a two-year period as well as rules regarding conditional approval.

§ 130.17 Laboratory Sampling Firm Fee. Requires a laboratory sampling firm seeking approval to pay a non-refundable application fee of \$500 and a two-year approval fee of \$1,000.00, creating grounds for non-renewal if the laboratory sampling firm fails to pay the appropriate fee.

§ 130.18 Laboratory Sampling Firm Reapproval. Establishes the requirement under the Office of Cannabis Management whereby a laboratory sampling firm is reapproved for another two-year term, including rules on submitting a reapproval application and associated fees.

§ 130.19 Laboratory Sampling Firm Requirements. Establishes the requirements under the Office that shall be met by a laboratory sampling firm, including sampling and transportation, safety and security of samples being collected and transported, and having a shipping manifest accompany all samples collected and transported.

§ 130.20 Cannabis Sampling Technician Qualifications. Provides the minimum educational and experience requirements for sampling technicians.

§ 130.21 Sampling of Cannabis Product and Medical Cannabis. Establishes the requirements under the Office for a laboratory sampling firm to collect representative medical or adult-use cannabis samples using an acceptable process to collect and transport the sample safely and securely with assurance of impartiality, including but not limited to, the physical presence of the requesting licensee to observe sampling firm obtaining the sample, video-recording of the sampling including batch number, and paperwork associated with once the sample has been selected.

§ 130.22 Testing of Cannabis Product and Medical Cannabis. Establishes the required analytes to be tested and their respective limits under the Office, including a requirement that each laboratory technician shall complete a demonstration of capability as well as the use of analyte or groups of analytes for testing phytocannabinoid profiles. This was amended to clarify that testing includes analytes in addition to contaminants.

§ 130.23 Certificates of Analysis. Establishes a time frame for a can-

nabis laboratory to report results of sample testing to the Office, as well as lists the information that shall be included on a certificate of analysis issued by a cannabis laboratory to a cannabis licensee and the Office, including, but not limited to: a title, the name of the cannabis laboratory, a contact person and contact information; permit identifier; description of the sample tested; and the methods used.

§ 130.24 Cannabis Shipping Manifest. Establishes the requirements under the Office for a laboratory sampling firm to ensure any collected and transported samples are accurately reflected on a shipping manifest and any discrepancies are acted on between sampling at the licensee and transport to the laboratory.

§ 130.25 Sample Chain of Custody. Establishes a process for a chain of custody procedure and lists the information that shall be included on chain of custody, including, but not limited to: the name of the cannabis laboratory, a contact person and contact information; permit identifier; description of the sample tested; sampling and transportation conditions; information about the licensee requesting the sampling; and change of custody information.

§ 130.26 Record Retention. Establishes the retention of certain records for a cannabis laboratory and a laboratory sampling firm to be a minimum of five (5) years, including but not limited to: sample information; procedures regarding personnel; quality manuals; internal audits; management review and purchasing records. This was amended to clarify record retention requirements to include current, previous, and archived versions of the requested records, electronically or in hardcopy.

§ 130.27 Security, Safety and Storage of Cannabis. Provides the security, safety and storage requirements that shall be met by a cannabis laboratory.

§ 130.28 State Reference Lab. Establishes the use of a state reference laboratory to provide the Office with support for tasks such as compliance and enforcement related testing, as well as method development.

§ 130.29 Summary Suspension, Suspension, Cancellation and Revocation. Establishes the administrative actions that may be taken on a cannabis laboratory when it fails to meet the cannabis laboratory requirements specified in Part 130. This was amended to remove specificity regarding findings by a municipality as grounds for revocation.

§ 130.30 Severability. Added to provide for the independent treatment of one provision to another such that in the event any provision or its application is found to be invalid the remaining provisions continue to be valid.

Final rule as compared with last published rule: Nonsubstantial changes were made in sections 130.7(c)(1) and 130.19(l).

Revised rule making(s) were previously published in the State Register on December 14, 2022.

Text of rule and any required statements and analyses may be obtained from: Diana Yang, Office of Cannabis Management, 1220 Washington Avenue, (888) 626-5151, email: regulations@ocm.ny.gov

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

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Assessment of Public Comment

COMMENT: A commenter stated that the NYS potency tax is going to make it an extreme struggle for the legitimate cannabis market to succeed and compete with the current well-established grey market and requested elimination of the potency tax so that NYS legal cannabis market can be a positive example for the rest of the nation.

Response: The Office acknowledges these comments, but this comment is outside the scope of the proposed regulations. No changes were made to the proposed regulations as a result of these comments.

COMMENT: The commenter recommended to expand the scope of Shiga-toxin producing E.coli and to reinstate action limits for total viable bacteria counts and total yeast and mold counts.

Response: The Office acknowledges these comments, but these comments are outside the scope of the proposed regulations as testing analytes are in policy guidance. The Office will consider the comment for guidance. No changes were made to the proposed regulations as a result of these comments.

DEFINITIONS (130.1) COMMENTS

COMMENT: Comments were received in regard to the definition of True Party of Interest in Section 130.1(w). The commenter stated that only those with 10% or more of interest in a laboratory or sampling firm is a true party of interest, meaning that a person with under 10% of direct or indirect interest is not a true party of interest and is not bound by the requirements of a true party of interest. The commenter further stated that a person with over 5% or less than 10% of direct or indirect interest in a cannabis laboratory is not a true party of interest and that the current defi-

nition of a passive investor relates to those who hold less than 5% interest in a licensee with an aggregate ownership interest whose shares are publicly traded. The commenter felt that the requirement of "publicly traded" ownership interest conflicts with the current cannabis industry, as senior stock exchanges (such as the New York Stock Exchange and the NASDAQ) do not allow companies that operate in a federally illegal industry (which would include all Adult-Use License Types) to list. The commenter requested section § 130.1(w) be revised, and additional section § 130.1(x) should be added.

RESPONSE: The Office acknowledges these comments and may consider them in future guidance and rulemaking. No changes were made to the proposed regulations as a result of these comments.

FEES (130.3) COMMENTS

COMMENT: A commenter recommended capping the application change fee referenced in § 130.3(b) of the Proposed Regulations to no more than \$200.00 to encourage laboratories to expand their testing capacity.

RESPONSE: The Office acknowledges this comment. No changes were made to the proposed regulations as a result of the comment.

RENEWAL (130.4) COMMENTS

COMMENT: "§ 130.4(b) of the Proposed Regulations states that "An application to renew a permit issued under this part shall be filed with the Office not more than six (6) months nor less than four (4) months prior to the expiration thereof. If a renewal application is not filed within four (4) months prior to the expiration thereof, the Board may determine that the permit shall have expired and become void on such expiration date." This provision currently only allows a two-month window for a renewal application. This window may not be sufficient for renewal applicants and the Office should consider revising this section to either; "shall be filed with the Office not more than seven (7) months nor less than four (4) months prior..." or "shall be filed with the Office not more than six (6) months nor less than three (3) months prior..."

RESPONSE: Section 130.4(b) of the Proposed Regulations is providing the timeframe in which an applicant must file their renewal application, not the timeframe in which the Office must approve the renewal application that has been submitted. This allows a two-month window for the applicant to submit the application, and up to six months for the applicant's renewal to be approved by the Board. No changes were made to the proposed regulations as a result of these comments.

LABORATORY REQUIREMENTS (130.7) COMMENTS

COMMENT: A comment was received stating: "§ 130.7(e)(2) of the Proposed Regulations states that "neither a cannabis laboratory nor its true parties of interest shall have any interest, direct or indirect, including, but not limited to, as a passive investor, landlord, financier or management service provider, to any other license under Article III or Article IV of Cannabis Law." This prohibition on any Laboratory True Party of Interest, including a passive investor, from being"

RESPONSE: The comment was incomplete. No changes were made to the proposed regulations as a result of these comments.

COMMENT: Comment was received requesting a definition for "business with limited resources", which is referenced in both § 130.7(g) and § 130.7(h).

RESPONSE: Both sections refer to "business with limited resources as determined by the Office" (emphasis added), which affords the Office the ability to determine what a business with limited resources is. No changes were made to the proposed regulations as a result of these comments.

COMMENT: A commenter expressed concern with the lack of dedicated capacity for research and development (R&D) testing, stating that R&D testing is essential to product development and efficient operations. The commenter further described the benefits of R&D testing, including ability to identify the expected potency of the product, ability to remediate or destroy problematic cannabis before final packaging and testing, helping to save unnecessary costs to licensees.

RESPONSE: The Office acknowledges these comments and may consider them in future guidance and rulemaking. No changes were made to the proposed regulations as a result of these comments.

QA OFFICER QUALIFICATIONS (130.13) COMMENTS

COMMENT: "A commenter expressed concern with the requirements set forth in § 130.13(a) stating that this section is unduly burdensome, in that in addition to training or experience, knowledge of the quality system, and knowledge of the analytical methods for which they perform data review, an appointed office must also have a bachelor's degree in one of the specific degrees listed. The commenter suggested that this be expanded to include any who may possess a Bachelor of Science, along with the other requirements.

RESPONSE: The Office acknowledges these comments and may consider them in future guidance and rulemaking. No changes were made to the proposed regulations as a result of these comments.

SAMPLING FIRM REQ (130.16) COMMENTS

COMMENT: A commenter stated that section 130.16(c) does not

specify the application process for a Laboratory Sampling Firm and stated that this section should be edited to provide an appropriate method by which applicants may submit an application and general information to be requested in the application.

RESPONSE: Application information can be found on the Office of Cannabis Management website under the Labs and Sampling Firm tabs. No changes were made to the proposed regulations as a result of these comments.

SAMPLING FIRM LAB REQ (130.19) COMMENTS

COMMENT: A commenter stated that § 130.19(k)(1) should be revised to read: "A laboratory sampling firm and its true parties of interest may have an interest in more than one cannabis laboratory and/or sampling firm if they are:" since a cannabis laboratory may already have interest in one sampling firm, even if they do not comply with § 130.19(k)(1)(i) or (ii).

RESPONSE: The intent of this section is to allow a laboratory sampling firm and its true parties of interest to have an interest in more than one cannabis laboratory and sampling firm. A technical change was made to sections 130.19(k)(1) and 130.7(e)(1) as a result of this comment.

SAMPLING OF PRODUCT (130.21) COMMENTS

COMMENT: Comment was received that the Proposed Regulations do not explicitly contemplate final product sampling with the reliance on guidance for this matter. The commenter stated that the packaging requirements mandating that the entire lot of final product from which a sample is collected from be packaged for retail sale prior to laboratory testing does not, in practice, allow for remediation in the case of a microbial failure.

RESPONSE: The Office acknowledges these comments and may consider them in future guidance and rulemaking. No changes were made to the proposed regulations as a result of these comments.

REFERENCE LAB (130.28) COMMENTS

COMMENT: "A commenter stated that, within § 130.28, there is no mention of who may be chosen for a State Reference Lab and no criteria for which the Office may contract a cannabis laboratory. The commenter suggested revision of this section to more clearly indicate who may be selected as a State Reference Lab, their rights, and precluded activities."

RESPONSE: No changes were made to the proposed regulations as a result of these comments.

Initial Review of Rule

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

Department of Environmental Conservation

EMERGENCY/PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Regulations Governing Recreational and Commercial Fishing for Striped Bass

I.D. No. ENV-12-23-00005-EP

Filing No. 229

Filing Date: 2023-03-07

Effective Date: 2023-03-07

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

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

Statutory authority: Environmental Conservation Law, sections 11-0303, 11-1521, 13-0105, 13-0339, 13-0342 and 13-0347

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

Specific reasons underlying the finding of necessity: This emergency rulemaking is necessary for the preservation of the general welfare. Failure to adopt these amendments by emergency rulemaking to reduce recreational release mortality of Atlantic striped bass will result in population declines and will impede the rebuilding plan for the striped bass stock. Failure to adopt the measures in this rulemaking could also result in federal closure of New York State's recreational and commercial striped bass fisheries due to New York State's non-compliance with mandatory Interstate Fishery Management Plan (FMP) for Atlantic striped bass.

The Department of Environmental Conservation (DEC) is amending the current recreational regulations for Atlantic striped bass to remain in compliance with the Atlantic States Marine Fisheries Commission's (ASMFC) FMP for Atlantic striped bass. The new management measures adopted by ASMFC require that the use of gaffs be prohibited in the recreational striped bass fishery to reduce recreational release mortality of a currently overfished stock, as specified in Amendment 7 of ASMFC's FMP for Atlantic striped bass. Commercial regulations are being amended to update federal reporting requirement language to match the current federal process, and to remove the outdated commercial striped bass tag price cap which is no longer economically sustainable for industry vendors.

The promulgation of these regulations on an emergency basis is necessary to maintain compliance with the FMP for striped bass. The normal rulemaking process would not allow the rule to take effect before the start of the recreational fishing season on April 15, 2023.

Subject: Regulations governing recreational and commercial fishing for striped bass.

Purpose: To amend 6 NYCRR Part 40 pertaining to recreational and commercial regulations for striped bass.

Text of emergency/proposed rule: 6 NYCRR Section 40.1, "Marine fish – open seasons, size and catch limits" is amended to read as follows:

New paragraph 40.1(a)(13) is adopted to read as follows:

(13) A "gaff" means any implement or device used, after a fish has been caught by other means, to puncture, hook, or penetrate the fish during the landing, retrieval or release of the fish. "Gaff" also means the act of using a gaff.

New subparagraph 40.1(g)(2)(ii) is adopted to read as follows:

(ii) When fishing recreationally, the use of a gaff to land or assist in landing striped bass is prohibited. No person shall gaff or attempt to gaff striped bass at any time when fishing recreationally.

Existing paragraph section 40.1(j)(13) is amended to read as follows:

(13) Each permittee will be provided, in batches, a number of tags equal to their individual quota. A permittee will be required to pay a fee [not to exceed 25 cents] per tag issued to them. The department will advise permit holders of the fee per tag each year when commercial tag order forms are distributed. The fee for tags must be paid in full before the permittee receives their tag allocation for the current year. No refunds or replacements will be made for tags which are lost, broken, confiscated or unused.

Existing paragraph section 40.1(j)(20)(i) is amended to read as follows:

(i) Fishing vessel trip reports. Any person who is a holder of a striped bass commercial permit shall complete and submit an accurate fishing vessel trip report for each commercial fishing trip, detailing all fishing activities and all species landed, pursuant to paragraph (c)(1) of this section. Fishing vessel trip reports shall be completed, signed, and submitted to the department for each month; if no fishing trips were made for striped bass during a month, a report must be submitted for that month stating no striped bass trips were made. Permit holders who operate or who fish from a federally permitted [vessels] vessel and take striped bass must submit the federal trip information to the department for each trip. This trip information includes but is not limited to the permit holder's permit number, the federal trip identification number, the number of tags used, the amount of striped bass landed (in pounds), disposition of striped bass, gear type, and tag serial numbers. This information must be reported on a form approved by the department. [complete and submit the State (blue) copy of their fishing vessel trip report (NOAA Form No. 88-30) to the department for each commercial striped bass trip.] Permit holders must submit the last report five days after the close of the commercial striped bass season or within five days after all striped bass tags are used. Permit holders must submit all required information, including, but not limited to, the name of the vessel, the permit number(s), trip type, all species taken, the striped bass tag serial numbers used for the trip, the weight (in pounds), and number of striped bass taken, the name and signature of the permit holder, and the date signed. All reports must be complete. Incomplete fishing vessel trip reports or unsigned reports will not satisfy these reporting requirements and may be returned to the permit holder who submitted them for completion. Once commercial striped bass permit holders have reported 100 percent use of the individual allocation of tags, they are no longer required to submit reports for striped bass. Permit holders who fail to submit acceptable fishing vessel trip reports to the department may be denied future commercial striped bass fishing permits pursuant to Part 175 of this Title.

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 June 4, 2023.

Text of rule and any required statements and analyses may be obtained from: Caitlin Craig, New York State Department of Environmental Conservation, 123 Kings Park Blvd., Kings Park, New York 11754, (631) 444-0457, email: caitlin.craig@dec.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: The Department has determined that the Notice of Emergency Adoption is a Type II action and no further review is required pursuant to Article 8 of the ECL, the State Environmental Quality Review Act. The Department has determined that the Notice of Proposed Rule Making is an unlisted action pursuant to Article 8 of the ECL, and a Short Environmental Assessment Form and negative declaration have been prepared and are on file. A Coastal Assessment Form is also on file.

Regulatory Impact Statement

1. Statutory authority:

Environmental Conservation Law (ECL) § 13-0105 directs that it shall be “the policy of the state that the primary principle in managing the state’s marine fishery resource is to maintain the long-term health and abundance of marine fisheries resources and their habitats, and to ensure that [fisheries] are sustained in usable abundance and diversity for future generations.” The legislature further directed that “the management of the state’s transboundary and migratory species shall be consistent with [all] interjurisdictional management plans, interstate or state-federal.”

ECL §§ 11-0303 and 13-0339 authorize DEC to adopt regulations governing Atlantic striped bass including: size limits, catch and possession limits, open and closed seasons, closed areas, restrictions on the manner of taking and landing, and other management measures.

ECL §§ 11-1521 and 13-0347 establish additional provisions for striped bass management in the Hudson River and marine district, respectively.

ECL § 13-0342 authorizes DEC to adopt regulations which require reporting of catch and effort data for all categories of commercial food fish license, including the Commercial Striped Bass Harvester Permit.

2. Legislative objectives:

It is the objective of the above-cited legislation that DEC manages marine fisheries to optimize resource use for recreational and commercial harvesters in a manner that is consistent with federal marine fisheries conservation and management policies including all applicable interstate fishery management plans. These amendments will ensure that New York maintains compliance and consistency with requirements of the Atlantic States Marine Fisheries Commission’s (ASMFC) Interstate Fishery Management Plan (FMP) for Atlantic striped bass.

3. Needs and benefits:

This rule making must be adopted on an emergency basis for the preservation of the general welfare by ensuring that New York State maintains compliance with the requirements of ASMFC’s FMP for Atlantic striped bass. Failure to maintain compliance with this FMP may result in the federal closure of New York State’s Atlantic striped bass fishery. FMPs are designed to promote the long-term sustainability of managed marine species, preserve the States’ marine resources, and protect the interests of both commercial and recreational fishermen.

The proposed new management measures are required by Amendment 7 of ASMFC’s FMP for Atlantic striped bass, which is designed to reduce recreational release mortality of striped bass by prohibiting the use of gaffs. To comply with this directive, New York State must amend 6 NYCRR Part 40 to ensure that the State’s regulations are consistent with achieving the required gear restriction. Additionally, New York must maintain a commercial tagging program to remain in compliance with the FMP for Atlantic striped bass. Removal of the commercial price cap is necessary to ensure that New York has a functional commercial tagging program that can be supported by the commercial tagging industry. Failure to adopt these regulations immediately as an emergency rule could result in population declines to critical Atlantic striped bass fishery stock which is currently overfished, and the potential closure of New York State’s Atlantic striped bass fishery by the federal government due to New York State’s failure to comply with mandatory FMP requirements.

4. Costs:

This rule making may impose cost to the recreational fishery, including private recreational fishers, and party and charter boat operators, as they may decide to replace gaffs with additional tools that minimize injury to the fish. Additionally, this rule making will directly impact the commercial fishery, as commercial striped bass harvesters may see an increase in price for commercial tags to match industry standards and current economic conditions. It is expected that the price per tag for 2023 will be \$0.28 per tag, which is a \$0.03 increase from the 2022 price per tag of \$0.25 per tag.

5. Local government mandates:

The proposed rule does not impose any mandates on local governments.

6. Paperwork:

None.

7. Duplication:

The proposed amendment does not duplicate any state or federal requirement.

8. Alternatives:

The ASMFC Management Board voted on and approved unanimously the prohibition of the use of gaffs when fishing for striped bass recreationally. Implementation of any other option would place New York State out of compliance with the FMP.

A “no action” alternative for amending the commercial regulations to keep New York in compliance with ASMFC’s requirement of a commercial tagging program for Atlantic striped bass could result in a closure to the commercial fishery. The current price cap is no longer sustainable in the current economic climate for maintaining a working tagging program. Without a company to supply tags, New York risks being shut down for being out of compliance with the FMP, and potentially causing economic hardship for commercial harvesters. Tags are an essential part in the Department’s ability to regulate the commercial harvest of striped bass in New York.

9. Federal standards:

The amendments to 6 NYCRR Part 40 are in compliance with Amendment 7 of ASMFC’s FMP for Atlantic striped bass. Additionally, the FMP for Atlantic striped bass requires that states with commercial fisheries such as New York maintain a commercial tagging program to regulate harvest.

10. Compliance schedule:

The proposed regulations will take effect immediately upon filing with the Department of State, and regulated parties will be able to immediately comply with the proposed rule. The public will be notified of the changes to the regulations through publication in the State Register, through appropriate news releases, distribution of commercial tag program information via mailings, and through DEC’s website.

Regulatory Flexibility Analysis

Effect of rule:

The Atlantic State Marine Fisheries Commission (ASMFC) facilitates the cooperative management of marine and diadromous fish species among the fifteen Atlantic Coast member states. The principal mechanism for implementation of cooperative management of migratory fish is the ASMFC’s Interstate Fishery Management Plans (FMPs) for individual species or groups of fish. The FMPs are designed to promote the long-term health of these species, preserve resources, and protect the interests of both commercial and recreational harvesters. DEC is proposing amendments to 6 NYCRR Part 40 to remain in compliance with Amendment 7 of the Atlantic Striped Bass FMP which is required to avoid the federal closure of New York State’s striped bass fishery.

The proposed amendments to 6 NYCRR Part 40 will prohibit the use of gaffs when fishing for striped bass recreationally. This rule is meant to reduce recreational release mortality of Atlantic striped bass and help with the rebuilding plan for an overfished stock, as required by ASMFC. It will also remove the commercial tag price cap and update federal reporting language to match the current federal processes.

There were 396,841 people enrolled in DEC’s Recreational Marine Fishing Registry in 2022, the last year for which the Department has available data. All fishers are required to register if they are age 16 and older and are either: (1) fishing for a saltwater fish species in the marine and coastal district while not aboard a party or charter boat; or (2) fishing for a migratory fish of the sea (diadromous species) within the tidal waters of the Hudson River and its tributaries, or within the waters of the Delaware River. 2022 data from NOAA Fisheries reported 5,107,504 recreational angler trips targeting striped bass in New York State.

Also in 2022, DEC issued 402 striped bass commercial harvesters’ permits, and 510 party and charter boat licenses, in the marine and coastal district. 311 striped bass commercial harvesters received a full share individual quota allocation of striped bass tags; 83 received a partial share allocation.

The regulations do not apply directly to local governments and will not have any direct effects on local governments.

Compliance requirements:

The proposed regulations do not impose any new reporting or record keeping requirements on small businesses or local governments.

Professional services:

The proposed regulations do not impose any professional services requirements on small businesses or local governments.

Compliance costs:

This rule making will not impose any costs to DEC or local governments. This rule making may impose cost to the recreational fishery, including private recreational fishers, and party and charter boat operators, as they may decide to replace gaffs with additional tools that minimize injury to the fish. Additionally, this rule making will directly impact the commercial fishery, as commercial striped bass harvesters may see an increase in price for commercial tags to match industry standards and current economic conditions. It is expected that the price per tag for 2023 will be \$0.28 per tag, which is a \$0.03 increase from the 2022 price per tag of \$0.25 per tag.

Economic and technological feasibility:

The proposed regulations do not require any expenditure on the part of affected businesses in order to comply with the changes. There is no additional technology required for small businesses, and this action does not apply to local governments.

Minimizing adverse impact:

This regulation is necessary for DEC to comply with the ASMFC's FMP for Atlantic striped bass. The proposed regulations are intended to decrease recreational release mortality to help with rebuilding the currently overfished Atlantic striped bass coastwide stock. These measures will help to avoid the adverse economic and social impacts that would be associated with worsening stock condition, or a closure of the fishery for non-compliance. A moratorium on the harvest of Atlantic striped bass would have an adverse impact on New York's recreational and commercial striped bass fishery and supporting industries that is significantly worse than the proposed gear restriction and a commercial tag price cap removal. Ultimately, the maintenance of long-term sustainable fisheries will have a positive effect for the fishery and other industries that the fishery supports.

Small business and local government participation:

The proposed rule seeks to amend 6 NYCRR Part 40 so that New York is compliant with ASMFC's FMP for striped bass and consistent with federal fisheries management already in place. This coastwide measure was widely supported by members of the public and the ASMFC's member states. DEC's Division of Marine Resources consulted with New York's Marine Resource Advisory Council (MRAC) on November 15, 2022 and January 24, 2023 concerning these changes. The Council composition includes commercial fishermen, for-hire vessel captains, private anglers, marina operators, and bait and tackle retail representatives. Overall, the proposed amendments were well received by the council with some concern noted by the commercial fishery representative over the financial impact on commercial permit holders by the removal of a price cap on the cost of tags. Written comments may be submitted to DEC during the 60-day public comment period. DEC will continue to provide notice to affected fishers through email communications, newsletters and other media outlets.

8. For rules that either establish or modify a violation or penalties associated with a violation:

Pursuant to SAPA 202-b(1-a)(b), no such cure period is included in this rule because of the potential adverse impact on the resource. Cure periods for the illegal taking of fish or wildlife are neither desirable nor recommended. Immediate compliance is required to ensure the general welfare of the public and the resource is protected.

9. Initial review of the rule, pursuant to SAPA § 207 as amended by L. 2012, ch. 462:

DEC will conduct an initial review of the proposed rule within three years, as required by SAPA § 207.

Rural Area Flexibility Analysis

The Department of Environmental Conservation (DEC) has determined that this rule will not impose any adverse impacts on rural areas. This rule making only affects the Marine and Coastal District of the State; there are no rural areas within the Marine and Coastal District. The proposed regulations would not affect individuals who participate in the Atlantic striped bass fishery outside the Marine and Coastal District as Part 10 already prohibits the use of gaffs in these waters. The proposed rule will not impose any reporting, record keeping, or other compliance requirements on public or private entities in rural areas. Since no rural areas will be affected by the proposed amendments to 6 NYCRR Part 40, DEC has determined that a Rural Area Flexibility Analysis is not required.

Job Impact Statement

1. Nature of impact:

The promulgation of this regulation is necessary for DEC to comply with Amendment 7 to ASMFC's FMP for Atlantic Striped Bass. The proposed amendments to 6 NYCRR Part 40 will prohibit the use of gaffs when fishing for striped bass recreationally. They will also remove the commercial tag price cap and update federal reporting language to match the current federal processes.

This rule making will have an impact on commercial and recreational fisheries, including private recreational fishers, and party and charter boat operators. The commercial proposals will directly affect commercial striped bass harvesters as they may see an increase in price (by several cents) for commercial tags to match industry standards and current economic conditions.

2. Categories and numbers affected:

In 2022, DEC issued 402 striped bass commercial harvesters' permits, and 510 party and charter boat licenses, in the marine and coastal district. 311 striped bass commercial harvesters received a full share individual quota allocation of striped bass tags; 83 received a partial share allocation.

There were 396,841 people enrolled in the DEC Recreational Marine Fishing Registry in 2022, the last year for which data is available. All fishers need to register if they are age 16 and older and are either: (1) fishing

for a saltwater fish species in the marine and coastal district while not aboard a party or charter boat; or (2) fishing for a migratory fish of the sea within the tidal waters of the Hudson River and its tributaries, or within the waters of the Delaware River. 2022 data from NOAA Fisheries reported 5,107,504 recreational angler trips targeting striped bass in New York State.

3. Regions of adverse impact:

The proposed rule will affect recreational and commercial striped bass fishers in the Marine and Coastal District. The proposed regulations would not affect individuals who participate in the Atlantic striped bass fishery outside the marine and coastal district as Part 10 already prohibits the use of gaffs in these waters. The amendments to the commercial fishery regulations in 6 NYCRR Part 40 would not affect any rural areas as commercial fishing for striped bass is prohibited outside of the marine and coastal district.

4. Minimizing adverse impact:

This regulation is necessary for DEC to comply with the ASMFC's FMP for Atlantic striped bass. The proposed regulations are intended to decrease recreational release mortality to help with rebuilding the currently overfished Atlantic striped bass coastwide stock. These measures will help to avoid the adverse economic and social impacts that would be associated with worsening stock condition, or a federal closure of the fishery for non-compliance. A moratorium on the harvest of Atlantic striped bass would have an adverse impact on New York's recreational and commercial striped bass fishery and supporting industries that is significantly worse than the proposed gear restriction and a commercial tag price cap removal. Ultimately, the maintenance of long-term sustainable fisheries will have a positive effect for the fishery and other industries the fishery supports.

5. Self-employment opportunities:

The party and charter boat businesses, the bait and tackle shops, and the marinas are mostly small businesses that are self-owned and operated. Some members of the recreational fishing industry are also self-employed. Most commercial fishers are self-employed.

6. Initial review of the rule, pursuant to SAPA § 207 as amended by L. 2012, ch. 462:

DEC will conduct an initial review of the rule within three years, as required by SAPA section 207.

NOTICE OF ADOPTION

Amendment of 6 NYCRR Section 750-1.25 References

I.D. No. ENV-22-22-00016-A

Filing No. 227

Filing Date: 2023-03-07

Effective Date: 2023-03-22

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

Action taken: Amendment of section 750-1.25 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 3-0301(2)(a), (2)(m), 17-0303(3), 17-0801, 17-0803, 17-0804 and 17-0811

Subject: Amendment of 6 NYCRR section 750-1.25 References.

Purpose: Update outdated, inaccurate and/or redundant references to the CWA and Federal regulations, as well as guidance documents.

Text of final rule: (a) USEPA Guidance Publications.

