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**NEW YORK STATE**  
**REGISTER**

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- Use of Truss Type, Pre-Engineered Wood or Timber Construction in Residential Structures

**Regulatory Agenda**

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**Executive Orders**

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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 45 days following publication in the *Register* of a Notice of Proposed Rule Making or a Notice of Emergency Adoption and Proposed Rule Making for which full text was included in the Notice or posted on a state web site, or which is a consensus rule or a rule defined in SAPA § 102(2)(a)(ii); or 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 for which a summary of the text of the rule was included in the Notice and the full text of which was not published on a state web site; and for 30 days after publication of a Notice of Revised Rule Making in the *Register*. When a public hearing is required by statute, the hearing cannot be held until 45 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 March 15, 2015
- the 45-day period expires on February 28, 2015
- the 30-day period expires on February 13, 2015

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# NEW YORK STATE REGISTER

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## 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](http://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 must reach the agency before the proposed rule is adopted. The law provides for a minimum 45-day public comment period after publication in the *Register* of every Notice of Proposed Rule Making for which full text was included or posted on a state web site, or which is a consensus rule or a rule defined in SAPA § 102(2)(a)(ii); a minimum 60-day public comment period after publication in the *Register* of a Notice of Proposed Rule Making for which a summary of the text of the rule was included in the Notice and the full text of which was not published on a state web site; and a 30-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 public comments are due.

The Administrative Regulations Review Commission (ARRC) is charged with the task of reviewing newly proposed regulations to examine the 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

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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.state.ny.us](http://www.dos.state.ny.us))

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# RULE MAKING ACTIVITIES

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

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

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

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## Department of Economic Development

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### EMERGENCY RULE MAKING

#### Empire Zones Reform

**I.D. No.** EDV-02-15-00001-E

**Filing No.** 1097

**Filing Date:** 2014-12-24

**Effective Date:** 2014-12-24

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

**Action taken:** Amendment of Parts 10 and 11; renumbering and amendment of Parts 12-14 to Parts 13, 15 and 16; and addition of new Parts 12 and 14 to Title 5 NYCRR.

**Statutory authority:** General Municipal Law, art. 18-B, section 959; L. 2000, ch. 63; L. 2005, ch. 63; L. 2009, ch. 57

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

**Specific reasons underlying the finding of necessity:** Regulatory action is needed immediately to implement the statutory changes contained in Chapter 57 of the Laws of 2009. The emergency rule also clarifies the administrative procedures of the program, improves efficiency and helps make it more cost-effective and accountable to the State's taxpayers, particularly in light of New York's current fiscal climate. It bears noting that General Municipal Law section 959(a), as amended by Chapter 57 of the Laws of 2009, expressly authorizes the Commissioner of Economic Development to adopt emergency regulations to govern the program.

**Subject:** Empire Zones reform.

**Purpose:** Allow department to continue implementing zones reforms and adopt changes that would enhance program's strategic focus.

**Substance of emergency rule:** The emergency rule is the result of changes to Article 18-B of the General Municipal Law pursuant to Chapter 63 of the Laws of 2000, Chapter 63 of the Laws of 2005, and Chapter 57 of the Laws of 2009. These laws, which authorize the empire zones program, were changed to make the program more effective and less costly through higher standards for entry into the program and for continued eligibility to remain in the program. Existing regulations fail to address these requirements and the existing regulations contain several outdated references. The emergency rule will correct these items.

The rule contained in 5 NYCRR Parts 10 through 14 (now Parts 10-16 as amended), which governs the empire zones program, is amended as follows:

1. The emergency rule, tracking the requirements of Chapter 63 of the Laws of 2005, requires placement of zone acreage into "distinct and separate contiguous areas."

2. The emergency rule updates several outdated references, including: the name change of the program from Economic Development Zones to Empire Zones, the replacement of Standard Industrial Codes with the North American Industrial Codes, the renaming of census-tract zones as investment zones, the renaming of county-created zones as development zones, and the replacement of the Job Training Partnership Act (and private industry councils) with the Workforce Investment Act (and local workforce investment boards).

3. The emergency rule adds the statutory definition of "cost-benefit analysis" and provides for its use and applicability.

4. The emergency rule also adds several other definitions (such as applicant municipality, chief executive, concurring municipality, empire zone capital tax credits or zone capital tax credits, clean energy research and development enterprise, change of ownership, benefit-cost ratio, capital investments, single business enterprise and regionally significant project) and conforms several existing regulatory definitions to statutory definitions, including zone equivalent areas, women-owned business enterprise, minority-owned business enterprise, qualified investment project, zone development plans, and significant capital investment projects. The emergency rule also clarifies regionally significant project eligibility. Additionally, the emergency rule makes reference to the following tax credits and exemptions: the Qualified Empire Zone Enterprise ("QEZE") Real Property Tax Credit, QEZE Tax Reduction Credit, and the QEZE Sales and Use Tax Exemption. The emergency rule also reflects the eligibility of agricultural cooperatives for Empire Zone tax credits and the QEZE Real Property Tax Credit.

5. The emergency rule requires additional statements to be included in an application for empire zone designation, including (i) a statement from the applicant and local economic development entities pertaining to the integration and cooperation of resources and services for the purpose of providing support for the zone administrator, and (ii) a statement from the applicant that there is no viable alternative area available that has existing public sewer or water infrastructure other than the proposed zone.

6. The emergency rule amends the existing rule in a manner that allows for the designation of nearby lands in investment zones to exceed 320 acres, upon the determination by the Department of Economic Development that certain conditions have been satisfied.

7. The emergency rule provides a description of the elements to be included in a zone development plan and requires that the plan be resubmitted by the local zone administrative board as economic conditions change within the zone. Changes to the zone development plan must be approved by the Commissioner of Economic Development ("the Commissioner").

Also, the rule adds additional situations under which a business enterprise may be granted a shift resolution.

8. The emergency rule grants discretion to the Commissioner to determine the contents of an empire zone application form.

9. The emergency rule tracks the amended statute's deletion of the cate-

gory of contributions to a qualified Empire Zone Capital Corporation from those businesses eligible for the Zone Capital Credit.

10. The emergency rule reflects statutory changes to the process to revise a zone's boundaries. The primary effect of this is to limit the number of boundary revisions to one per year.

11. The emergency rule describes the amended certification and decertification processes. The authority to certify and decertify now rests solely with the Commissioner with reduced roles for the Department of Labor and the local zone. Local zone boards must recommend projects to the State for approval. The labor commissioner must determine whether an applicant firm has been engaged in substantial violations, or pattern of violations of laws regulating unemployment insurance, workers' compensation, public work, child labor, employment of minorities and women, safety and health, or other laws for the protection of workers as determined by final judgment of a judicial or administrative proceeding. If such applicant firm has been found in a criminal proceeding to have committed any such violations, the Commissioner may not certify that firm.

12. The emergency rule describes new eligibility standards for certification. The new factors which may be considered by the Commissioner when deciding whether to certify a firm is (i) whether a non-manufacturing applicant firm projects a benefit-cost ratio of at least 20:1 for the first three years of certification, (ii) whether a manufacturing applicant firm projects a benefit-cost ratio of at least 10:1 for the first three years of certification, and (iii) whether the business enterprise conforms with the zone development plan.

13. The emergency rule adds the following new justifications for decertification of firms: (a) the business enterprise, that has submitted at least three years of business annual reports, has failed to provide economic returns to the State in the form of total remuneration to its employees (i.e. wages and benefits) and investments in its facility greater in value to the tax benefits the business enterprise used and had refunded to it; (b) the business enterprise, if first certified prior to August 1, 2002, caused individuals to transfer from existing employment with another business enterprise with similar ownership and located in New York state to similar employment with the certified business enterprise or if the enterprise acquired, purchased, leased, or had transferred to it real property previously owned by an entity with similar ownership, regardless of form of incorporation or organization; (c) change of ownership or moving out of the Zone, (d) failure to pay wages and benefits or make capital investments as represented on the firm's application, (e) the business enterprise makes a material misrepresentation of fact in any of its business annual reports, and (f) the business enterprise fails to invest in its facility substantially in accordance with the representations contained in its application. In addition, the regulations track the statute in permitting the decertification of a business enterprise if it failed to create new employment or prevent a loss of employment in the zone or zone equivalent area, and deletes the condition that such failure was not due to economic circumstances or conditions which such business could not anticipate or which were beyond its control. The emergency rule provides that the Commissioner shall revoke the certification of a firm if the firm fails the standard set forth in (a) above, or if the Commissioner makes the finding in (b) above, unless the Commissioner determines in his or her discretion, after consultation with the Director of the Budget, that other economic, social and environmental factors warrant continued certification of the firm. The emergency rule further provides for a process to appeal revocations of certifications based on (a) or (b) above to the Empire Zones Designation Board. The emergency rule also provides that the Commissioner may revoke the certification of a firm upon a finding of any one of the other criteria for revocation of certification set forth in the rule.

14. The emergency rule adds a new Part 12 implementing record-keeping requirements. Any firm choosing to participate in the empire zones program must maintain and have available, for a period of six years, all information related to the application and business annual reports.

15. The emergency rule clarifies the statutory requirement from Chapter 63 of the Laws of 2005 that development zones (formerly county zones) create up to three areas within their reconfigured zones as investment (formerly census tract) zones. The rule would require that 75% of the acreage used to define these investment zones be included within an eligible or contiguous census tract. Furthermore, the rule would not require a development zone to place investment zone acreage within a municipality in that county if that particular municipality already contained an investment zone, and the only eligible census tracts were contained within that municipality.

16. The emergency rule tracks the statutory requirements that zones reconfigure their existing acreage in up to three (for investment zones) or six (for development zones) distinct and separate contiguous areas, and that zones can allocate up to their total allotted acreage at the time of designation. These reconfigured zones must be presented to the Empire Zones Designation Board for unanimous approval. The emergency rule makes clear that zones may not necessarily designate all of their acreage

into three or six areas or use all of their allotted acreage; the rule removes the requirement that any subsequent additions after their official redesignation by the Designation Board will still require unanimous approval by that Board.

17. The emergency rule clarifies the statutory requirement that certain defined "regionally significant" projects can be located outside of the distinct and separate contiguous areas. There are four categories of projects: (i) a manufacturer projecting the creation of fifty or more net new jobs in the State of New York; (ii) an agri-business or high tech or biotech business making a capital investment of ten million dollars and creating twenty or more net new jobs in the State of New York, (iii) a financial or insurance services or distribution center creating three hundred or more net new jobs in the State of New York, and (iv) a clean energy research and development enterprise. Other projects may be considered by the empire zone designation board. Only one category of projects, manufacturers projecting the creation of 50 or more net new jobs, are allowed to progress before the identification of the distinct and separate contiguous areas and/or the approval of certain regulations by the Empire Zones Designation Board. Regionally significant projects that fall within the four categories listed above must be projects that are exporting 60% of their goods or services outside the region and export a substantial amount of goods or services beyond the State.

18. The emergency rule clarifies the status of community development projects as a result of the statutory reconfiguration of the zones.

19. The emergency rule clarifies the provisions under Chapter 63 of the Laws of 2005 that allow for zone-certified businesses which will be located outside of the distinct and separate contiguous areas to receive zone benefits until decertified. The area which will be "grandfathered" shall be limited to the expansion of the certified business within the parcel or portion thereof that was originally located in the zone before redesignation. Each zone must identify any such business by December 30, 2005.

20. The emergency rule elaborates on the "demonstration of need" requirement mentioned in Chapter 63 of the Laws of 2005 for the addition (for both investment and development zones) of an additional distinct and separate contiguous area. A zone can demonstrate the need for a fourth or, as the case may be, a seventh distinct and separate contiguous area if (1) there is insufficient existing or planned infrastructure within the three (or six) distinct and separate contiguous areas to (a) accommodate business development and there are other areas of the applicant municipality that can be characterized as economically distressed and/or (b) accommodate development of strategic businesses as defined in the local development plan, or (2) placing all acreage in the other three or six distinct and separate contiguous areas would be inconsistent with open space and wetland protection, or (3) there are insufficient lands available for further business development within the other distinct and separate contiguous areas.

The full text of the emergency rule is available at [www.empire.state.ny.us](http://www.empire.state.ny.us)

**This notice is intended** to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires March 23, 2015.

**Text of rule and any required statements and analyses may be obtained from:** Thomas P Regan, NYS Department of Economic Development, 625 Broadway, Albany NY 12245, (518) 292-5123, email: [tregan@esd.ny.gov](mailto:tregan@esd.ny.gov)

#### **Regulatory Impact Statement**

##### **STATUTORY AUTHORITY:**

Section 959(a) of the General Municipal Law authorizes the Commissioner of Economic Development to adopt on an emergency basis rules and regulations governing the criteria of eligibility for empire zone designation, the application process, the certification of a business enterprises as to eligibility of benefits under the program and the decertification of a business enterprise so as to revoke the certification of business enterprises for benefits under the program.

##### **LEGISLATIVE OBJECTIVES:**

The rulemaking accords with the public policy objectives the Legislature sought to advance because the majority of such revisions are in direct response to statutory amendments and the remaining revisions either conform the regulations to existing statute or clarify administrative procedures of the program. These amendments further the Legislative goals and objectives of the Empire Zones program, particularly as they relate to regionally significant projects, the cost-benefit analysis, and the process for certification and decertification of business enterprises. The proposed amendments to the rule will facilitate the administration of this program in a more efficient, effective, and accountable manner.

##### **NEEDS AND BENEFITS:**

The emergency rule is required in order to implement the statutory changes contained in Chapter 57 of the Laws of 2009. The emergency rule also clarifies the administrative procedures of the program, improves efficiency and helps make it more cost-effective and accountable to the State's taxpayers, particularly in light of New York's current fiscal climate.



**COSTS:**

A. Costs to private regulated parties: None. There are no regulated parties in the Empire Zones program, only voluntary participants.

B. Costs to the agency, the state, and local governments: There will be additional costs to the Department of Economic Development associated with the emergency rule making. These costs pertain to the addition of personnel that may need to be hired to implement the Empire Zones program reforms. There may be savings for the Department of Labor associated with the streamlining of the State's administration and concentration of authority within the Department of Economic Development. There is no additional cost to local governments.

C. Costs to the State government: None. There will be no additional costs to New York State as a result of the emergency rule making.

**LOCAL GOVERNMENT MANDATES:**

None. Local governments are not mandated to participate in the Empire Zones program. If a local government chooses to participate, there is a cost associated with local administration that local government officials agreed to bear at the time of application for designation as an Empire Zone. One of the requirements for designation was a commitment to local administration and an identification of local resources that would be dedicated to local administration.

This emergency rule does not impose any additional costs to the local governments for administration of the Empire Zones program.

**PAPERWORK:**

The emergency rule imposes new record-keeping requirements on businesses choosing to participate in the Empire Zones program. The emergency rule requires all businesses that participate in the program to establish and maintain complete and accurate books relating to their participation in the Empire Zones program for a period of six years.

**DUPLICATION:**

The emergency rule conforms to provisions of Article 18-B of the General Municipal Law and does not otherwise duplicate any state or federal statutes or regulations.

**ALTERNATIVES:**

No alternatives were considered with regard to amending the regulations in response to statutory revisions.

**FEDERAL STANDARDS:**

There are no federal standards in regard to the Empire Zones program. Therefore, the emergency rule does not exceed any Federal standard.

**COMPLIANCE SCHEDULE:**

The period of time the state needs to assure compliance is negligible, and the Department of Economic Development expects to be compliant immediately.

**Regulatory Flexibility Analysis**

1. Effect of rule

The emergency rule imposes new record-keeping requirements on small businesses and large businesses choosing to participate in the Empire Zones program. The emergency rule requires all businesses that participate in the program to establish and maintain complete and accurate books relating to their participation in the Empire Zones program for a period of six years. Local governments are unaffected by this rule.

2. Compliance requirements

Each small business and large business choosing to participate in the Empire Zones program must establish and maintain complete and accurate books, records, documents, accounts, and other evidence relating to such business's application for entry into the Empire Zone program and relating to existing annual reporting requirements. Local governments are unaffected by this rule.

3. Professional services

No professional services are likely to be needed by small and large businesses in order to establish and maintain the required records. Local governments are unaffected by this rule.

4. Compliance costs

No initial capital costs are likely to be incurred by small and large businesses choosing to participate in the Empire Zones program. Annual compliance costs are estimated to be negligible for both small and large businesses. Local governments are unaffected by this rule.

5. Economic and technological feasibility

The Department of Economic Development ("DED") estimates that complying with this record-keeping is both economically and technologically feasible. Local governments are unaffected by this rule.

6. Minimizing adverse impact

DED finds no adverse economic impact on small or large businesses with respect to this rule. Local governments are unaffected by this rule.

7. Small business and local government participation

DED is in full compliance with SAPA Section 202-b(6), which ensures that small businesses and local governments have an opportunity to participate in the rule-making process. DED has conducted outreach within the small and large business communities and maintains continuous contact with small businesses and large businesses with regard to their participation in this program. Local governments are unaffected by this rule.

**Rural Area Flexibility Analysis**

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

**Job Impact Statement**

The emergency rule relates to the Empire Zones program. The Empire Zones program itself is a job creation incentive, and will not have a substantial adverse impact on jobs and employment opportunities. In fact, the emergency rule, which is being promulgated as a result of statutory reforms, will enable the program to continue to fulfill its mission of job creation and investment for economically distressed areas. Because it is evident from its nature that this emergency rule will have either no impact or a positive impact on job and employment opportunities, no further affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

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**Department of Health**

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**NOTICE OF EMERGENCY**

**ADOPTION**

**AND REVISED RULE MAKING**

**NO HEARING(S) SCHEDULED**

**Rate Rationalization – Intermediate Care Facilities for Persons with Developmental Disabilities**

**I.D. No.** HLT-28-14-00015-ERP

**Filing No.** 1104

**Filing Date:** 2014-12-30

**Effective Date:** 2014-12-30

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

**Action Taken:** Amendment of Subpart 86-11 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 201

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

**Specific reasons underlying the finding of necessity:** The emergency adoption of these amendments is necessary to protect the health, safety, and welfare of individuals receiving services in the OPWDD system.

The amendments are necessary to properly implement a new rate methodology for Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD).

On July 1, 2014, OPWDD and the Department of Health (DOH) implemented a new reimbursement methodology for ICFs/DD, which complements existing OPWDD requirements concerning this program, to satisfy commitments included in OPWDD's transformation agreement with the federal Centers for Medicare and Medicaid Services (CMS).

After July 1, CMS informed OPWDD and DOH that CMS would require changes in reimbursement for capital assets used in ICFs/DD. These changes are that capital costs for day habilitation property acquisitions must be depreciated over 25 years and that providers must submit information for each capital asset that is verified by an independent auditor and identifies the differences, by asset, between the amounts reported on the cost report and amounts that were approved by OPWDD. The emergency/proposed regulations are in response to these CMS requirements. The amendments change the depreciation period and reporting for capital costs.

In addition, the 2014-15 enacted budget included funding to support a 2% increase for direct support staff on January 1, 2015 and April 1, 2015, as well as a 2% increase for clinical staff on April 1, 2015 for eligible programs. This change to the methodology will increase rates for all providers of the eligible services.

The Department was not able to use the regular rulemaking process established by the State Administrative Procedure Act because there was not sufficient time to develop and promulgate regulations within the necessary timeframes. The State Administrative Procedure Act (SAPA) sets forth timeframes for the promulgation of regulations (including mandatory public comment period) and prohibits the adoption of rules containing substantive changes in the terms of proposed regulations. SAPA requires additional rulemaking activities to make substantive changes through the regular rulemaking process which delays the effective date. The only way to adopt the substantive amendments necessary to implement the rate-setting methodology in accordance with CMS mandates and State law is through the emergency rulemaking process.