- USEPA Guidance on Whole Effluent Toxicity Testing - Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms, [Fourth]Fifth Edition, EPA/[600/4-90/027F]-821-R-02-012 [(1993)](2002)

- Short-[T]erm Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms, [Third]Fourth Edition, EPA/[600/4-91/002]-821-R-02-013 [(1994)](2002)

- Short-[T]erm Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms, [Second]Third Edition, EPA/[600/4-91/003]-821-R-02-014 [(1994)](2002)

(b) As it appears in Title 33 Code of Federal Regulation (C.F.R.) on the date shown in parentheses:

- Part 153 - Control of Pollution by Oil and Hazardous Substances, Discharge Removal - [(October 5, 2001)](July 7, 2014)

(c) As it appears in Title 40 Code of Federal Regulation (C.F.R.) on the date shown in parentheses:

- Part 35 - State and Local Assistance[.] - [(November 16, 2001)](August 23, 2019)

- Part 122 - EPA Administered Programs: The National Pollutant Discharge Elimination System - [(December 3, 2001)](November 2, 2020)

- Part 123.44 - EPA Review of and Objections to State Permits[.] – [(November 16, 2001)](*May 15, 2000*)
 - Part 124.10 - Public [n]Notice of [p]Permit [a]Actions and [p]Public [c]Comment [p]Period[.] – [(October 5, 2001)](*February 12, 2019*)
 - Part 125 - Criteria and Standards for the National Pollutant Discharge Elimination System[.] – [(March 4, 2002)](*February 12, 2019*)
 - Part 129 -Toxic Pollutant Effluent Standards[.] – [(October 5, 2001)](*February 2, 1977*)
 - Part 130 - Water Quality Planning and Management[.] – [(January 4, 2002)](*September 26, 2016*)
 - Part 132 - Water Quality Guidance for the Great Lakes System[.] – [(October 5, 2001)](*September 16, 2011*)
 - Part 133 - Secondary Treatment Regulation[.] – [(October 5, 2001)](*January 27, 1989*)
 - Part 136 - Guidelines Establishing Test Procedures for the Analysis of Pollutants[.] – [(July 1, 2000)](*May 19, 2021*)
 - Part 144 - Underground Injection Control Program[.] – [(October 5, 2001)](*December 10, 2010*)
 - Part 146 - Underground Injection Control Program: Criteria and Standards[.] – [(October 5, 2001)](*December 10, 2010*)
 - Part 300 - National Oil and Hazardous Substances Pollution Contingency Plan[.] – [(October 5, 2001)](*April 21, 2020*)
 - Part 401 - General Provisions - [(January 30, 2002)](*April 21, 2020*)
 - Part 403 - General Pretreatment Regulations for Existing and New Sources of Pollution[.] – [(October 5, 2001)](*November 2, 2020*)
 - Part 405 - Dairy Products Processing Point Source Category[.] – [(November 16, 2001)](*June 29, 1995*)
 - Part 406 - Grain Mills Point Source Category[.] – [(November 16, 2001)](*June 29, 1995*)
 - Part 407 - Canned and Preserved Fruits and Vegetables Processing Point Source Category[.] – [(November 16, 2001)](*June 29, 1995*)
 - Part 408 - Canned and Preserved Seafood Processing Point Source Category[.] – [(November 16, 2001)](*June 29, 1995*)
 - Part 409 - Sugar Processing Point Source Category[.] – [(November 16, 2001)](*June 29, 1995*)
 - Part 410 - Textile Mills Point Source Category[.] – [(November 16, 2001)](*September 1, 1983*)
 - Part 411 - Cement Manufacturing Point Source Category - [(November 16, 2001)](*June 29, 1995*)
 - Part 412 - [Feedlots]*Concentrated Animal Feeding Operations (CAFO)* Point Source Category[.] – [(November 16, 2001)](*November 20, 2008*)
 - Part 413 - Electroplating Point Source Category[.] – [(November 16, 2001)](*November 7, 1986*)
 - Part 414 - Organic Chemicals, Plastics, and Synthetic Fibers[.] – [(November 16, 2001)](*July 9, 1993*)
 - Part 415 - Inorganic Chemicals Manufacturing Point Source Category[.] – [(November 16, 2001)](*September 25, 1984*)
 - Part 417 - Soap and Detergent Manufacturing Point Source Category[.] – [(November 16, 2001)](*June 29, 1995*)
 - Part 418 - Fertilizer Manufacturing Point Source Category[.] – [(November 16, 2001)](*June 29, 1995*)
 - Part 419 - Petroleum Refining Point Source Category[.] – [(November 16, 2001)](*August 12, 1985*)
 - Part 420 - Iron and Steel Manufacturing Point Source Category[.] – [(November 16, 2001)](*December 13, 2005*)
 - Part 421 - Nonferrous Metals Manufacturing Point Source Category[.] – [(November 16, 2001)](*September 7, 1990*)
 - Part 422 - Phosphate Manufacturing Point Source Category[.] – [(November 16, 2001)](*July 9, 1986*)
 - Part 423 - Steam Electric Power Generating Point Source Category[.] – [(November 16, 2001)](*October 13, 2020*)
 - Part 424 - Ferroalloy Manufacturing Point Source Category[.] – [(November 16, 2001)](*June 29, 1995*)
 - Part 425 - Leather Tanning and Finishing Point Source Category[.] – [(November 23, 2001)](*July 8, 1996*)
 - Part 426 - Glass Manufacturing Point Source Category – [(November 23, 2001)](*June 29, 1995*)
 - Part 427 - Asbestos Manufacturing Point Source Category[.] – [(November 23, 2001)](*June 29, 1995*)
 - Part 428 - Rubber Manufacturing Point Source Category – [(November 23, 2001)](*June 29, 1995*)
 - Part 429 - Timber Products Processing Point Source Category[.] – [(November 23, 2001)](*July 30, 2004*)
 - Part 430 - The Pulp, Paper, and Paperboard Point Source Category[.] – [(November 23, 2001)](*May 18, 2012*)
 - Part 432 - Meat and Poultry Products Point Source Category[.] – [(November 23, 2001)](*September 8, 2004*)
 - Part 433 - Metal Finishing Point Source Category[.] – [(November 23, 2001)](*November 7, 1986*)
 - Part 434 - Coal Mining Point Source Category BPT, BAT, BCT Limitations and New Source Performance Standards[.] – [(November 23, 2001)](*January 23, 2002*)
 - Part 435 - Oil and Gas Extraction Point Source Category[.] – [(November 23, 2001)](*December 7, 2016*)
 - Part 436 - Mineral Mining and Processing Point Source Category[.] – [(November 23, 2001)](*July 11, 1995*)
 - Part 437 - The Centralized Waste Treatment Point Source Category[.] – [(November 23, 2001)](*December 22, 2003*)
 - Part 438 - *Metal Products and Machinery Point Source Category* – (*May 13, 2003*)
 - Part 439 - Pharmaceutical Manufacturing Point Source Category[.] – [(November 23, 2001)](*March 13, 2003*)
 - Part 440 - Ore Mining and Dressing Point Source Category[.] – [(November 23, 2001)](*May 24, 1988*)
 - Part 441 - *Dental Office Point Source Category* – (*July 5, 2017*)
 - Part 442 -Transportation Equipment Cleaning Point Source Category[.] – [(November 23, 2001)](*February 1, 2005*)
 - Part 443 - Effluent Limitations Guidelines for Existing Sources and Standards of Performance and Pretreatment Standards for New Sources for the Paving and Roofing Materials (Tars and Asphalt) Point Source Category[.] – [(November 23, 2001)](*June 29, 1995*)
 - Part 444 - Waste Combustors Point Source Category[.] – [(November 23, 2001)](*April 9, 2004*)
 - Part 445 - Landfills Point Source Category[.] – [(November 23, 2001)](*March 16, 2000*)
 - Part 446 - Paint Formulating Point Source Category[.] – [(November 23, 2001)](*June 29, 1995*)
 - Part 447 - Ink Formulating Point Source Category[.] – [(November 23, 2001)](*June 29, 1995*)
 - Part 449 - *Airport Deicing Point Source Category* – (*May 16, 2012*)
 - Part 450 - *Construction and Development Point Source Category* – (*May 4, 2015*)
 - Part 451 - *Concentrated Aquatic Animal Production Point Source Category* – (*August 23, 2004*)
 - Part 454 - Gum and Wood Chemicals Manufacturing Point Source Category[.] – [(November 23, 2001)](*June 29, 1995*)
 - Part 455 - Pesticide Chemicals[.] – [(November 23, 2001)](*March 12, 2007*)
 - Part 457 - Explosives Manufacturing Point Source Category[.] – [(November 23, 2001)](*June 29, 1995*)
 - Part 458 - Carbon Black Manufacturing Point Source Category[.] – [(November 23, 2001)](*June 29, 1995*)
 - Part 459 - Photographic Point Source Category[.] – [(November 23, 2001)](*July 14, 1976*)
 - Part 460 - Hospital Point Source Category[.] – [(November 23, 2001)](*June 29, 1995*)
 - Part 461 - Battery Manufacturing Point Source Category[.] – [(November 23, 2001)](*August 28, 1986*)
 - Part 463 - Plastics Molding and Forming Point Source Category[.] – [(November 23, 2001)](*April 30, 1985*)
 - Part 464 - Metal Molding and Casting Point Source Category[.] – [(November 23, 2001)](*June 16, 1986*)
 - Part 465 - Coil Coating Point Source Category[.] – [(November 23, 2001)](*March 12, 2007*)
 - Part 466 - Porcelain Enameling Point Source Category[.] – [(November 23, 2001)](*September 6, 1985*)
 - Part 467 - Aluminum Forming Point Source Category[.] – [(November 23, 2001)](*December 27, 1988*)
 - Part 468 - Copper Forming Point Source Category[.] – [(November 23, 2001)](*June 20, 1986*)
 - Part 469 - Electrical and Electronic Components Point Source Category[.] – [(November 23, 2001)](*January 31, 1985*)
 - Part 471 - Nonferrous Metals Forming and Metal Powders Point Source Category[.] – [(November 23, 2001)](*April 4, 1989*)
- (d) *Act means the Clean Water Act* formerly referred to as the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq. - [(July 1, 2001)](*January 14, 2019*) References:
- Section 1284[(b)] [FWPCA § § 1204(b)]—Limitations and conditions— *Additional determinations; issuance of guidelines; approval by Administrator; system of charges*
 - Section 1288(b) [FWPCA § § 1208(b)]—Areawide waste treatment management—Planning process
 - [Section 1288(b)(2)(C) [FWPCA § § 208(b)(2)(C)]—"The establishment of a regulatory program to implement requirements of 201(c) [waste treatment management area and scope]]
 - Section 1311 [FWPCA § § 1301]—Effluent limitations
 - Section 1312 [FWPCA § § 1302]—Water quality related effluent limitations
 - Section 1313 [FWPCA § § 1303]—Water quality standards and implementation plans

- Section 1314 [FWPCA § [§ 304]—Information and guidelines
- Section 1316 [FWPCA § [§ 306]—National standards of performance
- Section 1317 [FWPCA § [§ 307]—Toxic and pretreatment effluent standards
- Section 1318 [FWPCA § [§ 308]—Records and Reports; Inspections
- Section 1321 [FWPCA § [§ 311]—Oil and hazardous substance liability
- Section 1326 [FWPCA § [§ 316]—Thermal discharges
- Section 1342 [FWPCA § [§ 402]—National pollutant discharge elimination system
- Section 1343 [FWPCA § [§ 403]—Ocean discharge criteria
- Section 1370 [FWPCA § [§ 510]—State authority
- (e) [Miscellaneous. Recommended Standards for Wastewater Facilities, Policies for the Design, Review and Approval of Plans and Specifications, 1997 Edition.

Design Standards for Wastewater Treatment Works Systems, 1988, Intermediate Sized Sewerage Facilities.]

[(f)] All publications referenced in this Part are available electronically at [<http://www.dec.state.ny.us/website/dow/bwp/ref750/index.html>] <https://dec.ny.gov/fs/projects/spdes/>

[(g)](f) All material referenced in this Part is available for copying and inspection at the New York State Department of Environmental Conservation, Division of Water at its Central Office location in Albany County.

[(h)] Act means the Federal Water Pollution Control Act or Clean Water Act, 33 USC 1251 et seq., as amended, that is in effect on July 1, 2001.]

[(i)](g) Ten States Standards means Recommended Standards for Wastewater Facilities, Policies for the Design, Review and Approval of Plans and Specifications *For Wastewater Collection and Treatment Facilities*, [1997]2014 Edition.

[(j)](h) Intermediate Design Standards means *New York State Design Standards for Intermediate Sized Wastewater Treatment [Works]Systems*, [1988]2014[, Intermediate Sized Sewerage Facilities.]

Final rule as compared with last published rule: Nonsubstantial changes were made in section 750-1.25(a).

Text of rule and any required statements and analyses may be obtained from: Michelle Tompkins, Department of Environmental Conservation, 625 Broadway, 4th Floor, Albany, NY 12233-3500, (518) 402-8221, email: Water.Reg@dec.ny.gov

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

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

The edits made to the Express Terms do not require any changes to the Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, 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

Neversink River Riparian Corridor

I.D. No. ENV-45-22-00020-A

Filing No. 228

Filing Date: 2023-03-07

Effective Date: 2023-03-22

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

Action taken: Amendment of section 190.39; addition of section 190.40 to Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101(3)(b), 3-0301(1)(b), (d), (2)(m), 9-0105(1) and (3)

Subject: Neversink River Riparian Corridor.

Purpose: To protect public health, safety and natural resources within the Neversink River Riparian Corridor.

Text or summary was published in the November 9, 2022 issue of the Register, I.D. No. ENV-45-22-00020-P.

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

Text of rule and any required statements and analyses may be obtained from: Michael Callan, Department of Environmental Conservation, 21 South Putt Corners Road, New Paltz, NY 12561, (845) 256-3004, email: michael.callan@dec.ny.gov

Additional matter required by statute: A Short EAF has been prepared in compliance with article 8 of the ECL.

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 2028, 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 Financial Services

EMERGENCY RULE MAKING

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

I.D. No. DFS-12-23-00002-E

Filing No. 213

Filing Date: 2023-03-06

Effective Date: 2023-03-06

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

Action taken: Addition of section 52.16(p) to Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 3216, 3217, 3221 and 4303

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

Specific reasons underlying the finding of necessity: The Executive Office of the President of the United States issued a Statement of Administration Policy, dated January 30, 2023, setting forth the Administration's intention to extend the COVID-19 national emergency and public health emergency to May 11, 2023. Providing at least 60 days' notice prior to the emergencies' termination seeks to avoid negatively impacting the nation's health system.

Consistent with the federal Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), codified at 15 U.S.C. Section 9001 et seq., the Department of Financial Services has issued a series of emergency regulations since 2020 prohibiting health care plans that provided hospital, surgical, or medical expense insurance policies or contracts from imposing, and provided that no insured could be required to pay, copayments, coinsurance, or annual deductibles for covered in-network laboratory tests to diagnose COVID-19 and for visits to diagnose COVID-19 at the following locations, including through telehealth: an in-network provider's office, an in-network urgent care center, any other in-network outpatient provider setting able to diagnose COVID-19, or an emergency department of a hospital. Copayments, coinsurance, or annual deductibles may have been imposed in accordance with the applicable policy or contract for any follow-up care or treatment for COVID-19, including an inpatient hospital admission, as otherwise permitted by law. The emergency regulations required every health care plan to provide written notification of the requirements of the emergency regulations to its in-network providers in order to ensure that the providers did not require any insured to pay a copayment, coinsurance, or annual deductible that was prohibited from being imposed under the emergency regulations. The notifications were required so that providers would not collect a copayment, coinsurance, or annual deductible at any time, including when the services were provided, which is typically when such payment is collected.

Promulgation of this emergency regulation until May 11, 2023 is necessary to align with the extension of the COVID-19 national and public health emergencies, and essential for providing New Yorkers time to prepare for their health care needs in relation to the termination of no cost-sharing for COVID-19 testing and diagnosis.

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

Purpose: To waive cost-sharing for in-network visits and laboratory tests necessary to diagnose the novel coronavirus (COVID-19).

Text of emergency rule: Section 52.16(p) is added as follows:

(p)(1) *No policy or contract delivered or issued for delivery in this State that provides hospital, surgical, or medical expense insurance coverage shall impose, and no insured shall be required to pay, copayments, coinsurance, or annual deductibles for the following services when covered under the policy or contract:*

(i) *in-network laboratory tests to diagnose the novel coronavirus (COVID-19); and*

(ii) *visits to diagnose the novel coronavirus (COVID-19) at the following locations, including through telehealth: an in-network provider's office, an in-network urgent care center, any other in-network outpatient provider setting able to diagnose the novel coronavirus (COVID-19), or an emergency department of a hospital. Copayments, coinsurance, or annual deductibles may be imposed in accordance with the applicable policy or contract for any follow-up care or treatment for the novel coronavirus (COVID-19), including an inpatient hospital admission, as otherwise permitted by law.*

(2) *An insurer shall provide written notification to its in-network providers that they shall not collect any deductible, copayment, or coinsurance in accordance with this subdivision.*

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires May 11, 2023.

Text of rule and any required statements and analyses may be obtained from: Tobias Len, Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 474-8975, email: Tobias.Len@dfs.ny.gov

Regulatory Impact Statement

1. Statutory authority: Financial Services Law sections 202 and 302 and Insurance Law sections 301, 3216, 3217, 3221, and 4303.

Financial Services Law section 202 establishes the office of the Superintendent of Financial Services ("Superintendent").

Financial Services Law section 302 and Insurance Law section 301, in pertinent part, authorize the Superintendent to prescribe regulations interpreting the Insurance Law and to effectuate any power granted to the Superintendent in the Insurance Law, Financial Services Law, or any other law.

Insurance Law section 3216 sets forth the standard provisions in individual accident and health insurance policies.

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

Insurance Law section 3221 sets forth the standard provisions in group and blanket accident and health insurance policies.

Insurance Law section 4303 sets forth mandatory benefits in subscriber contracts issued by corporations organized under Insurance Law Article 43.

2. Legislative objectives: The statutory sections cited above establish the minimum standards for the form, content, and sale of health insurance, including standards of full and fair disclosure. This amendment accords with the public policy objectives that the Legislature sought to advance in the foregoing sections of the Insurance Law by prohibiting the imposition of copayments, coinsurance, or annual deductibles for in-network laboratory tests to diagnose the novel coronavirus ("COVID-19") and visits to diagnose COVID-19 at the following locations, including through telehealth: an in-network provider's office, an in-network urgent care center, any other in-network outpatient provider setting able to diagnose COVID-19, or an emergency department of a hospital.

3. Needs and benefits: The Executive Office of the President of the United States issued a Statement of Administration Policy, dated January 30, 2023, setting forth the Administration's intention to extend the COVID-19 national emergency and public health emergency to May 11, 2023. Providing at least 60 days' notice prior to the emergencies' termination seeks to avoid negatively impacting the nation's health system.

Consistent with the federal Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), codified at 15 U.S.C. Section 9001 et seq., this amendment prohibits health care plans that provide hospital, surgical, or medical expense insurance policies or contracts from imposing, and provides that no insured shall be required to pay, copayments, coinsurance, or annual deductibles for covered in-network laboratory tests to diagnose COVID-19 and for visits to diagnose COVID-19 at the following locations, including through telehealth: an in-network provider's office, an in-network urgent care center, any other in-network outpatient provider setting able to diagnose COVID-19, or an emergency department of a hospital. Copayments, coinsurance, or annual deductibles may be imposed in accordance with the applicable policy or contract for any follow-up care or treatment for COVID-19, including an inpatient hospital admission, as otherwise permitted by law. The amendment requires every health care plan to provide written notification of the requirements of the amendment

to its in-network providers in order to ensure that the providers do not require any insured to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed under the amendment. This notification should ensure that providers do not collect a copayment, coinsurance, or annual deductible at any time, including when the services are provided, which is typically when such payment is collected.

The Department of Financial Services ("Department") expects every health care plan to reimburse a provider, including reimbursement for the insured's waived copayment, coinsurance, or annual deductible, with respect to any impacted claims.

Promulgation of this emergency regulation until May 11, 2023 is necessary to align with the extension of the COVID-19 national and public health emergencies, and essential for providing New Yorkers time to prepare for their health care needs in relation to the termination of no cost-sharing for COVID-19 testing and diagnosis.

4. Costs: Health care plans may incur additional costs to comply with the amendment because they may need to file new policy and contract forms and rates and they will need to provide the written notification to in-network providers regarding this amendment. However, any costs should be minimal because health care plans submit policy or contract form and rate filings and provide written notifications to providers as a part of the normal course of business.

This amendment may impose costs on providers because they will need to ensure that insureds are not charged a copayment, coinsurance, or annual deductible that is prohibited from being imposed, including at the time the services are provided. However, any additional costs should be minimal because a provider should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan directly with respect to any impacted claims.

This amendment may impose compliance costs on the Department because the Department will need to review amended policy and contract forms and rates. However, any additional costs incurred by the Department should be minimal, and the Department should be able to absorb the costs in its ordinary budget.

The amendment will not impose compliance costs on any local governments.

5. Local government mandates: The amendment does not impose any program, service, duty or responsibility on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: Health care plans are required to provide written notification to their in-network providers that the providers may not collect any deductible, copayment, or coinsurance for laboratory tests and visits to diagnose COVID-19. This notification may be provided electronically as part of existing communications that occur between health care plans and in-network providers. Health care plans may also need to file new policy and contract forms and rates with the Superintendent.

Providers and local governments should not incur additional paperwork to comply with this amendment.

7. Duplication: This amendment does not duplicate, overlap, or conflict with any existing state or federal rules or other legal requirements. It is consistent with the federal CARES Act.

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

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

10. Compliance schedule: The rule will take effect immediately upon filing of the Notice of Emergency Adoption with the Secretary of State.

Regulatory Flexibility Analysis

1. Effect of rule: This rule affects health maintenance organizations and authorized insurers (collectively, "health care plans") and health care providers ("providers"). This amendment prohibits health care plans that provide hospital, surgical, or medical expense insurance policies or contracts from imposing, and provides that no insured shall be required to pay copayments, coinsurance, or annual deductibles for covered in-network laboratory tests to diagnose the novel coronavirus ("COVID-19") and for visits to diagnose COVID-19 at the following locations, including through telehealth: an in-network provider's office, an in-network urgent care center, any other in-network outpatient provider setting able to diagnose COVID-19, or an emergency department of a hospital. Copayments, coinsurance, or annual deductibles may be imposed in accordance with the applicable policy or contract for any follow-up care or treatment for COVID-19, including an inpatient hospital admission, as otherwise permitted by law. The amendment requires every health care plan to provide written notification of the requirements of the amendment to its in-network providers in order to ensure that the providers do not require any insured to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed under the amendment. This notification should ensure that providers do not collect a copayment, coinsurance, or annual deductible at any time, including when the services are provided, which is typically when such payment is collected.

Industry asserts that certain health care plans subject to the amendment

are small businesses. Providers also may be small businesses. As a result, certain health care plans and providers that are small businesses will be affected by this amendment.

This amendment does not affect local governments.

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

A health care plan that is a small business affected by this amendment, if any, may be subject to reporting, recordkeeping, or other compliance requirements as the health care plan may need to file new policy and contract forms and rates with the Superintendent and will be required to provide written notification of the amendment to its in-network providers.

A provider that is a small business may be subject to reporting, recordkeeping, or other compliance requirements as the provider must ensure that an insured is not charged a copayment, coinsurance, or annual deductible that is prohibited from being imposed under the amendment at any time, including at the time services are provided.

3. Professional services: No local government will need professional services to comply with this amendment because the amendment does not apply to any local government. No health care plan or provider that is a small business affected by this amendment should need to retain professional services, such as lawyers or auditors, to comply with this amendment.

4. Compliance costs: No local government will incur any costs to comply with this amendment because the amendment does not apply to any local government. A health care plan that is a small business affected by this amendment, if any, may incur costs because it may need to file new policy or contract forms and rates and will be required to provide written notification of the amendment to its in-network providers. However, any costs should be minimal because health care plans submit policy or contract form and rate filings and provide written notifications to providers as a part of the normal course of business.

A provider that is a small business may incur additional costs to comply with the amendment, which may include costs to ensure that the insured is not charged a copayment, coinsurance, or annual deductible that is prohibited from being imposed at any time, including at the time the services are provided. However, any additional costs should be minimal because a provider should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan directly with respect to any impacted claims.

5. Economic and technological feasibility: This amendment does not apply to any local government; therefore, no local government should experience any economic or technological impact as a result of the amendment. A health care plan and a provider that is a small business should not incur any economic or technological impact as a result of the amendment.

6. Minimizing adverse impact: There will not be an adverse impact on any local government because the amendment does not apply to any local government. This amendment should not have an adverse impact on a health care plan or provider that is a small business affected by the amendment, if any, because the amendment uniformly affects all health care plans and providers. In addition, a provider that is a small business should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan directly with respect to any impacted claims from the health care plan directly.

7. Small business and local government participation: Health care plans and providers that are small businesses will have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Authorized insurers and health maintenance organizations (collectively, "health care plans") and health care providers ("providers") affected by this amendment operate in every county in this state, including rural areas as defined by State Administrative Procedure Act section 102(10).

2. Reporting, recordkeeping, and other compliance requirements; and professional services: A health care plan, including a health care plan in a rural area, may be subject to additional reporting, recordkeeping, or other compliance requirements because the health care plan may need to file new policy and contract forms and rates with the Department of Financial Services ("Department") and will be required to provide written notification of the amendment to its in-network providers.

A provider, including a provider in a rural area, may be subject to reporting, recordkeeping, or other compliance requirements as the provider must ensure that an insured is not required to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed pursuant to the amendment at any time, including at the time the services are provided.

A health care plan or a provider, including those in a rural area, should not need to retain professional services, such as lawyers or auditors, to comply with this amendment.

3. Costs: Health care plans and providers, including those in rural areas, may incur additional costs to comply with the amendment. A health care plan may incur additional compliance costs as it may need to file new policy and contract forms and rates with the Department and will be required to provide written notification of the amendment to its in-network providers. However, any costs should be minimal because health care plans submit policy or contract form and rate filings and provide written notifications to providers as a part of the normal course of business.

A provider, including those in rural areas, may incur additional costs to comply with the amendment. Those additional costs may include costs to ensure that the insured is not required to pay a copayment, coinsurance, or annual deductible that is prohibited from being imposed at any time, including at the time the services are provided. However, any additional costs should be minimal because a provider should receive reimbursement, including the insured's copayment, coinsurance, or annual deductible, from the health care plan directly with respect to any impacted claims.

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

5. Rural area participation: Health care plans and providers in rural areas will have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

Job Impact Statement

This amendment should not adversely impact jobs or employment opportunities in New York State. The amendment prohibits policies and contracts of hospital, surgical, or medical expense insurance from imposing, and provides that no insured shall be required to pay, copayments, coinsurance, and annual deductibles for covered in-network laboratory tests to diagnose the novel coronavirus ("COVID-19") and for visits to diagnose COVID-19 at the following locations, including through telehealth: an in-network health care provider's office, an in-network urgent care center, any other in-network outpatient provider setting able to diagnose COVID-19, or an emergency department of a hospital. As a result, there should be no impact on jobs or employment opportunities.

EMERGENCY RULE MAKING

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

I.D. No. DFS-12-23-00003-E

Filing No. 214

Filing Date: 2023-03-06

Effective Date: 2023-03-06

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

Action taken: Addition of section 52.76(b) to Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202, 302; Insurance Law, sections 301, 3216, 3217, 3221 and 4303

Finding of necessity for emergency rule: Preservation of public health.

Specific reasons underlying the finding of necessity: The Executive Office of the President of the United States issued a Statement of Administration Policy, dated January 30, 2023, setting forth the Administration's intention to extend the COVID-19 national emergency and public health emergency to May 11, 2023. Providing at least 60 days' notice prior to the emergencies' termination seeks to avoid negatively impacting the nation's health system.

This emergency measure requires authorized insurers and health maintenance organizations that issue a policy or contract that provides hospital, surgical, or medical care coverage, excluding grandfathered health plans, to provide coverage, with no cost-sharing, of COVID-19 immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices issues a recommendation for the COVID-19 immunization; (2) the United States Preventive Services Taskforce issues a recommendation with an "A" or "B" rating for the COVID-19 immunization; or (3) the Superintendent of Financial Services ("Superintendent") determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization. This emergency measure also applies to immunizations and the administration thereof by non-participating providers until the expiration of the federally declared public health emergency. As stated above, the federally declared public health emergency will expire on May 11, 2023.

Promulgation of this emergency measure until May 11, 2023 is thus necessary to align with the extension of the COVID-19 national and public health emergencies, and essential for providing New Yorkers time to prepare for their health care needs in relation to the termination of no cost-sharing of COVID-19 immunizations and their administration by non-participating providers.

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

Purpose: To require immediate coverage, without cost-sharing, for COVID-19 immunizations and the administration thereof.

Text of emergency rule: A new section 52.76(b) is added as follows:

(b)(1) *Except as provided in paragraph (2) of this subdivision, a policy that provides hospital, surgical, or medical care coverage shall cover coronavirus disease 2019 (COVID-19) immunizations, and the administration thereof, immediately upon the earliest of the date on which: (i) the advisory committee on immunization practices of the federal centers for disease control issues a recommendation for the COVID-19 immunization; (ii) the United States preventive services task force issues a recommendation with an "A" or "B" rating for the COVID-19 immunization; or (iii) the superintendent determines, in consultation with the commissioner of health, that a policy shall cover the COVID-19 immunization. COVID-19 immunizations, and administration thereof, including any visits necessary to obtain the immunizations, administered at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by this State or the federal government to administer or host the administration of the immunization, shall not be subject to annual deductibles, coinsurance, copayments, or any other out-of-pocket cost.*

(2) *The coverage required under paragraph (1) of this subdivision shall not be limited to COVID-19 immunizations, and the administration thereof, administered by participating providers and shall apply to such immunizations, and the administration thereof, administered by non-participating providers until the expiration of the federally declared public health emergency on May 11, 2023.*

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires May 11, 2023.

Text of rule and any required statements and analyses may be obtained from: Colleen Rumsey, Department of Financial Services, One Commerce Plaza, Albany, NY 12257, (518) 474-0154, email: Colleen.Rumsey@dfs.ny.gov

Regulatory Impact Statement

1. Statutory authority: Financial Services Law ("FSL") Sections 202 and 302 and Insurance Law ("IL") Sections 301, 3216, 3217, 3221, and 4303.

FSL Section 202 establishes the office of the Superintendent of Financial Services ("Superintendent").

FSL Section 302 and IL Section 301 authorize the Superintendent to prescribe regulations interpreting the IL and to effectuate any power granted to the Superintendent in the IL, FSL, or any other law.

IL Sections 3216, 3221, and 4303 set forth the standard provisions in individual, small group, large group, and blanket accident and health insurance policies and contracts. Specifically, Insurance Law Sections 3216(i)(17)(B)(ii) and (iii), 3221(l)(8)(B)(ii) and (iii), and 4303(j)(2)(B) and (C) require individual, group, and blanket policies or contracts that provide medical, major medical, or similar comprehensive-type coverage to cover an immunization, at no cost-sharing, for children who are 19 years old or younger if determined to be a necessary immunization by the Superintendent, in consultation with the Commissioner of Health. Insurance Law Sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) further require individual, group, and blanket policies or contracts that provide hospital, surgical, or medical care coverage, except for a grandfathered health plan, to cover, at no cost-sharing, preventive care and screenings that have in effect a rating of "A" or "B" in the current recommendations of the United States Preventive Services Taskforce ("USPSTF") and immunizations that have in effect a recommendation from the Centers for Disease Control and Prevention's ("CDC's") Advisory Committee on Immunization Practices ("ACIP") regardless of the age of the recipient.

IL Section 3217(a) authorizes the Superintendent to issue regulations to establish minimum standards for the form, content and sale of accident and health insurance policies and subscriber contracts of corporations organized under IL Articles 32 and 43 and Public Health Law Article 44.

2. Legislative objectives: The statutory sections cited above establish the minimum standards for the form, content, and sale of accident and health insurance, including coverage for certain immunizations with no cost-sharing. This amendment accords with the public policy objectives that the Legislature sought to advance in the foregoing sections of the IL by requiring coverage for coronavirus disease 2019 ("COVID-19") immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the ACIP issues a recommendation for the COVID-19 immunization; (2) the USPSTF issues a recommendation with

an "A" or "B" rating for the COVID-19 immunization; or (3) the Superintendent determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization. This amendment also prohibits copayments, coinsurance, annual deductibles, and any other out-of-pocket costs for such immunizations and the administration thereof.

3. Needs and benefits: This amendment requires authorized insurers and health maintenance organizations (collectively, "health care plans") that issue a policy or contract that provides hospital, surgical, or medical care coverage, except grandfathered health plans, to provide coverage of COVID-19 immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the ACIP issues a recommendation for the COVID-19 immunization; (2) the USPSTF issues a recommendation with an "A" or "B" rating for the COVID-19 immunization; or (3) the Superintendent determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization. Coverage for COVID-19 immunizations, and the administration thereof, and any visits necessary to obtain the immunizations at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization, will not be subject to annual deductibles, coinsurance, copayments, or any other out-of-pocket cost. There will be coverage for COVID-19 immunizations administered by non-participating providers until the expiration of the federally declared public health emergency.

The federal Departments of Health and Human Services, Treasury, and Labor ("federal Departments") have issued Interim Final Rule 85 Fed. Reg. 71142 (November 6, 2020) ("federal rules") that address coverage for COVID-19 immunizations and their administration. The federal rules require COVID-19 immunizations and their administration to be covered when provided by out-of-network providers for the duration of the federal public health emergency for COVID-19. The federal rules state that reimbursement for out-of-network providers must be made in an amount that is reasonable, as determined by comparison to prevailing market rates for such services.

The Executive Office of the President of the United States issued a Statement of Administration Policy, dated January 30, 2023, setting forth the Administration's intention to extend the COVID-19 national emergency and public health emergency to May 11, 2023. Providing at least 60 days' notice prior to the emergencies' termination seeks to avoid negatively impacting the nation's health system.

Promulgation of this emergency measure until May 11, 2023 is necessary to align with the extension of the COVID-19 national and public health emergencies, and essential for providing New Yorkers time to prepare for their health care needs in relation to the termination of no cost-sharing of COVID-19 immunizations and their administration by non-participating providers.

4. Costs: Health care plans may incur additional costs to comply with the amendment because they may need to file new policy and contract forms and rates. However, any costs should be minimal because health care plans submit policy and contract forms and rates as a part of the normal course of business.

This amendment does not impose any costs on providers.

This amendment may impose compliance costs on the Department of Financial Services ("Department") because the Department will need to review amended policy and contract forms and rates. However, any additional costs incurred by the Department should be minimal, and the Department should be able to absorb the costs in its ordinary budget.

The amendment will not impose compliance costs on any local governments.

5. Local government mandates: The amendment does not impose any program, service, duty or responsibility on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: Health care plans may need to file new policy and contract forms and rates with the Superintendent.

Providers and local governments should not incur any additional paperwork to comply with this amendment.

7. Duplication: The federal Departments have issued federal rules interpreting the immunization requirements of the Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), codified at 15 U.S.C. Section 9001 et seq. The federal rules require issuers to cover COVID-19 immunizations and their administration with no cost-sharing under all non-grandfathered group and individual comprehensive health insurance policies and contracts when administered by providers enrolled in the CDC COVID-19 Vaccination Program.

The federal rules also require COVID-19 immunizations and their administration to be covered when provided by out-of-network providers for the duration of the federally declared public health emergency for COVID-19. The federal requirement for out-of-network coverage ends when the federally declared public health emergency is terminated on May 11, 2023.

Furthermore, the CARES Act requires coverage of any COVID-19 immunizations and their administration within 15 business days after the immunization has been recommended by ACIP.

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

9. Federal standards: The amendment exceeds the minimum standards of the federal government for this subject area. This amendment requires: (1) coverage for COVID-19 immunizations and the administration thereof at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization; (2) coverage immediately upon certain triggering events; and (3) coverage for COVID-19 immunizations administered by non-participating providers until the expiration of the federally declared public health emergency on May 11, 2023.

10. Compliance schedule: The rule will take effect immediately upon the filing of the Notice of Emergency Adoption with the Secretary of State.

Regulatory Flexibility Analysis

1. Effect of rule: This rule affects authorized insurers and health maintenance organizations (collectively, "health care plans") and providers. This amendment requires a policy or contract that provides hospital, surgical, or medical care coverage, excluding grandfathered health plans, to provide immediate coverage, without cost sharing, of COVID-19 immunizations and the administration thereof at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization.

Industry has asserted that certain health care plans subject to the amendment are small businesses. Providers also may be small businesses. As a result, certain health care plans and providers that are small businesses will be affected by this amendment.

This amendment does not affect local governments.

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

A health care plan that is a small business may be subject to reporting, recordkeeping, or other compliance requirements as the health care plan may need to file new policy or contract forms and rates with the Superintendent of Financial Services.

A provider that is a small business should not be subject to reporting, recordkeeping, or other compliance requirements.

3. Professional services: No local government will need professional services to comply with this amendment because the amendment does not apply to any local government. No health care plan or provider that is a small business should need to retain professional services, such as lawyers or auditors, to comply with this amendment.

4. Compliance costs: No local government will incur any costs to comply with this amendment because the amendment does not apply to any local government.

A health care plan that is a small business may incur costs to comply with this amendment because it may need to file new policy or contract forms and rates. However, any costs should be minimal because health care plans submit policy and contract forms and rates as a part of the normal course of business.

This amendment does not impose any additional costs on a provider that is a small business.

5. Economic and technological feasibility: This amendment does not apply to any local government; therefore, no local government should experience any economic or technological impact as a result of the amendment. A health care plan and a provider that is a small business should not incur any economic or technological impact as a result of the amendment.

6. Minimizing adverse impact: There will not be an adverse impact on any local government because the amendment does not apply to any local government. This amendment should not have an adverse impact on a health care plan or provider that is a small business because the amendment uniformly affects all health care plans and providers.

7. Small business and local government participation: Health care plans and providers that are small businesses will have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Authorized insurers and health maintenance organizations (collectively, "health care plans") and providers affected by this amendment operate in every county in New York State, including rural areas as defined by State Administrative Procedure Act section 102(10).

2. Reporting, recordkeeping, and other compliance requirements; and professional services: A health care plan, including a health care plan in a

rural area, may be subject to additional reporting, recordkeeping, or other compliance requirements because the health care plan may need to file new policy or contract forms and rates with the Department of Financial Services ("Department").