If the Department did not promulgate these regulations on an emergency basis, the Department would fail to meet its commitment to CMS and would risk loss of the substantial federal funding that is contingent upon this commitment. The loss of this federal funding could jeopardize the health, safety, and welfare of individuals receiving services in the OPWDD system, as without it, individuals would be at risk of receiving services that are inadequate or insufficient in meeting their needs.

**Subject:** Rate Rationalization – Intermediate Care Facilities for Persons with Developmental Disabilities.

**Purpose:** To amend the new rate methodology effective November 1, 2014.

**Substance of emergency/revised rule:** These emergency/proposed regulations amend the newly-adopted 10 NYCRR subpart 86-11 concerning the rate methodology for Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD). The amendments contain the methodology as described in the regulations adopted July 1, 2014 with changes required by the federal Centers for Medicare and Medicaid Services (CMS) subsequent to the adoption of those regulations. The amendments change reimbursement for capital assets used in ICFs/DD. The changes are:

1) The “capital component” sections were revised to require that capital costs must be depreciated over 25 years. The amendments require ICF/DD providers to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule.

2) The “capital component” section was revised to eliminate capital threshold schedules.

3) The amendments change the methodology to include funding for a 2% increase for direct support staff on January 1, 2015 and April 1, 2015, as well as a 2% increase for clinical staff on April 1, 2014 for eligible programs.

**This notice is intended** to serve as both a notice of emergency adoption and a notice of revised rule making. The notice of proposed rule making was published in the *State Register* on July 16, 2014, I.D. No. HLT-28-14-00015-P. The emergency rule will expire February 27, 2015.

**Revised rule making(s) were previously published in the State Register** on November 19, 2014.

**Emergency rule compared with proposed rule:** Substantive revisions were made in sections 86-11.6 and 86-11.9.

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

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

**Public comment will be received until:** 30 days after publication of this notice.

#### Revised Regulatory Impact Statement

##### Statutory Authority:

Social Services Law (SSL) section 363-a and Public Health Law (PHL) section 201(1)(v) provide that the Department is the single state agency responsible for supervising the administration of the State’s medical assistance (“Medicaid”) program and for adopting such regulations, not inconsistent with law, as may be necessary to implement the State’s Medicaid program. In addition, Part I of chapter 60 of the laws of 2014, which is part of the 2014-15 enacted budget, requires the Department to provide funding beginning January 1, 2015 to support a 2% increase in annual salary and salary-related fringe benefits for direct care staff, and also to provide funding beginning April 1, 2015 to support a 2% increase in annual salary and salary-related fringe benefits for direct care and clinical staff.

##### Legislative Objective:

These emergency/proposed amendments further the legislative objectives embodied in sections 363-a of the Social Services Law and section 201(1)(v) of the Public Health Law in Part I of chapter 60 of the laws of

2014. The emergency/proposed regulations amend the newly adopted methodology for reimbursement of Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD).

##### Needs and Benefits:

On July 1, 2014, OPWDD and the Department of Health (DOH) implemented a new reimbursement methodology for ICFs/DD to satisfy commitments included in OPWDD’s transformation agreement with the federal Centers for Medicare and Medicaid Services (CMS).

After July 1, CMS informed OPWDD and DOH that CMS would require changes in reimbursement for ICF/DD capital assets. These changes are that capital costs for property acquisitions must be depreciated over 25 years; that the provider must submit a schedule that identifies the differences, by capital asset, between the amounts reported on the cost report and the amounts that were prior approved by OPWDD; and that an independent auditor apply procedures to verify the accuracy and completeness of the schedule. The amendments are in response to these CMS requirements.

These changes will bring the methodology into compliance with current CMS policies regarding depreciation of capital assets and provide information on capital costs required by CMS.

In addition, in recognition of the key role that direct support staff play in delivering services to persons with disabilities in New York State, the 2014-15 enacted budget included funding to support a 2% increase for direct support staff on January 1, 2015, and an additional 2% increase on April 1, 2015 for direct support staff, as well as a 2% increase for clinical staff beginning on April 1, 2015. OPWDD and DOH are revising the methodologies for affected residential and day habilitation programs to include funding to support these increases.

##### Costs:

##### Costs to the Agency and to the State and its local governments:

The amendments require OPWDD or DOH to give each provider a schedule identifying (for each capital asset for which OPWDD approved the costs prior to July 1, 2014) total actual costs, reimbursable costs, total financing cost, allowable depreciation and interest for the remaining useful life, and allowable reimbursement for each year of the remaining useful life.

The new methodology and these accompanying amendments do not apply to the state as a provider of services.

There will be no savings or costs to local governments as a result of these regulations because pursuant to Social Services Law sections 365 and 368-a, either local governments incur no costs for these services or the State reimburses local governments for their share of the cost of Medicaid funded programs and services. In addition, even if the amendments lead to an increase in Medicaid expenditures in a particular county, these amendments will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

##### Costs to private regulated parties:

The emergency/proposed regulations will change the new reimbursement methodology for ICFs/DD. Application of the changes in the methodology may result in lower capital cost reimbursement per year, but full approved capital costs will be reimbursed over the 25 year depreciation period. In addition, providers will incur costs preparing capital assets schedules and having independent auditors apply procedures to verify the accuracy and completeness of the capital assets schedules.

##### Local Government Mandates:

There are no new requirements imposed by the rule on any county, city, town, village, school, fire or other special district.

##### Paperwork:

The amendments increase paperwork to be completed by providers. The amendments require providers to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition for the 2% compensation increase, each provider will have to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

##### Duplication:

The emergency/proposed regulations do not duplicate any existing State or federal requirements that are applicable to services for persons with developmental disabilities.

##### Alternatives:

Since certain of the methodology changes in these amendments are required by CMS and others are mandated by State law, OPWDD and DOH did not consider any alternatives, because any alternatives would not be in compliance with recently articulated CMS policy and requirements.

**Federal Standards:**

The amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

**Compliance Schedule:**

DOH is adopting the amendments on an emergency basis effective January 1, 2015. DOH expects to finalize the amendments as soon as possible within the timeframes established by the State Administrative Procedure Act.

**Revised Regulatory Flexibility Analysis****Effect of Rule:**

OPWDD and DOH have determined, through a review of the certified cost reports, that most services delivered in Intermediate Care Facilities for Persons with Developmental Disabilities (ICFs/DD) are provided by agencies that employ more than 100 people overall. However, some smaller agencies that employ fewer than 100 employees overall would be classified as small businesses. Currently, there are 108 ICF/DD providers. OPWDD and DOH are unable to estimate the portion of these providers that may be considered to be small businesses.

The proposed regulations amend the rate-setting methodology that was adopted in July 2014 in conformance with changes mandated by CMS after July 1, 2014.

After July 1, 2014, CMS informed OPWDD and DOH that it would require changes in reimbursement for ICF/DD capital assets. These changes are that capital costs for property acquisitions must be depreciated over 25 years; that the provider must submit a schedule that identifies the differences, by capital asset, between the amounts reported on the cost report and the amounts that were prior approved by OPWDD; and that an independent auditor apply procedures to verify the accuracy and completeness of the schedule. The amendments change the depreciation period and reporting requirements for capital costs. Application of the changes in the methodology for capital costs may result in lower reimbursement per year, but full approved capital costs will be reimbursed over the 25 year depreciation period.

In addition, the 2014-15 enacted budget included funding to support a 2% increase for direct support staff on January 1, 2015 and April 1, 2015, as well as a 2% increase for clinical staff on April 1, 2015 for eligible programs. This change to the methodology will increase rates for all providers of the eligible services.

**Compliance Requirements:**

The amendments require ICF/DD providers to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition, for the 2% compensation increase, each provider will be required to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

**Professional Services:**

Additional professional services will be required as a result of these regulations. The amendments require independent auditors to apply procedures to verify the accuracy and completeness of the capital assets schedule. However, the regulations will not add to the professional service needs of local governments.

**Compliance Costs:**

The amendments require ICF/DD providers to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition, for the 2% compensation increase, each provider will be required to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

**Economic and Technological Feasibility:**

The amendments do not impose on regulated parties the use of any new technological processes.

**Minimizing Adverse Impact:**

Since the methodology changes in these amendments are required by CMS, OPWDD and DOH did not consider any alternatives, because any alternatives would not be in compliance with recently articulated CMS policy and requirements.

The potential loss of federal funds that could result from non-compliance would have had far more serious consequences to providers than the minor decrease in annual reimbursement for capital costs that may result from this change.

For the 2% compensation increase, there is no adverse economic impact on providers. Each provider will need to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

However, the attestation is required by the enacted budget and is needed to ensure that the compensation increases are used for their intended purpose.

**Small Business and Local Government Participation:**

OPWDD and DOH met with representatives of providers to discuss this change in methodology at a meeting held on October 6, 2014, and met with them to discuss the 2% compensation increase on December 15. The New York State Association of Community and Residential Agencies (NYSACRA), which represent some providers that have fewer than 100 employees, were included in these meetings.

**Revised Rural Area Flexibility Analysis****Effect on Rural Areas:**

Description of the types and estimation of the number of rural areas in which the rule will apply: OPWDD services are provided in every county in New York State. 43 counties have a population of less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. Additionally, 10 counties with certain townships have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga, Orange and Saratoga.

The proposed regulations amend the rate-setting methodology that was adopted in July 2014 in conformance with changes mandated by CMS after July 1, 2014.

After July 1, 2014, CMS informed OPWDD and DOH that CMS would require changes in reimbursement ICF/DD capital assets. These changes are that capital costs for property acquisitions must be depreciated over 25 years; that the provider must submit a schedule that identifies the differences, by capital asset, between the amounts reported on the cost report and the amounts that were approved by OPWDD; and that an independent auditor apply procedures to verify the accuracy and completeness of the schedule. The amendments change the depreciation period and reporting for capital costs. Application of the changes in the methodology may result in lower reimbursement per year, but full approved capital costs will be reimbursed over the 25 year depreciation period.

In addition, the 2014-15 enacted budget included funding to support a 2% increase for direct support staff on January 1, 2015 and April 1, 2015, as well as a 2% increase for clinical staff on April 1, 2015 for eligible programs. This change to the methodology will increase rates for all providers of the eligible services.

**Reporting, Recordkeeping and Other Compliance Requirements and Professional Services:**

There will be additional reporting, recordkeeping, and professional services imposed by these amendments. The amendments require ICF/DD providers to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition, for the 2% compensation increase, each provider will be required to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

The amendments will have no effect on local governments.

No additional professional services will be required as a result of these regulations and the regulations will not add to the professional service needs of local governments.

**Costs:**

The amendments require ICF/DD providers to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition, for the 2% compensation increase, each provider will be required to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

**Minimizing Adverse Impact:**

Since the methodology change in this amendment is required by CMS, OPWDD and DOH did not consider any alternatives, because any alternatives would not be in compliance with recently articulated CMS policy and requirements.

The potential loss of federal funds that could result from non-compliance would have had far more serious consequences to providers than the minor decrease in annual reimbursement that results for capital costs that result from these changes.

For the 2% compensation increase, there is no adverse economic impact

on providers. Each provider will need to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees. However, the attestation is required by the enacted budget and is needed to ensure that the compensation increases are used for their intended purpose.

The Department has also reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. The Department determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

#### Rural Area Participation:

Participation of public and private interests in rural areas: OPWDD and DOH met with representatives of providers to discuss the capital changes in new methodology October 6, 2014, and met with them to discuss the 2% compensation increase on December 15, 2014. The New York State Association of Community and Residential Agencies (NYSACRA), which represents some providers in rural areas, were included in these meetings.

#### Revised Job Impact Statement

A Job Impact Statement is not being submitted for this emergency/proposed rulemaking because this rulemaking will not have a substantial adverse impact on jobs or employment opportunities.

The emergency/proposed regulations amend the rate-setting methodology that was adopted in July 2014 in conformance with changes mandated by CMS after July 1, 2014. In addition, the proposed regulations change the methodologies for rates and fees for the affected programs to provide funding to support a January 1, 2015 2% salary increase and an April 1, 2015 2% increase for direct support staff, as well as an April 1, 2015 2% increase for clinical staff for the affected residential and day programs, to include funding to support these increases.

All providers will experience an increase in funding as a result of the 2% compensation increase in these amendments. Application of the changes in the methodology may result in lower capital cost reimbursement per year, but full approved capital costs will be reimbursed over the 25 year depreciation period. The impact of additional recordkeeping associated with verification of those capital costs will be negligible.

The amendments are therefore expected to have no significant adverse impact on jobs and employment opportunities with providers.

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF EMERGENCY ADOPTION AND REVISED RULE MAKING NO HEARING(S) SCHEDULED

#### Rate Rationalization for Community Residences/Individualized Residential Alternatives Habilitation and Day Habilitation

**I.D. No.** HLT-28-14-00016-ERP

**Filing No.** 1105

**Filing Date:** 2014-12-30

**Effective Date:** 2014-12-30

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

**Action Taken:** Amendment of Subpart 86-10 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 201

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

**Specific reasons underlying the finding of necessity:** The emergency adoption of these amendments is necessary to protect the health, safety, and welfare of individuals receiving services in the OPWDD system.

The amendments are necessary to properly implement the rate methodology for residential habilitation provided in Individualized Residential Alternatives (IRAs) and Community Residences (CRs) and day habilitation services.

On July 1, 2014, OPWDD and the Department of Health (DOH) implemented a new reimbursement methodology for residential habilitation in IRAs/CRs and day habilitation, which complements existing OPWDD requirements concerning these programs, to satisfy commitments included in OPWDD's transformation agreement with the federal Centers for Medicare and Medicaid Services (CMS).

After July 1, CMS informed OPWDD and DOH that the State could not use SSI benefits in excess of the room and board costs to offset the

Medicaid rate for residential habilitation, and that CMS would require changes in reimbursement for capital assets used in day habilitation programs. These changes are that capital costs for day habilitation property acquisitions must be depreciated over 25 years and that providers must submit information for each capital asset that is verified by an independent auditor and identifies the differences, by asset, between the amounts reported on the cost report and amounts that were approved by OPWDD.

The emergency/proposed regulations are in response to these CMS requirements. The regulations contain the methodology as described in the regulations adopted effective July 1, with changes to the SSI offset, day habilitation depreciation period and reporting for day habilitation capital costs, and with additional changes to the budget neutrality factor necessitated by the change in the SSI offset. The amendments also contain provisions to reimburse IRA and CR providers for July 1 through November 1, 2014 for the difference between the November 1 rate and the July 1 rate, if the November 1 rate is higher.

In addition, the 2014-15 enacted budget included funding to support a 2% increase for direct support staff on January 1, 2015 and April 1, 2015, as well as a 2% increase for clinical staff on April 1, 2015 for eligible programs. This change to the methodology will increase rates for all providers of the eligible services.

The Department was not able to use the regular rulemaking process established by the State Administrative Procedure Act because there was not sufficient time to develop and promulgate regulations within the necessary timeframes. The State Administrative Procedure Act (SAPA) sets forth timeframes for the promulgation of regulations (including mandatory public comment period) and prohibits the adoption of rules containing substantive changes in the terms of proposed regulations. SAPA requires additional rulemaking activities to make substantive changes through the regular rulemaking process which delays the effective date. The only way to adopt the substantive amendments necessary to implement the rate-setting methodology in accordance with CMS mandates and State law is through the emergency rulemaking process.

If the Department did not promulgate these regulations on an emergency basis, the Department would fail to meet its commitment to CMS and would risk loss of the substantial federal funding that is contingent upon this commitment. The loss of this federal funding could jeopardize the health, safety, and welfare of individuals receiving services in the OPWDD system, as without it, individuals would be at risk of receiving services that are inadequate or insufficient in meeting their needs.

**Subject:** Rate Rationalization for Community Residences/Individualized Residential Alternatives Habilitation and Day Habilitation.

**Purpose:** To amend the new rate methodology effective November 1, 2014.

**Substance of emergency/revised rule:** The emergency/proposed regulations amend the newly-adopted 10 NYCRR Subpart 86-10, concerning the rate methodology for Residential Habilitation delivered in IRAs and Community Residences and Day Habilitation. The amendments contain the methodology as described in the regulations adopted July 1, 2014 with changes required by the federal Centers for Medicare and Medicaid Services (CMS) subsequent to the adoption of those regulations. The amendments change the SSI offset with additional changes to the budget neutrality factor necessitated by the change in the SSI offset. The changes are:

1) A definition was added for "state supplement." The definition state supplement is the amount paid to a provider to cover room and board costs in excess of SSI/SNAP payments.

2) The "budget neutrality" formula was changed for Supervised and Supportive Individualized Residential Alternatives (IRAs) and Community Residences (CRs). The method for calculating the budget neutrality factor for the "state supplement" was adjusted.

3) The "capital component" sections were revised to eliminate capital threshold schedules and require that capital costs must be depreciated over 25 years. The amendments require day habilitation providers to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule.

4) The amendments also contain provisions to reimburse IRA and CR providers for July 1 through November 1, 2014 for the difference between the November 1, 2014 rate and the July 1, 2014 rate, if the November 1 rate is higher.

5) The amendments change the methodology to include funding for a 2% increase for direct support staff on January 1, 2015 and April 1, 2015, as well as a 2% increase for clinical staff on April 1, 2015 for eligible programs.

6) Several non-substantive technical corrections were added to correct reference errors and grammatical errors.

*This notice is intended* to serve as both a notice of emergency adoption and a notice of revised rule making. The notice of proposed rule making was published in the *State Register* on July 16, 2014, I.D. No. HLT-28-14-00016-P. The emergency rule will expire February 27, 2015.

*Revised rule making(s) were previously published in the State Register* on November 19, 2014.

*Emergency rule compared with proposed rule:* Substantive revisions were made in sections 86-10.3, 86-10.5 and 86-10.8.

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

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

*Public comment will be received until:* 30 days after publication of this notice.

#### **Revised Regulatory Impact Statement**

##### Statutory Authority:

Social Services Law (SSL) section 363-a and Public Health Law (PHL) section 201(1)(v) provide that the Department is the single state agency responsible for supervising the administration of the State's medical assistance ("Medicaid") program and for adopting such regulations, not inconsistent with law, as may be necessary to implement the State's Medicaid program. In addition, Part I of chapter 60 of the laws of 2014, which is part of the 2014-15 enacted budget, requires the Department to provide funding beginning January 1, 2015 to support a 2% increase in annual salary and salary-related fringe benefits for direct care staff, and also to provide funding beginning April 1, 2015 to support a 2% increase in annual salary and salary-related fringe benefits for direct care and clinical staff.

##### Legislative Objective:

These emergency/proposed regulations further the legislative objectives embodied in section 363-a of the Social Services Law and section 201(1)(v) of the Public Health Law and in Part I of chapter 60 of the laws of 2014. The emergency/proposed regulations amend the newly adopted methodology for reimbursement of residential habilitation delivered in Individualized Residential Alternatives (IRAs) and Community Residences (CRs) and day habilitation services.

##### Needs and Benefits:

On July 1, 2014, OPWDD and the Department of Health (DOH) implemented a new reimbursement methodology for residential habilitation in IRAs/CRs and day habilitation, which complements existing OPWDD requirements concerning these programs, to satisfy commitments included in OPWDD's transformation agreement with the federal Centers for Medicare and Medicaid Services (CMS).

After July 1, CMS informed OPWDD and DOH that the State could not use SSI benefits in excess of the room and board costs to offset the Medicaid rate for residential habilitation, and that CMS would require changes in reimbursement for capital assets used in day habilitation programs. These changes are that capital costs for day habilitation property acquisitions must be depreciated over 25 years and that providers must submit information for each capital asset that is verified by an independent auditor and identifies the differences, by asset, between the amounts reported on the cost report and the amounts that were prior approved by OPWDD. The emergency/proposed amendments are in response to these CMS requirements. The amendments contain the methodology as described in the regulations adopted effective July 1, with changes to the SSI offset, day habilitation depreciation period and reporting for day habilitation capital costs, and with additional changes to the budget neutrality factor necessitated by the change in the SSI offset. In addition, the amendments contain provisions to reimburse IRA and CR providers for July 1 through November 1, 2014 for the difference between the November 1 rate and the July 1 rate, if the November 1 rate is higher. These amendments also make technical and clarifying changes to the regulations effective July 1, 2014.