A provider, including a provider in a rural area, should not be subject to reporting, recordkeeping, or other compliance requirements.

A health care plan and provider, including those in a rural area, should not need to retain professional services, such as lawyers or auditors, to comply with this amendment.

3. Costs: Health care plans, including those in rural areas, may incur additional costs to comply with the amendment because they may need to file new policy and contract forms and rates with the Department. However, any costs should be minimal because health care plans submit policy and contract forms and rates as a part of the normal course of business.

Providers, including those in rural areas, should not incur additional costs to comply with the amendment.

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

5. Rural area participation: Health care plans and providers in rural areas will have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

Job Impact Statement

This amendment should not adversely impact jobs or employment opportunities in New York State. The amendment requires a policy or contract that provides hospital, surgical, or medical care coverage, excluding grandfathered health plans, to provide immediate coverage, without cost sharing, of COVID-19 immunizations and the administration thereof at a provider's office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization. As a result, there should be no impact on jobs or employment opportunities.

Department of Health

NOTICE OF ADOPTION

Reporting of Acute HIV Infection

I.D. No. HLT-12-22-00002-A

Filing No. 212

Filing Date: 2023-03-02

Effective Date: 2023-03-22

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

Action taken: Amendment of sections 63.2 and 63.4 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 2139 and 2786

Subject: Reporting of Acute HIV Infection.

Purpose: To require clinicians to report any case of acute HIV within 24 hours of diagnoses.

Text of final rule: Section 63.2 is amended to read as follows:

63.2 Application. These regulations apply to physicians and other persons authorized by law to order laboratory tests or to make medical diagnoses, laboratories, blood banks, tissue banks and organ procurement organizations, to persons who receive confidential HIV-related information in the course of providing any health or social service and to persons who receive confidential HIV-related information pursuant to a release. These regulations do not apply to information which was received by the Commissioner under Subpart 24-1 of this Title and protected from disclosure pursuant to Public Health Law section 206(1)(j). [These regulations do not apply to insurance institutions and insurance support organizations, except as noted in section 63.6(a)(9), (10) and (12) of this Part. Health] Insurance institutions, insurance support organizations, and health care providers associated with or under contract to a health maintenance organization or other medical services plan are subject to these regulations.

Paragraph (1) of subdivision (a) of section 63.4 is amended to read as follows:

(a)(1) All determinations or diagnoses of Human Immunodeficiency

Virus (HIV) infection, HIV-related illness, and Acquired Immune Deficiency Syndrome (AIDS) shall be reported to the commissioner by physicians and other persons authorized to order diagnostic tests or make medical diagnoses or their agents as soon as possible but no later than [14] seven (7) days after the provider's receipt of a positive laboratory result or after diagnosis, whichever is sooner. *Physicians and other persons authorized to order diagnostic tests or make medical diagnoses, or their agents, shall report to the commissioner any determination or diagnosis of acute HIV infection, including primary HIV infection, acute retroviral syndrome, and early HIV infection, within one day (24 hours) of such determination or diagnosis. Acute HIV infection is the earliest stage of HIV disease, and it precedes the development of detectable antibodies to HIV resulting from the viral infection. A report of acute HIV infection must include the basis for the determination or diagnosis, which is: (i) laboratory testing results demonstrating the presence of p24 antigen and HIV virus (RNA or DNA), in the absence of HIV antibodies; and/or (ii) clinical evidence of documented negative testing history which includes previous negative or indeterminate test results within 180 days before the first confirmed positive HIV test result of any type.*

Final rule as compared with last published rule: Nonsubstantial changes were made in section 63.4(a)(1).

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of Program Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2028, which is no later than the 5th year after the year in which this rule is being adopted

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

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Assessment of Public Comment

The New York State Department of Health (NYSDOH) received two comments, which both expressed strong support for the proposed amendments to Sections 63.2 and 63.4 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York. The comments were submitted by a health care professional who provides treatment to patients who are HIV-positive and a collaborative of local health departments.

Comment: The collaborative of local health departments supports the amendments and requested that in addition to reporting to the commissioner, the regulations should also explicitly require notification of a positive result to the patient "as soon as possible but not later than seven (7) days" so that the patient seeks care immediately.

Response: The regulation regarding HIV testing and informing the patient of the test result is in 10 NYCRR Section 63.3, and NYSDOH is not making amendments to that section at this time. 10 NYCRR Section 63.3(e) includes provisions for notifying patients of positive test results. NYSDOH agrees that the practitioner who ordered the test should notify the patient of a positive result and should comply with the other requirements in 10 NYCRR 63.3(e) as soon as possible. No changes to the regulation are needed as a result of this comment; however, the regulation has been amended to clarify that the reporting of acute HIV infection within one day is to be made to the commissioner.

Comment: The commenter who is a health care professional indicates that the reporting of "acute HIV infection" within one day is problematic, because acute HIV infection cannot always be diagnosed within one day. The commenter asked NYSDOH to clarify that the reporting must be within one day of when the acute HIV is diagnosed.

Response: NYSDOH agrees that the reporting must be within one day of when the acute HIV is diagnosed. Please refer to the 2018 Guidelines for use of the HIV Diagnostic Testing Algorithm for Laboratories and the New York State Department of Health Laboratory Reporting Communicable Diseases, 2020 Edition. No changes to the regulation are needed as a result of this comment.

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Newborn Hearing Screening

I.D. No. HLT-12-23-00013-P

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

Proposed Action: Amendment of Subpart 69-8 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 2500-g

Subject: Newborn Hearing Screening.

Purpose: To improve follow-up after newborn hearing screening and articulate reporting requirements.

Public hearing(s) will be held at: 11:00 a.m., April 13, 2023 at Empire State Plaza Convention Center, Mtg. Rm. 1, 279 Madison Ave., Albany, NY.

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

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

Text of proposed rule: Subdivisions (g) and (h) of section 69-8.1 are amended, and new subdivisions (i) through (q) are added, to read as follows:

(g) *Two-tier infant hearing screening is defined as the use of otoacoustic emissions (OAE) screening followed by auditory brainstem response (ABR) screening if the patient does not pass the OAE screening.*

(h) *Parent means a parent by birth or adoption, legal guardian, or any other person legally authorized to consent to medical services for the infant.*

([h]) (i) *Article 28 Facility or Facility shall mean a health care facility established under Article 28 of the Public Health Law.*

(j) *Early Intervention Program means the New York State Early Intervention Program for infants and toddlers with disabilities and their families, established under Title II-A of Article 25 of Public Health Law, including state-approved Program offices at the county level.*

(k) *Referral to the municipal Early Intervention Program means referral to the designated early intervention official in the municipality where the child resides, as is required of primary referral sources. Such referral shall occur within two working days of identifying an infant or toddler who is less than three years of age and suspected of having a disability or is at risk of having a disability.*

(l) *Early intervention official means the official designated by the municipality as responsible for the administration of referrals of children suspected of having or are at risk for developmental delays or disabilities.*

(m) *Early Intervention Program evaluator means an individual approved by the Early Intervention Program to evaluate children from birth to three years old with standardized assessments and criterion-referenced assessments to determine eligibility for early intervention services.*

(n) *Primary referral sources are defined as all individuals who are Early Intervention Program qualified personnel; all approved evaluators, service coordinators, and providers of early intervention services; Article 28 facility hospitals and clinics; child health care providers; day care programs; local health units; local school districts; local social service districts including public agencies and staff in the child welfare system; public health facilities; early childhood direction centers; domestic violence shelters and agencies; homeless family shelters; and, operators of any clinic approved pursuant to Article 16 of the Mental Hygiene Law, or Article 31 of the Mental Hygiene Law.*

(o) *An "at risk" referral to the Early Intervention Program means referral of an infant who has failed newborn hearing screening prior to discharge from neonatal care with no documented follow-up results reported by the birth facility at 60 days post-discharge. Upon such referral, the county Early Intervention Program shall facilitate newborn hearing screening follow-up.*

(p) *A "suspected of hearing loss" referral to the Early Intervention Program means referral of an infant who has failed a two-tier inpatient hearing screening and any follow-up out-patient re-screening. Upon such referral, the Early Intervention Program evaluator may first provide a confirmatory audiological evaluation to determine whether a hearing loss exists, pursuant to section 69-4.8 of this Part.*

(q) *A prescription shall mean a written order issued by the facility for an infant to obtain a follow-up screening or diagnostic audiological evaluation, as appropriate, from an article 28 licensed facility or a provider authorized to perform audiological evaluations under title eight of the education law.*

Subdivisions (b) and (c) of section 69-8.2 are amended to read as follows:

(b) General requirements of an infant hearing screening program are:

(1) The conduct of a two-tier inpatient infant hearing screening prior to discharge from [the facility:] neonatal care. Two-tier infant hearing screening consists of initial screening with OAE on both ears. Each ear must pass the OAE screening to be considered a "pass." If the OAE screening is not passed in one or both ears, an ABR screening is performed

on both ears. If the infant passes the ABR screening, the infant has "passed" the hearing screening. If one or both ears do not pass the ABR screening, the infant shall be referred for outpatient re-screening and/or diagnostic audiological evaluation.

(7) Individual infant data must be reported or updated through the Early Hearing Detection and Intervention – Information System (EHDI-IS) or any successor system whenever new screening results are obtained.

(c) Facilities with 400 or fewer births annually, based on a three-year rolling average, may provide referrals for infants to receive hearing screening from an article 28 facility or a provider licensed under State Education Law and authorized under such law to perform infant hearing screening, or persons or entities contracted therewith.

(1) Such referrals shall include a prescription issued by the facility, including a request for results of the screening to be returned to that facility, for infants to receive hearing screening from an article 28 facility or a provider licensed under State Education Law and authorized under such law to provide infant hearing screening, or persons or entities contracted therewith.

Subdivision (b) of section 69-8.3 is amended to add a new paragraph (6) to read as follows:

(b) The program manager shall be responsible for ensuring:

(6) Establishment of policies and procedures for the audiological screening of newborns, including training of all personnel, conduct of the screening, referral, follow-up and documentation procedures.

Section 69-8.4 is amended to read as follows:

(a) All infants born in the facility shall receive an initial hearing screening prior to discharge from the facility, pursuant to section 69-8.2(b) of this Subpart, except as provided in section 69-8.2(c) of this Subpart.

(e) In the event that an infant is not screened for hearing loss prior to discharge from [the facility] inpatient neonatal care, the program manager shall ensure that:

(f) If the infant fails the two-tier inpatient hearing screening, [a repeat screening shall be conducted whenever possible prior to the infant's discharge from the facility to minimize the likelihood of false positive results and need for a follow-up outpatient screening] an outpatient follow-up screening and/or diagnostic audiological evaluation shall be performed to confirm the results of the inpatient screenings.

[(g) If the infant fails the inpatient screening and any repeat screening, if performed, an outpatient follow-up screening shall be performed to confirm the results of the inpatient screens.

(h) [(g)] If the facility has elected to conduct follow-up hearing screening either directly or through a contractual agreement, the following procedures shall be followed:

(7) If the facility or provider under contract with the facility cannot reach the family or for any other reason cannot schedule and complete a follow-up screening within [seventy-five] sixty days from discharge, the infant shall be referred to the early intervention official in his or her county of residence as an at-risk child in accordance with section 69-4.3 of this title, unless the parent objected to the referral at the time of the inpatient hearing screening[;]. The parent's objection to a follow-up screening must be entered into EHDI-IS or any successor system;

[(i)] (h) If the facility elects to refer infants who fail the inpatient hearing screening to other facilities or providers licensed under the State Education Law and authorized by such law to perform infant hearing screening on an outpatient basis, the following procedures shall be used:

(4) The parent shall be informed that if results of a follow-up outpatient screening are not returned to the facility within sixty days, the infant will be referred as an at-risk child to the early intervention official in their county of residence for follow-up purposes unless the parent(s) object to such a referral, in accordance with section 69-4.3 of this Part.

(7) If results of a follow-up outpatient screening are not returned to the facility within [seventy-five] sixty days, the infant shall be referred as an at-risk child to the early intervention official in his/her county of residence for follow-up purposes, in accordance with section 69-4.3 of this

part, unless the parent has objected to such a referral. The parent's objection to a follow-up screening must be entered into EHDI-IS or any successor system.

Subdivision (d) of section 69-8.5 is amended, and a new subdivision (e) is added to read as follows:

(d) The program manager shall report all infant hearing screening results in the EHDI-IS, or any successor system, as directed by the department.

[(d)] (e) The department may seek corrective action as necessary to ensure infants are screened for hearing loss under the referral process provided for in this section.

Section 69-8.6 is amended to read as follows:

(a) In the event that an infant is transferred from one facility to another such facility, the facility discharging the infant to home shall be responsible for ensuring that infant hearing screening services are provided to the infant and reported to the department in a manner consistent with the applicable provisions set forth in this [Part] Subpart. If the infant fails [both an initial] the inpatient infant hearing screening and any follow-up outpatient infant hearing screening, the infant shall be referred for an evaluation to the early intervention official in his or her county of residence, according to the procedures set forth in Section 69-4.3 of this Part unless the parent objects. The parent's objection to a follow-up screening must be entered into EHDI-IS or any successor system.

(b) Medically unstable infants shall receive infant hearing screening prior to discharge to home and as early as development or medical stability will permit such screening. In instances where the medical condition of the infant contraindicates infant hearing screening, a decision to forgo such screening may be made and documented in the medical record and reported to the department in a manner consistent with the applicable provisions set forth in this Subpart.

A new Section 69-8.7 is added to read as follows:

Section 69-8.7 Responsibilities of Persons Performing Infant Hearing Screening.

(a) Anyone who performs an infant hearing screening and/or diagnostic audiological evaluation upon a child under six months of age shall report the results of such screening or evaluation to the department through the Early Hearing Detection and Intervention – Information System (EHDI-IS) or any successor system as directed by the department.

(b) Infant hearing screening reporting must include:

(1) the results of each newborn infant hearing screening performed; and

(2) such other information or data as may be required by the department to fulfill the purposes of this section.

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: May 22, 2023.

Regulatory Impact Statement

Statutory Authority:

Section 2500-g of the Public Health Law (PHL) provides authority for the Department of Health (Department) to oversee and regulate Statewide newborn hearing screening and follow-up.

Legislative Objectives:

The proposed regulations satisfy the objective of PHL section 2500-g to establish a Statewide program for screening newborns for hearing problems and detecting hearing problems as early as possible in an infant's life. Particularly, this statute directs the Commissioner to incorporate medical guidelines and protocols that reflect the most cost-effective methods for early detection of newborn hearing problems. Consistent with this objective, the regulations will align with National Joint Committee on Infant Hearing (JCIH) evidence-based practices for newborn hearing screening to ensure early detection and referral for infants identified as having hearing difficulties, while also reducing the number of infants requiring follow-up hearing screening following discharge from neonatal care, which can result in cost savings.

Needs and Benefits:

The proposed rule is necessary to establish procedures for a two-tier inpatient newborn hearing screening protocol, which will align with National Joint Committee on Infant Hearing (JCIH) evidence-based practices and reduce the number of infants requiring follow-up hearing screening following discharge from neonatal care. Implementation of two-tier inpatient newborn hearing screening benefits families with newborns by decreasing the number of infants who do not pass their hearing screening

prior to discharge (reduces the number of infants who receive false positive results) and benefits perinatal facilities by reducing the number of infants that require tracking to report outpatient hearing screening results. This method will increase the accuracy of the newborn hearing screening program. In addition, the proposed rule changes are necessary to update the requirement to report hearing screenings to the Department, to ensure effective Statewide monitoring and clarify the responsibilities of health care professionals with respect to reporting newborn hearing screening data.

Costs:

Costs for the Implementation of, and Continuing Compliance with the Regulation to the Regulated Entity:

Some Article 28 facilities that do not have both otoacoustic emissions (OAE) and auditory brainstem response (ABR) technology available will need to acquire new equipment to comply with the updated newborn hearing screening requirements. Approximately 60 Article 28 facilities statewide have the necessary newborn hearing screening equipment (OAE and ABR). Approximately 57 facilities with ABR only will need to acquire OAE technology, with an associated expenditure in the range of \$6,000 to \$7,500 per OAE device. A smaller number of birth facilities (an estimated seven facilities) will need to acquire ABR equipment, an expenditure of approximately \$15,000 for either ABR alone or combination ABR/OAE screening equipment. Initial costs would be offset by revenue (global fee for inpatient stay).

Costs to the Agency, the State and Local Governments for the Implementation of and Continuing Compliance with the Rule:

The proposed rules will result in no additional costs for the Department or State and local governments.

Local Government Mandates:

The proposed rule does not impose any new duty upon any county, city, town, village, school district, fire district, or other special district, as all existing EIP requirements on localities that administer the EIP at the local level will remain unchanged by the amended regulations.

Paperwork:

The proposed rules do not impose any new paperwork requirements upon any state or local governments.

Duplication:

The proposed rules do not duplicate, overlap, or conflict with relevant rules and other legal requirements of the state and federal government.

Alternatives:

There are no alternatives to the proposed rules. Not adopting these rules is not a viable option, as amendment is necessary to align Department regulations with the Joint Committee on Infant Hearing recommendations, thereby satisfying the directive in PHL section 2500-g to regulate newborn hearing screening in a manner that incorporates consensus medical guidelines and protocols that reflect the most cost-effective methods for detecting hearing problems as early as possible in an infant's life.

The Department presented the proposed regulations to the Early Hearing Detection and Intervention (EHDI) Advisory Group meeting on June 17, 2021. The EHDI Advisory Group was supportive of the proposed changes; no specific alternative proposals were recommended by the EHDI Advisory Group.

Federal Standards:

There are no applicable federal standards.

Compliance Schedule:

The proposed rules will be effective immediately upon adoption. These proposed rules conform current regulation to existing requirements in state statutes.

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 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.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Contingent Reserve Requirements for Managed Care Organizations (MCOs)

I.D. No. HLT-12-23-00001-P

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

Proposed Action: Amendment of section 98-1.11(e) of Title 10 NYCRR.

Statutory authority: Public Health Law, section 4403(2)

Subject: Contingent Reserve Requirements for Managed Care Organizations (MCOs).

Purpose: Maintains the contingent reserve requirement at 7.25% through 2023 applied to the Medicaid Managed Care, HIV SNP and HARP programs.

Text of proposed rule: Subparagraph (ii) of paragraph (1) of subdivision (e) of section 98-1.11 is amended to read as follows:

(ii) Notwithstanding the provisions of subparagraph (i) above, the contingent reserve applicable to net premium income generated from the Medicaid managed care, Health and Recovery Plans (HARPs) and HIV SNP programs shall be:

- (a) 7.25 percent of net premium income for 2011;
- (b) 7.25 percent of net premium income for 2012;
- (c) 7.25 percent of net premium income for 2013;
- (d) 7.25 percent of net premium income for 2014;
- (e) 7.25 percent of net premium income for 2015;
- (f) 7.25 percent of net premium income for 2016;
- (g) 7.25 percent of net premium income for 2017;
- (h) 7.25 percent of net premium income for 2018;
- (i) 7.25 percent of net premium income for 2019;
- (j) 7.25 percent of net premium income for 2020;
- (k) 7.25 percent of net premium income for 2021;
- (l) 7.25 percent of net premium income for 2022;
- (m) [8.25] 7.25 percent of net premium income for 2023.
- (n) [9.25] 8.25 percent of net premium income for 2024.
- (o) [10.25] 9.25 percent of net premium income for 2025.
- (p) [11.25] 10.25 percent of net premium income for 2026.
- (q) [12.5] 11.25 percent of net premium income for 2027.
- (r) 12.5 percent of net premium income for [calendar years after 2027]

(s) 12.5 percent of net premium income for calendar years after 2028.

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.

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

Regulatory Impact Statement

Statutory Authority:

Public Health Law section 4403(2) states the Commissioner may adopt and amend rules and regulations pursuant to the state administrative procedures act to effectuate the purposes and provisions of Article 44, which governs the certification and operational requirements of Managed Care Organizations (MCOs).

Legislative Objectives:

10 NYCRR 98 was extensively amended in 2005 and consistently thereafter, to implement the Medicaid Redesign Team initiatives consistent with Article 44 of the Public Health Law. This includes the temporary reduction of the contingent reserve requirements applied to premium revenues from the Medicaid Managed Care (MMC) and HIV Special Needs Plan (SNP) programs due to inclusion of various new benefits and populations into Medicaid Managed Care, the addition of the Health and Recovery Plans (HARPs) and the 2% reduction in premium (pursuant to the MRT initiative #6). These changes necessitated maintaining the reserves at the current level as the premium rates are not adequate to allow for a planned increase in the contingent reserve requirements. This proposed amendment will allow the contingent reserve for the Medicaid, HARP and HIV SNP lines of business to remain at 7.25% for one additional year (2023).

Needs and Benefits:

The approved SFY 2011-2012 and SFY 2012-2013 NYS Budgets incorporated a proposal from the Medicaid Redesign Team that reduced the premium rates of MMC and HIV SNP managed care plans by 2%. This was accomplished by lowering the rate component for surplus/reserves from 3% to 1% effective April 1, 2011.

The actuarial firm employed by the Department of Health (DOH) must certify the actuarial soundness of the premium rates to Centers for Medicare and Medicaid Services (CMS). The reduction of the rate component for surplus/reserves by 2% would result in rates that were not actuarially sound, as such rates would be insufficient to support the contingent reserve requirement specified in § 98-1.11(e)(1). As a result, the contingent reserve requirement for Medicaid product lines was reduced from 10.5% to 7.25% of premium revenue. This change was implemented in regulations promulgated on an emergency basis effective July 7, 2011 and adopted permanently on February 15, 2012.

The new revision to 98-1.11(e) maintains the 7.25% contingent reserve requirement through calendar year 2023. This will permit DOH to maintain the 2% reduction in the premium rates and allow the State's actuary to certify the actuarial soundness of the premium rates to CMS.

Costs:

The amended regulation imposes no compliance costs on state or local governments. There will be no additional costs incurred by the Health Department or by the MCOs.

Local Government Mandates:

The regulation imposes no new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district or other special district.

Paperwork:

Paperwork associated with filings to DOH or Department of Financial Services should be minimal and would be no more substantial than the current regulation requires.

Duplication:

These regulations do not duplicate, overlap, or conflict with existing State and federal regulations.

Alternatives:

Revisions to § 98-1.11(e) are needed to ensure the actuarial soundness of Medicaid Managed Care premium rates. No alternatives were considered since Medicaid premium rates are set by the State actuary and with a built-in profit of 1% which is not sufficient to accommodate reserve increases without jeopardizing the soundness of the rates.

Federal Standards:

The rule does not exceed any minimum standards of the Federal government for the same or similar subject area.

Compliance Schedule:

Managed care organizations should be able to comply with the proposed regulations upon publication of the Notice of Adoption.

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, recordkeeping or other compliance requirements on small businesses or local governments.

Rural Area Flexibility Analysis

No rural area flexibility analysis is required pursuant to section 202-bb(4)(a) of the State Administrative Procedure Act. The proposed amendment does not impose an adverse impact on facilities in rural areas, and it does not impose reporting, recordkeeping or other compliance requirements on facilities in rural areas.

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.

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Clinical Laboratories and Blood Banks

I.D. No. HLT-12-22-00001-RP

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

Proposed Action: Amendment of Subpart 58-1 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 576

Subject: Clinical Laboratories and Blood Banks.

Purpose: To allow for remote supervision and updates to provide concordance with NYSED law for qualifications of technical personnel.

Substance of revised rule (Full text is posted at the following State website: <https://regs.health.ny.gov/regulations/proposed-rule-making>): Part 58-1 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) regulates the permitting and operation of clinical laboratories and blood banks. An entity operating a clinical laboratory or blood bank located in New York State, or accepting specimens from a person or entity in New York State, is required to hold a permit issued by the New York State Department of Health (Department). The proposed amendments to sections 58-1.1 through 58-1.5 revise several aspects of the current regulation.

Section 58-1.1 specifically defines the permitting process for clinical laboratories, including criteria for a permit, allowable categories of testing, and the process for obtaining provisional permits. Amendments to paragraph 58-1.1(a)(1) clarify that testing or procedures performed under a permit must be approved by the U.S. Food and Drug Administration or the Department. Paragraph 58-1.1(a)(2) is amended to define conditions for permit denial and to define allowable owners. Subdivision 58-1.1(d) is amended to better define the conditions under which provisional permits can be issued. New subdivision 58-1.1(e) is added to define the process for voiding a permit, consistent with Public Health Law (PHL) § 575(6). New subdivision 58-1.1(f) defines the process for issuance of a "single use permit," which would allow access to testing on a patient or test-specific basis under certain circumstances, such as during a declared state disaster emergency.

Section 58-1.2 sets forth the required availability of the laboratory director to the clinical laboratory or blood bank and his or her responsibilities. Amendments to subdivisions 58-1.2(a)-(b) establish the title of "sole assistant director," a person responsible for one or more categories on the laboratory or blood bank permit for which the laboratory director does not hold a Certificate of Qualification. The sole assistant director would be treated as the laboratory director for those categories. Amendments to subdivision 58-1.2(b) also allow a laboratory director to serve at five different clinical laboratories or blood banks, or any combination thereof. Amendments to subdivision 58-1.2(c) set forth expectations for the onsite presence of the director and sole assistant director while also providing for exceptions.

Revisions in section 58-1.2 also include a definition of "regular part time hours," to allow onsite supervision at a reduced frequency. Subdivisions 58-1.2(d)-(e) define the responsibilities of laboratory directors and sole assistant directors. Subdivisions 58-1.2(f)-(g) set forth expectations for coverage and notification when the laboratory director's or sole assistant director's employment is terminated. Finally, new subdivision 58-1.2(g) defines the consequences of an extended absence of a director or sole assistant director when a new individual is not identified as a replacement. The proposed revisions now define that absences of greater than 60 days require prior notification and approval by the Department.

Section 58-1.3 sets forth the roles and responsibilities of a clinical laboratory supervisor. Amendments to section 58-1.3 expand supervisor titles from just clinical laboratories to blood banks, as per PHL, and allow for supervisors to oversee "procedures" in addition to "tests," as appropriate for blood banks. Amendments to subdivision 58-1.3(d) provide criteria for allowing an exception to the requirement to have a supervisor onsite during all hours of laboratory testing. Subsection 58-1.3(e) is amended to expand the allowable areas for cytotechnologist supervision in accordance with their scope of practice as interpreted by the New York State Education Department (NYSED).

Section 58-1.4 defines the qualifications of a clinical laboratory supervisor, and section 58-1.5 defines the duties and qualifications of clinical laboratory technical staff. Amendments to section 58-1.4 define "acceptable laboratory" by describing the experience required for qualification of supervisors and staff, reducing the number of years of experience in such "acceptable laboratories" required to qualify as a supervisor, and expanding the criteria to allow certificate of qualification holders to serve as supervisors. Sections 58-1.4 and 58-1.5 are also amended to revise the duties and responsibilities of additional laboratory staff, as well as respiratory therapists, and to revise the qualifications for such staff to conform to NYSED licensure requirements. These amendments also allow supervisors and staff working in laboratories outside of New York State to qualify under the appropriate titles if they meet Department requirements or are licensed in their state or other jurisdiction. Deletions from these sections remove outdated language that is no longer applicable, simplifying the regulation overall.

A new section 58-1.14 is added clarifying reporting requirements for results of laboratory testing for certain communicable diseases. The section requires the Commissioner to designate those tests for communicable diseases that require prompt action, and to make available a list of such diseases on the Department website. It also requires clinical laboratories to immediately report positive test results for communicable diseases identified as requiring prompt attention, in a manner and format identified by the Commissioner. Finally, the new section requires clinical laborator-

ies to report all test results, including negative and indeterminate results, for communicable diseases identified as requiring prompt attention, via the Electronic Clinical Laboratory Reporting System (ECLRS).

Revised rule compared with proposed rule: Substantial revisions were made in sections 58-1.1, 58-1.2, 58-1.3, 58-1.4, 58-1.5 and 58-1.14.

Text of revised 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: 45 days after publication of this notice.

Revised Regulatory Impact Statement

Statutory Authority:

Public Health Law (PHL) § 576 authorizes the New York State Department of Health (Department) to promulgate regulations to effectuate the provisions and purposes of Title V of Article 5 of the PHL, relating to the issuance of permits and the requirements for operating a clinical laboratory or blood bank.

Legislative Objectives:

Title V of Article 5 of the PHL is intended to promote the public health, safety, and welfare by requiring the permitting of clinical laboratories and blood banks and by requiring that the performance of tests and procedures employed by clinical laboratories and blood banks meet minimum standards accepted and approved by the Department.

Needs and Benefits:

Amendments to section 58-1.1 clarify that tests or procedures performed by a clinical laboratory or blood bank must be approved by the Food and Drug Administration (FDA) or by the Department; define allowable owners and laboratory directors of clinical laboratories and blood banks; specify conditions for permit denial; and better describe the conditions under which provisional permits can be issued. These amendments are beneficial to the Department and to regulated parties because they provide clarity to the permitting process. Further, during the COVID-19 public health emergency, the need for a streamlined process to issue provisional permits became evident to allow the Department to quickly approve laboratories located in New York to initiate COVID-19 testing. For example, the current regulation specifically prohibits the issuance of a provisional permit in virology, the category under which diagnostic COVID-19 testing is performed. By removing this language and revising other criteria for provisional permit issuance, the Department will be better positioned to respond more rapidly in the event of future novel communicable disease outbreaks. Additionally, subdivision 58-1.1(e) codifies the process for voiding a permit.

The introduction of a “single use permit” will allow access to testing on a patient- or test-specific basis, when such testing is medically necessary, needed as part of a clinical trial, or as part of a declared state of emergency. Single use permits are beneficial to the public health by allowing testing to be performed by laboratories that do not hold a New York State clinical laboratory or blood bank permit, but which can nevertheless offer important services to patients. In addition to being able to be used during a pandemic, single use permits will allow testing for extremely rare disorders or where testing capacity of New York State permitted laboratories is limited and additional support is needed to meet testing demands.

Amendments to section 58-1.2 add the term “sole assistant director,” which is a person responsible for one or more categories on the laboratory permit for which the laboratory director does not hold a certificate of qualification. Sole assistant directors will be treated as laboratory directors for those categories. Amendments to this section will also increase the number of allowable directorships an individual may hold and establish requirements for the onsite presence of laboratory directors, notification of laboratory director changes and notification of laboratory director absences. These changes provide flexibility and reduce the regulatory burden on clinical laboratories.

The proposed amendments will also increase the number of directorships of clinical laboratories or blood banks allowed for a laboratory director, from two to five. This change will benefit regulated parties, especially in geographically rural areas or in specialized areas of testing where qualified individuals are scarce.

The proposed amendments establishing requirements for the onsite presence of the laboratory director and any sole assistant director are necessary to ensure the quality of testing results. Specifically, amendments to subdivisions 58-1.2(c) through (g) set forth the requirements for the onsite presence of the laboratory director and sole assistant director, while also providing criteria for exceptions to those requirements. Revisions to the definition of “regular part time hours” will add clarity to the regulations. This change will also help facilitate social distancing in clinical laboratories by reducing the in-person workforce.

New subdivision 58-1.2(e) is needed to clarify that termination, death,

or incapacitation of the laboratory director will result in the voiding of the permit if not reported within 60 calendar days. This is consistent with the provision in PHL § 575(6) that stipulates that a change in director shall void a permit and the new subdivision 58-1.1(e) which requires notification within 60 days of such change to stay the permit void. The current regulations require notification to the Department of a “temporary absence” of the director, a term that was not defined and therefore led to significant ambiguity. However, new subdivision 58-1.2(g) will help to define the consequences of an extended absence of a director or sole assistant director when a new individual is not identified as a replacement. Amendments to section 58-1.3 expand the supervisor titles used for clinical laboratories to blood banks; provide criteria for allowing an exception to the requirement to have a supervisor onsite during all hours of laboratory testing; and expand the allowable areas for cytotechnologist supervision in accordance with scope of practice interpretations from the New York State Education Department (NYSED). The revisions allow for part-time remote supervision while still requiring a minimum number of hours onsite, thereby facilitating social distancing in clinical laboratories by reducing the in-person workforce.

Amendments to section 58-1.4 are needed to codify the definition of “acceptable laboratory” in reference to experience required for qualification of laboratory supervisors and clinical laboratory testing personnel; reduce the number of years of experience in acceptable laboratories required to qualify as a laboratory supervisor; and expand the criteria to allow certificate of qualification holders to serve as supervisors. It is assumed that reducing the years of experience will increase the candidate pool of supervisors, therefore alleviating an apparent supervisor shortage. Finally, persons holding a certificate of qualification will be included as allowable supervisors to rectify an oversight in the current regulation.

Amendments to section 58-1.5 revise the duties and responsibilities of clinical laboratory testing personnel, as well as respiratory therapists; amend qualifications for such staff to comply with NYSED licensure requirements; and allow supervisors and staff working in laboratories outside of New York State to qualify under the appropriate titles if they meet either New York State requirements or are licensed in their state or other jurisdiction. These changes provide flexibility and reduce the regulatory burden on clinical laboratories.

Finally, new section 58-1.14 is necessary to clarify clinical laboratory reporting requirements for certain communicable diseases. The section requires the Commissioner to designate those communicable diseases that require prompt action, and to make available a list of such diseases on the Department website. It also requires clinical laboratories to immediately report positive test results for communicable diseases and to report all test results, including negative and indeterminate results, for communicable diseases identified as requiring prompt attention, via the Electronic Clinical Laboratory Reporting System (ECLRS).

Costs to Regulated Parties:

Section 576 of the PHL governs the collection of fees to recoup the operating costs of the regulatory program. The proposed revisions do not impose any additional costs to the regulated parties and instead will likely reduce costs.

Cost to Local Government:

The proposed amendments will not require local governments to perform any additional tasks; therefore, it is not anticipated to have an adverse fiscal impact.

Costs to the Department of Health:

The proposed amendments will not impose additional costs to the New York State Department of Health program responsible for oversight of clinical laboratories. The program responsible for the oversight of clinical laboratories is a well-established program operated at the State level and the new language does not impact the costs of the oversight program.