These changes will increase reimbursement to providers, bring the methodology into compliance with current CMS policies regarding depreciation of capital assets and the treatment of individual benefits in HCBS waiver programs and provide information on capital costs required by CMS.

In addition, in recognition of the key role that direct support staff play in delivering services to persons with disabilities in New York State, the 2014-15 enacted budget included funding to support a 2% increase for direct support staff on January 1, 2015, and an additional 2% increase on April 1, 2015 for direct support staff, as well as a 2% increase for clinical staff beginning on April 1, 2015. OPWDD and the Department of Health (DOH) are revising the methodologies for affected residential and day habilitation programs to include funding to support these increases.

##### Costs:

Costs to the Agency and to the State and its local governments:

The emergency/proposed regulations will result in additional State share Medicaid costs of approximately \$34 million per year. The regulations also require OPWDD or DOH to give each provider a schedule identifying (for each capital asset for which OPWDD approved the costs prior to July 1, 2014) total actual costs, reimbursable costs, total financing cost, allowable depreciation and interest for the remaining useful life, and allowable reimbursement for each year of the remaining useful life.

The new methodology and the accompanying amendments do not apply to the state as a provider of services.

There will be no savings or costs to local governments as a result of these regulations because pursuant to Social Services Law sections 365 and 368-a, either local governments incur no costs for these services or the State reimburses local governments for their share of the cost of Medicaid funded programs and services. In addition, even if the amendments lead to an increase in Medicaid expenditures in a particular county, these amendments will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

##### Costs to private regulated parties:

The emergency/proposed regulations will amend the new reimbursement methodology for residential habilitation in IRAs/CRs and day habilitation. Application of the changes in the methodology for SSI and budget neutrality is expected to result in increased rates for all non-state operated providers. Overall reimbursement to providers will be increased by approximately \$29 million from July 2014 through June 2015 due to this changes. Application of the changes in the methodology for capital cost to day habilitation may result in lower reimbursement per year, but full approved capital costs will be reimbursed over the 25 year amortization period.

##### Local Government Mandates:

There are no new requirements imposed by the rule on any county, city, town, village, school, fire or other special district.

##### Paperwork:

The emergency/proposed amendments increase paperwork to be completed by providers. The amendments require providers of day habilitation services to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition for the 2% compensation increase, each provider will have to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

##### Duplication:

The emergency/proposed regulations do not duplicate any existing State or federal requirements that are applicable to services for persons with developmental disabilities.

##### Alternatives:

Since certain of the methodology changes in these amendments are required by CMS and others are mandated by State law, OPWDD and DOH did not consider any alternatives, because any alternatives would not be in compliance with recently articulated CMS policy and requirements.

##### Federal Standards:

The emergency/proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

##### Compliance Schedule:

DOH is adopting the amendments on an emergency basis effective January 1, 2015. DOH expects to finalize the amendments as soon as possible within the timeframes established by the State Administrative Procedure Act.

#### **Revised Regulatory Flexibility Analysis**

##### Effect of Rule:

OPWDD and DOH have determined, through a review of the certified cost reports, that most residential habilitation services delivered in Individualized Residential Alternatives (IRAs) and Community Residences (CRs) and most day habilitation services are provided by agencies that employ more than 100 people overall. However, some smaller agencies that employ fewer than 100 employees overall would be classified as small businesses. Currently, there are 348 providers of residential habilitation services delivered in IRAs and CRs and day habilitation services. OPWDD and DOH are unable to estimate the portion of these providers that may be considered to be small businesses.

The proposed regulations amend the rate-setting methodology that was adopted in July 2014 in conformance with changes mandated by CMS after July 1, 2014.

After July 1, 2014, CMS informed OPWDD and DOH that the State could not use SSI benefits in excess of the room and board costs to offset

the Medicaid rate for residential habilitation, and that CMS would require changes in reimbursement for capital assets used in day habilitation programs. These changes are that capital costs for day habilitation property acquisitions must be depreciated over 25 years; that providers must submit a schedule that identifies the differences, by capital asset, between the amounts reported on the cost report and the amounts that were approved by OPWDD; and that an independent auditor apply procedures to verify the accuracy and completeness of the schedule. The amendments contain the methodology as described in the regulations adopted in July 2014, with changes to the SSI offset, day habilitation depreciation period and reporting for day habilitation capital costs, and with additional changes to the budget neutrality factor necessitated by the change in the SSI offset. Application of the changes in the methodology regarding SSI offsets and budget neutrality is expected to result in increased rates for all providers, including providers that are small businesses. Overall reimbursement to providers will be increased by approximately \$29 million for July 2014 through June 2015. Application of the changes in the methodology for capital costs to day habilitation may result in lower reimbursement per year, but full approved capital costs will be reimbursed over the 25 year amortization period.

The changes also include an amendment to reimburse IRA and CR providers, including providers that are small businesses, for the difference between the November 1 rate and the July 1 rate, if the November 1 rate is higher. These regulations also make technical and clarifying changes to the regulations effective July 1, 2014.

In addition, the 2014-15 enacted budget included funding to support a 2% increase for direct support staff on January 1, 2015 and April 1, 2015, as well as a 2% increase for clinical staff on April 1, 2015 for eligible programs. This change to the methodology will increase rates for all providers of the eligible services.

#### Compliance Requirements:

The amendments require providers of day habilitation services to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition, for the 2% compensation increase, each provider will be required to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

#### Professional Services:

Additional professional services will be required as a result of these regulations. The amendments require providers of day habilitation services to verify the accuracy and completeness of the capital assets schedule. However, the regulations will not add to the professional service needs of local governments.

#### Compliance Costs:

The amendments require providers of day habilitation services to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition, for the 2% compensation increase, each provider will be required to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

#### Economic and Technological Feasibility:

The amendments do not impose on regulated parties the use of any technological processes.

#### Minimizing Adverse Impact:

Since the certain of the methodology changes in these amendments are required by CMS, OPWDD and DOH did not consider any alternatives, because any alternatives would not be in compliance with recently articulated CMS policy and requirements. The potential loss of federal funds that could result from non-compliance would have had far more serious consequences to providers than the minor decrease in yearly reimbursement for day habilitation costs that may result from these changes.

For the 2% compensation increase, there is no adverse economic impact on providers. Each provider will need to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees. However, the attestation is required by the enacted budget and is needed to ensure that the compensation increases are used for their intended purpose.

The Department has also reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. The Department determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

#### Small Business and Local Government Participation:

OPWDD and DOH met with representatives of providers to discuss the SSI offset changes in the new methodology (including provider concerns) on July 21, August 18, and September 15. OPWDD and DOH also met with representatives of providers to discuss the capital changes on October 6, 2014, and met with them to discuss the 2% compensation increase on December 15. The New York State Association of Community and Residential Agencies (NYSACRA), which represents some providers that have fewer than 100 employees, was included in these meetings.

#### Revised Rural Area Flexibility Analysis

##### Effect on Rural Areas:

Description of the types and estimation of the number of rural areas in which the rule will apply: OPWDD services are provided in every county in New York State. 43 counties have a population of less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. Additionally, certain townships in 10 counties have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga, Orange and Saratoga.

The proposed regulations amend the rate-setting methodology that was adopted in July 2014 in conformance with changes mandated by CMS after July 1, 2014.

After July 1, 2014, CMS informed OPWDD and DOH that the State could not use SSI benefits in excess of the room and board costs to offset the Medicaid rate for residential habilitation, and that CMS would require changes in reimbursement for capital assets used in day habilitation programs. These changes are that capital costs for day habilitation property acquisitions must be depreciated over 25 years; that providers must submit a schedule that identifies the differences, by capital asset, between the amounts reported on the cost report and amounts that were approved by OPWDD; and that an independent auditor apply procedures to verify the accuracy and completeness of the schedule. The amendments contain the methodology as described in the regulations adopted in July 2014, with changes to the SSI offset, day habilitation depreciation period and reporting for day habilitation capital costs, and with additional changes to the budget neutrality factor necessitated by the change in the SSI offset. Application of the changes in the methodology regarding SSI offsets and budget neutrality is expected to result in increased rates for all providers, including providers in rural areas. Overall reimbursement to providers will be increased by approximately \$29 million for July 2014 through June 2015. Application of the changes in the methodology for capital costs to day habilitation may result in lower reimbursement per year, but full approved capital costs will be reimbursed over the 25 year depreciation period.

The changes also include an amendment to reimburse IRA and CR providers, including providers in rural areas, for the difference between the November 1 rate and the July 1 rate, if the November 1 rate is higher. These regulations also make technical and clarifying changes to the regulations effective July 1, 2014.

In addition, the 2014-15 enacted budget included funding to support a 2% increase for direct support staff on January 1, 2015 and April 1, 2015, as well as a 2% increase for clinical staff on April 1, 2015 for eligible programs. This change to the methodology will increase rates for all providers of the eligible services.

#### Reporting, Recordkeeping and Other Compliance Requirements and Professional Services:

There will be additional reporting, recordkeeping, and professional services imposed by these amendments. The amendments require providers of day habilitation services to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition, for the 2% compensation increase, each provider will be required to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

The amendments will have no effect on local governments.

No additional professional services will be required as a result of these regulations and the regulations will not add to the professional service needs of local governments.

#### Costs:

The amendments require providers of day habilitation services to submit a capital assets schedule to OPWDD as part of the annual cost report, to identify the differences, by asset, between the amount on the cost report and the amount prior approved by OPWDD, and to have an independent

auditor apply procedures to verify the accuracy and completeness of the capital assets schedule. In addition, for the 2% compensation increase, each provider will be required to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

**Minimizing Adverse Impact:**

Since certain of the methodology changes in these amendments are required by CMS, OPWDD and DOH did not consider any alternatives, because any alternatives would not be in compliance with recently articulated CMS policy and requirements. The potential loss of federal funds that could result from non-compliance would have had far more serious consequences to providers than the minor decrease in annual reimbursement for day habilitation capital costs that may result from these changes.

For the 2% compensation increase, there is no adverse economic impact on providers. Each provider will need to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees. However, the attestation is required by the enacted budget and is needed to ensure that the compensation increases are used for their intended purpose.

The Department has also reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. The Department determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

**Rural Area Participation:**

Participation of public and private interests in rural areas: OPWDD and DOH met with representatives of providers to discuss the SSI offset changes in the new methodology (including provider concerns) on July 21, August 18, and September 15. OPWDD and DOH met with representatives of providers to discuss the capital changes on October 6, 2014, and met with them to discuss the 2% compensation increase on December 15, 2014. The NYS Association of Community and Residential Agencies (NYSACRA), which represents some providers in rural areas, was included in these meetings.

**Revised Job Impact Statement**

A job impact statement is not being submitted for this emergency/proposed rulemaking because this rulemaking will not have a substantial adverse impact on jobs or employment opportunities.

The emergency/proposed regulations amend the rate-setting methodology that was adopted in July 2014 in conformance with changes mandated by CMS after July 1, 2014. In addition, the proposed regulations change the methodologies for rates and fees for the affected programs to provide funding to support a January 1, 2015 2% salary increase and an April 1, 2015 2% increase for direct support staff, as well as an April 1, 2015 2% increase for clinical staff for the affected residential and day programs, to include funding to support these increases.

All providers will experience an increase in funding as a result of the changes to the SSI offset, budget neutrality factor and 2% compensation increase in these amendments. Application of the changes in the methodology for capital costs to day habilitation may result in lower reimbursement per year, but full approved capital costs will be reimbursed over the 25 year depreciation period.

The amendments are therefore expected to have no significant adverse impact on jobs and employment opportunities with providers.

**Assessment of Public Comment**

The agency received no public comment.

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## State Liquor Authority

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### PROPOSED RULE MAKING HEARING(S) SCHEDULED

**Signage, Services and Gifts to Retailers**

**I.D. No.** LQR-02-15-00002-P

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

**Proposed Action:** Amendment of sections 83.3, 86.2, 86.3, 86.4, 86.5 and 86.6 of Title 9 NYCRR.

**Statutory authority:** Alcoholic Beverage Control Law, sections 101(1)(c) and 105(7)

**Subject:** Signage, Services and Gifts to Retailers.

**Purpose:** To enact business friendly amendments; eliminate interior sign restrictions; and increase annual dollar limits for advertising.

**Public hearing(s) will be held at:** 10:00 a.m., March 10, 2015 at State Liquor Authority, 317 Lenox Ave., New York, 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:** Title 9, Subtitle B, of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), is hereby amended to include amendments to sections 83.3, 86.2, 86.3, 86.4, 86.5, and 86.6 as follows:

§ 83.3 Interior signs

Signs may be displayed in the interior of:

- (a) premises licensed to sell alcoholic beverages for on-premises consumption;
- (b) premises licensed to sell liquor or wine for off-premises consumption; or
- (c) in the window display of such premises, provided that:

(1) Such signs do not have a utility or secondary use or value aside from their actual advertising value. Signs which have a utility or secondary use or value are covered by Part 86 of this subtitle.

(2) Such signs shall not contain:

- (i) any statement, illustration, design, device or representation that is false or misleading;
- (ii) any statement that is disparaging of a competitor's product;
- (iii) any statement, design, device, matter or representation which is obscene or indecent or which is obnoxious or offensive to the commonly and generally accepted standard of fitness and good taste;
- (iv) the words "bond", "bonded", "bottled in bond", "aged in bond" or phrases containing these or synonymous terms, unless the distilled spirits so advertised were in fact bottled in bond under the Bottling in Bond Act of the United States;
- (v) the terms "double distilled", "triple distilled" or any similar term;
- (vi) any statement which is inconsistent with the label on the product;
- (vii) any statement, design or device which represents or which tends to create or give the impression that the use of the alcoholic beverage has curative or therapeutic effects;
- (viii) any statement of, or reference to, price which is deceptive or misleading or tends to deceive or mislead;
- (ix) any illustration which is not dignified, modest and in good taste;

(x) any scene in which is portrayed a child or objects (such as toys) suggestive of the presence of a child or in any manner portrays the likeness of a child or contains the use of figures or symbols which are traditionally associated with children;

(xi) except as otherwise provided in Part 86 of this Subtitle, any statement, design, device or representation relating to any refund, exchange or money-back guarantee, irrespective of truth or falsity;

(xii) any portrayal of an athlete or athletes or athletic events in such manner as to imply that the consumption of alcoholic beverages improves athletic prowess or physical stamina, or any portrayal or suggestion that athletes recommend drinking alcoholic beverages;

(xiii) the name of or depiction of any biblical characters;

(xiv) any reference by name or other identification to any retailer selling the products advertised;

(xv) any statement, design, device or representation of or relating to analyses, standards or tests irrespective of falsity which the Authority finds to be likely to mislead the consumer.

[ (3) Such signs are not hung or displayed in a manner which obstructs a clear and full view into the interior of said premises from the street.

(4) Such signs, when relating to alcoholic beverages, shall not exceed 1,200 square inches. If the sign is made up of two or more parts, the area of each part shall be included when computing the total of square inches in the sign as a whole. Any increase in the depth of the sign which does not extend beyond the perimeter thereof shall not be included in the size or the area of such sign.]

§ 86.2 Advertising and promotions generally

(a) Sections 86.3 through and including 86.6 of this Part describe the kinds of advertising and promotional materials that manufacturers or wholesalers may give, sell or install in a licensed retail premises. Unless specifically stated otherwise, such sections apply both to on-premises and off-premises licensees.

[(b) All of the dollar limitations contained in sections 83.3 through 86.6 will be adjusted annually by a cost adjustment factor, equal to the percentage change in the Bureau of Labor Statistics, Consumer Price Index. By using the cost adjustment factor, it is intended that the dollar limitations will remain identical to the dollar limitations established and adjusted annually by the Director, Federal Bureau of Alcohol, Tobacco & Firearms, and described in 27 Code of Federal Regulations, Part 6.82.]

#### § 86.3 Product displays

(a) A product display means any wine racks, bins, barrels, casks, shelving, and the like, from which alcoholic beverages are displayed and sold, and which bears conspicuous and prominent advertising matter.

(b) A manufacturer or wholesaler may give, rent, loan or sell product displays to a retail licensee. The total value of all product displays furnished by a manufacturer or wholesaler under this section may not exceed \$[1]300 per brand, [or such other dollar limitation as may be established pursuant to section 86.2(b) of this Part.] in use at any one time in any one retail establishment. The value of a product display is the actual cost to the manufacturer or wholesale licensee who initially purchased it. Transportation and installation costs are excluded. *Provision of a product display to a retailer may be conditioned upon the purchase of sufficient product for initial setup of the display.*

(c) Manufacturers and wholesalers may not pool or combine their dollar limitations in order to provide a retailer a product display valued in excess of such dollar limitation.

#### § 86.4 Inside signs

(a) Inside signs include such things as posters, placards, designs, mechanical devices, *digital displays* and window decorations which bear advertising matter, and have no secondary value and are of value to the retailer only as advertising.

(b) A manufacturer or wholesaler may furnish, give, rent, loan or sell inside signs to a retailer, provided that (i) the inside sign shall be used only in the windows or other internal portions of the retail establishment, and (ii) the manufacturer or wholesaler may not directly or indirectly pay or credit the retailer for displaying the inside sign or for any expense incidental to its operation.

#### § 86.5 Retailer advertising specialties

(a) A retailer advertising specialty is an item which bears advertising matter and is primarily valuable to the retailer as point of sale advertising, but which has some secondary value to the retailer in connection with the operation of the business. Examples of retailer advertising specialties include trays, coasters, mats, menu cards, meal checks, paper napkins, foam scrapers, thermometers, clocks, *shirts, hats, visors* and calendars. The manufacturer or wholesaler may add the name or address of the retailer to the retailer advertising specialty.

(b) The total value of all retailer advertising specialties furnished by a manufacturer or wholesaler to a retailer may not exceed \$[5]200 per brand, [or such other dollar limitation as may be established pursuant to section 86.2(b) of this Part.] in any one calendar year per retail establishment. The value of a retailer advertising specialty is the actual cost of that item to the manufacturer or wholesaler who initially purchased it. Transportation and installation costs are excluded.

(c) Manufacturers and wholesalers may not pool or combine their dollar limitations in order to provide a retailer with retailer advertising specialties valued in excess of such dollar limitation.

#### § 86.6 Consumer advertising specialties

(a) A consumer advertising specialty is an item which bears advertising matter and which is designed for unconditional distribution by the retailer to the general public. Examples of consumer advertising specialties include ashtrays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, postcards, *shirts, hats, visors* and pencils.

[(b) A manufacturer or wholesaler may furnish, give or sell consumer advertising specialties to on-premises retail licensees and off-premises beer licensees. The only consumer advertising specialties which may be furnished, given or sold to off-premises retail liquor or wine licensees are recipe books and matchbooks, which cannot contain the name or address of the retail licensee.]

[(c)]b The retail licensee may not be paid or credited in any manner, directly or indirectly, for the distribution of consumer advertising specialties.

[(d)]c There is no limitation on the amount or value of consumer advertising specialties which may be given to any retail licensee.

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

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

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

### Regulatory Impact Statement

#### Statutory authority:

These proposed regulations concerning permissible advertising, signage, and services or gifts to retailers are being issued by the State Liquor Authority and will appear as amendments to Parts 83.3, 86.2, 86.3, 86.4, 86.5 and 86.6 of Title 9 of the New York Codes, Rules and Regulations.