Local Government Mandates:

The proposed regulations do not impose new mandates on any county, city, town or village government; or school, fire or other special district.

Paperwork:

The proposed revisions to Subpart 58-1 do not require any additional forms or paperwork from regulated parties. In fact, several revisions will reduce the necessity for regulated parties to file paperwork. The modification to subdivision 58-1.2(b), which increases the limit of laboratory directorships from two to five, will remove the need for directors to request a waiver from this section of regulation. Likewise, the modification in subdivision 58-1.2(h) increases the allowable temporary absence from the current policy-defined three weeks to a codified 60 days, which will reduce the number of required notifications to the Department.

Duplication:

The federal government also issues operating certificates to clinical laboratories (42 CFR Part 493). The Department has applied and been approved for an exemption from the federal government for this requirement continuously since 1995, granting the Department the authority as the primary accrediting body for clinical laboratories operating in New York State. Consequently, there is no duplication.

Alternatives:

An alternative to the regulatory amendments would be to not make any changes to the regulation. However, this alternative was not adopted as the proposed amendments will provide flexibility to the clinical laboratory industry in a manner that protects the safety of New York State residents.

Federal Standards:

The Federal Code of Regulations (CFR) sets forth rules for the operation of clinical laboratories (42 CFR Part 493). Section 58-1.1 is more stringent than federal rules. The federal program issues a certificate to perform testing upon application and payment of fees. The Department issues a permit to perform testing only after all requirements have been met to include, at a minimum, payment of fees, onsite inspection, and participation in proficiency testing.

Section 58-1.3 is more stringent than federal rules. General supervisors under the federal rules must be accessible at all times to provide onsite, telephone or electronic consultation for technical staff; therefore, the supervisor may in fact never be onsite in the laboratory. The proposed amendments to section 58-1.3 require that the supervisor must be onsite for at least eight hours per week to provide oversight in addition to providing telephone or audio-visual consultation. The federal rules do not define the number of laboratories where a general supervisor may serve. The proposed amendments limit the number of laboratories served by an individual supervisor to five laboratories.

Sections 58-1.4 and 58-1.5 are consistent with the requirements for testing personnel in the federal rules. Amendments to these sections are also in accordance with New York State Education Law.

Section 58-1.14 is consistent with a recently adopted federal rule requiring mandatory communicable disease reporting for COVID-19 test results.

Compliance Schedule:

The Department of Health expects that regulated parties will comply with the proposed regulation upon Notice of Adoption in the State Register.

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

Changes made to the last published rule do not necessitate revision to the previously published Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

Assessment of Public Comment

The New York State Department of Health ("Department") received comments from representatives of several clinical laboratories and laboratory member organizations, such as the Greater New York Hospital Association, the Healthcare Association of New York State, the Plasma Protein Therapeutics Association and the American College of Histocompatibility and Immunogenetics. These comments are summarized below along with the Department's responses.

Comment: A number of comments were received requesting clarification of the applicability of clinical laboratory and blood bank permit requirements on source plasma donation centers and laboratories performing infectious disease screening or procedures related to source plasma donations.

Response: A source plasma donation center is defined in Public Health Law ("PHL") Section 571(2-a) as "a facility where source plasma is collected by plasmapheresis." Section 571(2) of PHL further clarifies that a source plasma donation center is not a blood bank. Section 575-a of PHL indicates that a source plasma donation center may perform hematocrit and total protein testing in the absence of a clinical laboratory permit. Entities that perform serological tests for infectious agents are considered clinical laboratories and a clinical laboratory permit is therefore required. Entities collecting blood or blood components and performing only federal Food and Drug Administration ("FDA") Clinical Laboratory Improvement Amendments of 1988 ("CLIA")-waived donor eligibility testing determined, are not required to be permitted as clinical laboratories but instead only need to hold a limited-service laboratory registration. Subpart 58-1 is not applicable to limited-service laboratories. Entities collecting blood and blood components and performing donor eligibility or donated sample testing using methods that are not CLIA-waived (i.e., moderate or high complexity) by the FDA, must hold a clinical laboratory permit. No changes to the proposed regulation are necessary as a result of these comments.

Comment: A comment was received asking if laboratories will be notified of a "significant deficiency" as it relates to the Department's considerations for the voiding of a permit upon a change in director, owner or location in Section 58-1.1(e).

Response: Laboratories are assessed against overall compliance with the Clinical Laboratory Standards of Practice, which are available on the Department's website. As part of the Laboratory Evaluation Report issued subsequent to an on-site survey, laboratories are provided a grading of the Fundamental Standards of Practice. A Fundamental Standard listed as "not met" indicates the existence of significant deficiencies. No changes to the proposed regulation are necessary as a result of this comment.

Comment: A comment was received requesting clarity on which tests require independent judgement and responsibility and therefore can be performed only by a clinical laboratory technologist, and which tests require limited independent judgement and can therefore be performed by a clinical laboratory technician. The commentor suggested that only high complexity testing requires independent judgement and responsibility.

Response: The laboratory director is responsible for consulting the New York State Education Department's ("NYSED") scope of practice determinations to determine tasks that do not require independent judgement and responsibility and can therefore be performed by a clinical laboratory technician. No changes to the proposed regulation are necessary as a result of this comment.

Comment: Comments were received requesting clarity on the schedule of physical inspections for laboratories located outside of New York applying for a permit and whether a physical inspection can be waived for a virtual or remote inspection.

Response: The Department performs physical inspections of out-of-state applicants throughout the year based on surveyor availability and therefore a routine schedule is not feasible. Provisional permits only require the performance of an inspection, not a physical inspection, so the Department has discretion to issue provisional permits for a limited period of time based on a virtual or remote inspection, until a physical inspection can be performed. No changes to the proposed regulation are necessary as a result of these comments.

Comment: Several comments were received concerning the on-site presence of laboratory directors and whether Section 58-1.2(c)(3) is applicable to laboratory directors who request to be on-site less than eight hours per week.

Response: The Department feels strongly that active involvement of laboratory directors in laboratory operations requires periodic on-site presence. The proposed regulation provides a definition of "regular part time" to be eight (8) hours per week and lays out a process to request approval for on-site presence of less than eight (8) hours per week based on test volume, test complexity, and laboratory performance history. Section 58-1.2(c)(3) is applicable to any director who is on-site less than full-time. No changes to the proposed regulation are necessary as a result of these comments.

Comment: Many commenters asked about the qualifications and requirements of laboratory supervisors and whether the regulation will apply retroactively.

Response: The Department requires that licensed nurses have a minimum of four (4) years of non-waived point-of-care testing experience to be considered a supervisor of testing. The Department reviewed the federal regulations pertaining to clinical laboratories and based the experience thresholds in the proposed regulation on the federal qualifications for a technical supervisor. Upon adoption, these qualifications will become immediately applicable and individuals who previously did not qualify as supervisors may then qualify. No changes to the proposed regulation are necessary as a result of these comments.

Comment: Many comments were received regarding qualifications for testing personnel and the remote supervision of such testing personnel, including clarification of duties that could be performed by individuals without a clinical laboratory practitioner license from the New York State Education Department's ("NYSED") and suggestions for a new type of license for specialized disciplines of clinical laboratory testing.

Response: For clinical laboratories and blood banks located in New York, testing personnel are required to hold licensure from NYSED. In short, for the purpose of qualifying testing personnel in laboratories located outside of New York, the Department will recognize the licensure requirements in that jurisdiction even if such requirements are less stringent than those outlined in Subpart 58-1. It is the intention of the Department to allow licensed and trained technologists and technicians to work alone, provided a supervisor is always available. An individual holding a provisional permit from NYSED is not legally considered to be licensed and therefore, these individuals cannot be supervised remotely. Questions and comments received pertaining to the scope of practice of licensed individuals are outside the scope of the proposed rulemaking and not addressed in this assessment of public comment. No changes to the proposed regulation are necessary as a result of these comments.

Comment: One comment was received regarding the length of the histotechnician program and cited that many programs in other states are nine (9) months, rather than twelve (12).

Response: The Department agrees with this comment and the proposed regulation has been updated to amend Sections 58-1.5(i) and (j), accordingly. It is important to note that histotechnicians located in laboratories outside of New York must gain experience under the direction of a board-certified pathologist and the Department would expect the pathologist to attest to such experience.

Comment: One comment was received requesting the removal of the word "direct" with respect to supervision of clinical laboratory technicians.

Response: The Department agrees with this comment and Section 58-1.5(d) of the proposed regulation has been amended to reflect this change.

Comment: A comment was received requesting clarification of Section 58-1.1(f) regarding the issuance of single use permits.

Response: This section is intended to codify the existing “non-permitted laboratory test request” or “NPL” process and allow access to testing, under certain circumstances, of specimens derived from New York by an entity that does not hold a New York clinical laboratory permit. No changes to the proposed regulation are necessary as a result of this comment.

Comment: One comment was received suggesting the proposed regulation be amended to provide a list of acceptable degrees that qualify as chemical, physical or biological.

Response: The Department assesses the applicability of a degree based on a review of individual coursework. This suggestion will be considered as additional guidance to existing information materials on the Department’s website, but this prescriptive information will not be included as part of the proposed regulation.

Department of Law

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Presumptive Cases of Gross Disparity Under the Price Gouging Law

I.D. No. LAW-12-23-00006-P

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

Proposed Action: Addition of section 500.1 to Title 13 NYCRR.

Statutory authority: General Business Law, section 396-r(5)

Subject: Presumptive cases of gross disparity under the price gouging law.

Purpose: To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.

Text of proposed rule: A new section 500.1 is added to read as follows:

Section 500.1. Presumptive Cases of Gross Disparity. It shall be a presumptive case of a gross disparity in price if the price increase for any covered good or service was greater than 10% of the price at which such goods or services were sold or offered for sale by the defendant in the usual course of business immediately prior to the onset of the abnormal disruption of the market.

Text of proposed rule and any required statements and analyses may be obtained from: Zephyr Teachout, Office of the Attorney General, The Capitol, Albany, NY 12224-0341, (800) 771-7755, email: stopillegalprofiteering@ag.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: Subdivision 5 of the price gouging statute, GBL 396-r(5), authorizes the Attorney General to promulgate rules and regulations to effectuate and enforce the price gouging statute.

2. Legislative objectives: The primary objective of the statutory authority is to protect the public from firms profiteering off market disruptions by increasing prices and to deter violations. The objectives of the rules are to:

(a) ensure the public, business, and enforcers have guideposts of behavior that constitutes price gouging;

(b) ensure enforcers have the information necessary to enforce the price gouging statute;

(c) clarify the grounds for the affirmative defense in a prima facie case. The Attorney General has concluded that the proposed rules are necessary because they are the most effective means available to educate the public as to what constitutes price-gouging, to deter future price gouging, to protect New Yorkers from profiteering, and to effectuate the legislature’s goals.

3. Needs and benefits: The price gouging statute is designed to ensure that market disruptions are not exploited to increase profits at the expense of vulnerable New Yorkers seeking vital and necessary goods. The Attorney General chose to create a presumption that an increase in price of greater than 10% constitutes a gross disparity for the following reasons.

First, a greater-than-10% price increase as the measure of what constitutes presumptive price gouging (“the 10% rule”) is the most commonly employed measurement around the country. In attempting to determine what the societal understanding of what a gross disparity might presumptively be, the office canvassed other states to understand how price gouging laws work in those states. Six states or districts—Connecticut (Conn. Gen. Stat. § 42-230), Georgia (Ga. Code § 10-1-393.4), Hawaii (Haw. Rev. Stat. § 127A-30), Louisiana (La. Rev. Stat. Ann. § 29.732), Mississippi (Miss. Code Ann. § 75-24-25), and Washington D.C. (D.C. Code Ann. § 28-4101)—use what is effectively a 0% threshold: any non-cost justified price increase of a vital and necessary good constitutes price gouging. This doesn’t put businesses in a worse-off position than prior to the disruption (i.e., they can continue to make a profit), but it forbids them from taking any advantage of the situation for covered goods by increasing their profit margins. The 10% rule is most widely used, both as a matter of population covered and as a matter of the number of jurisdictions that use it. Alaska (Alaska SB 241, Section 26), Arkansas (AR Code § 4-88-303), California (Cal. Penal Code § 396[b] [determining that 10% price increases are excessive and unjustified increases.”]), Delaware (Del. Declaration of a State of Emergency [2020] § 9), Kentucky (Ky. Rev. Stat. § 367.374[1][b]), Maryland (2020 Md. Laws ch 14), New Jersey (N.J. Rev. Stat. § 56:8-108), Oklahoma (15 Okla. Stat. § 15-777.4), Utah (Utah Code Ann. § 13-41-101), and West Virginia (W. Va. Code § 46A-6J-3) all use 10%. New York City also uses a 10% threshold (Rules of the City of New York, § 5-42). Three states—Maine (Me. Rev. Stat. Ann. tit. 10, § 1105), Oregon (Or. Rev. Stat. § 401.965), and Wisconsin (Wis. Stat. § 100.305)—use a 15% threshold. Three states—Michigan (Mich. Comp. Laws § 445.903(z); Michigan Executive Order No. 2020-18), Minnesota (Minnesota Emergency Executive Order 20-10), and Pennsylvania (Penn. P.L. 1210, No. 133 § 4)—use a 20% threshold. Two states—Alabama (Ala. Code § 8-31-1 et seq) and Kansas (Kan. Stat. Ann. § 50-6.106[a])—use a 25% threshold. Nineteen states apply no numerical presumption, and instead peg price gouging to unconscionably extreme prices or similar formulations. While our laws are not constrained by those of other states, the fact that the average and most common percentage increase is 10%, and that New York City also has a 10% rule, is evidence of a societal convergence around the illegitimacy of more than 10% price increases.

Second, the 10% rule is easily administrable (see American Economic Liberties Project, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Apr. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf>). Businesses and consumers who see such an increase during an abnormal market disruption will be able to alert the Attorney General of a presumptive case. Also for administrability reasons, there is a value in the New York state statutory presumptive threshold being the same as the threshold applied in both New York City and New Jersey. A uniform 10% rule throughout New York State will provide an easy benchmark for judges and avoid potential cross-border price cliffs (e.g., pricing not subject to regulatory guidance in Westchester County, but a 10% rule in the Bronx).

Third, setting a numerical percentage as guidance is important for tens of thousands of small retailers who are an important part of communities throughout the state. Small retailers are often perceived as being responsible for driving price increases, but may, in fact, be themselves victims of price gouging. They are significant employers, and in many areas the only sellers of essential goods and services. In response to the Advance Notice of Proposed Rulemaking, the New York Association of Convenience Stores, representing 8,000 minimarts and convenience stores, submitted a comment urging the Attorney General to set forth numerical guidance in this rulemaking (New York Association of Convenience Stores, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Apr. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf>).

Fourth, even for small dollar goods and services, price gouging above the proposed greater-than-10% threshold has a meaningful effect. Costs add up, particularly for poor individuals and families. For example, \$0.15 more for a \$1.50 can of beans may seem de minimis, but could lead a large family to spend several dollars more per month. (Many poor New Yorkers purchase gas in \$5 or \$10 increments for cash flow reasons, so their increased gas bill might be only \$0.50 or \$1. However, the key is the percentage, not the nominal dollar increase.) That can further add up to significant dollar values across every vital and necessary good and service, from cooking oil, to bread, to gasoline. For most vital and necessary goods, like food, gas, and medical care, any increase in costs can create a significant burden, and a 10% increase that is not justified by costs represents precisely the form of unconscionability the statute was designed to address.

The rule merely creates a presumption, and an increase less than a 10% price increase may constitute price gouging due to unfair leverage or excessive pricing due to the absolute price increase depending on other

facts and market circumstances. Proposed Rule 5 addresses some of those circumstances.

4. Costs: The OAG does not anticipate any additional costs to regulated parties because the proposed rule merely provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties. It does not impose any additional obligations. The OAG does not anticipate that it will incur any additional costs as a result of this proposed rule. The OAG foresees no additional costs to any other state or local government agencies. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General.

5. Local government mandates: The proposed regulatory revisions do not impose any new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: No paperwork requirements will be imposed upon regulated parties under the proposed regulation.

7. Duplication: There is no federal price gouging statute. None of the provisions of the proposed rules conflict with federal law.

8. Alternatives: The Attorney General considered alternatives to the proposed regulations.

The Attorney General considered taking no action. However, for the reasons given above, a guideline seemed prudent.

The Attorney General also considered setting the percentage increase at which a gross disparity in pricing would be presumed at a higher percentage than 10%. She chose not to set a higher percentage primarily because such a percentage would represent a greater redistribution from consumers to firms exercising the pricing power created by an abnormal market disruption. Moreover, a seller can continue to earn at least the same profit margin per good or service as prior to the disruption. Therefore, any price increase above and beyond that justified by cost—and certainly one that is greater than 10% above prior prices plus increased costs—takes advantage of the pricing power created by an abnormal market disruption to create a windfall for the seller.

The Attorney General also considered including a de minimis nominal dollar increase defense, such as one that allowed for small price increases (pennies) that might nonetheless be greater than 10%. She concluded that such a defense was not part of the statutory purpose, and the Court of Appeals in *People v. Two Wheel* rejected a de minimis defense (71 NY2d 693 [1988]). Moreover, such a rule might even lead to a regressive law that leaves poorer New Yorkers, who might purchase products in smaller, cheaper, packs, less protected than wealthy ones. While wealthy New Yorkers may be able to stockpile essentials when prices are lower, poor New Yorkers have to follow the price of the day for bread, meat, and toiletries. The poorest New Yorkers, whom the statute is designed to protect, would be subject to exploitative pricing while wealthier New Yorkers could avoid the injury. For instance, the average pre-tax income in Clinton County is roughly \$29,960 per year, corresponding to a little over \$2,500 a month or \$575 a week (U.S. Census Bureau, 2016-2020 American Community Survey 5-year Estimates Data Profiles [June 15, 2022], <https://www.census.gov/quickfacts/fact/table/clintoncountynynewyork/INC910220>). This level of income does not leave a lot of room for increases for essentials. Since price gouging may happen in multiple industries at once that are simultaneously in periods of abnormal market disruption (e.g., cell phone service, internet provider, gasoline, bread, meat, toiletries) a de minimis defense would allow firms to point at the small impact of their particular good or service, which could frustrate one of the key objectives of the statute.

Finally, the Attorney General considered setting 0% threshold (i.e., a presumption that any price increase not justified by costs was a gross disparity). As noted above, six jurisdictions already take essentially this approach. In addition, one of the comments received by the Attorney General argued that, because a price increase represents a transfer of wealth from the consumer to the firm increasing the price, any price increase during a market disruption above the increase in cost should be considered unconscionably extreme. Professor Ramsi Woodcock argued:

“[T]he requirement of ‘unconscionably excessive’ pricing should be interpreted broadly to include all above-cost pricing. That is, all economic rents should be treated as the product of ‘unconscionably excessive’ pricing. The reason is that all economic rent represents a pure redistribution of wealth from consumers to firms, one that is unnecessary to create an incentive for firms to produce” (Professor Ramsi Woodcock, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Apr. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf>). The Attorney General chose a 10% rule for the reasons outlined above, but the 10% rule proposed here does not foreclose the possibility that a lower price increase might be unconscionably extreme depending on the context. For instance, there are necessary and expensive goods where a small percentage would mean a large overall cost to the consumer.

9. Federal standards: The proposed regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject. There is a strong presumption against preemption when states and localities use their power to protect public health and welfare.

10. Compliance schedule: The proposed rules will go into effect sixty (60) days after the publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments. The proposed rule provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties, including small businesses. It does not impose any additional compliance requirements or reporting obligations.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for the proposed regulation is not being submitted because the regulation will not impose any adverse impact or significant new reporting, recordkeeping or other compliance requirements on any public or private entities in rural areas.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Presumptive Unfair Leverage for Large Enterprises or Enterprises with Large Market Share Under the Price Gouging Law

I.D. No. LAW-12-23-00007-P

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

Proposed Action: Addition of section 500.5 to Title 13 NYCRR.

Statutory authority: General Business Law, section 396-r(5)

Subject: Presumptive unfair leverage for large enterprises or enterprises with large market share under the price gouging law.

Purpose: To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.

Text of proposed rule: A new section 500.5 is added to read as follows:

Section 500.5. Unfair Leverage in Concentrated Markets

(1) *When unfair leverage is used to increase prices, there is no de minimis percentage price increase to create a presumption of illegality.*

(2) *“Unfair leverage,” as referred to in General Business Law § 396-r(3)(a)(ii), will be presumed when a seller with at least 30% market share raises prices. A defendant can rebut such a presumption with the same evidence that a defendant can rebut the prima facie case as laid out in General Business Law § 396-r(3)(c).*

(3) *“Unfair leverage” as referred to in General Business Law § 396-r(3)(a)(ii), will be presumed when a significant competitor in a market for vital and necessary goods and services with five or fewer significant competitors raises prices for such goods or services.*

(a) *A firm with above a 10% market share will be presumed to be a significant competitor.*

(b) *A defendant can rebut such a presumption with the same evidence that a defendant can rebut the prima facie case as laid out in General Business Law § 396-r(3)(c).*

Text of proposed rule and any required statements and analyses may be obtained from: Zephyr Teachout, Office of the Attorney General, The Capitol, Albany, NY 12224-0341, (800) 771-7755, email: stopillegalprofiteering@ag.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

Section 500.1. Presumptive Cases of Gross Disparity. It shall be a presumptive case of a gross disparity in price if the price increase for any covered good or service was greater than 10% of the price at which such goods or services were sold or offered for sale by the defendant in the usual course of business immediately prior to the onset of the abnormal disruption of the market. Regulatory Impact Statement for Proposed Rule 13 NYCRR 500.5

1. Statutory authority: Subdivision 5 of the price gouging statute, GBL

396-r(5), authorizes the Attorney General to promulgate rules and regulations to effectuate and enforce the price gouging statute.

2. Legislative objectives: The primary objective of the statutory authority is to protect the public from firms profiteering off market disruptions by increasing prices and to deter violations. The objectives of the rules are to:

(a) ensure the public, business, and enforcers have guideposts of behavior that constitutes price gouging;

(b) ensure enforcers have the information necessary to enforce the price gouging statute;

(c) clarify the grounds for the affirmative defense in a prima facie case. The Attorney General has concluded that the proposed rules are necessary because they are the most effective means available to educate the public as to what constitutes price-gouging, to deter future price gouging, to protect New Yorkers from profiteering, and to effectuate the legislature's goals.

3. Needs and benefits: Firms in concentrated markets pose a special risk of price gouging, because they can use their pricing power in conjunction with an abnormal market disruption to unfairly raise prices. In this rule, the OAG addresses the risk posed by these firms and establishes a 0% threshold for their non-cost-based price increases. The firms covered by these rules are presumed to be price gouging if they raise their prices at all during an abnormal market disruption; they can, of course, rebut the presumption by proving that they maintained the same profit margins as they had before the disruption or that increased costs post-disruption explain their price increases.

Some states create a presumption of price gouging with any price increase for all companies. Under these proposed rules, this threshold conforms to those cases where unfair leverage is used; it is well established in New York case law that there is no price increase too small to constitute gouging in the presence of the use of unfair leverage (*People v. Two Wheel Corp.*, 71 N.Y.2d 693, 699 [1988]). A rule that permitted any level of price increase would incentive high market-share companies to set their increases exactly at whatever level was permissible.

In their comment to this rulemaking, the American Economic Liberties Project made this point, writing: "Collusion requires the sharing of some form of information, whether sales volume, pricing plans, costs, plans for capacity increases or restrictions, or direct price increases. For large firms in consolidated industries, those barriers are already low, and by providing an upper limit to those price increases, the OAG would be solving a cartel's coordination problem for it! If the OAG selected 10% as the limit for sellers with leverage, sellers would be able to identically increase their prices by 9%, and credibly claim that their price increases are identical because of the constraints created by the rulemaking, rather than the collusion from which such increases actually stem. The same would go for 8%, 5%, or any other, more lenient standard" (American Economic Liberties Project, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Apr. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf>).

These rules, therefore, establish a presumption of price gouging where leverage and pricing power exist, and coordination or tacit collusion is most likely (see Falk Bräuning, José L. Fillat & Gustavo Joaquim, *Fed. Rsr. Bank Of Bos. Current Pol'y Persp.*, Cost-Price Relationships In A Concentrated Economy 1, 8 [2022] [finding that the pass-through of cost shocks into prices is "25 percentage point[s] larger. . . when industries become more concentrated at the rate they have in the United States during our estimation sample of 2005 through 2018" and concluding that "our results suggest that the recent rise in concentration is an amplifying factor for the pass-through of current cost shocks emanating from supply shortages, energy price shocks, and labor market tightness"]; see also Hal Singer, *Antitrust Should Be Used to Fight Inflation*, Am. Prospect [Feb. 2, 2022], <https://prospect.org/economy/antitrust-should-be-used-to-fight-inflation/> ["The pandemic provides the cover for coordinated pricing. Indeed, general inflation can serve as a pretext for a coordinated price hike."]; Hal Singer, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Apr. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf> [noting that "the largest bouts of inflation in 2021 tended to occur in the most concentrated industries"]).

This rule covers two scenarios: firms with significant market share, and firms in concentrated industries.

Firms with Significant Market Share. The AG proposes that firms with 30% market share should be subject to the unfair leverage rule. These firms, by definition, are responsible for nearly one in three sales in a market and have an outsized role in price setting that is enhanced during an abnormal market disruption. The 30% market share threshold is a conservative metric of pricing power. Smaller competitors would not likely be able to quickly respond to defeat a price increase by a 30% market share holder, even with lower prices. Firms with this level of market share will typically have more stock of available merchandise and may benefit from

the preferential treatment given to larger firms by upstream suppliers. The rational profit-maximizing choice for a smaller competitor in an industry with such a seller will often be to match the larger company's price, thus spreading the price increase throughout the market. Moreover, the normal comparison-shopping process that defeats price increases in normal times may be more limited during an abnormal market disruption. In other words, firms with large market shares represent a source of contagion for market wide harm to New Yorkers and should have their efforts to profiteer especially curtailed.

The Attorney General chose 30% because in markets at "equilibrium," the settled law in the United States has been that 30% market concentration presents a threat of undue concentration (see *United States v. Philadelphia Nat. Bank*, 374 U.S. 321, 364 [1963] ["Without attempting to specify the smallest market share which would still be considered to threaten undue concentration, we are clear that 30% presents that threat."]).

Companies in Concentrated Markets. The Attorney General proposes that firms with five or fewer significant competitors be subject to the unfair leverage rule. It is well-established that a concentrated market tends to lead to higher prices (see Richard Schmalensee, *Inter-Industry Studies of Structure and Performance*, in 2 *Handbook Indus. Org.* 951 [Richard Schmalensee & Robert D. Willig, eds. 1989]; Herbert J. Hovenkamp & Carl Shapiro, *Horizontal Mergers, Market Structure, and Burdens of Proof*, 127 *Yale L.J.* 1996, 2006 [2018]). In 2015, John Kwoka published a meta-analysis of post-merger studies to examine the impact on prices of mergers that were approved. Of forty-two mergers studied, thirty-four led to price increases after controlling for other factors (John Kwoka, *Mergers, Merger Control, And Remedies* 110-11 [2015]; see also, e.g., Singer, *supra* ["economics teaches us that concentrated industries are more susceptible to price-fixing. The pandemic provides the cover for coordinated pricing. Indeed, general inflation can serve as a pretext for a coordinated price hike."]). Firms with meaningful market share have greater ability to collude or mirror pricing.

John Kwoka, the Chief Economist to the Federal Trade Commission ("FTC"), conducted an empirical review of consummated mergers (John Kwoka, *The Structural Presumption and the Safe Harbor in Merger Review: False Positives, or Unwarranted Concerns?*, 81 *Antitrust L.J.* 837 [2017]). His research informed this rule-making by showing that mergers resulting in fewer than six significant competitors almost always led to increased prices. He found that "the vast majority of mergers resulting in five or fewer significant competitors. . . have anticompetitive consequences" (id. at 865). He noted that there is an FTC presumption that a firm with above a 10% market share constitutes a significant competitor (id. at 850, see *Fed. Trade Comm'n, Horizontal Merger Investigation Data, Fiscal Years 1996-2011*, 3 n.17 [2013] <https://www.ftc.gov/sites/default/files/documents/reports/horizontal-merger-investigation-data-fiscal-years-1996-2011/130104horizontalmergerreport.pdf> ("These firms usually have market shares in excess of 10%, but market shares alone are not determinative of significance.")). While pricing power that flows from concentration will exist at different levels depending on the industry, and is more likely to exist in industries where there are significant economies of scale and network effects, Kwoka's research showed that the price impacts existed across the board.

The Attorney General's proposal of presuming unfair leverage regarding price increases in markets with five or fewer players is conservative, because during an abnormal market disruption, pricing power and term-setting power exists at a lower threshold than in a normal economy. The increased demand or decreased supply caused by the market disruption decreases the ability of consumers to turn to reasonable substitutes, either because of a sudden change in price elasticity of demand or because of the lack of reasonable substitutes. An abnormal market disruption can enhance pricing power by building or strengthening a moat around an existing industry: Entry costs rise steeply, borrowing becomes difficult, investors are wary, and customers—whether private or governmental—may turn to known entities (see, e.g., Bengt Holmstrom & Jean Tirole, *Financial Intermediation, Loanable Funds, and the Real Sector*, 112 *Q.J. Econ.* 663 [1997] [suggesting that during economic disruptions that affect financial intermediaries' lending capacity, investors and intermediaries reallocate away from poorly capitalized firms to more highly capitalized firms]). Disruptions can increase the relative market power of firms within an already concentrated industry (see, e.g., Steven C. Salop & Fiona Scott Morton, *The 2010 HMGs Ten Years Later: Where Do We Go From Here?*, at 25-27 [2020], available at <https://scholarship.law.georgetown.edu/facpub/2285>, published at 58 *Rev. Indus. Org.* 81 [2021]). As a result, during an abnormal market disruption, firms that might not otherwise have pricing power pre-disruption are able to profitably raise prices without any accompanying efficiency-enhancing effect.

4. Costs: The OAG does not anticipate any additional costs to regulated parties because the proposed rule merely provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties.

It does not impose any additional obligations. The OAG does not anticipate that it will incur any additional costs as a result of this proposed rule. The OAG foresees no additional costs to any other state or local government agencies. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General.

5. Local government mandates: The proposed regulatory revisions do not impose any new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: No paperwork requirements will be imposed upon regulated parties under the proposed regulation.

7. Duplication: There is no federal price gouging statute. None of the provisions of the proposed rules conflict with federal law.

8. Alternatives: The Attorney General considered no action, but because of the evidence that New Yorkers were being harmed, concluded that action was prudent.

The Attorney General welcomes comments on alternative ways to conservatively identify the particular firms that have unique power to shape prices in times of market disruption. In particular, the OAG seeks comment on whether four- or five-firm concentration would be an appropriate way to measure leverage.

As mentioned above, the language of significant competitor comes from the work of John Kwoka, and the 10% presumption comes from the FTC presumption. The Attorney General seeks public commentary on the term significant competitor and whether there are other ways to define the term significant competitor to achieve the desired ends.

The OAG also seeks comment on other ways to measure firms whose absolute size may be a proxy for leverage. When economists research firms, there is no single metric for what constitutes a “large firm.” Inasmuch as the Attorney General determines that a revenue threshold is the best approach for a presumption, the Attorney General welcomes comments as to the best revenue number. The Attorney General welcomes comments on what besides \$5 billion in revenue might be a measure that reflects the legislative aims, both in terms of revenue and other similar metrics, like assets.

9. Federal standards: The proposed regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject. There is a strong presumption against preemption when states and localities use their power to protect public health and welfare.

10. Compliance schedule: The proposed rules will go into effect sixty (60) days after the publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments. The proposed rule provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties, including small businesses. It does not impose any additional compliance requirements or reporting obligations.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for the proposed regulation is not being submitted because the regulation will not impose any adverse impact or significant new reporting, recordkeeping or other compliance requirements on any public or private entities in rural areas.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Presumptive Cases of Gross Disparity for Purposes of the Price Gouging Statute

I.D. No. LAW-12-23-00008-P

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

Proposed Action: Addition of section 500.3 to Title 13 NYCRR.

Statutory authority: General Business Law, section 396-r(5)

Subject: Presumptive cases of gross disparity for purposes of the price gouging statute.

Purpose: To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.

Text of proposed rule: A new section 500.3 is added to read as follows:

Section 500.3. New Products.

(1) The fact that the product or industry did not exist prior to the abnormal market disruption is not a defense under the price gouging statute.

(2) Profit margins for a new product that are higher in percentage terms than a comparable product may be used as evidence of unconscionably extreme pricing.

Text of proposed rule and any required statements and analyses may be obtained from: Zephyr Teachout, Office of the Attorney General, The Capitol, Albany, NY 12224-0341, (800) 771-7755, email: stopillegalprofiteering@ag.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: Subdivision 5 of the price gouging statute, GBL 396-r(5), authorizes the Attorney General to promulgate rules and regulations to effectuate and enforce the price gouging statute.

2. Legislative objectives: The primary objective of the statutory authority is to protect the public from firms profiteering off market disruptions by increasing prices and to deter violations. The objectives of the rules are to:

(a) ensure the public, business, and enforcers have guideposts of behavior that constitutes price gouging;

(b) ensure enforcers have the information necessary to enforce the price gouging statute;

(c) clarify the grounds for the affirmative defense in a prima facie case. The Attorney General has concluded that the proposed rules are necessary because they are the most effective means available to educate the public as to what constitutes price-gouging, to deter future price gouging, to protect New Yorkers from profiteering, and to effectuate the legislature's goals.

3. Needs and benefits: During the ongoing COVID-19 pandemic, the Office of the Attorney General received many complaints about price gouging on goods and services introduced in response to needs created by the pandemic, such as COVID-19 at-home tests, vaccinations, and medical treatments. Future crises also may result in price gouging on novel products or services. The legislature, facing price gouging complaints related to medical supplies, some of which were being developed directly in response to the pandemic, indicated that it wanted medical supplies covered by the statute. As recent experience has shown, medical supplies in particular may be created in direct response to particular health crises (NY Assembly Debate on Assembly Bill A10270, May 27, 2020, at 17 [“This legislation would update New York’s statute regarding the price gouging of consumer goods by expanding it to cover essential medical supplies and services and other goods or supplies and services used to promote the health and welfare of the public. During the COVID-19 pandemic we’ve seen countless instances of egregious price gouging; hand sanitizer, face masks, bandages, . . . medical-grade apparel and other crucial medical supplies that are desperately needed by our frontline workers, hospitals and other healthcare facilities.”]; NY Senate Debate on Senate Bill S8189, May 27, 2020, at 1575 [the amendment “will ban price gouging on essential medical supplies and service[s]. It will ban price gouging against hospitals, healthcare providers, and state and local governments.”]; Sponsor’s Mem., Bill Jacket, L. 2020, ch. 90 [“These examples [of pandemic price-gouging] have illustrated ways to strengthen our existing price gouging statute, namely by broadening its application to any goods and services vital for the health, safety, and welfare of the general public, specifically applying it to medical supplies and services used to treat, cure, or prevent disease or illness.”])).

One of the challenges of evaluating price gouging in the case of a new product is that a straightforward comparison of pre- and post-disruption pricing is not possible. The margin rule specifies that margins of existing similar products—in percentage terms—may be used as evidence of price gouging in the case of new products. Put another way, a new product sale can be unconscionably extreme if the baseline profit margin is higher than the profit margin of a similar product. These rules clarify how the New York price gouging statute protects vulnerable New Yorkers from profiteering by companies making new products, and new companies taking unfair advantage of an abnormal market disruption.

4. Costs: The OAG does not anticipate any additional costs to regulated parties because the proposed rule merely provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties. It does not impose any additional obligations. The OAG does not anticipate that it will incur any additional costs as a result of this proposed rule. The OAG foresees no additional costs to any other state or local government agencies. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General.

5. Local government mandates: The proposed regulatory revisions do not impose any new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: No paperwork requirements will be imposed upon regulated parties under the proposed regulation.

7. Duplication: There is no federal price gouging statute. None of the provisions of the proposed rules conflict with federal law.

8. Alternatives: The Attorney General considered no action, but given the consumer and industry confusion about baselines for price gouging for new products, she believes action that creates clarity for consumers and market participants is important.

9. Federal standards: The proposed regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject. There is a strong presumption against preemption when states and localities use their power to protect public health and welfare.

10. Compliance schedule: The proposed rules will go into effect sixty (60) days after the publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments. The proposed rule provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties, including small businesses. It does not impose any additional compliance requirements or reporting obligations.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for the proposed regulation is not being submitted because the regulation will not impose any adverse impact or significant new reporting, recordkeeping or other compliance requirements on any public or private entities in rural areas.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Application of Price Gouging Prohibition to Parties Within the Chain of Distribution

I.D. No. LAW-12-23-00009-P

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

Proposed Action: Addition of section 500.6 to Title 13 NYCRR.

Statutory authority: General Business Law, section 396-r(5)

Subject: Application of price gouging prohibition to parties within the chain of distribution.

Purpose: To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.

Text of proposed rule: A new section 500.6 is added to read as follows:

Section 500.6. Application of Price Gouging Prohibition to Parties Within Chain of Distribution. All parties within the chain of distribution, including manufacturers, suppliers, wholesalers, distributors, or retail sellers of goods, are subject to the statute with respect to products sold in the State.

Text of proposed rule and any required statements and analyses may be obtained from: Zephyr Teachout, Office of the Attorney General, The Capitol, Albany, NY 12224-0341, (800) 771-7755, email: stopillegalprofiteering@ag.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: Subdivision 5 of the price gouging statute, GBL 396-r(5), authorizes the Attorney General to promulgate rules and regulations to effectuate and enforce the price gouging statute.

2. Legislative objectives: The primary objective of the statutory authority is to protect the public from firms profiteering off market disruptions by increasing prices and to deter violations. The objectives of the rules are to:

(a) ensure the public, business, and enforcers have guideposts of behavior that constitutes price gouging;

(b) ensure enforcers have the information necessary to enforce the price gouging statute;

(c) clarify the grounds for the affirmative defense in a prima facie case. The Attorney General has concluded that the proposed rules are necessary because they are the most effective means available to educate the public as to what constitutes price-gouging, to deter future price gouging, to protect New Yorkers from profiteering, and to effectuate the legislature's goals.

3. Needs and benefits: The proposed rule provides clarity regarding the statute's statement that: "This prohibition shall apply to all parties within the chain of distribution, including any manufacturer, supplier, wholesaler, distributor or retail seller of goods or services or both sold by one party to another when the product sold was located in the state prior to the sale." The legislative history makes clear that this text is intended to extend the application of General Business Law 396-r to all parties in the supply chain "whose products are sold in the state" (Senator Stafford, New York State Introducer's Memo in Support [1998] S6020A). The proposed rule codifies the interpretation of the statute reflected in the text and the legislative history, as recently affirmed in *People v Tyson Foods*, Index No. 156457/2022, NYSCEF Doc. No. 45 (Sup Ct, NY County, Dec 7, 2022).

4. Costs: The OAG does not anticipate any additional costs to regulated parties because the proposed rule merely provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties. It does not impose any additional obligations. The OAG does not anticipate that it will incur any additional costs as a result of this proposed rule. The OAG foresees no additional costs to any other state or local government agencies. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General.

5. Local government mandates: The proposed regulatory revisions do not impose any new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: No paperwork requirements will be imposed upon regulated parties under the proposed regulation.

7. Duplication: There is no federal price gouging statute. None of the provisions of the proposed rules conflict with federal law.

8. Alternatives: The Attorney General considered no action, but concluded that action was prudent in the interests of clarifying the scope of the statute.

9. Federal standards: The proposed regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject. There is a strong presumption against preemption when states and localities use their power to protect public health and welfare.

10. Compliance schedule: The proposed rules will go into effect sixty (60) days after the publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments. The proposed rule provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties, including small businesses. It does not impose any additional compliance requirements or reporting obligations.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for the proposed regulation is not being submitted because the regulation will not impose any adverse impact or significant new reporting, recordkeeping or other compliance requirements on any public or private entities in rural areas.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Application of the Price Gouging Law to Dynamic Pricing

I.D. No. LAW-12-23-00010-P

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

Proposed Action: Addition of section 500.7 to Title 13 NYCRR.

Statutory authority: General Business Law, section 396-r(5)

Subject: Application of the price gouging law to dynamic pricing.

Purpose: To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.

Text of proposed rule: A new section 500.7 is added to read as follows:

Section 500.7. Dynamic Pricing. The pre-disruption price for sellers who use dynamic pricing can be determined by using the median price for the same good or service at the same time one week prior to the abnormal disruption of the market. A seller who would be liable for price gouging due to this provision may affirmatively defend against a price gouging claim by proving that the aggregate profit divided by the aggregate units sold is the same as the aggregate profit divided by the aggregate units sold a week prior during the same time period.

Text of proposed rule and any required statements and analyses may be obtained from: Zephyr Teachout, Office of the Attorney General, The Capitol, Albany, NY 12224-0341, (800) 771-7755, email: stopillegalprofiteering@ag.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: Subdivision 5 of the price gouging statute, GBL 396-r(5), authorizes the Attorney General to promulgate rules and regulations to effectuate and enforce the price gouging statute.

2. Legislative objectives: The primary objective of the statutory authority is to protect the public from firms profiteering off market disruptions by increasing prices and to deter violations. The objectives of the rules are to:

(a) ensure the public, business, and enforcers have guideposts of behavior that constitutes price gouging;

(b) ensure enforcers have the information necessary to enforce the price gouging statute;

(c) clarify the grounds for the affirmative defense in a prima facie case. The Attorney General has concluded that the proposed rules are necessary because they are the most effective means available to educate the public as to what constitutes price-gouging, to deter future price gouging, to protect New Yorkers from profiteering, and to effectuate the legislature's goals.

3. Needs and benefits: Although algorithmically-driven dynamic pricing largely did not exist when the statute was initially passed, the statutory text prohibits the use of dynamic pricing during abnormal market disruptions. Dynamic pricing exists when a seller increases prices in response to a supply contraction or a demand expansion (see Conn. Gen. Stat. Ann. § 13b-118 ["For the purposes of this subdivision, 'dynamic pricing' means offering a prearranged ride at a price that changes according to the demand for prearranged rides and availability of transportation network company drivers"]; 53 Pa. Stat. and Cons. Stat. Ann. § 57A01 [defining dynamic pricing as "[a] transportation network company's practice of adjusting the calculation used to determine fares at certain times and locations in response to the supply of transportation network company drivers and the demand for transportation network company drivers' services"]; Md. Code Regs. 11.07.05.02 ["'Dynamic pricing' means a method of calculating the toll where the dynamic pricing mileage rate varies within the approved toll rate range in real time."]). Automatic dynamic pricing occurs when the price increases automatically in such a circumstance, without human decision-making approving that particular increase. For instance, if an online retailer's algorithm detects an increase in demand for a jar of peanut butter, it may automatically increase the price by several dollars, and if demand is reduced an hour later, reduce it again (Daisuke Wakabayashi, *Does Anyone Know What Paper Towels Should Cost?*, N.Y. Times [Feb. 27, 2022], <https://www.nytimes.com/2022/02/26/technology/amazon-price-swings-shopping.html>; Institute for Local Self-Reliance, *Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5]* [Apr. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf> ["These dynamic pricing algorithms adjust prices in real time, minute-by-minute, in response to numerous factors, including price changes made by other sellers. Dynamic pricing can result in lock-step price changes, as one seller's price adjustment triggers another, which triggers another, and so on."]).

Dynamic pricing leads to situations in which there are a wide variety of pre-disruption prices. The pre-disruption "price" may not be easily discernable, making enforcement difficult. In the day, week, and month preceding the disruption, the prices for the good or services if mapped on a chart would not look like a single point, but like a scatter plot, representing a wide range of prices.

The "price" of the aforementioned jar of peanut butter for residents of Albany, for instance, might include prices ranging from \$3.99 to \$4.60 in the week prior to a market disruption. After a market disruption, if a consumer brings a complaint for a \$4.70 jar of peanut butter, the question becomes whether the \$4.70 jar represents a relatively small price increase, or unconscionably excessive pricing (assuming constant costs). Multiply that by a range of complaints of peanut butter jars costing between \$4.50 and \$5.00, and the problem becomes more complex. The "price" of a delivery service may also vary substantially, with a 2-hour grocery shopping and delivery ranging from \$40 to \$80, depending on the seller of the delivery services' analysis of the willingness to pay, based on time of day, day of the week, and individual purchaser characteristics.

Rulemaking is needed because in the absence of rulemaking, it may be unclear what baseline price can be used to determine whether a price increase is unconscionably excessive. For instance, should a \$50 car service ride from point A to point B be compared to a \$30 ride from point A to point B a few days earlier, a \$50 ride a five days earlier, or the average of all rides in the previous time period?

The presumption of the median cost of the commodity or service sold in the same geographic area at the same time a week prior to the abnormal market disruption for several reasons was chosen for several reasons.

First, many goods and services that are priced using dynamic pricing have peaks and valleys that follow the time of day and day of the week. A typical rush hour ride-hailing drive will often be different than a typical 5 AM ride-hailing drive. A midweek childcare service will often have different average prices than a weekend childcare service. The prior week, instead of the prior hour, or day, seems the most likely to enable apples to apples comparators.

Second, the Attorney General felt that the median price was the best choice among the alternatives she considered. One alternative the Attorney General considered was using the lowest price charged for a good in the relevant period, but it was determined that such a rule would unduly constrain dynamic prices without sufficient consumer benefit. Using the highest price charged during the relevant period, or some subset of the highest prices charged (as a 2014 agreement with Uber did) would lead to far too much condoned profiteering. Failing to provide a rule at all leaves too much uncertainty for businesses, enforcers and courts trying to make the best and fairest comparison of pre- and post-disruption prices. This rule balances the interests of firms in using dynamic pricing with an easily administrable enforcement mechanism to protect the public. It does not prohibit the Attorney General from using other methods for determining a baseline price but creates an easily administrable presumption.

4. Costs: The OAG anticipates some costs to regulated parties who employ automated dynamic pricing algorithms in order to ensure that such algorithms comply with the proposed rule. The OAG welcomes comments from regulated parties regarding the initial costs of implementing the proposed rule. The OAG also welcomes comments regarding any recurring costs of implementing the proposed rule. The OAG does not anticipate that it will incur any additional costs as a result of this proposed rule. The OAG foresees no additional costs to any other state or local government agencies. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General.

5. Local government mandates: The proposed regulatory revisions do not impose any new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: No paperwork requirements will be imposed upon regulated parties under the proposed regulation.

7. Duplication: There is no federal price gouging statute. None of the provisions of the proposed rules conflict with federal law.

8. Alternatives: The Attorney General considered no action, but given the increasing prevalence of dynamic pricing and the lack of clarity about how to apply the statute to these situations, providing a clear rule reduces uncertainty for businesses.

In addition, the Attorney General was concerned that an old agreement with a single counterparty is still influencing industry behavior. Eight years ago, when dynamic pricing was relatively new, the Office of the Attorney General entered into an agreement with Uber to pre-emptively address price-gouging (Letter from Eric T. Schneiderman, Att'y Gen. of N.Y., to Travis Kalanick, Co-Founder/CEO, Uber Technologies, Inc. [July 8, 2014], https://ag.ny.gov/pdfs/Uber_Letter_Agreement.pdf). In the agreement, Uber agreed that it would not raise prices higher than the fourth-highest price charged in the same city and surrounding area in the sixty days preceding the abnormal market disruption. The agreement expired in 2017 (id. at 2 ["This agreement . . . shall expire and be deemed null and void three years after it takes effect"]). While that agreement may have been valuable given its time and context, the sophistication of dynamic pricing, and our understanding of it, has changed substantially over the last eight years. The agreement allowed for significant above-cost price increases during market disruptions.

In New York City alone, there are approximately fifteen million rides a month between Uber and Lyft (see Todd W. Schneider, *Taxi and Ridehailing Usage in New York City*, <https://toddwschneider.com/dashboards/nyc-taxi-ridehailing-uber-lyft-data/> [finding an average 423,751 Uber trips per day in New York City in March 2022 and 171,525 Lyft trips per day in New York City in March 2022]; NYC Taxi and Limousine Commission, *Monthly Data Reports*, <https://www1.nyc.gov/site/tlc/about/aggregated-reports.page> [finding an average 591,746 high-volume FHV trips per day in New York City in April 2022, and an average 595,270 high-volume FHV trips per day in New York City in March 2022]). Uber in New York City constitutes approximately 400,000 rides per day (see Schneider, *supra* [finding an average 423,751 Uber trips per day in New York City in March 2022 and an average 408,604 Uber trips in February 2022]). Therefore, these highest numbers from the four highest days can be very high. Imagine, for instance, that the average price per mile during rush hour in Manhattan is \$10. In the last sixty days, there was one day where the highest price per mile of the approximately 100,000 rides was \$50, another in which it was \$49, another in which it was \$48, and a fourth in which it was \$46. The \$46 ride is the cap, well over the average of \$10, and well over the overwhelming majority of rides.

The Attorney General considered a more ride-hailing specific rule, but concluded that although ride hailing is the most prominent service using dynamic pricing, there are several firms that now use dynamic pricing such as childcare service platforms, delivery service platforms, and online retailers, and some suggestion that these numbers will grow (Institute for Local Self-Reliance, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Apr. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf>). Therefore, the Attorney General concluded it was important to address all industries using this pricing model.

The Attorney General welcomes comments on this rule, or proposals for alternatives. In particular, the Attorney General welcomes comments on whether the median price from a week earlier should be replaced with the average or median of the prior three or four weeks, or some other set of data.

9. Federal standards: The proposed regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject. There is a strong presumption against preemption when states and localities use their power to protect public health and welfare.

10. Compliance schedule: The proposed rules will go into effect sixty (60) days after the publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments. Small businesses will be subject to the rule, but it requires no additional reporting on their part. The proposed rule provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties, including small businesses. It does not impose any additional compliance requirements or reporting obligations.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for the proposed regulation is not being submitted because the regulation will not impose any adverse impact or significant new reporting, recordkeeping or other compliance requirements on any public or private entities in rural areas.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Presumptive Cases of Unfair Leverage for Purposes of the Price Gouging Law

I.D. No. LAW-12-23-00011-P

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

Proposed Action: Addition of section 500.4 to Title 13 NYCRR.

Statutory authority: General Business Law, section 396-r(5)

Subject: Presumptive cases of unfair leverage for purposes of the price gouging law.

Purpose: To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.

Text of proposed rule: A new section 500.4 is added to read as follows:

Section 500.4. Presumptive Cases of Unfair Leverage. "Unfair leverage or unconscionable means," as referred to in General Business Law § 396-r(a)(2), includes but is not limited to the use of unequal bargaining power, high-pressure sales techniques, confusing or hidden language in an agreement or in price setting.

Text of proposed rule and any required statements and analyses may be obtained from: Zephyr Teachout, Office of the Attorney General, The Capitol, Albany, NY 12224-0341, (800) 771-7755, email: stopillegalprofiteering@ag.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: Subdivision 5 of the price gouging statute, GBL 396-r(5), authorizes the Attorney General to promulgate rules and regulations to effectuate and enforce the price gouging statute.

2. Legislative objectives: The primary objective of the statutory authority is to protect the public from firms profiteering off market disruptions by increasing prices and to deter violations. The objectives of the rules are to:

(a) ensure the public, business, and enforcers have guideposts of behavior that constitutes price gouging;

(b) ensure enforcers have the information necessary to enforce the price gouging statute;

(c) clarify the grounds for the affirmative defense in a prima facie case. The Attorney General has concluded that the proposed rules are necessary because they are the most effective means available to educate the public as to what constitutes price-gouging, to deter future price gouging, to protect New Yorkers from profiteering, and to effectuate the legislature's goals.

3. Needs and benefits: This rule puts firms and customers on notice of some of the conduct that constitutes unfair leverage, by giving examples that come from the judicial history. This kind of behavior is also understood in New York law to constitute procedural unconscionability (Master Lease Corp. v. Manhattan Limousine, Ltd., 177 A.D.2d 85, 89 [2d Dep't 1992]).

4. Costs: The OAG does not anticipate any additional costs to regulated parties because the proposed rule merely provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties. It does not impose any additional obligations. The OAG does not anticipate that it will incur any additional costs as a result of this proposed rule. The OAG foresees no additional costs to any other state or local government agencies. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General.

5. Local government mandates: The proposed regulatory revisions do not impose any new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: No paperwork requirements will be imposed upon regulated parties under the proposed regulation.

7. Duplication: There is no federal price gouging statute. None of the provisions of the proposed rules conflict with federal law.

8. Alternatives: The Attorney General considered no action, but because of the evidence that New Yorkers were being harmed by large firms and firms in concentrated markets taking advantage of market disruptions, concluded that action was prudent.

9. Federal standards: The proposed regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject. There is a strong presumption against preemption when states and localities use their power to protect public health and welfare.

10. Compliance schedule: The proposed rules will go into effect sixty (60) days after the publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments. The proposed rule provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties, including small businesses. It does not impose any additional compliance requirements or reporting obligations.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for the proposed regulation is not being submitted because the regulation will not impose any adverse impact or significant new reporting, recordkeeping or other compliance requirements on any public or private entities in rural areas.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Costs Not Within the Control of the Defendant for Purposes of the Price Gouging Law

I.D. No. LAW-12-23-00012-P

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

Proposed Action: Addition of section 500.2 to Title 13 NYCRR.

Statutory authority: General Business Law, section 396-r(5)

Subject: Costs not within the control of the defendant for purposes of the price gouging law.

Purpose: To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.

Text of proposed rule: A new section 500.2 is added to read as follows:

Section 500.2. Costs not within the control of the defendant.

(1) The phrase "Additional costs not within the control of the defendant" whether used in the statutory language or regulations, includes only actually incurred costs directly attributable to the production, purchase, storage, distribution, taxation, labor, and sale of the specific

good or service, and a directly attributable percentage of the overhead costs of the business, including energy, rent, or general operational budgets.

(2) The phrase “Additional costs not within the control of the defendant,” whether used in the statutory language or in regulations, does not include a decline in sales of other goods and services, costs related to past debts or expenses, projected future costs, internal charges levied from one part of a seller to another part of a seller, or costs related to planned or speculative future expenditures, including new investments or research and development, not related to the actual production, purchase, storage, distribution, labor and sale of the specific good or service.

(3) Costs shall be calculated over the same time period as the time period of the market disruption.

(4) The existence of a customary or industry practice of employing an external index for pricing shall not establish that a seller’s charging of that index price is a cost-based price.

Text of proposed rule and any required statements and analyses may be obtained from: Zephyr Teachout, Office of the Attorney General, The Capitol, Albany, NY 12224-0341, (800) 771-7755, email: stopillegalprofiteering@ag.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: Subdivision 5 of the price gouging statute, GBL 396-r(5), authorizes the Attorney General to promulgate rules and regulations to effectuate and enforce the price gouging statute.

2. Legislative objectives: The primary objective of the statutory authority is to protect the public from firms profiteering off market disruptions by increasing prices and to deter violations. The objectives of the rules are to:

(a) ensure the public, business, and enforcers have guideposts of behavior that constitutes price gouging;

(b) ensure enforcers have the information necessary to enforce the price gouging statute;

(c) clarify the grounds for the affirmative defense in a prima facie case. The Attorney General has concluded that the proposed rules are necessary because they are the most effective means available to educate the public as to what constitutes price-gouging, to deter future price gouging, to protect New Yorkers from profiteering, and to effectuate the legislature’s goals.

3. Needs and benefits: The statute reaches every party in the supply chain for vital and necessary goods and services. In response to the Advance Notice of Proposed Rulemaking, the Attorney General received comments highlighting the increased costs that retailers have faced. The National Supermarket Association noted that “when supermarkets are charged higher prices for their products, they ultimately must raise prices when selling to consumers as well” (National Supermarket Association, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Mar. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf>). The Attorney General recognizes that, as the Consumer Brands Association wrote in its comment to this proposed rulemaking, “[a]ny new legal definitions of and investigations related to price gouging should clearly differentiate between price gouging and price increases related to inflation and economic conditions” (Consumer Brands Association, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Apr. 15, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf>). These rules provide guideposts for compliance. Clarity for wholesalers, producers, retailers, and suppliers is necessary to deter illegality. Clarity for small businesses—who account for 62% of job growth and 44% of economic activity—is necessary for compliance and to help businesses realize when they are subjected (Martin Rowinski, How Small Businesses Drive The American Economy, Forbes [Mar. 25, 2022] <https://www.forbes.com/sites/forbesbusinesscouncil/2022/03/25/how-small-businesses-drive-the-american-economy/?sh=186d7c094169>). Guidelines on evaluating the affirmative defense of increased costs (e.g., what can be included in financial metrics) can aid businesses in calculating what is illegal profiteering.

Cost is not a technical term, and firms may use different internal accounting systems. In the context of the cost defense to a prima facie case in price gouging statute, the legislative purpose is clear that cost should be interpreted narrowly. Costs are described as “additional,” implicating only those costs that arose after the market disruption. Costs include only those which are “for” the “goods and services” whose price increased, not for the business as a whole. The product-specific losses accrued during a market disruption must be costs specific to the product whose price was increased; losses on sales of a business’s other products may not be included in the cost-justification calculation.

The statute limits a cost defense to those costs “not within the control of the defendant,” necessarily excluding discretionary capital expenditures or discharge of pre-disruption existing debts. To underline that point, the word “imposed” is used, again limiting costs to those where the defendant had no choice but to incur additional costs. This rule addresses common accounting practices that may be sensible for purposes unrelated to this rule but should not be used to define costs for purposes of an affirmative defense to New York’s price gouging statute. For some firms, and in many instances, companies might consider capital expenditures or R&D a “cost.” Because they are within the control of the defendant, however, they are not a cost for purposes of an affirmative defense.

Another example is transfer pricing. Transfer pricing is an accounting practice whereby one division in a firm charges another division for goods and services using an internally-set price (sometimes derived from generally-accepted accounting practices). Internal accounting mechanisms may treat transfer prices as costs for internal accounting purposes, but such treatment is an abstraction that does not necessarily capture the costs outside the control of the firm that it actually incurred in producing the good or service. Thus, the statute would treat the “costs” represented by payment of transfer prices as “within the control” instead of “outside the control” of the party, and those costs therefore do not provide a defense under the statute.

For some vital and necessary goods, including many commodities, there is a common industry practice of setting prices based on indices. A price index is a composite number designed to reflect the average value of a set of individual prices. In some cases, two business entities use the index in an on-going supply contract. In others, they use the index as a benchmark to form a one-off price. These customary uses of index prices can confuse firms into thinking that they are not “setting” prices, because they use an external indicator, and therefore regard their pricing choices as outside the scope of 396-r. However, an increased index price does not necessarily indicate increased costs; it may merely indicate a supply crunch or demand spike. Index prices, at their best, reflect other firms’ prices, and as such are not useful tools for assessing price gouging by an individual firm. A firm that buys at an inflated index price can correctly count that purchase as an increased cost. However, a firm that chooses to sell at an index price cannot use the mere existence of the index as a defense. In fact, because indices make it easier for firms to converge on higher prices, there are increased risks of price gouging when prices are pegged to indices.

When numerous market participants increase their prices contemporaneously, consumers are prone to blame inflation rather than individual companies’ pricing decisions. One example is the egg industry—an industry that has been the subject of prior price gouging enforcement by the Office (see Verified Petition, *People v. Hillandale Farms Corp.*, https://ag.ny.gov/sites/default/files/petition_1.pdf). Most egg producers peg their egg prices to indices that are based in part on subjective “market assessments.” Thus, egg prices are determined using a “feedback loop” where: (i) egg producers communicate their “assessment” of egg prices; (ii) these assessments are used to create price indices and are sent to the producers; and (iii) the egg producers sell their eggs at prices based on the indices. Economic theory says that prices in a competitive market are set at marginal cost. Yet this index-based methodology is not necessarily tied to costs and, thus, it creates room for egg producers to converge upon higher prices even in the absence of cost increases. In a comment to this proposed rulemaking, United Egg Producers argued that “[i]n no way do egg producers have control over the market quote Urner Berry [the egg industry’s leading index] publishes.” UEP agrees, though, that such indices are tied to market assessments rather than costs and may instead reflect “supply/demand factors.” For this reason, regardless of whether egg producers are able to manipulate indices, the choice to use an index price cannot be a defense against a claim of price gouging (United Egg Producers, Comment Letter on Advance Notice of Proposed Rulemaking pursuant to N.Y. Gen. Bus. L. § 396-r[5] [Apr. 22, 2022], <https://ag.ny.gov/sites/default/files/stopillegalprofiteering-public-comments.pdf>).

To avoid ambiguity, this guidance clarifies that index prices are not external objective measures of the “right” price, and as such reliance on them is no more evidence of a legal price increase than would be a defense that relied on the existence of a price set by another company engaged in price gouging.

This regulation also clarifies that costs accruing after the abnormal disruption has begun can be used as a defense under the statute. Most abnormal disruptions will be short, but as the experience of the pandemic has illustrated, some may last for a long time. These may lead firms to question which costs within the same calendar or fiscal year may be included among the costs relevant for price gouging. The rule clarifies that costs incurred prior to the abnormal disruption cannot be used as a defense for price gouging. On the other hand, if there is a disruption followed by an immediate cost increase first, which a seller attempts to recoup by imposing a price increase some time later, the seller may use the pre-price-increase (but post-disruption) costs to justify the subsequent price

increases, as those costs cut into its margin for the pre-price-increase sales. In the case of a lengthy abnormal market disruption, the costs incurred to acquire or produce a good or service may first increase, then decrease. The product-specific losses accrued during an abnormal market disruption are costs specific to that product.

By way of example, this rule means that a rent increase in an apartment complex several months into an abnormal disruption may be justified by lost revenue for that apartment complex earlier in the market disruption. While such a rent increase would not be justified by attempting to recoup pre-disruption costs, the total "costs not within the control of the defendant" would include all the costs related to maintaining that apartment during the disruption.

4. Costs: The OAG does not anticipate any additional costs to regulated parties because the proposed rule merely provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties. It does not impose any additional obligations. The OAG does not anticipate that it will incur any additional costs as a result of this proposed rule. The OAG foresees no additional costs to any other state or local government agencies. The estimated costs to regulated parties, the agency and state and local governments is based on the assessment of the Attorney General.

5. Local government mandates: The proposed regulatory revisions do not impose any new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: No paperwork requirements will be imposed upon regulated parties under the proposed regulation.

7. Duplication: There is no federal price gouging statute. None of the provisions of the proposed rules conflict with federal law.

8. Alternatives: The Attorney General considered no action but concluded that there was a broad need for guidance especially for regulated parties.

9. Federal standards: The proposed regulatory revisions do not exceed any minimum standards of the federal government for the same or similar subject. There is a strong presumption against preemption when states and localities use their power to protect public health and welfare.

10. Compliance schedule: The proposed rules will go into effect sixty (60) days after the publication of a Notice of Adoption in the New York State Register.

Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for the proposed regulation is not being submitted because it is apparent from the nature and purpose of the regulation that it will not have a substantial adverse impact on small businesses or local governments. The proposed rule provides guidance regarding the existing standard in a manner that reduces uncertainty for regulated parties, including small businesses. It does not impose any additional compliance requirements or reporting obligations.

Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis for the proposed regulation is not being submitted because the regulation will not impose any adverse impact or significant new reporting, recordkeeping or other compliance requirements on any public or private entities in rural areas.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Registration of Energy Brokers and Energy Consultants

I.D. No. PSC-12-23-00004-P

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

Proposed Action: The Commission is considering a proposal by Department of Public Service Staff regarding implementation of section 66-t of the Public Service Law, which requires energy brokers and energy consultants to register with the Commission.

Statutory authority: Public Service Law, sections 5(1)(b), 65(1), (2), (3), 66(1), (2), (3), (5), (8), (9) and 66-t

Subject: Registration of energy brokers and energy consultants.

Purpose: To implement the provisions of Public Service Law section 66-t.

Substance of proposed rule: The Public Service Commission (Commis-

sion) is considering a proposal filed by the Department of Public Service Staff (Staff) regarding the implementation of § 66-t of the Public Service Law (PSL), which requires energy brokers and energy consultants to register with the Commission. Staff proposes that the Commission adopt modifications to the Uniform Business Practices (UBP) governing energy service companies (ESCOs) and the UBP-DERS governing distributed energy resource (DER) suppliers which would establish a registration process for energy brokers and energy consultants, require disclosure of compensation by brokers and consultants, and establish enforcement procedures.

Staff recommends a registration process that would require an annual registration package from energy brokers and consultants consisting of a registration form and associated documents, a \$500 registration fee paid by check, and a demonstration of financial accountability in the form of an irrevocable standby letter of credit. Once the full registration package is received, reviewed, and approved, the Department would provide a written communication to the energy broker or consultant that it is approved to operate in New York.

To effectuate the compensation disclosure requirement of PSL § 66-t, Staff recommends that any energy broker or consultant that has a direct contractual relationship with customers be required to set forth the form and amount of their compensation on the first page of any contract or agreement with their customers. If an ESCO or DER supplier collects broker compensation on behalf of the broker or consultant, such compensation shall be added to the Customer Disclosure Statement in the ESCO or DER supplier's customer agreement and reflect the amount and method.

Staff recommends that enforcement of the provisions of PSL § 66-t follow the enforcement process currently established in the UBP. A broker or consultant would be subject to an enforcement action for a violation of any law, rule, or regulation, including PSL § 66-t and the UBP and UBP-DERS, and would be provided with notice and an opportunity to respond before consequences are imposed. Such notice shall either request corrective action within a certain period or order the broker or consultant to show cause why consequences should not be imposed. Consequences, including but not limited to the penalties set forth in PSL § 66-t, may be imposed if the broker or consultant fails to take the requested corrective action within the prescribed cure period or if the Commission determines the noncompliance is substantiated and the consequences are appropriate.

Staff recommends that the proposed modifications to the UBP and UBP-DERS apply to any entity that acts as an energy broker or consultant, as defined in PSL § 66-t, regardless of whether such entities are acting on behalf of an ESCO or DER Supplier. According to Staff, the broad definitions set forth in PSL § 66-t for "energy broker" and "energy consultant" may apply to a range of entities, including Community Choice Aggregation (CCA) administrators, DER suppliers, ESCOs, and entities that provide rate consulting services. Staff proposes that brokers and consultants be given 60 days from the issuance of a Commission Order adopting these proposed UBP and UBP-DERS modifications to become registered with the Department.

The full text of the proposal and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. 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: Michelle L. Phillips, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6517, 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.

(23-M-0106SP1)

Office of Temporary and Disability Assistance

NOTICE OF ADOPTION

Elimination of 45-day Waiting Period Relative to Determination of Safety Net Assistance (SNA) Applications

I.D. No. TDA-50-22-00006-A

Filing No. 226

Filing Date: 2023-03-07

Effective Date: 2023-03-22

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

Action taken: Amendment of sections 351.8(b), (c)(2)-(3), (5)(i), and 351.20(c) of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20(3)(d), 34(3)(f), 131(1), 158(4); L. 2022, ch. 56, part U

Subject: Elimination of 45-day waiting period relative to determination of Safety Net Assistance (SNA) applications.

Purpose: To update State regulations relative to waiting period for SNA consistent with Part U of Chapter 56 of the Laws of 2022.

Text or summary was published in the December 14, 2022 issue of the Register, I.D. No. TDA-50-22-00006-P.

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

Text of rule and any required statements and analyses may be obtained from: Richard P. Rhodes, Jr., New York State Office of Temporary and Disability Assistance, 40 North Pearl Street, 16C, Albany, NY 12243-0001, (518) 486-7503, email: richard.rhodesjr@otda.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 2028, 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.