These regulations are issued pursuant to the following:

Alcoholic Beverage Control Law section 101(1)(c), which authorizes the State Liquor Authority to determine at what point any gift or service provided to a retailer is intended to influence the retailer to purchase the alcoholic beverages of a given manufacturer or wholesaler;

Alcoholic Beverage Control Law section 105(7), which authorizes the State Liquor Authority to approve or disapprove any advertising sign whether printed, painted, electric or otherwise on the exterior or interior of any retail off-premises licensee;

State Administrative Procedure Act section 201, which authorizes all agencies to adopt by rule additional procedures not inconsistent with statute.

#### Legislative objectives:

Changing the public policy underpinnings of the Alcoholic Beverage Control Law to be more business friendly where possible was recommended by the New York State Law Revision Commission in their 2009 Report on the Alcoholic Beverage Control Law and its Administration, which included recommendations of “supporting economic growth, job development, and the state’s alcoholic beverage production industries and its tourism and recreation industry...provided that such activities do not conflict with the primary regulatory objectives of [promoting the health, welfare and safety of the people of the state, and promoting temperance in the consumption of alcoholic beverages.]” Along those lines, a recent legislative change put into effect the recommendations of the Law Revision Commission via Chap. 406 of the Laws of 2014. The policy underpinnings of the Alcoholic Beverage Control Law (“ABCL”) have been updated to include supporting, where possible, the economic development and job opportunities for New York residents when making decisions related to the regulation of alcoholic beverages.

It was from the Law Revision Commission recommendations that these regulatory proposals were conceived, to be used by the State Liquor Authority to promote economic growth and job opportunities for New York by liberalizing advertising and signage restrictions on licensed premises, and increasing annual per brand dollar limitations for certain advertising and promotion materials to adjust for inflation since the original enactment of Parts 86.3 (product displays) and 86.5 (retailer advertising specialties), thereby eliminating several outdated and anachronistic regulatory restrictions for alcoholic beverage manufacturers, wholesalers and marketing agencies alike.

#### Needs and benefits:

These regulatory proposals will help modernize administration of the ABCL in keeping with the new public policy goals of supporting economic growth and job development by liberalizing various advertising and signage restrictions on licensed premises, specifically authorizing digital signs for the first time, and increasing annual per brand dollar limitations for certain advertising and promotional materials to match the inflation adjusted numbers that the alcoholic beverage industry in New York is currently operating with.

#### Costs:

There will be no additional costs to regulated parties or to local governments resulting from these proposals. In an effort to comply with the Consumer Price Index cost of living adjustments required pursuant to Part 86.2, the State Liquor Authority has already been advising industry members to utilize the increased per brand dollar limitations as inflation adjusted numbers via both verbal advice at open meetings and written advice in the form of a website posting of proposed rule amendments and as part of an overall effort to provide inflation adjusted numbers to the industry in a transparent and business friendly manner. As a result, the alcoholic beverage industry in New York has already been operating with an effective \$300 per brand per year limit on product displays and a \$200 per brand per year limit on retailer advertising specialties for some time. Due to the above, there will be no added costs to the State Liquor Authority, to regulated parties or to local governments as a result of the implementation of the proposed rule amendments.

#### Local government mandates:

None. Local governments are not involved in the manufacture, distribution or retail sale of alcoholic beverages or the marketing of same, and therefore would not be impacted by the proposed rule amendments.

#### Paperwork:

The proposed rule amendments impose no new recordkeeping or reporting requirements to industry members.

#### Duplication:

The federal Alcohol and Tobacco Tax and Trade Bureau rules no lon-



ger draw a distinction between point of sale advertising that either does or does not have a secondary use for the retailer, and there is no longer any annual dollar limitations for either under the federal rules. In New York, several industry members have cautioned the Authority that they would prefer to see the annual dollar limitations for retailer advertising specialties codified to match the currently enforced inflation adjusted numbers of \$200 per brand per year and that they would be reluctant to see the New York dollar limitations done away with entirely to match the federal rules. With regard to product displays, the Alcohol and Tobacco Tax and Trade Bureau rules also caps spending at \$300 per brand per year per retailer, except that manufacturers and wholesalers have the ability under federal rules to combine their annual dollar amounts for different brands to exceed the annual \$300 limitation. New York has never allowed this and does not propose to do so via the instant proposed amendments.

#### Alternatives/federal standards:

As noted above, the State Liquor Authority could have chosen to propose removal of the dollar limitations on retailer advertising specialties altogether to match the federal rules on point but, after consulting with various industry representatives, chose to propose matching the inflation adjusted numbers currently being utilized by the industry.

#### Compliance schedule:

The period of time the industry will require to enable compliance is likely to be negligible as they are already likely in compliance with several of the proposals. The State Liquor Authority expects to be compliant immediately upon adoption.

#### Regulatory Flexibility Analysis

##### Effect of rule:

The proposed amendments to Parts 83.3, 86.2, 86.3, 86.4, 86.5, and 86.6 would affect approximately all 3000 wholesalers, manufacturers, and marketing permit holders and tens of thousands of on and off-premises retailers currently licensed or permitted by the State Liquor Authority.

##### Compliance requirements:

The proposed rule amendments would not impose any additional compliance requirements on small businesses or local governments.

##### Professional services:

No new professional services would be needed to comply with the proposed rule amendments.

##### Compliance costs:

The proposed rule amendments would not impose any initial capital costs or continuing compliance costs for regulated businesses or local governments.

##### Economic and technological feasibility:

Compliance with the proposed rule amendments by small businesses and local governments would be economically and technically feasible because the amendments would not impose any additional compliance requirements but would either relieve regulatory burdens on regulated businesses or conform regulations to current industry practices.

##### Minimizing adverse impact:

Since the proposed rule amendments would either relieve regulatory burdens on regulated businesses by liberalizing signage restrictions and increasing annual per brand dollar limitations on advertising materials or merely conform regulations to current industry practices, there is expected to be no adverse impact to regulated small businesses. It is anticipated that the rule amendments would have no impact on local governments.

##### Small business and local government participation:

Comments on the proposed rule amendments were solicited from all affected segments of the industry with generally favorable comments including from the executives of the three retail package store associations in New York who were unanimously in favor of the proposed amendments. The Authority did not engage with any local governments because it is anticipated that the proposed amendments would have no impact on local governments.

#### Rural Area Flexibility Analysis

##### Types and estimated numbers of rural areas:

The proposed amendments to 9 N.Y.C.R.R. Parts 83.3, 86.2, 86.3, 86.4, 86.5, and 86.6 would affect businesses throughout the state.

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

The proposed rule amendments would not impose any additional compliance requirements on small businesses or local governments. No new professional services would be needed to comply with the proposed rule amendments.

##### Costs:

The proposed rule amendments would not impose any initial capital costs or continuing compliance costs for regulated businesses or local governments.

##### Minimizing adverse impact:

Since the proposed rule amendments would either relieve regulatory burdens on regulated businesses by liberalizing signage restrictions and

increasing annual per brand dollar limitations on advertising materials or merely conform regulations to current industry practices, there is expected to be no adverse impact to rural areas.

##### Rural area participation:

Among the businesses that would be positively affected by the proposed amendments would be bars, restaurants and package stores in rural areas. Authority staff shared the proposed rule amendments with all effected segments of the industry with generally favorable comments including from the executives of the three retail package store associations in New York who were unanimously in favor of the proposed amendments. Rural area businesses will be afforded the opportunity to directly participate in public hearings regarding the proposed amendments via webcast from either of the Authority's upstate offices in Albany or Buffalo.

#### Job Impact Statement

The proposed amendments to 9 N.Y.C.R.R. Parts 83.3, 86.2, 86.3, 86.4, 86.5, and 86.6 would relieve regulatory burdens on regulated businesses by liberalizing signage restrictions and increasing annual per brand dollar limitations on advertising materials or conform existing regulations to current industry practices. As a result, the proposed amendments will not have an adverse impact on jobs or employment opportunities. Because it is evident from the nature of the proposed amendments that they will have no impact on jobs or employment opportunities, no further steps were needed to ascertain those facts and none were taken by the Authority. Accordingly, a job impact statement is not required for any of the proposed amendments and none has been prepared.

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## Long Island Power Authority

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### PROPOSED RULE MAKING HEARING(S) SCHEDULED

#### Provisions of LIPA's Tariff for Adjustment to Rates and Changes of Service Classifications

I.D. No. LPA-02-15-00006-P

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

**Proposed Action:** The Long Island Power Authority ("LIPA") is considering a proposal to modify its Tariff for Electric Service ("Tariff") to update delivery charges, authorize reconciliation of energy efficiency revenues, and introduce a revenue decoupling mechanism.

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

**Subject:** Provisions of LIPA's Tariff for adjustment to rates and changes of service classifications.

**Purpose:** To modify and add to the Tariff in order to implement revenue-neutral changes required to maintain the 3-year LIPA rate freeze.

**Public hearing(s) will be held at:** 10:00 a.m., March 4, 2015 at H. Lee Dennison Bldg., 100 Veterans Memorial Hwy., Hauppauge, NY; and 2:00 p.m., March 4, 2015 at 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY.

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

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

**Substance of proposed rule:** The Long Island Power Authority ("the Authority") Staff proposes to modify the Tariff for Electric Service ("Tariff") effective April 1, 2015 to: (1) update Delivery Charges consistent with the approved LIPA budget for 2015; (2) authorize the reconciliation of revenue to be recovered through the Energy Efficiency Cost Recovery Rate; and (3) introduce a Revenue Decoupling Mechanism.

The approved LIPA budget for 2015 incorporates a level of revenues that assumes no increase in rates, other than changes to the Power Supply Charge (also known as the Fuel and Purchased Power Cost Adjustment). As presented in the budget, however, a number of revenue-neutral changes are required to extend the rate freeze for 2015, align the components of the rates with their underlying costs, and bring the Tariff more into line with Public Service Commission policies for the regulated, investor-owned utilities. These proposed changes will not materially change the rates paid by customers in the aggregate for delivery service. The Power Supply Charge will continue to fluctuate with market conditions.

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

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

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

**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.

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## Office of Mental Health

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

#### Clinic Treatment Programs

**I.D. No.** OMH-02-15-00003-P

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

**Proposed Action:** Amendment of Part 599 of Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, sections 7.09, 31.04, 43.01 and 43.02

**Subject:** Clinic Treatment Programs.

**Purpose:** Amend reimbursement structure for delivery of psychotherapy services; eliminate utilization threshold for court-mandated services.

**Text of proposed rule:** 1. Subdivision (e) of Section 599.13 of Title 14 NYCRR is amended to read as follows:

(e) Payments for procedures will be determined by multiplying the assigned weight for the appropriate procedure code set forth at 10 NYCRR Part 86 by the base fee, and adjusting such fee for modifiers and discounts, as appropriate. When a modifier or discount is expressed as a percentage, it will adjust the payment by its percentage of the procedure weight. When more than one procedure applies to a visit, the highest value procedure shall be paid at its full fee value.

(1) Payments for additional procedures related to the visit will be discounted by 10 percent.

(2) Payments will be reduced by 25 percent for any visit in excess of 30, excluding crisis visits, off-site visits, complex care management, and any services that are counted as health services, provided during a state fiscal year to any individual who is 21 years of age or older on the first day of such fiscal year, and 50 percent for any visit in excess of 50, excluding crisis visits, off-site visits, complex care management, and any services counted as health services, provided during such fiscal year to any recipient, for fiscal years commencing on or after April 1, 2011, *except that effective January 1, 2015, this reduction in payment will not apply to court-mandated services.*

2. Subparagraph (i) of paragraph (6) of subdivision (d) of Section 599.14 of Title 14 NYCRR is amended to read as follows:

(6) Psychotherapy services. Psychotherapy services consist of the following levels of billable service.

(i) Psychotherapy services - individual shall be reimbursed as follows:

(a) brief individual psychotherapy service: [requires face-to-face service with the recipient of a minimum duration of 30 minutes; or]

(1) *service provided face to face with the recipient with a documented duration of 30 minutes shall receive full reimbursement; or*

(2) *effective January 1, 2015, service provided face to face with the recipient with a documented duration of 20 minutes shall receive a 30 percent reduction in reimbursement.*

(b) extended individual psychotherapy service: [requires documented face-to-face service with the recipient of a minimum duration of 45 minutes.]

(1) *service provided face to face with the recipient requires a documented duration of 45 minutes; or*

(2) *effective January 1, 2015, service provided face to face with the recipient requires a documented duration of 30 minutes (with or without a collateral), with the remaining 15 minutes spent with the collateral (with or without the recipient);*

(3) For school-based services, the duration of such services may be that of the school period provided the school period is of a duration of at least 40 minutes.

(c) Brief or Extended Psychotherapy Services provided on or after October 1, 2010, to a child off-site shall be reimbursable on a Federally-non-participating basis and only for children up to age 19.

**Text of proposed rule and any required statements and analyses may be obtained from:** Sue Watson, NYS Office of Mental Health, 44 Holland Avenue, Albany, NY 12229, (518) 474-1331, email: Sue.Watson@omh.ny.gov

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

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

#### Regulatory Impact Statement

1. Statutory Authority: Sections 7.09 and 31.04 of the Mental Hygiene Law grant the Commissioner of Mental Health the authority and responsibility to adopt regulations that are necessary and proper to implement matters under his/her jurisdiction, and to set standards of quality and adequacy of facilities, equipment, personnel, services, records and programs for the rendition of services for adults diagnosed with mental illness or children diagnosed with emotional disturbance, pursuant to an operating certificate.

Section 43.01 of the Mental Hygiene Law gives the Commissioner the authority to set rates for outpatient services at facilities operated by the Office of Mental Health.

Section 43.02 of the Mental Hygiene Law provides that payments under the Medical Assistance Program for outpatient services at facilities licensed by the Office of Mental Health shall be at rates certified by the Commissioner of Mental Health and approved by the Director of the Budget.

Section 43.02(b) of the Mental Hygiene Law authorizes the Commissioner to request from operators of facilities licensed by the Office of Mental Health such financial, statistical and program information as the Commissioner may determine to be necessary.

2. Legislative Objectives: Articles 7 and 31 of the Mental Hygiene Law reflect the Commissioner's authority to establish regulations regarding mental health programs. The proposed rule furthers the legislative policy of providing high quality outpatient mental health services to individuals with mental illness in a cost-effective manner. Part 599 of Title 14 NYCRR sets forth standards for the certification, operation and reimbursement of clinic treatment programs serving adults and children. In the four years since the Office of Mental Health (OMH) adopted Part 599 to establish a new, redesigned clinic structure, provider feedback has provided valuable insight into suggested changes to the regulation. As a result, OMH has amended its clinic regulations on several occasions; these technical changes are a continuation of this process.

3. Needs and Benefits: Under existing regulations, reimbursement is discounted for certain services provided in excess of established thresholds. Currently, payments are reduced by 25 percent for any visit in excess of 30 (excluding crisis visits, off-site visits, complex care management and services counted as health services) provided during a state fiscal year to any individual who is 21 years of age or older on the first day of such fiscal year, and 50 percent for any visit in excess of 50 (excluding crisis visits, off-site visits, complex care management, and any services counted as health services) provided during such fiscal year to any recipient. To provide regulatory relief and ensure that providers are not penalized by a reduction in reimbursement when visits have been required by the court, the Office is proposing to eliminate these utilization thresholds for court-mandated services. Therefore, effective January 1, 2015, the reduction in payment for visits in excess of the stated amounts will not apply to court-mandated services.

In addition, the proposal amends the reimbursement structure for "brief individual psychotherapy services" and "extended individual psychotherapy services." Under existing regulations, brief individual psychotherapy services must be provided face to face with the recipient for a minimum duration of 30 minutes. Under this proposal, clinics would have the option of providing brief individual psychotherapy services for a duration of 20 minutes. Clinics would then receive a 30 percent reduction in reimbursement for these services provided for 20 minutes. Extended individual psychotherapy services currently require documented face-to-face services with the recipient for a minimum duration of 45 minutes. Under this proposal, clinics would have the option of providing extended individual psychotherapy services to the recipient for a documented duration of 30 minutes (with or without a collateral), with the remaining 15 minutes being spent with the collateral (with or without the recipient). These adjustments serve to provide flexibility and regulatory relief and, based on provider feedback, more accurately reflect the needs of recipients of service and standards of good clinical care. These amendments would be effective as of January 1, 2015.

4. Costs:
- (a) cost to State government: The costs to State government as a result of these regulatory amendments are estimated to be \$4.375 million. The funding source for these changes is part of the funding in the Behavioral Health Transformation Initiative made available to OMH to preserve critical access.
  - (b) cost to local government: There are no new costs to local government as a result of these regulatory amendments.
  - (c) cost to regulated parties: There are no new costs to regulated parties as a result of these regulatory amendments.
5. Local Government Mandates: These regulatory amendments will not result in any additional imposition of duties or responsibilities upon county, city, town, village, school or fire districts.
6. Paperwork: No increased paperwork is anticipated as a result of these regulatory amendments. Under existing regulations, regulated parties are required to supply the necessary documentation with respect to services provided. Under the amendment, providers will be required to use a modifier or an additional rate code when billing for court-mandated services over the threshold limits and psychotherapy services provided for a 20-minute duration. OMH will provide billing guidance to assist in this process.
7. Duplication: These regulatory amendments do not duplicate existing State or federal requirements.
8. Alternatives: OMH is proposing these amendments based on provider feedback. The only alternative to the regulatory amendment would be inaction, which would be contrary to the recommendations of providers to allow flexibility in the delivery of services to more accurately reflect the needs of recipients and standards of good clinical care.
9. Federal Standards: The regulatory amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.
10. Compliance Schedule: The regulatory amendments will be effective immediately upon adoption.

**Regulatory Flexibility Analysis**

The amendments to 14 NYCRR Part 599 are intended to provide regulatory relief to mental health clinic providers and allow flexibility in the delivery of services to more accurately reflect the needs of recipients and standards of good clinical care. As there will be no adverse economic impact on small businesses or local governments as a result of these amendments, a regulatory flexibility analysis is not submitted with this notice.

**Rural Area Flexibility Analysis**

The amendments to 14 NYCRR Part 599 are intended to provide regulatory relief to mental health clinic providers and allow flexibility in the delivery of services to more accurately reflect the needs of recipients and standards of good clinical care. The proposed rule will not impose any adverse economic impact on rural areas; therefore, a Rural Area Flexibility Analysis is not submitted with this notice.

**Job Impact Statement**

The amendments to 14 NYCRR Part 599 are intended to provide regulatory relief to clinic providers and allow flexibility in the delivery of mental health services to more accurately reflect the needs of recipients and standards of good clinical care. As it is evident from the subject matter that there will be no adverse impact on jobs and employment opportunities as a result of these amendments, a Job Impact Statement is not submitted with this notice.

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## Office for People with Developmental Disabilities

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**EMERGENCY/PROPOSED  
RULE MAKING  
HEARING(S) SCHEDULED**

**Direct Care and Clinical Compensation Payments**

**I.D. No.** PDD-02-15-00007-EP  
**Filing No.** 1102  
**Filing Date:** 2014-12-30  
**Effective Date:** 2015-01-01

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

**Proposed Action:** Amendment of Part 641 of Title 14 NYCRR.  
**Statutory authority:** Mental Hygiene Law, sections 13.09(b), 41.24, 41.36(c) and 43.02  
**Finding of necessity for emergency rule:** Preservation of public health, public safety and general welfare.

**Specific reasons underlying the finding of necessity:** The emergency adoption of these regulations, which amend rates and fees for eligible programs and services, is necessary to protect the health, safety, and welfare of individuals receiving services. The amendments support increases in salaries and related fringe benefits for direct care professionals and clinical staff providing residential habilitation services in community residences and family care homes; ICF/DD services; Specialty Hospital services; and day treatment, community habilitation, day habilitation, supported employment, prevocational and respite services.

The emergency adoption of these amendments is necessary in order to provide vital services and to comply with recently enacted state law.