HEARINGS SCHEDULED FOR PROPOSED RULE MAKINGS

Agency I.D. No.	Subject Matter	Location—Date—Time
Education Department		
EDU-04-23-00007-P	Special Education Due Process System Procedures	Via Zoom—March 29, 2023, 10:00 a.m. Link: https://us06web.zoom.us/j/84909970747?pwd=TGQwcZFjaVpBRHpTN1hhYUpMR2Rsdz09 Meeting ID: 849 0997 0747, Passcode: 323234, Call In: +1 646 558 8656 US (New York) Via Zoom—March 29, 2023, 6:00 p.m. Link: https://us06web.zoom.us/j/88666486287?pwd=VEJaN1IQSnpHdzlwQkNOZGhzZVFhUT09 Meeting ID: 886 6648 6287, Passcode: 542062, Call In: +1 646 558 8656 US (New York) Education Department, 89 Washington Ave., Albany, NY—March 30, 2023, 4:00 p.m. Pre-registration is required at stakeholderDPU@nysed.gov or (518) 473-0170 Sign-in with Security on 1st Fl., Washington Ave. Entrance
EDU-09-23-00031-P	Special Education Due Process Hearings	Via Zoom—May 1, 2023, 11:30 a.m. Link: https://us06web.zoom.us/j/84161631017?pwd=ajk0NlloeTBOR1BSc1g0ZDRmelBZZz09 Meeting ID: 841 6163 1017, Passcode: w0QRHu, Call In: +1 646 558 8656 US (New York) Via Zoom—May 1, 2023, 6:00 p.m. Link: https://us06web.zoom.us/j/87150443913?pwd=aDdGU2JPZWNXa1J2aU5BYWlGLzBodz09 Meeting ID: 871 5044 3913, Passcode: VWm9UT, Call In: +1 646 558 8656 US (New York) Education Department, 89 Washington Ave., Albany, NY—May 2, 2023, 4:00 p.m. Pre-registration is required at stakeholderDPU@nysed.gov or (518) 473-0170 Sign-In with Security on 1st Floor Washington Avenue Entrance
Health, Department of		
HLT-12-23-00013-P	Newborn Hearing Screening	Empire State Plaza Convention Center, Meeting Rm. One, 279 Madison Ave., Albany, NY—April 13, 2023, 11:00 a.m.
Public Service Commission		
PSC-02-23-00025-P	Proposed Major Rate Increase in Con Edison's Annual Revenues by \$137 million	Department of Public Service, 19th Fl. Board Rm., Three Empire State Plaza, Albany, NY—May 2, 2023 and continuing daily as needed, 10:30 a.m. (Evidentiary Hearing)*

*On occasion, the evidentiary hearing date may be rescheduled or postponed. In that event, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case No. 22-S-0659.

State, Department of

DOS-03-23-00003-P.....	New York State Uniform Fire Prevention and Building Code (Uniform Code)	Department of State, 99 Washington Ave., Albany, NY—March 22, 2023, 10:00 a.m.
DOS-05-23-00018-P.....	Certification and Training of Code Enforcement Personnel	Department of State, 99 Washington Ave., Rm. 505, Albany, NY—April 5, 2023, 10:00 a.m.

ACTION PENDING INDEX

The action pending index is a list of all proposed rules which are currently being considered for adoption. A proposed rule is added to the index when the notice of proposed rule making is first published in the *Register*. A proposed rule is removed from the index when any of the following occur: (1) the proposal is adopted as a permanent rule; (2) the proposal is rejected and withdrawn from consideration; or (3) the proposal's notice expires.

Most notices expire in approximately 12 months if the agency does not adopt or reject the proposal within that time. The expiration date is printed in the second column of the action pending index. Some notices, however, never expire. Those notices are identified by the word "exempt" in the second column. Actions pending for one year or more are preceded by an asterisk(*).

For additional information concerning any of the proposals

listed in the action pending index, use the identification number to locate the text of the original notice of proposed rule making. The identification number contains a code which identifies the agency, the issue of the *Register* in which the notice was printed, the year in which the notice was printed and the notice's serial number. The following diagram shows how to read identification number codes.

Agency code	Issue number	Year published	Serial number	Action Code
AAM	01	12	00001	P

Action codes: P — proposed rule making; EP — emergency and proposed rule making (expiration date refers to proposed rule); RP — revised rule making

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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AGING, OFFICE FOR THE

AGE-02-23-00020-P	 01/11/24	Nutrition Program	The purpose of this rule is to update the regulations governing the Nutrition Program
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AGRICULTURE AND MARKETS, DEPARTMENT OF

AAM-09-23-00032-P	 02/29/24	2023 National Institute of Standards and Technology ("NIST") Handbook 44	To incorporate provisions of the 2023 Edition National Institute of Standards and Technology Handbook 44
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ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF

ASA-33-22-00001-RP	 08/17/23	Requirements for the establishment, incorporation and certification of providers of addiction services	To update outdated and stigmatizing language and to clarify processes of the certification process for providers and applicants
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CANNABIS MANAGEMENT, OFFICE OF

OCM-49-22-00024-EP	 12/07/23	Violations, Hearings and Enforcement	The proposed rule establishes parameters around violations, hearings, and enforcement creating requirements intended to further protect public health, safety, and welfare by preventing unlawful cannabis or unsafe practices from entering the marketplace
OCM-50-22-00010-P	 12/14/23	Adult-Use Cannabis	To regulate, control, and tax adult-use cannabis, generate significant new revenue, invest in communities and people most impacted by cannabis criminalization, reduce participation in the unlawful market, create new industries, and increase employment

CIVIL SERVICE, DEPARTMENT OF

CVS-02-23-00001-P	 01/11/24	Jurisdictional Classification	To classify a position in the exempt class and to classify a position in the non-competitive class
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Action Pending Index**NYS Register/March 22, 2023**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-02-23-00002-P	01/11/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-02-23-00003-P	01/11/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-02-23-00004-P	01/11/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-02-23-00005-P	01/11/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-02-23-00006-P	01/11/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-02-23-00007-P	01/11/24	Jurisdictional Classification	To classify a position in the exempt class
CVS-02-23-00008-P	01/11/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-02-23-00009-P	01/11/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-02-23-00010-P	01/11/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-02-23-00011-P	01/11/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-02-23-00012-P	01/11/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-02-23-00013-P	01/11/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-02-23-00014-P	01/11/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-02-23-00015-P	01/11/24	Jurisdictional Classification	To delete positions from and to classify positions in the non-competitive class
CVS-02-23-00016-P	01/11/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-02-23-00017-P	01/11/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-02-23-00019-P	01/11/24	Jurisdictional Classification	To add subheadings and to classify positions in the non-competitive class
CVS-06-23-00001-P	02/08/24	Jurisdictional Classification	To delete and to classify a position in the exempt and non-competitive classes
CVS-06-23-00002-P	02/08/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-06-23-00003-P	02/08/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-06-23-00004-P	02/08/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-06-23-00005-P	02/08/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-06-23-00006-P	02/08/24	Jurisdictional Classification	To delete positions from and to classify positions in the exempt and non-competitive classes

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-06-23-00007-P	02/08/24	Jurisdictional Classification	To delete a position from and to classify a position in the exempt class.
CVS-06-23-00008-P	02/08/24	Jurisdictional Classification	To delete positions from and to classify positions in the non-competitive class
CVS-06-23-00009-P	02/08/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-09-23-00001-P	02/29/24	Jurisdictional Classification	To classify a position in the exempt class and to delete a position from and to classify positions in the non-competitive class
CVS-09-23-00002-P	02/29/24	Jurisdictional Classification	To classify a position in the exempt class and to classify positions in the non-competitive class
CVS-09-23-00003-P	02/29/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-09-23-00004-P	02/29/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-09-23-00005-P	02/29/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-09-23-00006-P	02/29/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-09-23-00007-P	02/29/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-09-23-00008-P	02/29/24	Jurisdictional Classification	To classify positions in the exempt class.
CVS-09-23-00009-P	02/29/24	Jurisdictional Classification	To delete positions from and to classify positions in the non-competitive class
CVS-09-23-00010-P	02/29/24	Jurisdictional Classification	To classify positions in the exempt class and to classify positions from the non-competitive class
CVS-09-23-00011-P	02/29/24	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-09-23-00012-P	02/29/24	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-09-23-00013-P	02/29/24	Jurisdictional Classification	To delete a position from and to classify a position in the exempt class.
CVS-09-23-00014-P	02/29/24	Jurisdictional Classification	To classify a position in the exempt class.
CVS-09-23-00015-P	02/29/24	Jurisdictional Classification	To delete positions from and to classify positions in the non-competitive class
CVS-09-23-00016-P	02/29/24	Jurisdictional Classification	To delete a position from and to classify a position in the exempt class.

COMMISSIONER OF PILOTS, BOARD OF

COP-07-23-00002-P	exempt	Rate increases for pilot services.	To harmonize rates collected with increased costs for pilotage services.
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
*CCS-08-22-00007-ERP	05/24/23	Disposition for violations of the conditions of release	To bring Board regulations into compliance with recent amendments to the Executive Law
CCS-16-22-00003-ERP	04/20/23	Definitions, Standards of Incarcerated Individual Behavior, Special Housing Units, and Institutional Programs	To revise regulations to be in compliance with the new HALT legislation and applicable laws
CCS-31-22-00002-P	08/03/23	Privileged Correspondence	To update law changes regarding correspondence from CANY
CRIMINAL JUSTICE SERVICES, DIVISION OF			
CJS-47-22-00001-P	11/23/23	Part 349 Interstate, Intrastate, Conflict of Interest Transfer and Temporary Probation Supervision for Adults and Juveniles	Update the existing rule to provide a framework for consistent statewide practices in the intrastate transfer of individuals
CJS-47-22-00002-P	11/23/23	Intake for Article 7 (PINS)	Update existing Rule to reflect services which will be performed by Probation departments.
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-42-22-00001-P	10/19/23	Excelsior Jobs Program	To update the additional administrative process of this tax credit program
EDUCATION DEPARTMENT			
EDU-42-22-00004-RP	10/19/23	Student teaching requirements for registered teacher preparation programs and through the individual evaluation pathway.	To extend for one year the timeline for programs to implement the new student teaching requirements
EDU-48-22-00008-EP	11/30/23	Technical amendment relating to licensure in the profession of public accountancy.	To fix a clerical error for amendments to section 52.13 of the Commissioner's adopted in September 2022.
EDU-48-22-00009-EP	11/30/23	Central library services aid and state aid for library construction.	To align the Commissioner's regulations with recent amendments to sections 273, 273-a of the Education Law.
EDU-48-22-00010-P	11/30/23	Experience requirement for professional school building leader certification.	To remove the requirement that one year of such experience be as a school building leader.
EDU-52-22-00005-P	12/28/23	The individual arts assessment pathway to graduation	To establish the Individual Arts Assessment Pathway to graduation
EDU-52-22-00006-P	12/28/23	Extensions for coordinators of work-based learning programs.	To create a new uniform "Coordinator of Work-Based Learning Programs" extension
EDU-52-22-00007-P	12/28/23	Continuing education requirements for the profession of architecture.	To implement Chapter 578 of the Laws of 2021.
EDU-52-22-00008-EP	12/28/23	Licensure as a clinical laboratory technologist or cytotechnologist and certification as a clinical laboratory technician or histological technician	To implement Chapter 446 of the Laws of 2022.
EDU-52-22-00009-P	12/28/23	Indigenous Names, Mascots, and Logos	To prohibit the use of Indigenous names, mascots, and logos by public schools.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-04-23-00004-EP	01/25/24	Continuing education requirements for licensed optometrists certified to prescribe and use therapeutic pharmaceutical agents.	To implement section 9 of Chapter 506 of the Laws of 2021.
EDU-04-23-00005-P	01/25/24	Educator certification for candidates from another state or territory of the United States or the District of Columbia.	To streamline the endorsement & comparable program pathways providing additional flexibility & increasing the pool of candidates
EDU-04-23-00006-EP	01/25/24	Removes requirement that a postdoctoral general practice or specialty dental residency program experience be clinically based	To implement Chapter 613 of the Laws of 2022.
EDU-04-23-00007-EP	03/29/24	Special education due process system procedures.	To implement the Department's and the New York City Department of Education's Memorandum of Agreement with New York City's Office of Administrative Trials and Hearings to establish an administrative team of full-time impartial hearing officers
EDU-09-23-00028-P	02/29/24	The Indigenous Culture and Language Studies certificate.	To establish the Indigenous Culture and Language Studies certificate.
EDU-09-23-00029-P	02/29/24	Licensure of licensed behavior analysts and certification of behavior analyst assistants	To implement Chapter 818 of the Laws of 2021 and Chapter 641 of the Laws of 2022 and align provisions with national standards.
EDU-09-23-00030-EP	02/29/24	Pilot P-20 Partnerships for Principal Preparation Program.	To extend the September 30, 2022 end date of the pilot program to September 30, 2025.
EDU-09-23-00031-P	05/01/24	Special education due process hearings.	See attached.
ELECTIONS, STATE BOARD OF			
SBE-06-23-00012-EP	02/08/24	Provides for adjustment of campaign finance limits resulting from changes in the consumer price index	To adopt regulation specifically required by Election Law 14-114 (e)
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
*ENV-51-21-00003-P	04/07/23	Environmental Remediation Programs	To amend 6 NYCRR Part 375, Environmental Remediation Programs
ENV-20-22-00003-P	07/19/23	Solid Waste Management Regulations	Amend the rules that implement the solid waste program in New York State to incorporate changes in law and implementation
ENV-23-22-00007-P	08/17/23	Prohibition of glyphosate use by state departments, state agencies, and public benefit corporations on state property	Prohibit the use of glyphosate by state agencies, state departments, public benefit corporations unless exempted
ENV-28-22-00011-P	09/13/23	Forest Tax Law	Improving and sustainably managing New York's forest resources and lessening the administrative burden on participants/DEC staff
ENV-33-22-00004-P	10/20/23	Amendments to the regulations (6 NYCRR Part 621) that implement ECL article 70 (Uniform Procedures Act) and related changes	DEC is proposing the amendments as a general update to Part 621, with conforming changes to Parts 421 and 601
ENV-45-22-00021-P	01/11/24	Adding Aerosol Cans and Paint to NYS Universal Waste Rule.	Add Federal universal waste provisions relating to aerosol cans and allow waste paint to be managed as a universal waste.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-46-22-00004-P	01/18/24	Chemical Bulk Storage (CBS)	To repeal existing 6 NYCRR Parts 596, 598, 599 and replace with new Part 598; and amend existing Part 597; for the CBS program
ENV-46-22-00005-P	01/18/24	Petroleum Bulk Storage (PBS)	To amend the PBS regulations, 6 NYCRR Part 613
ENV-47-22-00005-P	01/24/24	Heavy-Duty Diesel Vehicle Inspection and Maintenance Program requirements	To update Heavy-Duty Diesel Vehicle Inspection and Maintenance Program requirements
ENV-52-22-00003-P	12/28/23	Rush Oak Openings Unique Area	Protection of public safety and natural resources
ENV-52-22-00015-EP	02/29/24	Advanced Clean Car (ACC) Standards	To adopt California's Advanced Clean Cars II (ACC II) Program regulations
ENV-52-22-00016-EP	02/28/24	Medium- and Heavy-Duty Diesel Vehicle emission standards	To update Medium and- Heavy-Duty Diesel Vehicle emission standards and adopt CA's Heavy-Duty Omnibus and Phase 2 GHG regulations
ENV-10-23-00001-P	03/07/24	Regulations governing fisheries management of American shad in the Delaware River and cobia	Limit recreational harvest of species to ensure sustainability and consistency with interstate and federal FMPs
ENV-12-23-00005-EP	03/21/24	Regulations governing recreational and commercial fishing for striped bass.	To amend 6 NYCRR Part 40 pertaining to recreational and commercial regulations for striped bass.
ETHICS AND LOBBYING IN GOVERNMENT, COMMISSION ON			
ELG-43-22-00010-EP	10/26/23	Adjudicatory proceedings and appeals procedures for matters under the Commission's jurisdiction	To streamline and advance the investigative process and facilitate the expeditious and efficient performance of the Commission on Ethics and Lobbying in Government's investigative and enforcement duties as set forth in Section 94 of the Executive Law
ELG-01-23-00006-EP	01/04/24	Ethics training for lobbyists and clients.	To establish requirements related to ethics training for lobbyists and clients mandated by law.
FINANCIAL SERVICES, DEPARTMENT OF			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
*DFS-50-21-00016-RP	03/15/23	Debt Collection by Third-Party Debt Collectors and Debt Buyers	To clarify and modify standards for debt collection practices in New York
DFS-45-22-00025-P	11/09/23	Cybersecurity Requirements for Financial Services Companies	To ensure that DFS-regulated entities most effectively address new and evolving cybersecurity threats.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
FINANCIAL SERVICES, DEPARTMENT OF			
DFS-03-23-00002-P	01/18/24	Virtual Currency Licensee Assessments	To set forth the basis for allocating costs and expenses attributable to virtual currency businesses for FSL assessments
DFS-07-23-00003-P	02/15/24	General Duties, Accountability, and Transparency Provisions for Pharmacy Benefit Managers; Electronic Filings	To define and clarify the provisions of PHL 280-a(2) and to require electronic filings for PBMs
DFS-08-23-00001-P	02/22/24	Original issuance of license or change of control of a licensee	To eliminate existing language in the regulation that requires every licensed check cashing location to have a minimum dimension
GAMING COMMISSION, NEW YORK STATE			
SGC-29-22-00010-P	07/20/23	Comprehensive regulations for interactive fantasy sports	To regulate interactive fantasy sports in New York.
SGC-50-22-00009-P	12/14/23	Purchase location requirements for lottery courier services	To facilitate the proper sale of lottery tickets to generate revenue for education
SGC-08-23-00004-P	02/22/24	Amendments to rules governing the content of gaming facility license applications.	To govern the content of gaming facility license applications.
GAMING FACILITY LOCATION BOARD, NEW YORK			
GFB-04-23-00001-P	01/25/24	Minimum capital investment for additional gaming facility	To establish a minimum capital investment amount for additional gaming facilities
GFB-04-23-00002-P	01/25/24	License fee for additional gaming facility	To establish a license fee for additional gaming facilities
HEALTH, DEPARTMENT OF			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
HLT-12-22-00001-RP	06/21/23	Clinical Laboratories and Blood Banks	To allow for remote supervision and updates to provide concordance with NYSED law for qualifications of technical personnel
HLT-23-22-00001-P	06/08/23	Hospital and Nursing Home Personal Protective Equipment (PPE) Requirements	To ensure that all general hospitals and nursing homes maintain a 60-day supply of PPE during the COVID-19 emergency
HLT-26-22-00003-P	06/29/23	Repeal of Limits on Administrative Expenses and Executive Compensation	Repeal of Limits on Administrative Expenses and Executive Compensation
HLT-39-22-00020-P	11/07/23	Early Intervention Program	To conform existing program regulations to federal regulations and state statute, as well as to provide additional clarification
HLT-40-22-00002-P	10/05/23	Maximum Contaminant Levels (MCLs)	To adopt Maximum Contaminant Levels (MCLs) for four (4) additional per- and polyfluoroalkyl substances (PFAS).
HLT-41-22-00016-P	10/12/23	Licensure and Practice of Nursing Home Administration	To clarify and update the nursing home administrator licensure program.

Action Pending Index**NYS Register/March 22, 2023**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
HLT-42-22-00002-P	10/19/23	Medical Respite Program (MRP)	Establish procedures for review & approval of applications from a not-for-profit corporation to be certified as an MRP operator.
HLT-46-22-00003-P	11/16/23	Repeal of Zika Action Plan; Performance Standards	To repeal regulatory provisions which are no longer applicable.
HLT-48-22-00001-P	11/30/23	Adult Day Health Care	To regulate adult day health care programs for registrants with medical needs in a non-residential health care facility
HLT-51-22-00006-P	12/21/23	Adult Care Facilities	To ensure consistency with various policy interpretations & compliance with the federal home&community based settings final rule
HLT-09-23-00020-P	02/29/24	Clinical Staffing in General Hospitals	Requires general hospitals to have clinical staffing committees and create clinical staffing plans.
HLT-12-23-00001-P	03/21/24	Contingent Reserve Requirements for Managed Care Organizations (MCOs)	Maintains the contingent reserve requirement at 7.25% through 2023 applied to the Medicaid Managed Care, HIV SNP & HARP programs
HLT-12-23-00013-P	04/12/24	Newborn Hearing Screening	To improve follow-up after newborn hearing screening and articulate reporting requirements

HOUSING AND COMMUNITY RENEWAL, DIVISION OF

HCR-35-22-00004-P	11/15/23	The City Rent and Eviction Regulations governing rent control in New York City.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00005-P	11/15/23	The Emergency Tenant Protection Regulations regulating residential rents and evictions.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00006-P	11/15/23	The State Rent and Eviction Regulations governing statewide rent control.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-35-22-00007-P	11/15/23	The Rent Stabilization Code regulating residential rents and evictions.	To implement changes required or informed by the Housing Stability and Tenant Protection Act of 2019.
HCR-01-23-00002-P	01/04/24	Amendments to Regulations of the Affordable Home Ownership Development Program	Comport with above cited statutory amendments.

LABOR, DEPARTMENT OF

LAB-37-22-00004-P	09/14/23	Prevailing Wage for Aggregate Hauling	To clarify the application Labor Law § 220(3-a)(f)
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LAKE GEORGE PARK COMMISSION

LGP-36-22-00006-P	11/09/23	Addition of Waste Water Management Regulations within the Lake George Park	The proposed regulations are intended to protect the waters of Lake George from wastewater pollution
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LAW, DEPARTMENT OF			
LAW-12-23-00006-P	 03/21/24	Presumptive cases of gross disparity under the price gouging law.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00007-P	 03/21/24	Presumptive unfair leverage for large enterprises or enterprises with large market share under the price gouging law.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00008-P	 03/21/24	Presumptive cases of gross disparity for purposes of the price gouging statute.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00009-P	 03/21/24	Application of price gouging prohibition to parties within the chain of distribution.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00010-P	 03/21/24	Application of the price gouging law to dynamic pricing.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00011-P	 03/21/24	Presumptive cases of unfair leverage for purposes of the price gouging law.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LAW-12-23-00012-P	 03/21/24	Costs not within the control of the defendant for purposes of the price gouging law.	To facilitate enforcement of the price gouging law by providing consumer and industry guidance and statutory presumptions.
LONG ISLAND POWER AUTHORITY			
*LPA-08-01-00003-P	 exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	 exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	 exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	 exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	 exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	 exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	 exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment
*LPA-37-18-00018-P	 exempt	The treatment of energy storage in the Authority's Tariff for Electric Service	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap
*LPA-09-20-00010-P	 exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
*LPA-28-20-00033-EP	 exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts
*LPA-37-20-00013-EP	 exempt	The terms of deferred payment agreements available to LIPA's commercial customers	To expand eligibility for and ease the terms of deferred payment agreements for LIPA's commercial customers
*LPA-12-21-00011-P	 exempt	LIPA's Long Island Choice (retail choice) tariff	To simplify and improve Long Island Choice based on stakeholder collaborative input
LPA-17-22-00012-P	 exempt	COVID-19 arrears forgiveness and low-income customer discount eligibility	To implement an arrears forgiveness program and expand low-income customer discount eligibility
LPA-17-22-00014-P	 exempt	LIPA's delivery service adjustment cost recovery rider	To ensure recovery of T&D property tax expenses consistent with the LIPA Reform Act, at the lowest cost to LIPA customers
LPA-51-22-00007-P	 exempt	Time of Day rates for residential customers.	To give customers bill savings opportunities, lower system costs, and support New York's clean energy transition.
LONG ISLAND RAILROAD COMPANY			
LIR-50-22-00004-EP	 12/14/23	Aligning the rule of conduct re: carrying firearms and other weapons in public transit with New York Law	Safeguard public safety by amending a rule to comply with NY Law re: the carrying of firearms and weapons in public transit
MENTAL HEALTH, OFFICE OF			
OMH-46-22-00012-P	 11/16/23	Administrative Compensation	To Repeal Part 513 as Executive Order 38 has sunset
METRO-NORTH COMMUTER RAILROAD			
MCR-50-22-00005-EP	 12/14/23	Aligning the rule of conduct re: carrying firearms and other weapons in public transit with New York law	Safeguard public safety by amending a rule to comply with NY Law re: the carrying of firearms and weapons in public transit
METROPOLITAN TRANSPORTATION AGENCY			
MTA-16-22-00008-EP	 04/20/23	Requiring mask wearing when mandated for indoor facilities and conveyances of the MTA & its affiliates and subsidiaries	To safeguard the public health and safety by adding a rule requiring the use of masks in facilities & conveyances when mandated
MTA-50-22-00002-EP	 12/14/23	Aligning the rule of conduct re: carrying firearms and other weapons in public transit with New York Law	Safeguard public safety by amending a rule to comply with NY Law re: the carrying of firearms and weapons in public transit
MTA-02-23-00018-EP	 01/11/24	Rules of conduct for persons entering and using Grand Central Madison Terminal and its related facilities	To facilitate the proper use of Grand Central Madison Terminal and ensure the safety of employees, customers and the public
NEW YORK CITY TRANSIT AUTHORITY			
NTA-50-22-00001-EP	 12/14/23	Aligning the rule of conduct re: carrying firearms and other weapons in public transit with New York Law	Safeguard public safety by amending a rule to comply with NY Law re: the carrying of firearms and weapons in public transit

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	 exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	 exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
NFW-52-22-00004-EP	 exempt	Adoption of Rates, Fees, and Charges	To pay for increased costs necessary to operate, maintain, and manage the system, and to meet covenants with the bondholders.
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*OBA-33-18-00019-P	 exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
*OBA-07-19-00019-P	 exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR			
*PDD-10-22-00010-EP	 03/09/23	Training Flexibilities	To provide flexibility in training requirements
PDD-26-22-00005-P	 06/29/23	Gender Identity and Expression	To ensure people are treated with dignity and respect
PDD-49-22-00004-P	 12/07/23	Protection of Individuals Receiving Services	To add clarity and consistency
PDD-10-23-00002-EP	 03/07/24	General Purposes and Certification of the Facility Class Known as Individualized Residential Alternatives	To increase IRA capacity in cases of emergent circumstances
PDD-10-23-00003-P	 03/07/24	Eligibility Determinations	To establish the eligibility criteria for individuals applying for OPWDD services
POWER AUTHORITY OF THE STATE OF NEW YORK			
*PAS-01-10-00010-P	 exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PAS-03-23-00005-P	 exempt	Rates for the Sale of Power and Energy	Maintain system's fiscal integrity. This increase in rates does not result from Power Authority's rate increase to the Village
PAS-11-23-00003-P	 exempt	Rates for the Sale of Power and Energy	Maintain System's integrity. This increase in rates does not result from Power Authority's rate increase to the Village
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	 exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	 exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-12-00-00001-P	 exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	 exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	 exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	 exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	 exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	 exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	 exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-44-03-00009-P	 exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	 exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	 exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	 exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	 exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	 exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	 exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	 exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	 exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	 exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	 exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	 exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-27-04-00008-P	 exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	 exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	 exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	 exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*PSC-34-04-00031-P	 exempt	Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.	To set appropriate level of permanent rates
*PSC-35-04-00017-P	 exempt	Application form for distributed generation by Orange and Rockland Utilities, Inc.	To establish a new supplementary application form for customers
*PSC-43-04-00016-P	 exempt	Accounts receivable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts receivable
*PSC-46-04-00012-P	 exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	 exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	 exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	 exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	 exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	 exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	 exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	 exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	 exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	 exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	 exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-46-05-00015-P	 exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	 exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	 exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	 exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*PSC-06-06-00015-P	 exempt	Gas curtailment policies and procedures	To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established
*PSC-07-06-00009-P	 exempt	Modification of the current Environmental Disclosure Program	To include an attributes accounting system
*PSC-22-06-00019-P	 exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	 exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	 exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	 exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	 exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	 exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	 exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	 exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	 exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	 exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	 exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	 exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	 exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-06-07-00020-P	 exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	 exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	 exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	 exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	 exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	 exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	 exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	 exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	 exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	 exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	 exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	 exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	 exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	 exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	 exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	 exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	 exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	 exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-04-08-00012-P	 exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	 exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	 exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	 exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	 exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	 exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	 exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	 exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	 exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	 exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	 exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	 exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	 exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	 exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	 exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	 exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-41-08-00009-P	 exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	 exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	 exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	 exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	 exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	 exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	 exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	 exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	 exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	 exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	 exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	 exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	 exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	 exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	 exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	 exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2

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PUBLIC SERVICE COMMISSION			
*PSC-05-09-00008-P	 exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	 exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	 exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	 exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	 exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	 exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	 exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	 exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	 exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	 exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	 exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	 exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	 exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	 exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	 exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	 exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-17-09-00015-P	 exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	 exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	 exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	 exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	 exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	 exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	 exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	 exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	 exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	 exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	 exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Vernon and TW Telecom of New York L.P.
*PSC-27-09-00014-P	 exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	 exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and TW Telecom of New York L.P.
*PSC-29-09-00011-P	 exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	 exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	 exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-34-09-00017-P	 exempt	To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC	To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC
*PSC-36-09-00008-P	 exempt	The increase in the non-bypassable charge implemented by RG&E on June 1, 2009	Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009
*PSC-37-09-00015-P	 exempt	Sale of customer-generated steam to the Con Edison steam system	To establish a mechanism for sale of customer-generated steam to the Con Edison steam system
*PSC-37-09-00016-P	 exempt	Applicability of electronic signatures to Deferred Payment Agreements	To determine whether electronic signatures can be accepted for Deferred Payment Agreements
*PSC-39-09-00015-P	 exempt	Modifications to the \$5 Bill Credit Program	Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program
*PSC-39-09-00018-P	 exempt	The offset of deferral balances with Positive Benefit Adjustments	To consider a petition to offset deferral balances with Positive Benefit Adjustments
*PSC-40-09-00013-P	 exempt	Uniform System of Accounts - request for deferral and amortization of costs	To consider a petition to defer and amortize costs
*PSC-51-09-00029-P	 exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	 exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	 exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	 exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	 exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	 exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	 exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	 exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	 exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-08-10-00009-P	 exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-12-10-00015-P	 exempt	Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations	To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations
*PSC-14-10-00010-P	 exempt	Petition for the submetering of electricity	To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY
*PSC-16-10-00005-P	 exempt	To consider adopting and expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-16-10-00007-P	 exempt	Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications
*PSC-16-10-00015-P	 exempt	Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications
*PSC-18-10-00009-P	 exempt	Electric utility transmission right-of-way management practices	To consider electric utility transmission right-of-way management practices
*PSC-19-10-00022-P	 exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	 exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	 exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	 exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	 exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	 exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	 exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	 exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	 exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program

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PUBLIC SERVICE COMMISSION			
*PSC-36-10-00010-P	 exempt	Central Hudson's procedures, terms and conditions for an economic development plan	Consideration of Central Hudson's procedures, terms and conditions for an economic development plan
*PSC-40-10-00014-P	 exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by National Grid
*PSC-40-10-00021-P	 exempt	Whether to permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall	To permit the submetering of natural gas service to a commercial customer at Quaker Crossing Mall
*PSC-41-10-00018-P	 exempt	Amount of hourly interval data provided to Hourly Pricing customers who have not installed a phone line to read meter	Allow Central Hudson to provide less than a years worth of interval data and charge for manual meter reading for some customers
*PSC-41-10-00022-P	 exempt	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY	Request for waiver of the individual living unit metering requirements at 5742 Route 5, Vernon, NY
*PSC-42-10-00011-P	 exempt	Petition for the submetering of electricity	To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York
*PSC-43-10-00016-P	 exempt	Utility Access to Ducts, Conduit Facilities and Utility Poles	To review the complaint from Optical Communications Group
*PSC-44-10-00003-P	 exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	 exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	 exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	 exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	 exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	 exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	 exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	 exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	 exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-26-11-00007-P	 exempt	Water rates and charges	To approve an increase in annual revenues by about \$25,266 or 50%
*PSC-26-11-00009-P	 exempt	Petition for the submetering of electricity at commercial property	To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York
*PSC-26-11-00012-P	 exempt	Waiver of generation retirement notice requirements	Consideration of waiver of generation retirement notice requirements
*PSC-29-11-00011-P	 exempt	Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order	To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing
*PSC-35-11-00011-P	 exempt	Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8	Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters
*PSC-36-11-00006-P	 exempt	To consider expanding mobile stray voltage testing requirements	Adopt additional mobile stray voltage testing requirements
*PSC-38-11-00002-P	 exempt	Operation and maintenance procedures pertaining to steam trap caps	Adopt modified steam operation and maintenance procedures
*PSC-38-11-00003-P	 exempt	Waiver of certain provisions of the electric service tariffs of Con Edison	Consideration of waiver of certain provisions of the electric service tariffs of Con Edison
*PSC-40-11-00010-P	 exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	 exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	 exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	 exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	 exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	 exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	 exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	 exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	 exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-01-12-00009-P	 exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	 exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	 exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	 exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	 exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	 exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	 exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47
*PSC-23-12-00007-P	 exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	 exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	 exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	 exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	 exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-30-12-00010-P	 exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	 exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	 exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	 exempt	Regulation of Gipsy Trail Club, Inc.'s long-term financing agreements	To exempt Gipsy Trail Club, Inc. from Commission regulation of its financing agreements

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-45-12-00008-P	 exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	 exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	 exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	 exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	 exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-06-13-00008-P	 exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	 exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information
*PSC-08-13-00014-P	 exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	 exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	 exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted
*PSC-18-13-00007-P	 exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	 exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	 exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	 exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	 exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	 exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-13-00005-P	 exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	 exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request
*PSC-25-13-00009-P	 exempt	Provision by utilities of natural gas main and service lines	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-25-13-00012-P	 exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request
*PSC-27-13-00014-P	 exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund
*PSC-28-13-00014-P	 exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	 exempt	The request of NGT for lightened regulation as a gas corporation	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC
*PSC-28-13-00017-P	 exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	 exempt	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices	To consider the definition of "misleading or deceptive conduct" in the Commission's Uniform Business Practices
*PSC-32-13-00012-P	 exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	 exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines
*PSC-33-13-00029-P	 exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy
*PSC-34-13-00004-P	 exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	 exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	 exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	 exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	 exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-45-13-00022-P	 exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00023-P	 exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00024-P	 exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4); waiver of filing deadlines	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-45-13-00025-P	 exempt	Waiver of PSC regulations, 16 NYCRR section 88.4(a)(4)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-47-13-00009-P	 exempt	Petition for submetering of electricity	To consider the request of Hegeman Avenue Housing L.P. to submeter electricity at 39 Hegeman Avenue, Brooklyn, N.Y
*PSC-47-13-00012-P	 exempt	Conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates	Consideration of conditioning, restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates
*PSC-49-13-00008-P	 exempt	Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.	To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.
*PSC-51-13-00009-P	 exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-51-13-00010-P	 exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-51-13-00011-P	 exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates
*PSC-52-13-00012-P	 exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC)	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s)
*PSC-52-13-00015-P	 exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000	To consider allowing Knolls Water Company to enter into a long-term loan agreement
*PSC-05-14-00010-P	 exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	 exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDPC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	 exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	 exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-10-14-00006-P	 exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	 exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-16-14-00014-P	 exempt	Whether to order NYSEG to provide gas service to customers when an expanded CPCN is approved and impose PSL 25-a penalties	To order gas service to customers in the Town of Plattsburgh after approval of a town wide CPCN and to impose penalties
*PSC-16-14-00015-P	 exempt	Whether Central Hudson should be permitted to defer obligations of the Order issued on October 18, 2013 in Case 13-G-0336	Consideration of the petition by Central Hudson to defer reporting obligations of the October 18, 2013 Order in Case 13-G-0336
*PSC-17-14-00003-P	 exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	 exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	 exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00008-P	 exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	 exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	 exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	 exempt	Petition to transfer and merge systems, franchises and assets	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets
*PSC-23-14-00010-P	 exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	 exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	 exempt	To examine LDC's performance and performance measures	To improve gas safety performance
*PSC-26-14-00013-P	 exempt	Waiver of RG&E's tariffed definition of emergency generator	To consider waiver of RG&E's tariffed definition of emergency generator
*PSC-26-14-00020-P	 exempt	New electric utility backup service tariffs and standards for interconnection may be adopted	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid
*PSC-26-14-00021-P	 exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established	To balance the need for the information necessary to support a robust market with customer privacy concerns

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-28-14-00014-P	 exempt	Petition to transfer systems, franchises and assets	To consider the Comcast and Charter transfer of systems, franchise and assets
*PSC-30-14-00023-P	 exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter
*PSC-30-14-00026-P	 exempt	Petition for a waiver to master meter electricity	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive, Albany, NY
*PSC-31-14-00004-P	 exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	 exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	 exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	 exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter
*PSC-36-14-00009-P	 exempt	Modification to the Commission's Electric Safety Standards	To consider revisions to the Commission's Electric Safety Standards
*PSC-38-14-00003-P	 exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program
*PSC-38-14-00004-P	 exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn
*PSC-38-14-00005-P	 exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2
*PSC-38-14-00007-P	 exempt	Whether to expand Con Edison's low income program to include Medicaid recipients	Whether to expand Con Edison's low income program to include Medicaid recipients
*PSC-38-14-00008-P	 exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn
*PSC-38-14-00010-P	 exempt	Inter-carrier telephone service quality standard and metrics and administrative changes	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines
*PSC-38-14-00012-P	 exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2
*PSC-39-14-00020-P	 exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-14-00008-P	 exempt	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers	To consider granting authorization for Buy Energy Direct to resume marketing to residential customers
*PSC-40-14-00009-P	 exempt	Whether to permit the use of the Itron Open Way Centron Meter with Hardware 3.1 for AMR and AMI functionality	Pursuant to 16 NYCRR Parts 93, is necessary to permit the use of the Itron Open Way Centron Meter with Hardware 3.1
*PSC-40-14-00011-P	 exempt	Late Payment Charge	To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due
*PSC-40-14-00013-P	 exempt	Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY	To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY
*PSC-40-14-00014-P	 exempt	Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)	To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-40-14-00015-P	 exempt	Late Payment Charge	To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due
*PSC-42-14-00003-P	 exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-14-00004-P	 exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	 exempt	Considering the recommendations contained in Staff' s electric outage investigation report for MNRR, New Haven Line	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line
*PSC-52-14-00019-P	 exempt	Petition for a waiver to master meter electricity	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY
*PSC-01-15-00014-P	 exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	 exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program
*PSC-10-15-00007-P	 exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	 exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	 exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	 exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-13-15-00027-P	 exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	 exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	 exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	 exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	 exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	 exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	 exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)
*PSC-23-15-00005-P	 exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	 exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	 exempt	Notice of Intent to Submeter electricity	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York
*PSC-29-15-00025-P	 exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	 exempt	Development of a Community Solar Demonstration Project	To approve the development of a Community Solar Demonstration Project
*PSC-33-15-00009-P	 exempt	Remote net metering of a demonstration community net metering program	To consider approval of remote net metering of a demonstration community net metering program
*PSC-33-15-00012-P	 exempt	Remote net metering of a Community Solar Demonstration Project	To consider approval of remote net metering of a Community Solar Demonstration Project
*PSC-34-15-00021-P	 exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	 exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	 exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-15-00014-P	 exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	 exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements
*PSC-44-15-00028-P	 exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	 exempt	Whitepaper on Implementing Lightened Ratemaking Regulation	Consider Whitepaper on Implementing Lightened Ratemaking Regulation
*PSC-48-15-00011-P	 exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016	Consider the proposed retirement of Huntley Units 67 and 68
*PSC-50-15-00006-P	 exempt	The reduction of rates	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	 exempt	Notice of Intent to submeter electricity	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York
*PSC-51-15-00010-P	 exempt	Modification of the EDP	To consider modifying the EDP
*PSC-01-16-00005-P	 exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	 exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility
*PSC-04-16-00012-P	 exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station
*PSC-04-16-00013-P	 exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic
*PSC-06-16-00013-P	 exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs
*PSC-06-16-00014-P	 exempt	MEGA's proposed demonstration CCA program	To consider MEGA's proposed demonstration CCA program
*PSC-14-16-00008-P	 exempt	Resetting retail markets for ESCO mass market customers	To ensure consumer protections with respect to residential and small non-residential ESCO customers
*PSC-18-16-00013-P	 exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-18-16-00014-P	 exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-16-00015-P	 exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process	To ensure consumer protections for ESCO customers
*PSC-18-16-00016-P	 exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-18-16-00018-P	 exempt	Amendments to the Uniform Business Practices of ESCOs	To ensure consumer protection for ESCO customers
*PSC-20-16-00008-P	 exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP)	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP)
*PSC-20-16-00010-P	 exempt	Deferral and recovery of incremental expense	To consider deferring costs of conducting leak survey and repairs for subsequent recovery
*PSC-20-16-00011-P	 exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device
*PSC-25-16-00009-P	 exempt	To delay Companies' third-party assessments of customer personally identifiable information until 2018	To extend the time period between the Companies' third-party assessments of customer personally identifiable information
*PSC-25-16-00025-P	 exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel
*PSC-25-16-00026-P	 exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications
*PSC-28-16-00017-P	 exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework	To determine appropriate rules for and calculation of the distributed generation reliability credit
*PSC-29-16-00024-P	 exempt	Participation of NYPA customers in surcharge-funded clean energy programs	To consider participation of NYPA customers in surcharge-funded clean energy programs
*PSC-32-16-00012-P	 exempt	Benefit-Cost Analysis Handbooks	To evaluate proposed methodologies of benefit-cost evaluation
*PSC-33-16-00001-EP	 exempt	Use of escrow funds for repairs	To authorize the use of escrow account funds for repairs
*PSC-33-16-00005-P	 exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges
*PSC-35-16-00015-P	 exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	 exempt	Recovery of costs for installation of electric service	To consider the recovery of costs for installation of electric service
*PSC-40-16-00025-P	 exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP)	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-47-16-00009-P	 exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	 exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	 exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	 exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	 exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	 exempt	Implementation of the four EAMs	To consider the implementation of EAMs for RG&E
*PSC-02-17-00012-P	 exempt	Implementation of the four EAMs	To consider the implementation of EAMs for NYSEG
*PSC-18-17-00024-P	 exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist
*PSC-18-17-00026-P	 exempt	Revisions to the Dynamic Load Management surcharge	To consider revisions to the Dynamic Load Management surcharge
*PSC-20-17-00008-P	 exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel
*PSC-20-17-00010-P	 exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel
*PSC-21-17-00013-P	 exempt	The establishment and implementation of Earnings Adjustment Mechanisms	To consider the establishment and implementation of Earnings Adjustment Mechanisms
*PSC-21-17-00018-P	 exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement
*PSC-22-17-00004-P	 exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	 exempt	Development of the Utility Energy Registry	Improved data access
*PSC-26-17-00005-P	 exempt	Notice of Intent to submeter electricity	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York
*PSC-34-17-00011-P	 exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-37-17-00005-P	 exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-39-17-00011-P	 exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan
*PSC-42-17-00010-P	 exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report	To consider NFGD's petition for rehearing
*PSC-48-17-00015-P	 exempt	Low Income customer options for affordable water bills	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs
*PSC-50-17-00017-P	 exempt	New Wave Energy Corp.'s petition for rehearing	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	 exempt	Application of the Public Service Law to DER suppliers	To determine the appropriate regulatory framework for DER suppliers
*PSC-50-17-00019-P	 exempt	Transfer of utility property	To consider the transfer of utility property
*PSC-50-17-00021-P	 exempt	Disposition of tax refunds and other related matters	To consider the disposition of tax refunds and other related matters
*PSC-51-17-00011-P	 exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project
*PSC-04-18-00005-P	 exempt	Notice of intent to submeter electricity	To consider the notice of intent of Montante/Morgan Gates Circle LLC to submeter electricity
*PSC-05-18-00004-P	 exempt	Lexington Power's ZEC compliance obligation	To promote and maintain renewable and zero-emission electric energy resources
*PSC-06-18-00012-P	 exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	 exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	 exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades	To consider AEC's petition requesting resolution of their billing dispute with National Grid
*PSC-11-18-00004-P	 exempt	New York State Lifeline Program	To consider TracFone's petition seeking approval to participate in Lifeline
*PSC-13-18-00015-P	 exempt	Eligibility of an ESCO to market to and enroll residential customers	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension
*PSC-13-18-00023-P	 exempt	Reconciliation of property taxes	To consider NYAW's request to reconcile property taxes
*PSC-14-18-00006-P	 exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-17-18-00010-P	 exempt	Petition for use of gas metering equipment	To ensure that consumer bills are based on accurate measurements of gas usage
*PSC-18-18-00009-P	 exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	 exempt	Whether to impose consequences on Aspiry for its non-compliance with Commission requirements	To ensure the provision of safe and adequate energy service at just and reasonable rates
*PSC-24-18-00013-P	 exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements	To promote and maintain renewable and zero-emission electric energy resources
*PSC-28-18-00011-P	 exempt	Storm Hardening Collaborative Report	To ensure safe and adequate gas service
*PSC-29-18-00008-P	 exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	 exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	 exempt	Petition to submeter electricity	To ensure adequate submetering equipment and energy efficiency protections are in place
*PSC-34-18-00016-P	 exempt	Deferral of pre-staging and mobilization storm costs	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs
*PSC-35-18-00003-P	 exempt	Con Edison's 2018 DSIP and BCA Handbook Update	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00005-P	 exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers
*PSC-35-18-00006-P	 exempt	National Grid's 2018 DSIP and BCA Handbook Update	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00008-P	 exempt	Central Hudson's 2018 DSIP and BCA Handbook Update	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider
*PSC-35-18-00010-P	 exempt	O&R's 2018 DSIP and BCA Handbook Update	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider
*PSC-39-18-00005-P	 exempt	Participation in New York State Lifeline Program	To encourage enhanced services for low-income customers
*PSC-40-18-00014-P	 exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018
*PSC-42-18-00011-P	 exempt	Voluntary residential beneficial electrification rate design	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-42-18-00013-P	 exempt	Petition for clarification and rehearing of the Smart Solutions Program Order	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity
*PSC-44-18-00016-P	 exempt	Petition for approval of gas metering equipment	To ensure that customer bills are based on accurate measurements of gas usage
*PSC-45-18-00005-P	 exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
*PSC-01-19-00013-P	 exempt	Order of the Commission related to caller ID unblocking	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County
*PSC-03-19-00002-P	 exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings	To reduce damage to underground utility facilities by requiring certain training and approving training curricula
*PSC-04-19-00004-P	 exempt	Con Edison's petition for the Gas Innovation Program and associated budget	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals
*PSC-04-19-00011-P	 exempt	Update of revenue targets	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues
*PSC-06-19-00005-P	 exempt	Consideration of the Joint Utilities' proposed BDP Program	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects
*PSC-07-19-00009-P	 exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements	To insure the provision of safe and adequate energy service at just and reasonable rates
*PSC-07-19-00016-P	 exempt	Participation in New York State Lifeline Program	To encourage enhanced services for low-income customers
*PSC-09-19-00010-P	 exempt	Non-pipeline alternatives report recommendations	To consider the terms and conditions applicable to gas service
*PSC-13-19-00010-P	 exempt	New Commission requirements for gas company operator qualification programs	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities
*PSC-19-19-00013-P	 exempt	Proposed merger of three water utilities into one corporation	To determine if the proposed merger is in the public interest
*PSC-20-19-00008-P	 exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
*PSC-20-19-00010-P	 exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
*PSC-31-19-00013-P	 exempt	Implementation of Statewide Energy Benchmarking	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-32-19-00012-P	 exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-38-19-00002-P	 exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-39-19-00018-P	 exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-41-19-00003-P	 exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges	To provide qualifying residential customers with an optional three-part rate
*PSC-46-19-00008-P	 exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York	To promote and maintain renewable electric energy resources
*PSC-08-20-00003-P	 exempt	PSC regulation 16 NYCRR § 86.3(a)(2) and 86.3(b)(2)	To consider a waiver of certain regulations relating to the content of an application for transmission line siting
*PSC-10-20-00003-P	 exempt	The Commission's statewide low-income discount policy	To consider modifications to certain conditions regarding utility low-income discount programs
*PSC-12-20-00008-P	 exempt	Delivery rates of Corning Natural Gas Corporation	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020
*PSC-15-20-00011-P	 exempt	To modify the terms and conditions under which gas utilities provide service to electric generators	To provide clarity and uniformity to the provision of gas service to electric generators
*PSC-16-20-00004-P	 exempt	Disposition of a state sales tax refund	To determine how much of a state sales tax refund should be retained by Central Hudson
*PSC-18-20-00015-P	 exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program
*PSC-19-20-00004-P	 exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements
*PSC-19-20-00005-P	 exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation	To provide cost recovery for new DLM programs and prevent double compensation to participating customers
*PSC-19-20-00009-P	 exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity
*PSC-25-20-00010-P	 exempt	Whitepaper regarding energy service company financial assurance requirements	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies
*PSC-25-20-00016-P	 exempt	Modifications to the Low-Income Affordability program	To address the economic impacts of the COVID-19 pandemic
*PSC-27-20-00003-P	 exempt	To make the uniform statewide customer satisfaction survey permanent	To encourage consumer protections and safe and adequate service
*PSC-28-20-00022-P	 exempt	Compensation of distributed energy resources	To ensure just and reasonable rates, including compensation, for distributed energy resources

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-28-20-00034-P	 exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
*PSC-34-20-00005-P	 exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory
*PSC-38-20-00004-P	 exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-42-20-00008-P	 exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations
*PSC-45-20-00003-P	 exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-46-20-00005-P	 exempt	The recommendations of the DPS Staff report to improve Hudson Valley Water's service	To determine if approving the DPS Staff's recommendations is in the public interest
*PSC-48-20-00005-P	 exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers
*PSC-48-20-00007-P	 exempt	Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-51-20-00009-P	 exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether petitioner should be permitted to offer its "Energy Savings Program" to mass market customers
*PSC-51-20-00014-P	 exempt	Electric system needs and compensation for distributed energy resources	To ensure safe and adequate service and just and reasonable rates, including compensation, for distributed energy resources
*PSC-01-21-00004-P	 exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether petitioner should be permitted to offer its Home Warranty product to mass market customers
*PSC-04-21-00016-P	 exempt	Request for a waiver	To consider whether good cause exists to support a waiver of the Commission's Test Period Policy Statement
*PSC-09-21-00005-P	 exempt	Utility capital expenditure proposal	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-13-21-00016-P	 exempt	Revised distribution strategies and reallocation of remaining funding	To ensure the appropriate use of funding reserved for gas safety programs
*PSC-17-21-00005-P	 exempt	Submetering equipment	To consider use of submetering equipment and if it is in the public interest
*PSC-17-21-00006-P	 exempt	Community Choice Aggregation and Community Distributed Generation	To consider permitting opt-out Community Distributed Generation to be offered as the sole product in an aggregation
*PSC-17-21-00007-P	 exempt	Utility studies of climate change vulnerabilities	To assess the need for utilities to conduct distinct studies of their climate change vulnerabilities

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-21-00006-P	 exempt	Community Choice Aggregation renewable products	To consider waiving the locational and delivery requirements for RECs purchased to support renewable CCA products
*PSC-18-21-00008-P	 exempt	RG&E's Economic Development Programs and exemption from funding limits	To consider RG&E to grant up to \$5.25 million in ED funding to Project Block to the benefit of ratepayers
*PSC-19-21-00008-P	 exempt	Community Choice Aggregation (CCA) and Community Distributed Generation (CDG)	To consider permitting Upstate Power, LLC to serve as a CCA administrator offering an opt-out CDG focused program
*PSC-20-21-00004-P	 exempt	Regulatory approvals in connection with a 437 MW electric generating facility	To ensure appropriate regulatory review, oversight, and action, consistent with the public interest
*PSC-21-21-00012-P	 exempt	Petition for the use of gas metering equipment	To ensure that consumer bills are based on accurate measurements of gas usage
*PSC-21-21-00019-P	 exempt	Utility capital expenditure proposal	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
*PSC-26-21-00011-P	 exempt	Notice of intent to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-28-21-00012-P	 exempt	Transfer of ownership interests in a 55 megawatt natural gas-fired cogeneration facility located in North Tonawanda, NY	To address the proposed transfer and any matters within the public interest
*PSC-28-21-00013-P	 exempt	Elimination of internal audits of wholesale performance metrics	To consider Verizon New York Inc.'s petition to eliminate requirements for certain internal audits
*PSC-29-21-00009-P	 exempt	Proposed pilot program to use AMI to disconnect electric service to customers during gas system emergencies	To study the efficacy of using AMI to disconnect electric service during gas system emergencies
*PSC-30-21-00006-P	 exempt	NYSERDA proposal regarding Clean Energy Standard backstop collection processes	To ensure that NYSERDA has sufficient funds to make timely payments to generators pursuant to the Clean Energy Standard
*PSC-32-21-00002-P	 exempt	The prohibition on ESCO service to low-income customers	To consider whether Icon Energy, LLC d/b/a Source Power Company should be granted a waiver to serve low-income customers
*PSC-35-21-00009-P	 exempt	To modify the terms and conditions under which gas utilities provide service to electric generators	To provide clarity and uniformity to the provision of gas service to electric generators in New York State
*PSC-36-21-00006-P	 exempt	The Westchester Power Program	To consider integration of Opt-out Community Distributed Generation into the Westchester Power program
*PSC-37-21-00009-P	 exempt	Procedures necessary to implement Tax Law Section 187-q	To establish procedures by which eligible utility-taxpayers can have the amounts of certain waived customer arrears certified
*PSC-37-21-00010-P	 exempt	Zero emitting electric generating facilities that are not renewable energy systems	To consider modifications to the Clean Energy Standard

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-37-21-00011-P	 exempt	Green Button Connect implementation	To consider the proposed Green Button Connect User Agreement and Green Button Connect Onboarding Process document
*PSC-37-21-00012-P	 exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Catalyst should be permitted to offer its Community Distributed Generation product to mass market customers
*PSC-38-21-00006-P	 exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-38-21-00007-P	 exempt	Electric metering equipment	To consider use of electric submeter and ensure that consumer bills will be based on accurate measurements of electric usage
*PSC-39-21-00007-P	 exempt	The proposed alternative method of account identification	To facilitate secure customer data exchanges between the utility or provider and energy service entities
*PSC-46-21-00014-P	 exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest
*PSC-47-21-00003-P	 exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access
*PSC-47-21-00005-P	 exempt	Utility processes for customers to consent to sharing data with third parties and how consent options will be communicated	To develop standardized consent requirements that will increase customer familiarity with appropriate data sharing and access
*PSC-48-21-00007-P	 exempt	Verizon's Performance Assurance Plan	To consider whether to retire the Performance Assurance Plan
*PSC-50-21-00006-P	 exempt	Implementation of the Host Community Benefit Program	To consider the proposed administration and implementation related to disbursement of customer bill credits
*PSC-50-21-00008-P	 exempt	Implementation of the Host Community Benefit Program	To consider the proposed administration and implementation related to disbursement of customer bill credits
*PSC-50-21-00011-P	 exempt	Implementation of the Host Community Benefit Program	To consider the proposed administration and implementation related to disbursement of customer bill credits
*PSC-50-21-00012-P	 exempt	Implementation of the Host Community Benefit Program	To consider the proposed administration and implementation related to disbursement of customer bill credits
*PSC-03-22-00004-P	 exempt	Proposal by electric utilities on a coordinated electric grid planning process	To support distribution and local transmission investments necessary to achieve the the State's clean energy and climate goals
*PSC-05-22-00001-P	 exempt	Green gas products	To consider an extension of the waiver permitting energy service companies to serve existing customers on green gas products
*PSC-06-22-00009-P	 exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-12-22-00010-P	 exempt	Proposed major rate increase in Liberty SLG's gas revenues	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-13-22-00006-P	 exempt	Proposed major rate increase in Con Edison's delivery revenues of approximately \$500 million (or 18.2% in total revenues)	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-13-22-00009-P	 exempt	Proposed major rate increase in Con Edison's delivery revenues of approximately \$1.2 billion (or 11.2% in total revenues)	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-13-22-00011-P	 exempt	Positive revenue adjustments associated with emergency response, damage prevention and leak management for 2020	To consider a rehearing petition
PSC-14-22-00008-P	 exempt	An opt-out community distributed generation program	To establish the program rules for offering community distributed generation on and opt-out basis in New York State
PSC-18-22-00002-P	 exempt	NYSEG and RG&E's petition for a waiver of its 2021 customer service quality performance	To determine if NYSEG and RG&E's petition for waiver is in the public interest
PSC-18-22-00007-P	 exempt	Extension of deadline	Whether it is in the public interest to extend the deadline to allow the developer more time to energize residential units
PSC-19-22-00021-P	 exempt	Brooklyn Clean Energy Hub and cost recovery	To meet the Climate Leadership and Community Protection Act's goal of 9,000 megawatts of offshore wind generation
PSC-19-22-00022-P	 exempt	Modification of Con Edison's electric tariff	To either eliminate or waive a provision of the Standby Service Offset Tariff
PSC-20-22-00009-P	 exempt	Modify lease of utility property	To determine whether to authorize the extension and amendment of the lease of the Volney-Marcy transmission line
PSC-20-22-00011-P	 exempt	Establishment of the regulatory regime applicable to a wind electric generating facility	To ensure appropriate regulation of a new electric corporation
PSC-21-22-00005-P	 exempt	To implement the non-pipe alternative factor to recover the costs of approved alternative infrastructure projects	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences
PSC-21-22-00007-P	 exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Atlantic Energy, LLC should be permitted to offer its LED Lighting product to mass market customers
PSC-21-22-00008-P	 exempt	Cybersecurity requirements	Modify the framework to ensure the protection of utility systems and customer data from cyber events
PSC-21-22-00011-P	 exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process	To consider whether Atlantic Energy, LLC should be permitted to offer its Smart Home Program product to mass market customers
PSC-22-22-00014-P	 exempt	Amendments to the Standardized Interconnection Requirements	To consider changes to accommodate the interconnection of distributed energy resources by governmental entities

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-24-22-00004-P	 exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest
PSC-24-22-00007-P	 exempt	St. Lawrence Gas' petition for a waiver of its 2021 service quality performance	To determine if St. Lawrence Gas' petition for waiver is in the public interest
PSC-24-22-00008-P	 exempt	Waiver of tariff rules and a related Commission regulation	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest
PSC-26-22-00008-P	 exempt	Compensation under the Value of Distributed Energy Resources tariff	To consider compensation mechanisms for legacy baseline hydroelectric and other renewable energy resources
PSC-29-22-00006-P	 exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-30-22-00009-P	 exempt	Establishment of the regulatory regime applicable to a battery storage project.	To ensure appropriate regulation of an electric corporation.
PSC-31-22-00005-P	 exempt	Proposed major rate increase in NYSEG's electric delivery revenues of approximately \$274 million (or 16.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-22-00006-P	 exempt	Proposed major rate increase in NYSEG's gas delivery revenues of approximately \$43.4 million (or 9.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-22-00007-P	 exempt	Proposed major rate increase in RG&E's gas delivery revenues of approximately \$37.7 million (or 9.7% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-31-22-00009-P	 exempt	Proposed major rate increase in RG&E's electric delivery revenues of approximately \$93.8 million (or 11.3% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-32-22-00022-P	 exempt	Establishment of the regulatory regime applicable to a wind electric generating facility.	To ensure appropriate regulation of a new electric corporation.
PSC-32-22-00023-P	 exempt	Bioenergy generation in New York.	To consider compensation for bioenergy generation.
PSC-33-22-00006-P	 exempt	Use of gas metering equipment.	To consider use of volume corrector and ensure that consumer bills will be based on accurate measurements of gas usage.
PSC-33-22-00008-P	 exempt	Gas moratorium consumer protections.	To consider protections for existing and prospective customers should a utility institutes a moratorium on new gas service.
PSC-33-22-00009-P	 exempt	Use of electric metering equipment.	To consider use of electric metering equipment and ensure consumer bills are based on accurate measurements of electric usage.
PSC-34-22-00005-P	 exempt	Transfer of a Certificate of Environmental Compatibility and Public Need.	Consideration of whether the proposed transfer is in the public interest.
PSC-36-22-00005-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-37-22-00005-P	 exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.
PSC-37-22-00006-P	 exempt	Assessment of the need of the project for the provision of safe and adequate service at just and reasonable rates.	To determine whether the project is necessary and whether the utility can begin cost recovery through a surcharge mechanism.
PSC-38-22-00002-P	 exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00004-P	 exempt	Establishment of the regulatory regime applicable to a battery storage project.	To ensure appropriate regulation of an electric corporation.
PSC-38-22-00005-P	 exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00006-P	 exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00007-P	 exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00008-P	 exempt	Consideration of a Long Island Offshore Wind Export PPTN under the NYISO's planning process.	To determine whether the NYISO should proceed to select a solution to the identified Long Island Offshore Wind Export PPTN.
PSC-38-22-00009-P	 exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-38-22-00010-P	 exempt	Standby Service Rates, Buyback Service Rates, and optional mass market demand rates.	To establish updated Standby Service and Buyback Service Rates, and establish new optional mass market demand rates.
PSC-39-22-00007-P	 exempt	Transfer of indirect ownership of cable television facilities and 27 municipal franchises.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest.
PSC-39-22-00008-P	 exempt	Proposed service territory extension, waiver, and tariff revisions.	To determine if proposed territory extension, waiver, and tariff revisions are in the public interest.
PSC-40-22-00004-P	 exempt	Sale of real property and granting of a permanent easement.	To determine whether to authorize the proposed sale and grant the permanent easement as well as the proper accounting treatment.
PSC-42-22-00010-P	 exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00011-P	 exempt	Gas system planning.	To consider cost recovery procedures and an incentive mechanism for non-pipeline alternatives.
PSC-42-22-00012-P	 exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-42-22-00013-P	 exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00014-P	 exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00015-P	 exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00016-P	 exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00017-P	 exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-42-22-00019-P	 exempt	Gas system planning.	To consider screening and suitability criteria for non-pipeline alternatives.
PSC-43-22-00006-P	 exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-22-00007-P	 exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-22-00009-P	 exempt	Notice of intent to submeter electricity and waiver request.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-44-22-00002-P	 exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-44-22-00003-P	 exempt	Proposed draft tariff amendments.	To document and refine moratorium management procedures that seek to minimize hardships in the event a future moratorium occurs.
PSC-45-22-00018-P	 exempt	Transfer of a half interest in utility poles.	To determine if the transfer of the ownership interest is in the public interest.
PSC-46-22-00006-P	 exempt	PSC Regulations 16 NYCRR 86.3(a)(1), 86.3(a)(2), 86.3(b)(2), 86.4(b).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
PSC-46-22-00007-P	 exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-46-22-00010-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-47-22-00006-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-47-22-00007-P	 exempt	Notice of intent to submeter electricity and waiver request.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-47-22-00008-P	 exempt	Proposed revisions related to the participation of Distributed Energy Resources.	To align utility retail tariffs with wholesale tariffs.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-48-22-00002-P	 exempt	The Performance Factor used in Distribution Load Relief and Commercial System Relief Programs for the 2023 capability period.	To effect more efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-48-22-00003-P	 exempt	Gas moratorium customer protections.	To consider protections to minimize customer hardships in the unlikely event of a future gas moratorium.
PSC-48-22-00004-P	 exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-22-00005-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-22-00006-P	 exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-49-22-00017-P	 exempt	Stock ownership interest and associated financial transactions.	To consider the transfer of controlling interest and associated financial transactions.
PSC-49-22-00018-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-49-22-00019-P	 exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-49-22-00020-P	 exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-49-22-00021-P	 exempt	Clean Energy Standard Tier 1 load serving entity obligations.	To transition the Tier 1 load serving entity obligation from a percentage based obligation to a load share obligation approach.
PSC-49-22-00022-P	 exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-49-22-00023-P	 exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-51-22-00001-P	 exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
PSC-51-22-00002-P	 exempt	Competitive solicitations to procure 350MW of energy storage systems.	To modify energy storage solicitations and improve procurement results.
PSC-51-22-00003-P	 exempt	Petition to submeter electricity.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-22-00004-P	 exempt	Waiver of a pipeline safety regulation.	Whether the waiver of the regulation is in the public interest.
PSC-52-22-00010-P	 exempt	System improvement tracker implementation.	To determine whether to implement the system improvement tracker.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-52-22-00011-P	 exempt	The Integrated Energy Data Resource platform.	To consider customer consent and utility liability issues related to the Integrated Energy Data Resource.
PSC-52-22-00012-P	 exempt	A financing arrangement with respect to a proposed wind generating facility.	To consider the requested financing arrangement, and if approved, what regulatory conditions should apply.
PSC-52-22-00013-P	 exempt	Minor electric rate filing to increase annual electric revenues.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-52-22-00014-P	 exempt	Extension of regulatory deadline.	Whether it is in the public interest to extend the regulatory deadline for Keystone Homes, Inc.'s housing development.
PSC-01-23-00007-P	 exempt	Distribution-level demand response programs.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-01-23-00008-P	 exempt	Distribution-level demand response programs.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-01-23-00009-P	 exempt	Transfer of direct ownership of cable television facilities and 5 municipal franchises.	To ensure performance in accordance with applicable cable laws, regulations and standards in the public interest.
PSC-01-23-00010-P	 exempt	Proposed tariff revisions for the summer 2023 capability period in order to improve flexibility and customer participation.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-01-23-00011-P	 exempt	Distribution-level demand response programs.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-01-23-00012-P	 exempt	The New York State Reliability Council's establishment of an Installed Reserve Margin of 20.0%	To ensure adequate levels of Installed Capacity.
PSC-01-23-00013-P	 exempt	Distribution-level demand response programs.	More efficient demand response programs to gain operational efficiency and shave peak demand.
PSC-01-23-00014-P	 exempt	Interconnection costs.	To consider a petition requesting relief from interconnection costs assigned by NYSEG.
PSC-01-23-00015-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-01-23-00016-P	 exempt	Brooklyn Clean Energy Hub alternative and cost recovery.	To meet the Climate Leadership and Community Protection Act's goal of 9,000 megawatts of offshore wind generation.
PSC-01-23-00017-P	 exempt	Interconnection costs.	To consider a petition requesting relief from interconnection costs assigned by NYSEG.
PSC-01-23-00018-P	 exempt	Lease of certain real property.	To determine whether to provide written consent for the proposed transfer of certain real property.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-01-23-00019-P	 exempt	Energy efficiency and building electrification programs.	To identify and implement potential changes to the energy efficiency and building electrification programs .
PSC-02-23-00021-P	 exempt	Notice of intent to submeter electricity and waiver request.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-02-23-00022-P	 exempt	Compensation of and incentives for distributed energy resources.	To encourage the development of and ensure just and reasonable rates for distributed energy resources.
PSC-02-23-00023-P	 exempt	Long-term gas system planning.	To consider and review long-term gas system planning.
PSC-02-23-00024-P	 exempt	Notice of intent to submeter electricity and waiver request.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-02-23-00025-P	 exempt	Proposed major rate increase in Con Edison's annual revenues by \$137 million.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-02-23-00026-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-03-23-00004-P	 exempt	Updated recommendations for the solicitation, procurement, and/or installation of qualified energy storage systems.	To encourage energy storage deployment and establish an updated 2030 target and deployment program.
PSC-04-23-00008-P	 exempt	Updates to guidance for electric utility Distributed System Implementation Plans (DSIPs).	Development of updated guidance and directives for utility DSIPs for improving utility planning and operations functions.
PSC-04-23-00009-P	 exempt	Gas metering equipment.	To consider use of volume corrector and ensure that consumer bills will be based on accurate measurements of gas usage.
PSC-04-23-00010-P	 exempt	The New York State Standardized Interconnection Requirements.	To clarify and improve the process for distributed generation and energy storage projects interconnecting to utility systems.
PSC-04-23-00011-P	 exempt	Proposal by electric utilities for a coordinated grid planning process.	To identify local transmission investments necessary to achieve the the State's clean energy and climate goals.
PSC-04-23-00012-P	 exempt	Transfer of electric facilities.	To determine whether to authorize the transfer electric facilities and the proper accounting for the transaction.
PSC-04-23-00013-P	 exempt	Application of the Public Service Law to owners of a proposed project connecting Sunrise Wind Farm to New York's electric grid.	To determine whether to apply a lightened regulatory regime to the owners of the proposed multi-part project.
PSC-04-23-00014-P	 exempt	Waiver of certain Commission requirements related to the publishing and distribution of telephone directories.	To ensure performance in accordance with applicable telecommunications laws, regulations and standards and the public interest.
PSC-05-23-00001-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-05-23-00002-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00003-P	 exempt	The electric utilities' 2023 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2023 Electric Emergency Response Plans.
PSC-05-23-00004-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00005-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00006-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00007-P	 exempt	The electric utilities' 2023 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2023 Electric Emergency Response Plans.
PSC-05-23-00008-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00009-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00010-P	 exempt	The electric utilities' 2023 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2023 Electric Emergency Response Plans.
PSC-05-23-00011-P	 exempt	The electric utilities' 2023 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2023 Electric Emergency Response Plans.
PSC-05-23-00012-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00013-P	 exempt	The electric utilities' 2023 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2023 Electric Emergency Response Plans.
PSC-05-23-00014-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00015-P	 exempt	Thermal Energy Network Pilot Proposal	To consider authorizing utilities to construct and operate thermal energy network pilot projects.
PSC-05-23-00016-P	 exempt	The electric utilities' 2023 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2023 Electric Emergency Response Plans.
PSC-06-23-00011-P	 exempt	Compensation of and incentives for distributed energy resources.	To encourage the development of and ensure just and reasonable rates for distributed energy resources.
PSC-07-23-00004-P	 exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-07-23-00005-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-08-23-00002-P	 exempt	Transfer of direct ownership of cable television facilities and three municipal franchises	To ensure performance in accordance with applicable cable laws, regulations and standards in the public interest.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-08-23-00003-P	 exempt	Exemptions from utility standby rates for distributed energy resources and renewable energy systems.	To determine whether utility standby rate exemptions should be continued and/or modified.
PSC-09-23-00021-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-09-23-00022-P	 exempt	Notice of intent to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-09-23-00023-P	 exempt	Electric metering equipment.	To consider use of electric metering equipment and ensure consumer bills are based on accurate measurements of electric usage.
PSC-09-23-00024-P	 exempt	Development periods for residential developments.	To consider waiving the five-year limit on development periods impacted by COVID-19, extending it by one year.
PSC-09-23-00025-P	 exempt	Energy efficiency and building electrification programs.	To identify and implement potential changes to the energy efficiency and building electrification programs.
PSC-09-23-00026-P	 exempt	Electric metering equipment.	To consider use of electric meter and ensure that consumer bills will be based on accurate measurements of electric usage.
PSC-09-23-00027-P	 exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-11-23-00001-P	 exempt	Notice of intent to submeter electricity and waiver request.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-11-23-00002-P	 exempt	Modifications to the Electric Vehicle Make-Ready Program.	To deploy the infrastructure needed to meet the State's goals of 850,000 EVs by 2025 and recommend appropriate utility roles.
PSC-12-23-00004-P	 exempt	Registration of energy brokers and energy consultants.	To implement the provisions of Public Service Law Section 66-t.
STATE, DEPARTMENT OF			
DOS-47-22-00004-P	 11/23/23	Creation of a cease and desist zone within Kings County.	To adopt a cease and desist zone for a designated area within Kings County and remove reference to expired zones.
DOS-03-23-00003-P	 03/21/24	New York State Uniform Fire Prevention and Building Code (Uniform Code)	To amend the existing Uniform Code to amend provisions relating to hot tubs and spas
DOS-05-23-00018-P	 04/04/24	Certification and training of code enforcement personnel	To amend the existing certification and training regulations to comply with recent amendments to Executive Law section 376-a
STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY			
SIR-50-22-00003-EP	 12/14/23	Aligning the rule of conduct re: carrying firearms and other weapons in public transit with New York Law	Safeguard public safety by amending a rule to comply with NY Law re: the carrying of firearms and weapons in public transit