Part I of chapter 60 of the laws of 2014, which is part of the 2014 – 15 enacted budget, requires OPWDD to provide funding beginning January 1, 2015 to support a 2% increase in annual salary and salary-related fringe benefits for direct care staff, and also to provide funding beginning April 1, 2015 to support a 2% increase in annual salary and salary-related fringe benefits for direct care and clinical staff.

Direct care professionals and clinical staff provide vital supports and services to protect the health, safety, and welfare of individuals with developmental disabilities in these eligible programs and services. The programs affected by these regulations have not received trend factors, COLAs or other across the board increases for several years. As a result, many providers operating these programs have been unable increase salaries or fringe benefits for direct care, support and clinical staff. Without such increases, it is more difficult for providers to maintain sufficient staffing to operate programs, and staff turnover is more likely. Without the emergency amendments, the funding for these compensation increases would be delayed and stable and sufficient staffing for the services affected by these amendments would be jeopardized.

**Subject:** Direct Care and Clinical Compensation Payments.

**Purpose:** To amend rate-setting for eligible services in order to implement increases in direct care and clinical compensation.

**Public hearing(s) will be held at:** 12:30 p.m., March 2, 2015 at Office for People with Developmental Disabilities, Counsel’s Office Conference Rm., 44 Holland Ave., Albany, NY; 12:30 p.m., March 3, 2015 at Office for People with Developmental Disabilities, Counsel’s Office Conference Rm., 44 Holland 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 emergency/proposed rule:** • 14 NYCRR Part 641 is amended by the addition of a new Subpart 641-3 to read as follows:

*Subpart 641-3. Direct Support and Clinical Compensation Increases.*

*641-3.1. Applicability. On or after January 1, 2015, rates of reimbursement for providers that operate eligible programs as defined in this Subpart will be revised to incorporate funding for compensation increases to their direct support professional employees. Such rate increases will be effective January 1, 2015. The compensation increase funding will be included in the provider’s rate issued for January 1, 2015 or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.*

*641-3.2. Definitions. As used in this Subpart, the following terms shall have the following meanings:*

*(a) Direct support professionals are those defined as Direct Care and Support per Consolidated Fiscal Report (CFR) Appendix R and reported on the CFR under the Position Title code identifiers of 100 or 200. Contracted staff salary information will not be utilized.*

*(b) Clinical staff are those defined as Clinical per CFR Appendix R and reported on the CFR under the Position Title code identifier of 300. Contracted staff salary information will not be utilized.*

*(c) Eligible Rate Based Programs shall mean any of the following services: supervised community residences (including supervised IRAs), supportive community residences (including supportive IRAs), ICFs/DD or group day habilitation programs.*

*(d) Other Eligible Programs shall mean community habilitation, day treatment, supported employment, agency sponsored family care, respite and free standing respite, and prevocational services.*

**641-3.3. Increases for Eligible Rate Based Programs**

(a) January 1, 2015 Increase. Rates for Eligible Rate Based Programs will be revised to incorporate funding for compensation increases to direct support professional employees. Such rate increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's rate issued for January 1, 2015 or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

(b) April 1, 2015 Increase. In addition to the compensation funding effective January 1, 2015, providers that operate supervised IRAs, including supervised community residences, supportive IRAs, including supportive community residences, ICFs/DD or group day habilitation will receive a compensation increase targeted to direct support professional and clinical employees to be effective April 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits. The April 1, 2015 direct support professional compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase and will be an augmentation to the January 1, 2015 increase.

(c) Calculations. The basis for the calculation of provider and regional direct care, support and clinical salary averages and associated fringe benefit percentages will be the data in providers' July 1, 2010 - June 30, 2011 or January 1, 2011 - December 31, 2011 CFRs.

(1) The January 1, 2015 and April 1, 2015 Direct Support Professionals compensation increase funding formula will be as follows:

(i) The annual impact of a two percent increase to 2010-11 or 2011 salaried direct care, salaried support dollars and associated fringe benefits will be calculated.

(ii) The annual impact of the two percent increase for salaried direct care dollars, salaried support dollars and associated fringe will be added to the appropriate operating components in the rate methodology. This will result in a recalculation of provider and regional average direct care wages, provider and regional average employee-related components, provider and regional average program support components, and provider and regional average direct care hourly rates.

(iii) The provider direct care hourly rate - adjusted for a wage equalization factor will be recalculated to utilize the provider average direct care hourly rate and regional average direct care hourly rate (as calculated in (ii) above).

(iv) An identification will be made of the dollar difference between the provider direct care hourly rate - adjusted for a wage equalization factor, which is in the rate in effect on 12/31/2014, and the provider direct care hourly rate - adjusted for a wage equalization factor, as calculated in (iii) above.

(v) The rate difference identified in (iv) above will be multiplied by the calculated direct care hours in the rate in effect on 12/31/2014 to calculate the additional funding generated by the direct care compensation adjustment.

(vi) The rate add-on for the compensation increase shall be determined by dividing the additional funding, as calculated in (v) above by the rate sheet units in effect on January 1, 2015.

(2) The April 1, 2015 Clinical compensation increase funding formula will be as follows:

(i) The annual impact of a two percent increase to 2010-11 or 2011 salaried clinical dollars and associated fringe benefits will be calculated.

(ii) The annual impact of the two percent increase for salaried clinical dollars and associated fringe will be added to the appropriate operating components in the rate methodology. This will result in a recalculation of provider and regional average employee-related components, and provider and regional average clinical hourly wages.

(iii) The provider clinical hourly wage - adjusted for a wage equalization factor will be recalculated to utilize the provider average clinical hourly wage and the regional average clinical hourly wage (as calculated in (ii) above).

(iv) An identification will be made of the dollar difference between the provider clinical hourly wage - adjusted for a wage equalization factor, which is in the rate in effect on 12/31/2014, and the provider clinical hourly wage - adjusted for a wage equalization factor, as calculated in (iii) above.

(v) The rate difference identified in (iv) above will be multiplied by the provider salaried clinical hours in the rate in effect on 12/31/2014 to calculate the additional funding generated by the clinical compensation adjustment.

(vi) The rate add-on for the compensation increase shall be determined by dividing the additional funding, as calculated in (v) above by the rate sheet units in effect on January 1, 2015.

(3) Rates for individuals identified by OPWDD as qualifying for specialized template populations funding shall be adjusted as follows:

(i) January 1, 2015 Increase. The fees for specialized template

populations funding will be revised to incorporate funding for compensation increases to direct support professional employees. Such fee increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's fee issued for January 1, 2015 or in a subsequent fee with the inclusion of funding in the amount necessary to achieve the same funding impact as if the fee had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

(ii) April 1, 2015 Increase. In addition to compensation funding effective January 1, 2015, the fees for specialized template population funding will be revised to incorporate funding for a compensation increase to direct support professional and clinical employees to be effective April 1, 2015. The April 1, 2015 direct support compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase and will be an augmentation to the January 1, 2015 increase.

(iii) Calculations.

(a) The portion of the fee that is identified as direct care and support will be increased by 2% and multiplied by the fee sheet fringe benefit percentage to calculate the additional direct support compensation increases for January first, two thousand fifteen and April first, two thousand fifteen.

(b) The portion of the fee that is identified as clinical will be increased by 2% and multiplied by the fee sheet fringe benefit percentage to calculate the additional clinical compensation increase for April first, two thousand fifteen.

**641-3.4 Rates and Fees for Other Eligible Programs**

(a) For a provider that operates any Other Eligible Programs, the provider's rate or fee for each such program will be revised to incorporate funding for compensation increases to their direct support professional employees. Such rate or fee increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's rate or fee issued for January 1, 2015 or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate or fee had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

(b) April 1, 2015 Increase. In addition to the compensation funding effective January 1, 2015, a provider that operates any Other Eligible Programs will receive a compensation increase targeted to direct support professional and clinical employees to be effective April 1, 2015. The April 1, 2015 direct care compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase and will be an augmentation to the January 1, 2015 increase.

(c) Calculations.

(1) The portion of the rate or fee that is identified as direct care and support will be increased by 2% and multiplied by the rate or fee sheet fringe benefit percentage to calculate the additional direct care compensation increases for January 1, 2015 and April 1, 2015.

(2) The portion of the rate or fee that is identified as clinical will be increased by 2% and multiplied by the rate or fee sheet fringe benefit percentage to calculate the additional clinical compensation increase for April 1, 2015.

**641-3.4 Rates and Fees for Specialty Hospitals**

(a) January 1, 2015 Increase. The rates of reimbursement for specialty hospitals as defined in Part 680 of this Title will be revised to incorporate funding for compensation increases to direct support professional employees. Such rate increases will be effective January 1, 2015. The compensation increase funding will be included in the provider's rate issued for January 1, 2015 or in a subsequent rate with the inclusion of funding in the amount necessary to achieve the same funding impact as if the rate had been issued on January 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits.

(b) April 1, 2015 Increase. In addition to the compensation funding effective January 1, 2015, providers that operate specialty hospitals will receive a compensation increase targeted to direct support professional and clinical employees to be effective April 1, 2015. The compensation increase funding will be inclusive of associated fringe benefits. The April 1, 2015 direct support professional compensation funding will be the same, on an annualized basis, as that which was calculated for the January 1, 2015 compensation increase and will be an augmentation to the January 1, 2015 increase.

(c) Calculations. The basis for the calculation of direct care, support and clinical salary averages will be the data from the provider's January 1, 2011 - December 31, 2011 CFR. The fringe benefit percentage will be that fringe benefit percentage utilized in the provider's December 31, 2014 specialty hospital rate.

(1) The January 1, 2015 and April 1, 2015 Direct Support Professional compensation increase funding formula will be:

(i) The annual impact of a two percent increase to 2011 salaried direct care and salaried support dollars and associated fringe benefits will be calculated.

(ii) The annual impact of the two percent increase for salaried direct care dollars, salaried support dollars and associated fringe will be added to the appropriate operating components in the provider's specialty hospital rate.

(iii) The rate add-on, as calculated in (ii) above, shall be added to total allowable costs and those allowable costs shall be divided by the total patient days in the December 31, 2014 rate.

(2) The April 1, 2015 Clinical compensation increase funding formula will be:

(i) The annual impact of a two percent increase to 2011 clinical dollars and associated fringe benefits will be calculated.

(ii) The annual impact of the two percent increase for salaried clinical dollars, and associated fringe will be added to the appropriate operating components in the provider's specialty hospital rate.

(iii) The rate add-on, as calculated in (ii) above, shall be added to total allowable costs and those allowable costs shall be divided by the total patient days in the December 31, 2014 rate.

**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 March 29, 2015.

**Text of rule and any required statements and analyses may be obtained from:** Regulatory Affairs Unit, OPWDD, 44 Holland Ave., Albany, NY, 12229, (518) 474-1830, email: RAU.Unit@opwdd.ny.gov

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

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

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

#### Regulatory Impact Statement

##### 1. Statutory Authority:

a. OPWDD has the statutory authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the New York State Mental Hygiene Law Section 13.09(b).

b. OPWDD has the statutory responsibility for setting Medicaid rates and fees for other services in facilities licensed or operated by OPWDD, as stated in section 43.02 of the Mental Hygiene Law.

c. Part I of chapter 60 of the laws of 2014, which is part of the 2014 – 15 enacted budget, requires OPWDD to provide funding beginning January 1, 2015 to support a 2% increase in annual salary and salary-related fringe benefits for direct care staff, and also to provide funding beginning April 1, 2015 to support a 2% increase in annual salary and salary-related fringe benefits for direct care and clinical staff.

2. Legislative Objective: These emergency/proposed regulations further the legislative objectives embodied in sections 13.09(b) and 43.02 of the Mental Hygiene Law, and in Part I of chapter 60 of the laws of 2014. The regulations amend the methodology for determining rates and fees for ICFs/DD, residential habilitation provided in community residences and family care homes, day treatment, community habilitation, day habilitation, supported employment, prevocational, respite services and specialty hospitals.

3. Needs and Benefits: Direct support staff play an essential role in delivering services to persons with developmental disabilities in New York State. In recognition of the key role these workers play, the 2014 – 15 enacted budget included funding to support a 2% increase for direct support staff in January 1, 2015, and an additional 2% increase in April 1, 2015 for direct support staff, as well as a 2% increase for clinical staff beginning on April 1, 2015. OPWDD and the Department of Health (DOH) are revising the methodologies for the affected residential and day programs to include funding to support these increases.

##### 4. Costs:

a. Costs to the Agency and to the State and its local governments: The proposed regulations result in additional costs of approximately \$34.6 million per year. Of this amount, approximately \$17.3 million will be State costs, and \$17.3 will be federal costs.

The new methodologies do not apply to the state as a provider of services.

There will be no savings or costs to local governments as a result of these regulations because pursuant to Social Services Law sections 365 and 368-a, either local governments incur no costs for these services or the State reimburses local governments for their share of the cost of Medicaid funded programs and services. In addition, even if the amendments lead to an increase in Medicaid expenditures in a particular county, these amendments will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of

the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

b. Costs to private regulated parties: The proposed regulations will increase rates and fees for ICFs/DD, residential habilitation provided in community residences and family care homes, day treatment, community habilitation, day habilitation, supported employment, prevocational and respite services.

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village, or school, fire, or other special district.

6. Paperwork: The amendments will increase paperwork to be completed by providers. Each provider will have to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

7. Duplication: The amendments do not duplicate any existing State or Federal requirements that are applicable to services for persons with developmental disabilities.

8. Alternatives: Since the increases in rates and fees are mandated by State law, OPWDD and DOH did not consider any alternatives.

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

10. Compliance Schedule: The emergency/proposed regulations are effective January 1, 2015. OPWDD expects to permanently adopt the regulations at the end of the public comments period. OPWDD and DOH expect to increase the January 1 rates and fees as soon as possible and to increase the April 1 rates and fees on April 1, 2015.

#### Regulatory Flexibility Analysis

1. Effect on small business: The emergency/proposed regulations amend the methodology for determining rates and fees for ICFs/DD, residential habilitation provided in community residences and family care homes, day treatment, community habilitation, day habilitation, supported employment, prevocational, respite services and specialty hospitals. OPWDD has determined, through a review of the certified cost reports, that all specialty hospital services, and most of the other services listed above, are provided by agencies that employ more than 100 people overall. However, some smaller agencies that employ fewer than 100 employees overall would be classified as small businesses. The number of providers for each of the eligible programs are as follows:

IRAs and CRs: 398  
day habilitation services: 370  
ICFs/DD: 120  
family care homes: 32  
day treatment: 16  
community habilitation: 273  
supported employment: 165  
prevocational services: 94  
respite services: 295

OPWDD is unable to estimate the portion of these providers that may be considered to be small businesses.

The proposed regulations change the methodologies for rates and fees for the eligible programs to provide funding to support a January 1, 2015 2% salary increase and an April 1, 2015 2% increase for direct support staff, as well as an April 1, 2015 2% increase for clinical staff. The new methodologies will increase rates and fees for all providers of the eligible services.

2. Compliance requirements: The proposed regulations will require each provider to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

3. Professional services: No additional professional services will be required as a result of these regulations and the regulations will not add to the professional service needs of local governments.

4. Compliance costs: The emergency/proposed regulations will increase paperwork to be completed by providers. Each provider will have to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

5. Economic and technological feasibility: The emergency/proposed regulations do not impose on regulated parties the use of any new technological processes.

6. Minimizing adverse impact: Because the emergency/proposed regulations increase funding to providers, they have no adverse economic impact. Each provider will need to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees. However, the attestation is required by the enacted budget and is needed to ensure that the compensation increases are used for their intended purpose.

OPWDD has also reviewed and considered the approaches for minimiz-

ing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act. OPWDD determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

7. Small business participation: Participation of public and private interests in rural areas: The proposed methodologies for the direct care and clinical compensation payments were described to providers in a December 8, 2014 letter, and were discussed with representatives of providers at a meeting held on December 15, 2014. This meeting included representatives of providers, including the New York State Association of Community and Residential Agencies (NYSACRA) (which represents some providers who have fewer than 100 employees).

OPWDD will be mailing these proposed regulations to all providers, including providers that are small businesses, and will be holding public hearings on the proposed regulations.

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

1. Description of the types and estimation of the number of rural areas in which the rule will apply: With the exception of specialty hospital services, which are only provided in New York County, OPWDD services are provided in every county in New York State. 43 counties have a population of less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. Additionally, certain townships in 10 other counties have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga, Orange, and Saratoga.

The proposed regulations change the methodologies for rates and fees for the affected programs to provide funding to support January 1 and April 1, 2015 2% salary increases for direct support staff, as well as an April 1, 2015 2% increase for clinical staff. The new methodologies will increase rates and fees for all providers of the eligible services.

2. Compliance requirements: The emergency/proposed regulations will require each provider to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

The amendments will have no effect on local governments.

3. Professional services: No additional professional services will be required as a result of these regulations and the regulations will not add to the professional service needs of local governments.

4. Compliance costs: The proposed regulations will require each provider to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees.

5. Minimizing adverse impact: Because the emergency/proposed regulations increase funding to providers, they have no adverse economic impact. Each provider will need to submit an attestation, signed by members of the board of directors, stating how the provider will distribute the direct care and clinical compensation payments to its employees. However, the attestation is required by the enacted budget.

OPWDD has also reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-bb(2)(b) of the State Administrative Procedure Act. OPWDD determined that the revision to reimbursement proposed in this amendment is the most optimal approach to instituting the necessary change in rate methodology while minimizing any adverse impact on providers.

6. Participation of public and private interests in rural areas: The proposed methodologies for the direct care and clinical compensation payments were described to providers in a December 8, 2014 letter, and were discussed with representatives of providers at a meeting held on December 15, 2014. This meeting included providers in rural areas, such as NYSARC, the NYS Association of Community and Residential Agencies, NYS Catholic Conference, and CP Association of NYS.

OPWDD will be mailing these proposed regulations to all providers, including providers from rural areas, and will be holding public hearings on the proposed regulations.

#### **Job Impact Statement**

A job impact statement is not being submitted for these proposed amendments because OPWDD determined that they will not cause a loss of more than 100 full time annual jobs State wide. The proposed regulations change the methodologies for rates and fees for the affected programs to provide funding to support a January 1, 2015 2% salary increase and an April 1, 2015 2% increase for direct support staff, as well as an April 1, 2015 2% increase for clinical staff for the affected residential and day programs, to include funding to support these increases. The new methodologies will

increase rates and fees for all providers of the affected services, and all providers must spend the increase on compensation for direct care and clinical staff. Therefore, OPWDD expects that there will be no overall effect on jobs and employment opportunities as a result of these amendments.

## **EMERGENCY/PROPOSED RULE MAKING HEARING(S) SCHEDULED**

### **Updates to SSI Offset and SNAP Benefit Offset**

**I.D. No.** PDD-02-15-00008-EP

**Filing No.** 1103

**Filing Date:** 2014-12-30

**Effective Date:** 2015-01-01

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

**Proposed Action:** Amendment of Subpart 641-1, sections 671.7 and 686.17 of Title 14 NYCRR.

**Statutory authority:** Mental Hygiene Law, sections 13.09(b), 41.24, 41.36(c) and 43.02

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

**Specific reasons underlying the finding of necessity:** The emergency adoption of these amendments, which update the rent allowance offset for Individualized Residential Alternatives (IRAs) and Community Residences (CRs) and the Supplemental Nutrition Assistance Program (SNAP) benefit offset for supervised IRAs and supervised CRs, is necessary to protect the health, safety, and welfare of individuals receiving services in the OPWDD system.

The figures found in the emergency amendments were not available to OPWDD within a timeframe that would have allowed OPWDD to propose the amendments through the regular rulemaking process. Without the emergency amendments, reimbursement established by OPWDD for rent and food costs would not have been properly offset by the actual amount of rent or reimbursement for food costs received by providers.