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
TAXATION AND FINANCE, DEPARTMENT OF			
*TAF-46-20-00003-P	 exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021
TAF-09-23-00017-P	 exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith.	To set the sales tax component and the composite rate per gallon for the period April 1, 2023 through June 30, 2023.
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-05-23-00017-P	 02/01/24	Public Assistance (PA) earned income and work expense disregards and income tests for PA eligibility	To update State regulations pertaining to the above-referenced consistent with Part U of Chapter 56 of the Laws of 2022
THRUWAY AUTHORITY, NEW YORK STATE			
THR-01-23-00001-P	 01/04/24	Toll rate adjustments on the New York State Thruway system.	To provide for toll rate adjustments necessary to support the Authority's financial obligations.
TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY			
TBA-09-23-00018-P	 exempt	A proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA.	A proposal to fund ongoing operations.
VICTIM SERVICES, OFFICE OF			
OVS-49-22-00003-P	 12/07/23	Limits on administrative expenses and executive compensation pursuant to Executive Order (EO) 38.	As EO 38 has been discontinued, the purpose of this rule is to repeal regulations implementing EO 38.
WORKERS' COMPENSATION BOARD			
*WCB-09-22-00002-RP	 05/31/23	Intraoperative Neurophysiological Monitoring	To define IOM and clarify that remote IOM is prohibited except in very limited circumstances
WCB-41-22-00002-P	 10/12/23	Disability benefits	To update and clarify DB claims process, and conform to statute
WCB-01-23-00005-P	 01/04/24	Special Services	To correct typographical error in naming the prior authorization request in the text of the regulation.
WCB-09-23-00019-P	 02/29/24	Telehealth	Provides the option for telehealth visits in some circumstances.

SECURITIES OFFERINGS

STATE NOTICES

Published pursuant to provisions of General Business Law
[Art. 23-A, § 359-e(2)]

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SEALED BIDS

PROVIDE PLAZA DECK WATERPROOFING/ RESURFACING/LANDSCAPING New York Psychiatric Institute New York, New York County

Sealed bids for Project Nos. 47088-C, 47088-H and 47088-E, comprising separate contracts for Construction Work, HVAC Work, and Electrical Work, Provide Plaza Deck Waterproofing, Resurfacing & Landscaping, New York Psychiatric Institute, 1051 Riverside Drive, New York (New York County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, April 5, 2023 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$92,100 for C, \$27,400 for H, and \$11,600 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$3,000,000 and \$4,000,000 for C, between \$100,000 and \$250,000 for E, and between \$500,000 and \$1,000,000 for H.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <https://ogs.ny.gov/ACPL/>

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten

percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

— Project commenced design before January 1, 2020. Not subject to provision.

XX Project commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 512 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 9:30 a.m. on March 23, 2023 at 1051 Riverside Drive Bldg. 5, New York, NY 10032. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply, and all vehicles will be subject to search. Refer to Document 002218 for any additional requirements for attendance at the pre-bid site visit.

Phone the office of Cheryl Chasin, (845-365-0730) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit. Only contractors that schedule a visit at least 48 hours in advance will be allowed to participate in the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work and HVAC Work and an overall goal of 6% for MWBE participation, 3% for Minority-Owned Business Enterprises ("MBE") participation and 3% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Electrical Work. The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 6% for the C trade contractor, 3% for the E trade contractor, and 3% for the H trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encour-

aged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group

**REPLACE
CONCRETE TERRAZZO**
Empire State Plaza
Albany, Albany County

Sealed bids for Project No. 47148-C, comprising a contract for Construction Work, Replace Concrete Terrazzo, Concourse, Empire State Plaza, Albany (Albany County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of General Services, until 2:00 p.m. on Wednesday, April 12, 2023 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$52,500 for C).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract value of \$1,500,000 for C.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <https://ogs.ny.gov/ACPL/>

Pursuant to Public Buildings Law § 8(6), effective January 11,

2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

— Project commenced design before January 1, 2020. Not subject to provision.

XX Project commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 728 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 9:00 a.m. on March 31, 2023, at Empire State Plaza, Concourse Level - Room 125, Albany NY. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply, and all vehicles will be subject to search. Refer to Document 002218 for any additional requirements for attendance at the pre-bid site visit.

Phone the office of Andrew Vanacker (518-858-4730) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit. Only contractors that schedule a visit at least 48 hours in advance will be allowed to participate in the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 6% for the C trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an

e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group

**REHABILITATE
ROADS/SIDEWALKS
Creedmoor Psychiatric Center
Queens Village, Queens County**

Sealed bids for Project Nos. 47262-C and 47262-E, comprising separate contracts for Construction Work and Electrical Work, Rehabilitate Roads & Sidewalks, South Campus, Phase 4, Buildings 67, 68, 74, & 100, Creedmoor Psychiatric Center, 80-45 Winchester Boulevard, Queens Village (Queens County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, April 12, 2023, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$50,300 for C, and \$21,500 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between 1,000,000 and \$2,000,000 for C, and between \$250,000 and \$500,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <https://ogs.ny.gov/ACPL/>

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

— Project commenced design before January 1, 2020. Not subject to provision.

XX Project commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 464 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on March 30, 2023, at the OGS Field Office, Building 73 Basement, 80-45 Winchester Blvd., Queens Village, NY 11427. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply, and all vehicles will be subject to search. Refer to Document 002218 for any additional requirements for attendance at the pre-bid site visit.

Phone the office of Bibi Bacchus (718-776-4441) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit. Only contractors that schedule a visit at least 48 hours in advance will be allowed to participate in the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 6% for the C trade contractor, and 6% for the E trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group

PROVIDE
SALT STORAGE BUILDING
 Department of Transportation Region 5
 Collins, Erie County

Sealed bids for Project Nos. 47318-C and 47318-E, comprising separate contracts for Construction Work, and Electrical Work, Provide Salt Storage Building, DOT Region 5, Erie County, Rte. 62 Wheeler Road, Collins (Erie County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Transportation, until 2:00 p.m. on Wednesday, April 5, 2023 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$39,600 for C, and \$17,600 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$1,000,000 and \$2,000,000 for C, and between \$250,000 and \$500,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <https://ogs.ny.gov/ACPL/>

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

___ Project commenced design before January 1, 2020. Not subject to provision.

XX Project commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 178 days after the Agreement is approved by the Comptroller.

As a condition of award, within 48 hours of receipt of the proposed Contract Agreement from the State, the apparent low bidder shall return the Contract Agreement to the State, properly executed, along with the Bonds if required by said Agreement. Low bidders who cannot meet these provisions may be subject to disqualification and forfeiture of the bid security.

The only time prospective bidders will be allowed to visit the job

site to take field measurements and examine existing conditions of the project area will be at 9:00 a.m. on March 23, 2023 at DOT site 14229, Route 62, Collins, NY 14034. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply, and all vehicles will be subject to search. Refer to Document 002218 for any additional requirements for attendance at the pre-bid site visit.

Phone the office of Kim Himes (716-532-5151) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit. Only contractors that schedule a visit at least 48 hours in advance will be allowed to participate in the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work and an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Electrical Work. The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 3% for the C trade contractor, and 3% for the E trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group

PROVIDE
SALT STORAGE BUILDINGS
 Various Department of Transportation Facilities
 Horseheads and Watkins Glen, Chemung County

Sealed bids for Project Nos. 47319-C and 47319-E, comprising separate contracts for Construction Work, and Electrical Work, Provide Salt Storage Buildings, Horseheads & Watkins Glen, Various DOT Facilities, (Chemung County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Department of Transportation, until 2:00 p.m. on Wednesday, April 12, 2023 when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$65,900 for C, and \$16,900 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$2,000,000 and \$3,000,000 for C, and between \$100,000 and \$250,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <https://ogs.ny.gov/ACPL/>

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

___ Project commenced design before January 1, 2020. Not subject to provision.

XX Project commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 168 days after the Agreement is approved by the Comptroller.

As a condition of award, within 48 hours of receipt of the proposed Contract Agreement from the State, the apparent low bidder shall return the Contract Agreement to the State, properly executed, along with the Bonds if required by said Agreement. Low bidders who cannot meet these provisions may be subject to disqualification and forfeiture of the bid security.

The only time prospective bidders will be allowed to visit the job

site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on March 30, 2023, at Horseheads DOT, 730 Chemung Street, Horseheads NY 14845. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply, and all vehicles will be subject to search. Refer to Document 002218 for any additional requirements for attendance at the pre-bid site visit.

Phone the office of Chris Robertson (607-734-0592) a minimum of 48 hours in advance of the date to provide the names of those who will attend the pre-bid site visit. Only contractors that schedule a visit at least 48 hours in advance will be allowed to participate in the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 3% for the C trade contractor, and 3% for the E trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction's plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By OGS - Design & Construction Group

NOTICE OF AVAILABILITY OF STATE AND FEDERAL FUNDS

Division of Homeland Security and Emergency
Services

1220 Washington Ave.
State Office Building Campus, Bldg. 7A
Albany, NY 12226

NON-PROFIT ORGANIZATIONS

Federal Fiscal Year 2023 Nonprofit Security Grant Program - Urban Area (NSGP-UA); Nonprofit Security Grant Program - State (NSGP-S)

Description:

Request for Applications (RFA) in federal NSGP-UA funding and federal NSGP-S funding is being made available by the NYS Division of Homeland Security and Emergency Services (DHSES) from the U.S. Department of Homeland Security Federal Emergency Management Agency. There is a total of \$152.5 million nationally for the NSGP-UA program and \$152.5 million nationally, with NYS having a target allocation of \$4.2 million, for the NSGP-S program. Funds will be awarded competitively based on the submission of applications by eligible nonprofit organizations. If your nonprofit site is physically located within a FY2023 UASI-designated urban area, then you may apply to NSGP-UA; in NYS, organizations who are located in the NYC Urban Area which includes: the five boroughs in New York City, Nassau County, Suffolk County and Westchester County are eligible to apply under NSGP-UA. If your nonprofit site is not physically located within the NYC urban area, then you may apply to NSGP-S.

Each nonprofit organization may apply for up to \$150,000 per site. Nonprofits with multiple sites may apply for additional sites at up to \$150,000 per site for a maximum of three (3) sites located within the NSGP-UA area and three (3) sites located within the NSGP-S area, for a maximum of six (6) sites total, not to exceed a grand total of \$450,000 per organization. A nonprofit organization with locations in multiple states may apply for up to these application limits within each state.

Funding will be awarded to support target hardening activities to nonprofit organizations (as described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code) that are at high risk of terrorist or other extremist attack. NSGP provides funding for physical security enhancements and other security-related activities to nonprofit organizations that are at high risk of a terrorist or other extremist attack. The NSGP also seeks to integrate the preparedness activities of nonprofit organizations with broader state and local preparedness efforts.

Due to the competitive nature of this program, organizations who have not previously received funding will receive fifteen (15) bonus points added to their total application score. Additionally, organizations that are located in historically underserved or disadvantaged communities will receive up to fifteen (15) bonus points added to their total application score. FEMA will apply the CDC's Social Vulnerability Index tool to each applicant and will add ten (10) bonus points to applications from organizations in communities with a "High" SVI ranking and fifteen (15) bonus points to applications from organizations in communities with a "Very High" SVI ranking.

Applications must be submitted by 5:00 p.m. on April 20, 2023, through New York State's Division of Homeland Security and Emergency Services (NYS-DHSES) electronic grants management system (E-Grants).

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

NOTICE OF PUBLIC HEARING

Commission on Ethics and Lobbying in Government

PLEASE TAKE NOTICE THAT pursuant to Executive Law Section 94(4)(i), the New York State Commission on Ethics and Lobbying in Government ("COELIG" or "the Commission") will be conducting a public hearing on Wednesday, March 29, 2023, from 10 a.m. to 2 p.m., at New York Law School, 185 West Broadway, New York, New York 10013, to take testimony and receive comments regarding:

- The operation of COELIG
- Potential or proposed changes in the laws under its jurisdiction*, including:
 - New York Executive Law Section 94
 - New York Public Officers Law Sections 73, 73-a and 74
 - New York Civil Service Law Section 107
 - New York Legislative Law Article 1-A, the "Lobbying Act"
- The Commission's pending rules**
- The Commission's Regulations, 19 NYCRR Chapter XX, Parts 930 – 943*
- The Advisory Opinions* of antecedent and related New York State ethics and lobbying agencies, including the Joint Commission on Public Ethics (JCOPE), the Commission on Public Integrity (CPI), the New York State Ethics Commission, New York State Temporary Lobbying Commission and the Legislative Ethics Commission
- The consistency of the Commission's rules and regulations and the advisory opinions of antecedent and related ethics and lobbying agencies with and among each other and with the new statutory language provided by the Ethics Commission Reform Act of 2022, L. 2022 Ch.56, Part QQ
- The effectiveness of New York's existing ethics and lobbying laws, regulations, guidance and ethics enforcement structure
- Recommendations for improvement in the structure, administration, communication and enforcement of ethics and lobbying laws and

regulations in New York State and for achieving compliance with essential ethical requirement and principles throughout New York State government.

To ensure that all who wish to be heard in person can be accommodated, members of the public are encouraged to sign up in advance by sending an email to publichearing@ethics.ny.gov. Members of the public who wish to testify by remote video conference can send an email to the same address to reserve an approximate time and receive a Webex link to the hearing. Video conference participation in the meeting will also be available from the Commission's offices at 540 Broadway, Albany, New York 12207; those who wish to testify from the Commission's offices in Albany are also encouraged to sign up in advance by email. A maximum of five minutes will be allotted to each witness.

The hearing will be livestreamed from the Commission's website.

Written testimony may also be submitted in lieu of or in conjunction with in-person or remote testimony at the hearing by submission publichearing@ethics.ny.gov

* The laws under the Commission's jurisdiction, as well as the Commission's Regulations and the Advisory Opinions of predecessor agencies can be accessed on the Commission's website at <https://ethics.ny.gov/laws>

** The Commission's pending rules can be accessed at <https://ethics.ny.gov/about-commission-ethics-and-lobbying-government-coelig>

PUBLIC NOTICE

Department of Civil Service

PURSUANT to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for April 2023 will be conducted on April 12 and April 13 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY with live coverage available at <https://www.cs.ny.gov/commission/>

For further information, contact: Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. One, Albany, NY 12239, (518) 473-6598

PUBLIC NOTICE

Office of General Services

Pursuant to Section 30-a of the Public Lands Law, the Office of General Services hereby gives notice to the following:

Notice is hereby given that New York State Department of Transportation has determined that:

Sale of NYS Property to Adjacent Owner
Frederick and Carol Vanderzee
214 East Main Street, Trumansburg, NY 14886
Tompkins County

Two vacant, contiguous parcels containing a combined 1.64 acres of land are surplus and no longer useful or necessary for state program purposes and has abandoned the property to the Commissioner of General Services for sale or other disposition as Unappropriated State Land.

For further information, please contact: Frank Pallante, Esq., Office of General Services, Legal Services, 36th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, (518) 474-8831, (518) 473-4973 fax

PUBLIC NOTICE

New York City Deferred Compensation Plan & NYCE IRA

The New York City Deferred Compensation Plan & NYCE IRA (the "Plan") is seeking proposals from qualified vendors to provide Legal Services for the City of New York Deferred Compensation Plan. The Request for Proposals ("RFP") will be available beginning on Monday, March 6, 2023. Responses are due no later than 4:30 p.m. Eastern Time on Tuesday, April 4, 2023. To obtain a copy of the RFP, please visit the Plan's website at www1.nyc.gov/site/olr/about/about-rfp.page and download and review the applicable documents.

If you have any questions, please email them to: Georgette Gestely, Director, at RPretax@nyceplans.org

Consistent with the policies expressed by the City, proposals from certified minority-owned and/or women-owned businesses or proposals that include partnering arrangements with certified minority-owned and/or women-owned firms are encouraged. Additionally, proposals from small and New York City-based businesses are also encouraged.

PUBLIC NOTICE

Department of State F-2022-0998

Date of Issuance – March 22, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2022-0998, the applicant, Cheryl Hodges, is proposing to install a 4' x 6' walkway to a 3' x 20' ramp, and an 8' x 30' float, and install a 4-pile boat lift off the north side of the float. This project is located at 3365 Jason Court, Town of Bellmore, Nassau County, East Bay.

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/03/f-2022-0998pn.pdf> or at <https://dos.ny.gov/public-notices>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- East Hempstead Bay Significant Coastal Fish and Wildlife Habitat: https://dos.ny.gov/system/files/documents/2020/03/east_hempstead_bay.pdf

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or April 21, 2023.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State F-2023-0059

Date of Issuance – March 22, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2023-0059- Adam Gomerman, Beach Getaway, LLC -proposes to install a 4' x 16' fixed elevated dock, 3' x 16' seasonal ramp and 6' x 20' seasonal float in an L' configuration secured by four tie-off piles. The proposed activity would be located at 132 Point Road in the Village of Westhampton Beach, Town of Southampton, Suffolk County on Moriches Bay

The stated purpose of the proposed action is to provide "private recreational docking"

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/03/f-2023-0059pn.pdf> or at <https://dos.ny.gov/public-notices>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area: Moriches Bay Significant Coastal Fish and Wildlife Habitat: https://dos.ny.gov/system/files/documents/2020/03/moriches_bay.pdf

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or April 21, 2023.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State F-2023-0064

Date of Issuance – March 22, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2023-0064, Christine Garrett, is proposing to remove existing pile and crib supported docks and renovate an existing deck with a reduction in footprint, construct new 8' x 42' dock with two new 8' x 40' docks extending perpendicular and place a 50' x 43' roof over the resulting boat slip. Roof pitched 5/12 with a top elevation of 20' above OHW. Docks would be supported by 6" steel piles and have 3' long side staving. Existing dock material would be disposed of at a local transfer site with ~20cy of stone from the existing cribs spread of the river bottom. The proposal is for the applicant's property located at 495B Indian Point Road in the Town of Hammond, St. Lawrence County on the St. Lawrence River.

The stated purpose of the proposed action is to "create two (2) covered boat slips for the applicant's vessels."

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/03/f-2023-0064pn.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or April 21, 2023.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2023-0068

Date of Issuance – March 22, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2023-0068, the applicant, Dunewood BECD c/o Ken Cohen, is proposing to raise and reconstruct in-place the existing bulkhead 12-13' higher; construct (8) finger piers that are 3' x 14' at bulkhead and taper to 1.5' wide at pile, (3) 2' x 25', and (5) 2' x 19' finger piers; 10-year maintenance dredging in 11,000SF area, this one within 3,100 SF area along bulkhead to -4.0' MLW; and place 180 CY of dredge spoil landward of bulkhead and on the community beach all for safe navigation and access to the community for residents, erosion control, and flood protection. This project is located at Dunewood BECD from east of Dolphin Walk to west of Skimmer Walk, Town of Islip, Suffolk County, Great South Bay.

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/03/f-2023-0068pn.pdf> or at <https://dos.ny.gov/public-notices>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area(s):

- Great South Bay- West Significant Coastal Fish and Wildlife Habitat: https://dos.ny.gov/system/files/documents/2020/03/great_south_bay_west.pdf

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or April 21, 2023.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2023-0077

Date of Issuance – March 22, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act (CZMA) of 1972, as amended.

The applicant has certified that the proposed activities comply with and will be conducted in a manner consistent with the federally approved New York State Coastal Management Program (NYSCMP). The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2023-0077- Charles Mareno, Jr. is proposing to install a 4' x 17' extension onto an existing 5' x 23' pier and add a 15' boat lift to the extension. The proposed activity is located at 204 Harbor Lane in the Town of Oyster Bay, Nassau County on South Oyster Bay.

The stated purpose of the proposed action is for "Recreational Enhancement".

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/03/f-2023-0077pn.pdf> or at <https://dos.ny.gov/public-notices>

The proposed activity would be located within or has the potential to affect the following Special Management or Regulated Area: South Oyster Bay Significant Coastal Fish and Wildlife Habitat: https://dos.ny.gov/system/files/documents/2020/03/south_oyster_bay.pdf

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice or April 21, 2023.

Comments should be addressed to: Department of State, Office of Planning and Development and Community Infrastructure, Consistency Review Unit, One Commerce Plaza, Suite 1010, 99 Washington Ave., Albany, NY 12231, (518) 474-6000. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State
F-2023-0085

Date of Issuance – March 22, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program.

In F-2023-0085, The Town of Hammond is proposing to make upgrades to an existing public boat launch area. The proposal includes the removal and replacement of the existing concrete boat launch and associated docks and dry hydrant. The new boat ramp would be comprised of 8" thick precast concrete and be 8' long and 32' wide set on 6" of #2 crushed stone. At the toe of the new ramp 16cy of stone light stone fill would be placed in a 432sf area. A 8' x 80' floating dock would be placed on the northside of the new ramp accessed by a new 4' x 20' gangway and an 8' x 120' floating dock accessed by a new 8' x 30' gangway would be located on the southside of the new boat ramp. A sheet pile bulkhead would be placed along ~61 linear feet of shoreline in an area south of the boat ramp. This sheet pile would be placed in-place or landward of an existing fixed dock/bulkhead structure that currently runs along the shoreline. An additional 4' x 20'

gangway would lead to an 8' x 120' floating dock with a 5' x 20' kayak launch on the south side of the dock. Docks would be held in place by 5' x 5' x 1' concrete anchor blocks. Additionally, an approximately 900sf area would be dredged removing up to 200cy of material with placement at an upland town owned site. A dry hydrant would be installed off of the new bulkhead. The dry hydrant would be comprised of 8" PVC pipe with supported above the river bottom on a 2' x 2' x 6" concrete support block and 1" stainless steel support pipe.

The proposal would be located on property owned by the Chippewa Yacht Club Inc at 40 Denner Road in the Town of Hammond on Chippewa Bay an embayment of the St. Lawrence River.

The stated purpose of the proposal is, "To reconstruct their boat launch area to accommodate for high water events to allow continued use of the boat launch for the public and emergency services."

This proposal is part of the New York State Lake Ontario Resiliency and Economic Development Initiative (REDI). REDI is a program created to increase the resilience of shoreline communities and bolster economic development throughout the Lake Ontario and St. Lawrence River regions of New York State. Additional information about the REDI program including project profiles can be found at:

<https://www.governor.ny.gov/programs/lake-ontario-resiliency-and-economic-development-initiative-redi>

The applicant's consistency certification and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/03/f-2023-0085pn.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or April 6, 2023.

Comments should be addressed to: Consistency Review Unit, Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

F-2023-0155 (DA)

Date of Issuance – March 22, 2023

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The National Park Service has determined that the proposed activity complies with and will be conducted in a manner consistent to the maximum extent practicable with the approved New York State Coastal Management Program.

In F-2023-0155(DA), The National Park Service proposed to replace a deteriorating, 240 foot by 24" inch corrugated metal pipe and associated headwalls, gate valve and duckbill backflow prevention. The proposal also includes the establishment of a maintenance path along the pipe alignment for and tidal zone plantings in the outlet area. The proposed work would be located in the Jamaica Bay National Wildlife Refuge/Gateway National Recreation Area at the outlet of East Pond into Jamaica Bay in the borough of Queens.

The stated purpose of the project is to replace the deteriorating pipe, which is leaking, the pipe and associated gate valve allow for seasonal drawn down of East Pond to provide mudflats for migrating avian foraging. The access path would allow for easier removal of accumulated sediment in the discharge area which is regularly block by silt and sand rendering the discharge inoperable.

The agency's consistency determination and supporting information are available for review at: <https://dos.ny.gov/system/files/documents/2023/03/f-2023-0155pn.pdf> or at <https://dos.ny.gov/public-notices>

Original copies of public information and data submitted by the applicant are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or April 21, 2023.

Comments should be addressed to: Department of State, Office of Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2021-0418 Matter of Robert O'Neil of Skanska USA Civil Northeast, 75-20 Astoria Blvd., Suite 200, Queens, NY 11370, for a variance concerning safety requirements, including, but not limited to; fire rating, fire suppression systems and energy storage systems. Involved is an existing transit station, known as Penn Station, located in the City of New York, Borough of Manhattan, County of New York, State of New York.

2023-0098 Matter of Adam Curtin, 284 Red Rock Road, Rochester, NY, 14626, for a variance concerning safety requirements, including permanent barriers. Involved is a one-family dwelling, located at 284 Red Rock Road, Town of Greece, County of Monroe, State of New York.

2023-0099 Matter of Home Pride Builders and Developers, Inc., 30 Forest Creek Drive, Spencerport, NY, 14559, for a variance concerning safety requirements, including distance from a hydrant. Involved is a one-family dwelling, located at 1 Stella Lane, Town of Ogdenville, County of Monroe, State of New York.

2023-0100 Matter of T.Y. Lin International, 255 East Avenue, Rochester, NY 14604, for a variance concerning safety requirements, including means of egress doors. Involved is an addition to an existing building located at 1757 Latta Road, Town of Greece, County of Monroe, State of New York.

2023-0101 Matter of Andrew Annunziata, 1155 Sweet Creek Circle, Webster, NY 14580, for a variance concerning safety requirements, including permanent barriers. Involved is a one-family dwelling, located at 1155 Sweet Creek Circle, Town of Webster, County of Monroe, State of New York.

PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons

wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2023-0012 Matter of Z. Ipek and Sons, 129 Juergen Point Road, Mayfield, NY, 12117, for a variance concerning safety requirements, including fire rated cellar ceilings. Involved is an existing multiple family dwelling located at 1011 Union Street, City of Schenectady, County of Schenectady, State of New York.

2023-0015 Matter of BG Team, LLC., 15 Johnson Road, Latham, NY, 12110, for a variance concerning safety requirements, including fire rated cellar ceilings. Involved is an existing multiple family dwelling located at 1302 Webster Street, City of Schenectady, County of Schenectady, State of New York.

2023-0016 Matter of BG Team, LLC., 15 Johnson Road, Latham, NY, 12110, for a variance concerning safety requirements, including fire rated cellar ceilings. Involved is an existing multiple family dwelling located at 709 Crane Street, City of Schenectady, County of Schenectady, State of New York.

2023-0017 Matter of 27 Close Street Corporation, 51 Appletree Lane, Carle Place, NY, 11514, for a variance concerning safety requirements, including fire rated cellar ceilings. Involved is an existing multiple family dwelling located at 27 Close Street, City of Schenectady, County of Schenectady, State of New York.

2023-0018 Matter of JECO Realty, 42 Ruggles Road, Saratoga Springs, NY, 12305, for a variance concerning safety requirements, including fire rated cellar ceilings. Involved is an existing multiple family dwelling located at 2 N Ferry Street, City of Schenectady, County of Schenectady, State of New York.

2023-0025 Matter of Seaheart Real Estate Corporation, 805 Albany Street, Schenectady, NY, 12307, for a variance concerning safety requirements, including fire rated cellar ceilings. Involved is an existing multiple family dwelling located at 805 Albany Street, City of Schenectady, County of Schenectady, State of New York.

2023-0028 Matter of Craig Werner, 677 Riverview Road, Rexford, NY, 12148, for a variance concerning safety requirements, including fire rated cellar ceilings. Involved is an existing multiple family dwelling located at 251 Green Street, City of Schenectady, County of Schenectady, State of New York.

2023-0049 Matter of Forest Lake Summer Camp, 162 Skunk Hollow Road, Jericho, VT, 05465, for a variance concerning safety requirements, including fire suppression systems. Involved is an existing building located at 261 Forest Lake Road, Town of Warrensburg, County of Warren, State of New York.

PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2023-0106 in the Matter of Construction Expediting Inc., 134 Route 59, Suite 201, Suffern, NY 10901, for a variance concerning safety requirements, including access roads. Involved is a three story educational building located at 104 Highview Road, Town of Ramapo, NY 10901, County of Rockland, State of New York.

2023-0107 in the Matter of Construction Expediting Inc., Kalman Kerskovits, 134 Route 59, Suite 201, Suffern, NY 10901, for a variance concerning safety requirements, including access road. Involved is a three story educational building located at 109 Route 59, Town of Ramapo, NY 10952, County of Rockland, State of New York.

2023-0108 in the Matter of Rennia Engineering Design, PLLC, Charles Taft, Jr., Six Dover Village Plaza, Suite Five, PO Box 400, Dover Plains, NY 12522, for a variance concerning safety requirements, including PFAS removal system. Involved is an educational building located at 2368 Route 22, Town of Dover, NY 12522, County of Dutchess, State of New York.

PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2023-0109 In the matter of Asim and Senad Dasic, 301 Mohawk Street, Utica, NY, for a variance concerning basement ceiling fire rating under Multiple Residence Law located at 301- 305 Mohawk Street, City of Utica, County of Onieda, State of New York.

PUBLIC NOTICE

Department of State

Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2023-0113 in the Matter of CT Basement Systems, Julie Marra, 33 Progress Ave, Seymour, CT 06483, for a variance concerning safety requirements, including ceiling height. Involved is a one family dwelling located at Nine Piping Brook Lane, Town of Bedford, NY 10506, County of Westchester, State of New York.

2023-0114 in the Matter of Building Permit Services, John Matthews, 45 Sunset Road, Croton On Hudson, NY 10520, for a variance concerning safety requirements, including ceiling height. Involved is a one family dwelling located at 46 Upper Croton Avenue, Village of Ossining, NY 10562, County of Westchester, State of New York.