The State would have overpaid providers by amounts equivalent to the increase in the SSI and SNAP benefits. The amount overpaid by the State would likely have been recovered by imposing a reduction in reimbursement to providers for the delivery of services to individuals with developmental disabilities. This reduction in reimbursement would have adversely affected the health, safety, and/or welfare of the individuals receiving those services. In addition, the amendments change the rent allowance offset from a daily amount to a monthly amount, in conformance with methodology changes made as part of rate reform effective July 1, 2014.

The emergency adoption of these amendments is necessary in order to avoid an overall reduction in reimbursement to providers and to preserve the health, safety, and welfare of individuals receiving services in the OPWDD system.

**Subject:** Updates to SSI offset and SNAP benefit offset.

**Purpose:** To adjust reimbursement to affected providers for rent and food costs.

**Public hearing(s) will be held at:** 11:00 a.m., March 2, 2015 at Office for People with Developmental Disabilities, Counsel's Office Conference Rm., 44 Holland Ave., Albany, NY; and 11:00 a.m., March 3, 2015 at Office for People with Developmental Disabilities, Counsel's Office Conference Rm., Holland 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 emergency/proposed rule:** • Subparagraphs 641-1.3(c)(6)(ii) and (iii) are amended as follows:

(ii) Supplemental security income, as determined by section 671.7(b)(9)[(xxi)] (xxii) of this Title, annualized and multiplied by a provider's initial period rate sheet capacity.

(iii) Supplemental nutrition assistance, as determined by section 671.7(b)(10)(i)[(c)] (e) of this Title, and multiplied by twelve, such product to be multiplied by a provider's initial period rate sheet capacity.

Note: rest of paragraph (6) remains unchanged.

• Subparagraph 641-1.3(d)(6) (ii) is amended as follows:

(ii) Supplemental security income, as determined by section 671.7(b)(9)[(xxi)] (xxii) of this Title, annualized and multiplied by a provider's initial period rate sheet capacity.

Note: rest of paragraph (6) remains unchanged.

• Section 671.7(b)(9) is amended by the addition of a new subparagraph (xxii) as follows:

(xxii) *Effective January 1, 2015:*

*NYC, Nassau, Rockland, Suffolk, and Westchester Counties \$1005.00 per month*

*Rest of State \$975.00 per month*

Note: Rest of paragraph (9) remains unchanged.

• Subparagraph 671.7(b)(10)(i) is amended by the addition of clause (e) as follows:

(e) *Effective January 1, 2015, the offset shall be \$194 per month.*

• Subparagraph 686.17(b)(1)(iii) is amended by the addition of a new clause (d) as follows:

(d) *Effective January 1, 2015, the individual shall pay the provider \$194 per month.*

• Subparagraph 686.17(b)(2)(iii) is amended by the addition of a new clause (d) as follows:

(d) *Effective January 1, 2015, the individual shall pay the provider \$194 per month.*

• Clause 686.17(d)(2)(iii)(b) is amended by the addition of a new subclause (4) as follows:

(4) *Effective January 1, 2015, the individual shall pay the provider \$194 per month.*

**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 March 29, 2015.

**Text of rule and any required statements and analyses may be obtained from:** Regulatory Affairs Unit, OPWDD, 44 Holland Ave., Albany, NY 12229, (518) 474-1830, email: RAU.Unit@opwdd.ny.gov

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

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

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

#### **Regulatory Impact Statement**

1. Statutory Authority:

a. OPWDD has the authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the New York State Mental Hygiene Law Section 13.09(b).

b. Section 41.25 of the Mental Hygiene Law allows providers of services to establish fee schedules for services and requires that fees charged or payments requested take into account costs and ability to pay, considering resources available from private and public assistance programs.

c. Section 41.36(c) of the Mental Hygiene Law requires OPWDD to establish fees or rates for community residences.

d. OPWDD has the responsibility, as stated in section 43.02 of the Mental Hygiene Law, for setting Medicaid rates for services in facilities licensed by OPWDD.

2. Legislative Objectives: These emergency/proposed amendments further the legislative objectives embodied in sections 13.09(b), 41.25, 41.36 and 43.02 of the Mental Hygiene Law. The emergency/proposed amendments update the rent allowance offset for Individualized Residential Alternatives (IRAs) and Community Residences (CRs) and the Supplemental Nutrition Assistance Program (SNAP) benefit offset for supervised CRs and supervised IRAs.

3. Needs and Benefits: Section (a) below describes the needs and benefits of the update to the rent allowance offset, and section (b) does the same for the update to the SNAP benefit offset.

a. An essential element of OPWDD's price setting and reimbursement methodologies for IRAs and CRs is an offset for rent which is based on the Supplemental Security Income (SSI) per diem allowances consistent with levels determined by the Federal Social Security Administration for Congregate Care level II. SSI levels for 2015 were increased. Without these amendments, the prices established by OPWDD for these facilities would not have been properly offset by the amount of rent received by the provider from other sources (primarily SSI). In addition, the amendments change the rent allowance offset from a daily amount to a monthly amount, to reflect the methodology changes made as part of rate reform effective July 1, 2014.

b. Effective October 1, 2014, SNAP benefits are increasing to a maximum of \$194 per month. The emergency/proposed amendments change the amount that individuals pay their respective supervised CR or supervised IRA providers effective January 1, 2015 to reflect this increased amount, and state that reimbursement to these affected provid-

ers be offset by the increased amount. OPWDD considers that these amendments are necessary to prevent individuals from using other resources (which may be scarce or limited) to pay for food and to prevent an overall reduction in reimbursement for food to operators of supervised CRs and supervised IRAs.

4. Costs:

a. Costs to the Agency and to the State and its local governments.

Regarding the rent allowance offset, the modest increase in the rent and board offset in the methodology for setting prices for community residences and IRAs will reduce overall State expenditures for these programs by \$1,660,000.

There will be no impact to local governments as a result of any of these amendments.

b. Costs to private regulated parties: There are no initial capital investment costs or initial non-capital expenses for either of these amendments.

The adjustments to reimbursement to providers found in these amendments result in an overall fiscal impact on providers that is cost neutral. The adjustments to reimbursement compensate providers for changes to revenue received from outside sources (i.e., SSI and SNAP benefits received from the federal government).

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village; or school, fire, or other special district.

6. Paperwork: The amendments do not require any paperwork of providers.

7. Duplication: Although the emergency/proposed amendments are derived from figures found in existing State and/or federal requirements, the amendments do not duplicate any existing requirements that are applicable to IRAs and CRs or other services for persons with developmental disabilities.

8. Alternatives: OPWDD did not consider any alternatives to the emergency/proposed amendments because not adjusting reimbursement for providers, and, in the case of the SNAP benefit offset, not adjusting the payment for food required of individuals, would have resulted in paying incorrect amounts to IRA and CR providers.

Additionally, there is no alternative to the emergency adoption of these amendments as the figures found in the amendments were not available to OPWDD within a timeframe that would have allowed for OPWDD to propose the amendments through the regular rulemaking process.

9. Federal Standards: The emergency/proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule: The emergency rule is effective January 1, 2015. OPWDD has concurrently filed the rule as a Notice of Proposed Rule Making, and it intends to finalize the rule as soon as possible within the time frames mandated by the State Administrative Procedure Act. These amendments do not impose any new requirements with which regulated parties are expected to comply.

#### **Regulatory Flexibility Analysis**

A regulatory flexibility analysis for small businesses and local governments is not submitted because these amendments do not impose any adverse economic impact or reporting, record keeping, or other compliance requirements on small businesses. There are no professional services, capital, or other compliance costs imposed on small businesses as a result of these amendments.

The emergency/proposed amendments are concerned with updating the rent allowance offset for Individualized Residential Alternatives (IRAs) and Community Residences (CRs) and the Supplemental Nutrition Assistance Program (SNAP) benefit offset for supervised IRAs and supervised CRs. The amendments result in an overall fiscal impact that is cost neutral for the affected facilities and services, and further, the amendments do not result in any new compliance requirements. Due to an overall cost neutral fiscal impact and no new compliance requirements, the emergency/proposed amendments do not have any adverse effects on regulated parties.

These amendments do not impose any requirements on local governments.

These amendments will consequently have no adverse impacts on small businesses or local governments.

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

A Rural Area Flexibility Analysis for these amendments is not submitted because the amendments do 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 amendments.

The emergency/proposed amendments are concerned with updating the rent allowance offset for Individualized Residential Alternatives (IRAs) & Community Residences (CRs) and the Supplemental Nutrition Assistance

Program (SNAP) benefit offset for supervised IRAs and supervised CRs. The amendments result in an overall fiscal impact that is cost neutral for the affected facilities and services, and further, the amendments do not result in any new compliance requirements. Due to an overall cost neutral fiscal impact and no new compliance requirements, the emergency/proposed amendments do not have any adverse effects on regulated parties.

The amendments will consequently have no adverse impacts on public or private entities in rural areas.

#### **Job Impact Statement**

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

The emergency/proposed amendments are concerned with updating the rent allowance offset for Individualized Residential Alternatives (IRAs) and Community Residences (CRs), and updating the Supplemental Nutrition Assistance Program (SNAP) benefit offset for supervised CRs and supervised IRAs. The amendments result in an overall fiscal impact that is cost neutral for the affected facilities and services. Due to an overall cost neutral fiscal impact and no new compliance requirements, the emergency/proposed amendments do not have a substantial adverse impact on jobs or employment opportunities in New York State.

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## Public Service Commission

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

#### **Approving the 2014 Electric Emergency Response Plans for New York's Six Major Electric Utilities**

**I.D. No.** PSC-02-15-00005-P

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

**Proposed Action:** The Commission is considering approving, rejecting or modifying, in whole or in part, New York's six major electric utilities' 2014 Electric Emergency Response Plans filed on 12/15/14.

**Statutory authority:** Public Service Law, sections 5(1)(b), 65(1)-(3), 66(1)-(3), (5) and (21)

**Subject:** Approving the 2014 electric emergency response plans for New York's six major electric utilities.

**Purpose:** Approving the 2014 electric emergency response plans for New York's six major electric utilities.

**Substance of proposed rule:** The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the 2014 Electric Emergency Response Plans for Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas and Electric Corporation, New York State Electric and Gas Corporation, Rochester Gas and Electric Corporation, and Niagara Mohawk Power Corporation d/b/a National Grid (collectively referred to hereinafter as Utilities). The Commission may decide to approve, reject or modify the plans, in whole or in part. The Commission may also address 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:** Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: [Elaine.Agresta@dps.ny.gov](mailto:Elaine.Agresta@dps.ny.gov)

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

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

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

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

(14-E-0524SP1)

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## Department of State

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### EMERGENCY/PROPOSED RULE MAKING HEARING(S) SCHEDULED

#### **Use of Truss Type, Pre-Engineered Wood or Timber Construction in Residential Structures**

**I.D. No.** DOS-02-15-00004-EP

**Filing No.** 1101

**Filing Date:** 2014-12-30

**Effective Date:** 2014-12-31

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

**Proposed Action:** Addition of Part 1265 to Title 19 NYCRR.

**Statutory authority:** Executive Law, section 382-b

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

**Specific reasons underlying the finding of necessity:** This rule is adopted by the State Fire Prevention and Building Code Council (the Code Council) as an emergency measure to preserve public safety and general welfare and because time is of the essence.

This rule implements Executive Law § 382-b, as added by Chapter 353 of the Laws of 2014. This rule requires any person who uses truss type, pre-engineered wood or timber construction in the construction of a new residential structure or an addition to or rehabilitation of an existing residential structure to give written notice of that fact to the local code enforcement official and to place a sign or symbol on the exterior of the structure to indicate to firefighters and first responders that truss type, pre-engineered wood or timber construction has been used in the structure. This rule also prescribes the form to be used to provide notification to the code enforcement official; prescribes the sign or symbol to be affixed to the structure; provides for the notification and coordination between and among the code official, the fire department, and the emergency response personnel contemplated by Executive Law § 382-b; and directs fire departments and emergency dispatch personnel to provide for the warnings to firefighters and first responders contemplated by Executive Law § 382-b.

Adoption of this rule on an emergency basis is necessary to preserve public safety because, as stated in the Memorandum in Support of the bill enacting Executive Law § 382-b, "(w)hile truss construction is very durable, when weakened by a fire, major components of a truss foundation can collapse suddenly without warning. When responding to a fire emergency, firefighters are unable to differentiate between a building constructed of truss foundation or another type of construction. As a result, in recent years truss constructions have been the cause of many preventable deaths of fire-fighters. It is imperative that firefighters are notified of the use of truss type construction so they can take appropriate measures that will protect the lives of residents and ensure their own safety. With the enactment of this bill, emergency responders will be able to take proper precautions in responding to a fire in a residential structure where truss type construction was utilized." Executive Law § 382-b provides that the form to be used to notify the code enforcement official of the use of truss type, pre-engineered wood or timber construction in a new construction, addition or rehabilitation project, and the sign or symbol to be affixed to the structure, must be prescribed by the Code Council. Executive Law § 382-b will become effective on January 1, 2015. Adoption of this rule on an emergency basis is necessary to assure that the sign or symbol indicating to firefighters and first responders that truss type, pre-engineered wood or timber construction will begin to be placed on structures on and after the January 1, 2015 effective date of Executive Law § 382-b.

Adoption of this rule on an emergency basis is also necessary to preserve the general welfare. Executive Law § 382-b provides that when truss type, pre-engineered wood or timber construction is used in the construction of a new residential structure or the addition to or rehabilitation of an existing residential structure, the code enforcement official cannot issue a certificate of occupancy for the structure unless the sign or symbol contemplated by Executive Law § 382-b has been affixed to the structure. Adopting this rule on an emergency basis is necessary to assure that the sign or symbol contemplated by Executive Law § 382-b will be promulgated by the January 1, 2015 effective date of Executive Law § 382-b which, in turn, is necessary to assure that certificates of occupancy can continue to be issued on and after January 1, 2015.



**Subject:** Use of truss type, pre-engineered wood or timber construction in residential structures.

**Purpose:** To implement the provisions of new section 382-b of the Executive Law, as added by Chapter 353 of the Laws of 2014. In particular, but not by way of limitation, this rule prescribes (1) the form to be used by property owners to designate a residential structure as a truss type, pre-engineered wood or timber construction and (2) the sign or symbol to be affixed to the exterior of a residential building that utilizes truss type, pre-engineered wood and/or timber construction.

**Public hearing(s) will be held at:** 10:00 a.m., March 2, 2015 at Department of State, 99 Washington Ave., Rm. 505, Albany, NY.

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

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

**Substance of emergency/proposed rule (Full text is posted at the following State website:** [http://www.dos.ny.gov/DCEA/pdf/TextPart1265\\_11102014\\_Draft.pdf](http://www.dos.ny.gov/DCEA/pdf/TextPart1265_11102014_Draft.pdf)): This rule adds a new Part 1265 to Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York

Part 1265 shall apply to (1) the construction of a new residential structure; (2) an addition to an existing residential structure, and (3) the rehabilitation of an existing residential structure.

Part 1265 shall not apply in any city having a population in excess of one million persons.

The following terms will have the following meanings for the purposes of new Part 1265:

**ADDITION.** The term "addition" shall mean an extension or increase in floor area or height of a residential structure.

**AUTHORITY HAVING JURISDICTION.** The term "authority having jurisdiction" shall mean the city, town, village, county, agency or other governmental unit responsible for administration and enforcement of the State Uniform Fire Prevention and Building Code with respect to the subject residential structure.

**BCNYS.** The term "BCNYS" shall mean the publication which is entitled Building Code of New York State and which is incorporated by reference in Part 1221 of this Title.

**ELECTRIC BOX.** The term "electric box" shall mean the box, if any, mounted on the exterior of the residential structure at the service point (as that term is defined in section E3401 of the RCNYS).

**EXISTING RESIDENTIAL STRUCTURE.** The term "existing residential structure" means a residential structure that is already in existence at the time an addition or rehabilitation is commenced, without regard to the date of original construction of the residential structure.

**NEW RESIDENTIAL STRUCTURE.** The term "new residential structure" means a residential structure constructed on or after January 1, 2015.

**PRE-ENGINEERED WOOD CONSTRUCTION.** The term "pre-engineered wood construction" shall mean construction that uses, for any load-supporting purpose(s), girders, beams, or joists made using wood components (or wood-based components) that are bonded together with adhesives (including, but not limited to, prefabricated wood I-joists, structural glued laminated timbers, structural log members, structural composite lumber, and cross-laminated timber).

**RCNYS.** The term "RCNYS" shall mean the publication which is entitled Residential Code of New York State and which is incorporated by reference in Part 1220 of this Title.

**REHABILITATION.** The term "rehabilitation" shall mean any repair, renovation, alteration or reconstruction work undertaken in an existing residential building.

**RESIDENTIAL STRUCTURE.** The term "residential structure" shall include one-family dwellings, two-family dwellings, and townhouses (as those terms are defined in the publication entitled RCNYS) and structures or portions of structures classified as Residential Group R in accordance with Chapter 3 of the BCNYS (excluding, however, hotels and motels which are classified as Group R-1 or R-2 occupancy in accordance with Chapter 3 of the BCNYS and which are subject to the provisions of Part 1264 of this Title).

**TIMBER CONSTRUCTION.** The term "timber construction" shall mean construction that uses, for any load-supporting purpose(s), solid or laminated wood having the minimum dimensions required for structures built using type IV construction (HT) in accordance section 602.4 of the BCNYS.

**TRUSS TYPE CONSTRUCTION.** The term "truss type construction" shall mean construction that uses, for any load-supporting purpose(s), a fabricated structure of wood or steel, made up of a series of members con-

nected at their ends to form a series of triangles to span a distance greater than would be possible with any of the individual members on their own. Truss type construction shall not include (1) individual wind or seismic bracing components which form triangles when diagonally connected to the main structural system or (2) structural components that utilize solid plate web members.

When truss type construction, pre-engineered wood construction, and/or timber construction is to be utilized in the construction of a new residential structure or in an addition to or rehabilitation of an existing residential structure, the owner of such structure, or the owner's duly authorized representative, shall notify the authority having jurisdiction of that fact. Such notice shall be in writing and shall be provided to the authority having jurisdiction with the application for a building permit. In the case of a construction, addition or rehabilitation project commenced prior to January 1, 2015 and not completed prior to January 1, 2015, such notice shall be given as soon as practicable after January 1, 2015 and in any event prior to the issuance of the certificate of occupancy or certificate of compliance for such project.

The form to be used to give the required notice to the authority having jurisdiction shall be substantially similar to the following, with all applicable lines checked and all blanks filed in with the appropriate information:

**NOTICE OF UTILIZATION OF TRUSS TYPE CONSTRUCTION, PRE-ENGINEERED WOOD CONSTRUCTION AND/OR TIMBER CONSTRUCTION**

To: [insert name of authority having jurisdiction]

Owner: [insert name of owner of the subject property]

Subject Property: [insert street address and tax map number, if any, of the subject property]

Please take notice that the (check applicable line):

new residential structure

addition to existing residential structure

rehabilitation to existing residential structure

to be constructed or performed at the subject property reference above will utilize (check each applicable line):

truss type construction (TT)

pre-engineered wood construction (PW)

timber construction (TC)

in the following location(s) (check applicable line):

floor framing, including girders and beams (F)

roof framing (R)

floor framing and roof framing (FR).

Date: [insert date form is signed]

Signature: [signature of person submitting form to the authority having jurisdiction]

Name: [print or type name of person signing and submitting form]

Capacity: [insert "Owner" or "Owner's Representative" as applicable]

An authority having jurisdiction shall be permitted to prescribe its own form to be used to give the required notice, provided that such form requests at least same information mentioned above.

Each new residential structure and each addition to or rehabilitation of an existing residential structure that utilizes truss type construction, pre-engineered wood construction and/or timber construction shall be identified by a sign or symbol in accordance with the provisions of Part 1265.

The sign or symbol required by this Part shall be affixed to the electric box attached to the exterior of the residential structure; provided, however, that:

(1) if affixing the sign or symbol to the electric box would obscure any meter on the electric box, or if the utility providing electric service to the residential structure does not allow the sign or symbol to be affixed to the electric box, the sign or symbol shall be affixed to the exterior wall of the residential structure at a point immediately adjacent to the electric box; and

(2) if no electric box is attached to the exterior of the residential structure or if, in the opinion of the authority having jurisdiction, the electric box attached to the exterior of the building is not located in a place likely to be seen by firefighters or other first responders responding to a fire or other emergency at the residential structure, the sign or symbol required by this Part shall be affixed to the exterior of the residential structure in a location approved by the authority having jurisdiction as a location likely to be seen by firefighters or other first responders responding to a fire or other emergency at the residential structure.

The sign or symbol shall be affixed prior to the issuance of a certificate of occupancy or a certificate of compliance. The authority having jurisdiction shall not issue a certificate of occupancy or certificate of compliance until the sign or symbol shall have been affixed.

The property owner shall be responsible for maintaining the sign or symbol and shall promptly replace any such sign or symbol that is affixed to an electric box when any change or modification is made to such electric box. The property owner shall promptly replace the sign or symbol if such

sign or symbol is removed or becomes damaged, faded, worn or otherwise less conspicuous to firefighters or other first responders responding to a fire or other emergency at the residential structure. The property owner shall keep the area in the vicinity of the sign or symbol clear of all plants, vegetation, and other obstructions that may hide or obscure such sign or symbol or otherwise cause such sign or symbol to be less conspicuous to firefighters or other first responders responding to a fire or other emergency at the residential structure.

The sign or symbol indicating the utilization of truss type construction, pre-engineered wood construction and/or timber construction shall comply with the following requirements:

(1) The sign or symbol shall consist of a circle six inches (152.4 mm) in diameter, with a stroke width of 1/2 inch (12.7 mm). The background of the sign or symbol shall be reflective white in color. The circle and contents shall be reflective red in color, conforming to Pantone matching system (PMS) #187.

(2) The sign or symbol shall be of sturdy, non-fading, weather-resistant material; provided, however, that a sign or symbol applied directly to a door or sidelight may be a permanent non-fading sticker or decal.

(3) The sign or symbol shall contain an alphabetic construction type designation to indicate the construction type of the residential structure, as follows:

(i) if the residential structure is subject to the provisions of the RCNYS, the construction type designation shall be "V" and

(ii) if the residential structure is subject to the provisions of the BCNYS, the construction type designation shall be "I", "II", "III", "IV" or "V" to indicate the construction classification of the structure under section 602 of the BCNYS.

(4) The sign or symbol shall contain an alphabetic location designation to indicate the location(s) containing truss type construction, pre-engineered wood construction and/or timber construction structural components, as follows:

(i) "F" shall mean floor framing, including girders and beams;

(ii) "R" shall mean roof framing; and

(iii) "FR" shall mean floor framing and roof framing.

(5) The construction type designation shall be placed at the 12 o'clock position of the sign or symbol, over the location designation, which shall be placed at the six o'clock position of the sign or symbol.

Upon receipt of a form indicating that truss type, pre-engineered wood or timber construction is to be used in a residential structure, the authority having jurisdiction shall notify the chief of the fire district, fire department or fire company having jurisdiction over the structure of that fact.

The chief of the fire district, fire department, or fire company having jurisdiction over the residential structure to be erected, added to, or modified, or his or her designee shall use the information so provided to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

The local building department or local code enforcement official for the authority having jurisdiction shall consult with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

Subdivision 4 of section 382-b of the Executive Law directs local governments to provide for enforcement of section 382-b of the Executive Law. Enforcement of section 382-b of the Executive Law shall include, but shall not be limited to, enforcement of the provisions of this Part.

Nothing contained in Part 1265 shall in any way affect or diminish section 205-b of the General Municipal Law.

**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 March 29, 2015.

**Text of rule and any required statements and analyses may be obtained from:** Mark Blanke, Department of State, 99 Washington Ave., Albany, NY 12231-0001, (518) 474-4073, email: Mark.Blanke@dos.ny.gov

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

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

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

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY AND LEGISLATIVE OBJECTIVES

Executive Law § 382-b (as added by Chapter 353 of the Laws of 2014) authorizes the State Fire Prevention and Building Code Council (the Code Council) to promulgate rules and regulations it deems necessary to carry into effect the provisions that section.

The legislative objectives of Executive Law § 382-b include (1)

providing a means of notifying a local code enforcement official when truss type, pre-engineered wood or timber construction is to be utilized in the construction of a new residential structure or in the addition to or rehabilitation of an existing residential structure; (2) providing for the placement and maintenance of a sign or symbol on the exterior of such residential structures to provide notice to firefighters and other first responders that one or more of those construction types have been used; and (3) providing for communication and coordination between and among code enforcement officials, fire departments, and emergency dispatch personnel for the purpose of providing warning to firefighters and other first responders that one or more of those construction types have been used.

##### 2. NEEDS AND BENEFITS

The Memorandum in Support of the bill enacting Executive Law § 382-b states that "(w)hile truss construction is very durable, when weakened by a fire, major components of a truss foundation can collapse suddenly without warning. When responding to a fire emergency, firefighters are unable to differentiate between a building constructed of truss foundation or another type of construction. As a result, in recent years truss constructions have been the cause of many preventable deaths of fire-fighters. It is imperative that firefighters are notified of the use of truss type construction so they can take appropriate measures that will protect the lives of residents and ensure their own safety. With the enactment of this bill, emergency responders will be able to take proper precautions in responding to a fire in a residential structure where truss type construction was utilized."

Executive Law § 382-b provides that any person utilizing truss type, pre-engineered wood or timber construction for the erection of any new residential structure, for any addition to an existing residential structure, or for any rehabilitation of an existing residential structure must (1) notify the local government that will issue the building permit for the that truss type, pre-engineered wood or timber construction is being utilized and (2) affix a sign or symbol to the electric box, if any, on the exterior of the structure indicating that truss type, pre-engineered wood or timber construction has been used. Executive Law § 382-b provides that the form to be used to notify the local code official that truss type, pre-engineered wood or timber construction is to be used shall be prescribed by the Code Council and that the sign or symbol to be fixed to the electric box shall be as approved by the Code Council.

Executive Law § 382-b also provides that (1) upon receipt of a form indicating that truss type, pre-engineered wood or timber construction is to be used in a residential structure, the code enforcement official must notify the chief of the fire district, fire department or fire company having jurisdiction over the structure of that fact; (2) the chief of the fire district, fire department, or fire company having jurisdiction over the residential structure to be erected, added to, or modified, or his or her designee shall use the information so provided to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure; (3) the local building department or local code enforcement official must consult with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure; (4) local governments shall provide by local law or resolution for the enforcement of the provisions of Executive Law § 382-b, if necessary; and (5) the Code Council shall promulgate rules and regulations it deems necessary to carry into effect the provisions of Executive Law § 382-b including, but not limited to, the dimensions and color of the required sign or symbol.

This rule implements Executive Law § 382-b by prescribing the form to be used to notify local code enforcement officials that truss type, pre-engineered wood and/or timber construction is to be used in a residential structure; prescribing the sign or symbol to be affixed to the exterior of such a residential structure; and directing local code enforcement officials, fire departments, and emergency dispatch personnel to fulfill the notification, warning, and coordination activities specified in new section 382-b of the Executive Law.

##### 3. COSTS

###### A. Regulated Parties

For a regulated party who chooses to use truss type, pre-engineered wood or timber construction in the construction of a new residential structure or the addition to or rehabilitation of an existing residential structure, the initial costs of complying with this rule will include (1) any increase in the fees currently charged by the local code enforcement officials to cover the additional costs associated with processing the form notifying the official that truss-type, pre-engineered wood or timber construction is to be used and/or for inspecting the structure to confirm that the required sign or symbol has been affixed to the exterior of the structure and (2) the cost of obtaining any affixing the required sign or symbol. Fees charged by local code enforcement officials are fixed by lo-

cal governments, and not by this rule; the Department of State (DOS) anticipates that for the most part, any fee increase imposed by local governments by reason of this rule will be modest. DOS estimates that the cost of purchasing and affixing the sign or symbol required by this rule will be \$20 to \$30.

For regulated parties who own residential structures covered by this rule, the annual or ongoing costs for continuing compliance with this rule will include the cost of replacing the sign or symbol required by this rule when the electric box to which the sign or symbol is affixed is changed or modified or when the sign or symbol becomes worn, faded, or otherwise less conspicuous. DOS estimates that the cost of purchasing and affixing a replacement sign or symbol required will be \$20 to \$30. For regulated parties who own residential structures covered by this rule will also be required to keep the area in the vicinity of the sign or symbol required by this rule clear of all plants, vegetation, and other obstructions that may hide or obscure such sign or symbol or otherwise cause such sign or symbol less conspicuous to firefighters or other first responders responding to a fire or other emergency at the residential structure. DOS anticipates that this requirement will not significantly increase the cost of normal property maintenance.

The estimated cost of obtaining and affixing the required sign or symbol was determined by prices for signs currently posted on the website of a manufacturer of the signs now required under Part 1264 (ranging from \$12.45 to \$21.45 for a single sign to as low as \$8.95 per sign when purchased in quantity: <http://www.safetysign.com/products/p5973/ny-type-v-floor-truss-sign> [accessed 11/6/2014]); the cost of affixing the sign to the structure is assumed to be nominal.

B. Department of State, the State, and Local Governments

DOS does not anticipate that DOS or the State of New York will incur any significant costs for the implementation of, and continued administration of, this rule.

For local governments, the initial costs for implementation of this rule will include the cost of training their code enforcement personnel on the requirements of this rule. However, code enforcement personnel are required by existing law to receive 24 hours of in-service training each year, and DOS anticipates that training on the requirements of the new this rule can be provided within the already required annual in-service training.

For local governments, the on-going costs for the continued compliance with and administration of this rule will include the costs associated with the inspecting residential structures to confirm that the required sign or symbol has been affixed; notifying the fire department when truss type, pre-engineered wood or timber construction is to be used in the construction of a new residential structure; consulting with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure; and warning persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure. However, DOS anticipates that a local government will be able to fulfill these obligations using its existing code enforcement, fire department, and emergency dispatch personnel, at little or no additional cost to the local government. Further, local governments are authorized by existing law to charge fees to defray the cost of their code enforcement activities.

Any local government or state agency that chooses to construct, add to, rehabilitate or won a residential structure will subject to this rule, and will be subject to the same costs of initial compliance and on going compliance as any other regulated party.

#### 4. PAPERWORK

A property owner utilizing truss type, pre-engineered wood or timber construction for the erection of any new residential structure, for any addition to an existing residential structure, or for any rehabilitation of an existing residential structure will be required to notify the local code enforcement official of that fact. That notice must be given using the form prescribed in this rule or using a substantially similar form prescribed by the local code enforcement office.

#### 5. LOCAL GOVERNMENT MANDATES

Upon receipt of notification that a residential structure will use truss type, pre-engineered wood or timber construction, the local code enforcement official will be required to notify the chief of the fire district, fire department or fire company having jurisdiction over the structure of that fact. The chief of the fire district, fire department, or fire company must use the information so provided to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

The local building department or local code enforcement official must consult with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting

fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

Before issuing a certificate of occupancy, the local code enforcement official will be required to determine that the required sign has been affixed to the structure.

Local governments will be required to enforce Executive Law § 382-b and this new rule. Local governments, fire departments, and emergency dispatch personnel will be required to see that their personnel receive training on these new requirements.

DOS anticipates that local governments will be able to enforce the new requirements added by Executive Law § 382-b and implemented by this rule with their current code enforcement personnel, and will not require any additional professional services.

#### 6. DUPLICATION

This rule does not duplicate any rule or other legal requirement of the State or Federal government known to DOS.

#### 7. ALTERNATIVES

No significant alternatives to this rule were considered by DOS. DOS believes that the provisions of this rule are necessary to implement Executive Law § 382-b.

#### 8. FEDERAL STANDARDS

This rule does not exceed any minimum standards of the Federal government for the same or similar subject areas known to DOS.

#### 9. COMPLIANCE SCHEDULE

DOS anticipates that regulated parties will be able to comply with this rule immediately.

#### Regulatory Flexibility Analysis

##### 1. TYPES AND NUMBER OF SMALL BUSINESSES AND LOCAL GOVERNMENTS TO WHICH THE RULE WILL APPLY

This rule implements new section 382-b of the Executive Law, as added by Chapter 353 of the Laws of 2014, which relates to the use of truss-type, pre-engineered wood and timber construction in the construction of new residential structures and the addition to or rehabilitation of existing residential structures. New section 382-b of the Executive Law, and this rule, apply in all parts of the State except New York City. Therefore, this rule will apply to all small businesses and all local governments that construct new residential buildings or add to or rehabilitate existing residential structures in any part of the State except New York City.

In addition, new section 382-b of the Executive Law requires local governments to enforce section 382-b, and to communicate and coordinate with fire departments and emergency dispatch personnel in warning firefighters and other first responders when responding to a fire in a residential structure that utilizes truss-type, pre-engineered wood and timber construction in the construction. This rule implements those requirements. Therefore, this rule will apply to all or most of the local governments in the State other than New York City.

##### 2. REPORTING, RECORDKEEPING, AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES

A small business or local government that chooses to utilize truss type, pre-engineered wood or timber construction in the construction of any new residential structure or in any addition to or rehabilitation of an existing residential structure to include with the building permit application a notification advising the local code enforcement official that truss type, pre-engineered wood or timber construction is being utilized.

Upon receipt of such notification, the local code enforcement official will be required to notify the chief of the fire district, fire department or fire company having jurisdiction over the structure that truss type, pre-engineered wood or timber construction is being utilized is being used. The chief of the fire district, fire department, or fire company must use the information so provided to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

The local building department or local code enforcement official must consult with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

A small business or local government that uses truss type, pre-engineered wood or timber construction in the construction of a residential structure or an addition to or rehabilitation of an existing residential structure will be required to place a sign or symbol of the type described in this rule on the exterior wall of the structure.

Before issuing a certificate of occupancy, the local code enforcement official will be required to determine that the required sign has been affixed to the structure.

A small business or local government that owns a residential structure that is subject to this rule will be required to keep the area in the vicinity of the sign or symbol required by this rule clear of all plants, vegetation, and other obstructions that may hide or obscure such sign or symbol or

otherwise cause such sign or symbol less conspicuous to firefighters or other first responders responding to a fire or other emergency at the residential structure. A small business or local government that owns such a residential structure will be required to replace the sign or symbol if the electric box to which the sign or symbol is affixed is changed or modified or if the sign or symbol becomes worn, faded, or otherwise less conspicuous.

Local governments will be required to enforce new section 382-b of the Executive Law and this new rule. Local governments, fire departments, and emergency dispatch personnel will be required to see that their personnel receive training on these new requirements.

DOS anticipates that local governments will be able to enforce the new requirements added by new section 382-b of the Executive Law, and implemented by this rule, with their current code enforcement personnel, and will not require any additional professional services.

### 3. PROFESSIONAL SERVICES

A small business or local government that constructs a new residential structure or adds to or rehabilitates an existing residential structure will typically find it to be necessary or desirable to use the services of a design professional to design a new residential building or an addition to or rehabilitation of an existing residential structure. The new requirements added by new section 382-b of the Executive Law, and implemented by this rule, should not increase the level of professional services required.

### 4. COMPLIANCE COSTS

The initial costs of complying with this rule for small business or local government that uses truss type, pre-engineered wood or timber construction in the construction of a residential structure or an addition to or rehabilitation of an existing residential structure will include (1) any increase in the fees currently charged by the local code enforcement officials for processing permit applications, issuing permits, conducting inspections, and issuing permits to cover the additional costs associated with processing the form notifying the official that truss-type, pre-engineered wood or timber construction is to be used and/or for inspecting the structure to confirm that the required sign or symbol has been affixed to the exterior of the structure and (2) the cost of obtaining any affixing the required sign or symbol. Fees charged by local code enforcement officials are fixed by local governments, and not by this rule; the Department of State anticipates that for the most part, any fee increase imposed by local governments by reason of new section 382-b (and this rule) will be modest. The Department of State estimates that the cost of purchasing and affixing the sign or symbol required by this rule will be \$20 to \$30.

The initial costs of compliance described in the preceding paragraph are not likely to vary for small businesses or local governments of different types and of differing sizes.

The annual or ongoing costs to building owners for continuing compliance with this rule for a small business or local government that used truss type, pre-engineered wood or timber construction in the construction of a new residential structure or the addition to or rehabilitation of an existing residential structure will include the cost of replacing the sign or symbol required by this rule when the electric box to which the sign or symbol is affixed is changed or modified or when the sign or symbol becomes worn, faded, or otherwise less conspicuous. The Department of State estimates that the cost of purchasing and affixing a replacement sign or symbol required will be \$20 to \$30. A small business or local government that owns such a residential structure will also be required to keep the area in the vicinity of the sign or symbol required by this rule clear of all plants, vegetation, and other obstructions that may hide or obscure such sign or symbol or otherwise cause such sign or symbol less conspicuous to firefighters or other first responders responding to a fire or other emergency at the residential structure. The Department of State anticipates that this requirement will not significantly increase the cost of normal property maintenance.

The annual/ongoing costs described in the preceding paragraph are not likely to for small businesses or local governments of different types and of differing sizes.

The initial costs to be incurred by local governments will include the cost of training their code enforcement personnel on the requirements of this rule. However, code enforcement personnel are required by existing law to receive 24 hours of in-service training each year, and the Department of State anticipates that training on the requirements of the new this rule can be provided within the already required annual in-service training.

The annual or on-going compliance costs for a local government will include the costs associated with fulfilling the notification, warning, and consultation obligations established by new section 382-b of the Executive Law. However, the Department of State anticipates that a local government will be able to fulfill these obligations using its existing code enforcement, fire department, and emergency dispatch personnel, at little or no additional cost to the local government. Further, local governments are authorized by existing law to charge fees to defray the cost of their code enforcement activities.

Any variation in local governments' costs of complying with this rule is likely to be attributable to the number of residential structures within the local government that utilize truss type, pre-engineered wood or timber construction and not to the type and/or size of the local government.

### 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

It is economically and technologically feasible for regulated parties to comply with the rule. No substantial capital expenditures are imposed and no new technology need be developed for compliance.

The Department of State anticipates that local governments will be able to provide training to their code enforcement personnel through the already required annual in-service training; that local governments will be able to this rule with their existing code enforcement personnel; and that local governments will be able to recoup any additional code enforcement expenses through fees they are authorized to impose by existing law.

### 6. MINIMIZING ADVERSE IMPACT:

This rule was designed to minimize any adverse impact on small businesses and local governments by (1) implementing only those requirements that are specified in the underlying statute (section 382-b of the Executive Law) and (2) prescribing a simple notification form and permitting local governments to prescribe their own notification forms if they wish to do so.

Approaches such as establishing differing compliance or reporting requirements or timetables that take into account the resources available to small businesses and local governments and/or providing exemptions from coverage by the rule, or by any part thereof, for small businesses and local governments were not considered because doing so (1) is not authorized by new section 382-b of the Executive Law and (2) would endanger the public safety and general welfare.

### 7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

The Department of State gave small business and local governments an opportunity to participate in this rule making by posting a notice regarding this rule on the Department of State's website and by publishing a notice regarding this rule in Building New York, a monthly electronic news bulletin covering topics related to the Uniform Code and the construction industry which is prepared by the Department of State and which is currently distributed to approximately 10,000 subscribers, including local governments, design professionals and others involved in all aspects of the construction industry.

### 8. VIOLATIONS AND PENALTIES ASSOCIATED WITH VIOLATIONS

This rule will neither establish or modify a violation nor establish or modify penalties associated with a violation. Therefore, for the purposes of Chapter 524 of the Laws of 2011 and subdivision 1-a of section 202-b of the State Administrative Procedure Act, this rule is not required to include a cure period or other opportunity for ameliorative action, the successful completion of which will prevent the imposition of penalties on the party or parties subject to enforcement.

### Rural Area Flexibility Analysis

#### 1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS.

This rule implements new section 382-b of the Executive Law, as added by Chapter 353 of the Laws of 2014, relating to the use of truss-type, pre-engineered wood and timber construction in the construction of new residential structures and in the addition to or rehabilitation of existing residential structures. New section 382-b, and this Part, apply in all parts of the State except cities having a population greater than 1,000,000 persons. Therefore, this rule will apply in all rural areas of the State.

#### 2. REPORTING, RECORDKEEPING, AND OTHER COMPLIANCE REQUIREMENTS; AND PROFESSIONAL SERVICES.

This rule will require residential property owners wishing to utilize truss type, pre-engineered wood or timber construction in the construction of any new residential structure or in any addition to or rehabilitation of an existing residential structure to include with the building permit application a notification advising the local code enforcement official that truss type, pre-engineered wood or timber construction is being utilized.

Upon receipt of such notification, the local code enforcement official will be required to notify the chief of the fire district, fire department or fire company having jurisdiction over the structure that truss type, pre-engineered wood or timber construction is being utilized is being used. The chief of the fire district, fire department, or fire company must use the information so provided to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

The local building department or local code enforcement official must consult with the county fire coordinator, local 911 and emergency dispatchers, and the local fire protection provider or entity deemed pertinent to determine the manner sufficient to warn persons conducting fire control and other emergency operations of the existence of truss type, pre-engineered wood or timber construction in the structure.

The owner of the structure will be required to place a sign or symbol of

the type described in this rule on the exterior wall of the structure. Property owners will be required to keep the area in the vicinity of the sign or symbol required by this rule clear of all plants, vegetation, and other obstructions that may hide or obscure such sign or symbol or otherwise cause such sign or symbol less conspicuous to fire fighters or other first responders responding to a fire or other emergency at the residential structure. Property owners will be required to replace the sign or symbol if the electric box to which the sign or symbol is affixed is changed or modified or if the sign or symbol becomes worn, faded, or otherwise less conspicuous.

Local governments will be required to enforce new section 382-b of the Executive Law (and this new rule). Local governments, fire departments, and emergency dispatch personnel will be required to see that their personnel receive training on these new requirements.

DOS anticipates that local governments will be able to enforce the new requirements added by new section 382-b of the Executive Law, and implemented by this rule, with their current code enforcement personnel, and will not require any additional professional services.

Building owners will typically find it to be necessary or desirable to use the services of a design professional to design a new residential building or an addition to or rehabilitation of an existing residential structure. The new requirements added by new section 382-b of the Executive Law, and implemented by this rule, should not increase the level of professional services required.

### 3. COSTS.

The initial costs of complying with this rule for the owner of a residential structure utilizing truss type, pre-engineered wood or timber construction for the erection of any new residential structure, for any addition to an existing residential structure, or for any rehabilitation of an existing residential structure will include (1) any increase in the fees currently charged by the local code enforcement officials for processing permit applications, issuing permits, conducting inspections, and issuing permits to cover the additional costs associated with processing the form notifying the official that truss-type, pre-engineered wood or timber construction is to be used and/or for inspecting the structure to confirm that the required sign or symbol has been affixed to the exterior of the structure and (2) the cost of obtaining any affixing the required sign or symbol. Fees charged by local code enforcement officials are fixed by local governments, and not by this rule; the Department of State anticipates that for the most part, any fee increase imposed by local governments by reason of new section 382-b (and this rule) will be modest. The Department of State estimates that the cost of purchasing and affixing the sign or symbol required by this rule will be \$20 to \$30. Such costs are not likely to vary for different types of public and private entities in rural areas.

The annual or ongoing costs to building owners for continuing compliance with this rule will include the cost of replacing the sign or symbol required by this rule when the electric box to which the sign or symbol is affixed is changed or modified or when the sign or symbol becomes worn, faded, or otherwise less conspicuous. The Department of State estimates that the cost of purchasing and affixing a replacement sign or symbol required will be \$20 to \$30. Property owners will also be required to keep the area in the vicinity of the sign or symbol required by this rule clear of all plants, vegetation, and other obstructions that may hide or obscure such sign or symbol or otherwise cause such sign or symbol less conspicuous to fire fighters or other first responders responding to a fire or other emergency at the residential structure. The Department of State anticipates that this requirement will not significantly increase the cost of normal property maintenance. The annual / ongoing costs described in this paragraph are not likely to for different types of public and private entities in rural areas.

The initial costs to be incurred by local governments will include the cost of training their code enforcement personnel on the requirements of this rule. However, code enforcement personnel are required by existing law to receive 24 hours of in-service training each year, and the Department of State anticipates that training on the requirements of the new this rule can be provided within the already required annual in-service training.

The annual or on-going compliance costs for a local government will include the costs associated with fulfilling the notification, warning, and consultation obligations established by new section 382-b of the Executive Law. However, the Department of State anticipates that a local government will be able to fulfill these obligations using its existing code enforcement, fire department, and emergency dispatch personnel, at little or no additional cost to the local government. Further, local governments are authorized by existing law to charge fees to defray the cost of their code enforcement activities.

### 4. MINIMIZING ADVERSE IMPACT.

This rule was designed to minimize any adverse impact on all areas of the State, including rural areas, by (1) implementing only those requirements that are specified in the underlying statute (section 382-b of the Executive Law) and (2) prescribing a simple notification form and permitting local governments to prescribe their own notification forms if they wish to do so.

Establishing different compliance requirements for public and private sector interests in rural areas and/or providing exemptions from coverage by the rule for public and private sector interests in rural areas was not considered because doing so (1) is not authorized by the statute and (2) would endanger the public safety and general welfare.

### 5. RURAL AREA PARTICIPATION.

The Department of State notified interested parties throughout the State, including interested parties in rural areas, of the proposed adoption of this rule by means of notices posted on the Department's website and published in Building New York, a monthly electronic news bulletin covering topics related to the Uniform Code and the construction industry which is prepared by the Department of State and which is currently distributed to approximately 10,000 subscribers, including local governments, design professionals and others involved in all aspects of the construction industry.

### Job Impact Statement

The Department of State has concluded after reviewing the nature and purpose of the rule that it will not have a "substantial adverse impact on jobs and employment opportunities" (as that term is defined in section 201-a of the State Administrative Procedures Act) in New York.

This rule amends adds a new Part 1265 (entitled "Residential Structures with Truss Type Construction, Pre-Engineered Wood Construction or Timber Construction") to Title 19 of the NYCRR. Part 1265 implements new section 382-b of the Executive Law, as added by Chapter 353 of the Laws of 2014. Under section 382-b, and this rule, any person who uses truss-type, pre-engineered wood or timber construction in the construction of a new residential structure or in the addition to or rehabilitation of an existing residential structure will be required to notify the local code enforcement official of that fact and to place a sign or symbol on the exterior wall of the structure intended to notify firefighters and other first responders that truss-type, pre-engineered wood or timber construction has been used in the structure. This rule prescribes (1) the form to be used by the property owner or property owner's representative to designate a residential structure as truss type, pre-engineered wood or timber construction and (2) the sign or symbol to be affixed to the exterior of a residential building that utilizes truss type, pre-engineered wood and/or timber construction.

The Department of State has concluded that although provisions of this rule will impose certain new obligations on regulated parties, the cost of complying with these new obligations will be minimal. For example, Part 1265 requires that each new residential structure and each addition to or rehabilitation of an existing residential structure that utilizes truss type construction, pre-engineered wood construction and/or timber construction be identified by signs or symbols in accordance with the provisions of this Part before receiving a certificate of occupancy or a certificate of compliance. The Department of State estimates that the cost of obtaining and posting a sign or symbol required by this rule will be \$20 to \$30. Therefore, the Department of State anticipates that the impact of this rule on the cost of any new construction, addition or rehabilitation project will be negligible.

New section 382-b of the Executive Law also requires, and this rule also provides, that local governments must enforce these new requirements, and that local governments, fire departments, and emergency dispatch personnel must consult with each other in developing means to warn firefighters and other first responders responding to a fire in a residential structure that truss-type construction, pre-engineered wood construction and/or timber construction has been utilized in the structure. The Department of State anticipates that, for the most part, these tasks can be accomplished by existing personnel, at little or no additional cost to local governments, fire departments or emergency dispatchers. Therefore, the Department of State anticipates that the impact of this rule on the costs of obtaining building permits, conducting construction inspections, issuing certificates of occupancy, and performing other code enforcement activities will be negligible.

Therefore, this rule should have no substantial adverse impact on the cost of obtaining a building permit, constructing a new residential structure, adding to or rehabilitating an existing residential structure, or obtaining a certificate of occupancy or a certificate of compliance and, consequently, this rule should have no substantial adverse impact on jobs and employment opportunities related to constructing a new residential structure or adding to or rehabilitating an existing residential structure utilizing truss type construction, pre-engineered wood construction and/or timber construction.

**HEARINGS SCHEDULED  
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
<b>Environmental Conservation, Department of</b>		
ENV-48-14-00005-P .....	Water quality standards for Class I and Class SD waters in New York City and Suffolk County	U.S. Environmental Protection Agency, Region 2 Office, 290 Broadway, Rm. 27A, New York, NY—Jan. 27, 2015, 12:00 p.m.
ENV-52-14-00027-P .....	Control of criteria air contaminants and toxic air contaminants from general process air pollution sources	Department of Environmental Conservation Headquarters, 625 Broadway, Public Assembly, Rms. 129 A and B, Albany, NY—Feb. 4, 2015, 1:00 p.m.  Department of Environmental Conservation Region 2 Office, One Hunters Point Plaza, 47-40 21st St., Rm. 834, Long Island City, NY—Feb. 5, 2015, 9:00 a.m.  Department of Environmental Conservation Region 7 Office, 615 Erie Blvd., West Syracuse, NY—Feb. 6, 2015, 1:00 p.m.  Sheridan Parkside Community Center, 169 Sheridan Parkside Dr., Tonawanda, NY—Feb. 9, 2015, 4:00 p.m.
<b>Liquor Authority, State</b>		
LQR-02-15-00002-P .....	Signage, services and gifts to retailers	State Liquor Authority, 317 Lenox Ave., New York, NY—March 10, 2015, 10:00 a.m.
<b>Long Island Power Authority</b>		
LPA-02-15-00006-P .....	Provisions of LIPA’s tariff for adjustment to rates and changes of service classifications	Long Island Power Authority, H. Lee Denison Bldg., 100 Veterans Memorial Hwy., Happaugue, NY—March 4, 2015, 10:00 a.m.  Long Island Power Authority, 333 Earle Ovington Blvd., 4th Fl., Uniondale, NY—March 4, 2015, 2:00 p.m.
<b>People with Developmental Disabilities, Office for</b>		
PDD-02-15-00007-EP .....	Direct care and clinical compensation payments	Office for People with Developmental Disabilities, 44 Holland Ave., Counsel’s Office Conference Rm., Albany, NY—March 2, 2015, 12:30 p.m.  Office for People with Developmental Disabilities, 44 Holland Ave., Counsel’s Office Conference Rm., Albany, NY—March 3, 2015, 12:30 p.m.
PDD-02-15-00008-EP .....	Updates to SSI offset and SNAP benefit offset	Office for People with Developmental Disabilities, 44 Holland Ave., Counsel’s Office Conference Rm., Albany, NY—March 2, 2015, 11:00 a.m.  Office for People with Developmental Disabilities, 44 Holland Ave., Counsel’s Office Conference Rm., Albany, NY—March 3, 2015, 11:00 a.m.
<b>State, Department of</b>		
DOS-02-15-00004-EP .....	Use of truss type, pre-engineered wood or timber construction in residential structures	Department of State, 99 Washington Ave., Rm. 505, Albany, NY—March 2, 2015, 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
<b>AAM</b>	<b>01</b>	<b>12</b>	<b>00001</b>	<b>P</b>

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
<b>AGRICULTURE AND MARKETS, DEPARTMENT OF</b>			
AAM-44-14-00004-P	11/05/15	Host materials (potatoes, tomatoes and eggplants) and soil	To lift the golden nematode quarantine in portions of Nassau, Suffolk and Orleans Counties
<b>AUDIT AND CONTROL, DEPARTMENT OF</b>			
AAC-48-14-00001-P	12/03/15	Property Location Agreements	To conform terminology and to reflect an amendment made to EPTL section 13-2.3
<b>CABLE TELEVISION, COMMISSION ON</b>			
*CTV-23-94-00009-P	exempt	Rates for basic service and equipment of Adelphia Communications - Aurora system	To determine whether the company's rates for basic service and equipment are justified
*CTV-23-94-00010-P	exempt	Rates for basic service and equipment of Adelphia Communications - Chautauqua system	To determine whether the company's rates for basic service and equipment are justified
*CTV-23-94-00011-P	exempt	Rates for basic service and equipment of Adelphia Communications - Grand Island system	To determine whether the company's rates for basic service and equipment are justified
*CTV-23-94-00012-P	exempt	Rates for basic service and equipment of Adelphia Communications - Riverview system	To determine whether the company's rates for basic service and equipment are justified
*CTV-23-94-00030-P	exempt	Rates for basic service and equipment of Cablevision Systems Corp. - Long Island/V-Cable/Shelter Island system	To determine whether the company's rates for basic service and equipment are justified
*CTV-23-94-00035-P	exempt	Rates for basic service and equipment of C-TEC Corp. - C-TEC Cable system	To determine whether the company's rates for basic service and equipment are justified
*CTV-24-94-00013-P	exempt	Rates for basic service and equipment of Cablevision Systems Corp. - Long Island - Riverhead system	To determine whether the company's rates for basic service and equipment are justified
*CTV-24-94-00026-P	exempt	Rates for basic service and equipment of Cablevision Systems Corp. - Long Island system	To determine whether the company's rates for basic service and equipment are justified

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CABLE TELEVISION, COMMISSION ON</b>			
*CTV-24-94-00034-P	..... exempt	Rates for basic service and equipment of Cablevision System Corp. - Long Island/V-Cable system	To determine whether the company's rates for basic service and equipment are justified
*CTV-24-94-00037-P	..... exempt	Rates for basic service and equipment of Adelphia Communications - International system	To determine whether the company's rates for basic service and equipment are justified
*CTV-24-94-00042-P	..... exempt	Rates for basic service and equipment of Adelphia Communications/Resort system	To determine whether the company's rates for basic service and equipment are justified
*CTV-24-94-00043-P	..... exempt	Rates for basic service and equipment of Adelphia Communications - Hoosick system	To determine whether the company's rates for basic service and equipment are justified
*CTV-24-94-00051-P	..... exempt	Rates for basic service and equipment of Cablevision Systems Corp. - Long Island/Great Neck system	To determine whether the company's rates for basic service and equipment are justified
*CTV-25-94-00015-P	..... exempt	Rates for basic service and equipment of Selectavision of Cazenovia - Cazenovia system	To determine whether the company's rates for basic service and equipment are justified
*CTV-25-94-00021-P	..... exempt	Rates for basic service and equipment of Cablevision Systems Corp. - A-R Cable Services-NY, Inc. Lynbrook system	To determine whether the company's rates for basic and equipment are justified
*CTV-25-94-00023-P	..... exempt	Rates for basic service and equipment of Cablevision Systems Corp. - Dutchess system	To determine whether the company's rates for basic service and equipment are justified
*CTV-25-94-00026-P	..... exempt	Rates for basic service and equipment of Adelphia Communications - Harbor Vue system	To determine whether the company's rates for basic service and equipment are justified
*CTV-25-94-00033-P	..... exempt	Rates for basic service and equipment of Cablevision Systems Corp. - East Hampton system	To determine whether the company's rates for basic service and equipment are justified
*CTV-27-94-00029-P	..... exempt	Rates for basic service and equipment of Cablevision Systems Corp.-Huntington system	To determine whether the company's rates for basic service and equipment are justified
*CTV-27-94-00031-P	..... exempt	Rates for basic service and equipment of Adelphia Communications-Niagara system	To determine whether the company's rates for basic service and equipment are justified
*CTV-39-94-00017-P	..... exempt	Rates for basic service and equipment of Time Warner - ATC - ACC Dryden system	To determine whether the company's rates for basic service and equipment are justified
*CTV-39-94-00018-P	..... exempt	Rates for basic service and equipment of Adelphia Communications-Aurora, Chautauqua, Grand Island, Harbor Vue, Hoosick, International, Niagara, Resort and River Valley systems	To determine whether the company's rates for basic service and equipment are justified
*CTV-39-94-00019-P	..... exempt	Rates for basic service and equipment of C-Tec Cable Corp.-C-Tec Cable system	To determine whether the company's rates for basic service and equipment are justified
*CTV-39-94-00023-P	..... exempt	Rates for basic service and equipment of United Video Cablevision of New York-Community Cable system	To determine whether the company's rates for basic service and equipment are justified
*CTV-39-94-00033-P	..... exempt	Rates for basic service and equipment of Simmons Communications-Simmons Cable-Salamanca system	To determine whether the company's rates for basic service and equipment are justified



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CABLE TELEVISION, COMMISSION ON</b>			
*CTV-39-94-00035-P	..... exempt	Rates for basic service and equipment of TKR Cable Company-Ramapo, Rockland and Warwick systems	To determine whether the company's rates for basic service and equipment are justified
*CTV-39-94-00037-P	..... exempt	Rates for basic service and equipment of U.S. Cable Corp.-Evangola, Westfield and Tri - County/Arcade systems	To determine whether the company's rates for basic service and equipment are justified
*CTV-39-94-00039-P	..... exempt	Rates for basic service and equipment of Time Warner-Warner Communications/Olean system	To determine whether the company's rates for basic service and equipment are justified
*CTV-45-94-00010-P	..... exempt	Rates for basic service and equipment of Cablevision Industries, Inc.-Genesee/Tri-County/Medina system	To determine whether the company's rates for basic service and equipment are justified
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-20-14-00003-P	..... 05/21/15	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-25-14-00003-P	..... 06/25/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-30-14-00001-P	..... 07/30/15	Jurisdictional Classification	To classify positions in the exempt class and to delete positions from the non-competitive class
CVS-30-14-00002-P	..... 07/30/15	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-30-14-00003-P	..... 07/30/15	Jurisdictional Classification	To classify a position in the exempt class and to delete positions from and classify positions in the non-competitive class
CVS-30-14-00004-P	..... 07/30/15	Jurisdictional Classification	To delete and classify positions in the exempt class and to delete and classify positions in the non-competitive class
CVS-30-14-00005-P	..... 07/30/15	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-30-14-00006-P	..... 07/30/15	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-30-14-00007-P	..... 07/30/15	Jurisdictional Classification	To delete a position from the non-competitive class
CVS-30-14-00008-P	..... 07/30/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-30-14-00009-P	..... 07/30/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-30-14-00010-P	..... 07/30/15	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-30-14-00011-P	..... 07/30/15	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-30-14-00012-P	..... 07/30/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-30-14-00013-P	..... 07/30/15	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-44-14-00005-P	..... 11/05/15	Jurisdictional Classification	To classify a position in the exempt class

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-44-14-00006-P	11/05/15	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-44-14-00007-P	11/05/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-14-00008-P	11/05/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-14-00009-P	11/05/15	Jurisdictional Classification	To classify positions in the exempt class
CVS-44-14-00010-P	11/05/15	Jurisdictional Classification	To classify positions in the exempt class
CVS-44-14-00011-P	11/05/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-14-00012-P	11/05/15	Jurisdictional Classification	To delete a heading and positions from the exempt class
CVS-44-14-00013-P	11/05/15	Jurisdictional Classification	To delete a position from and classify positions in the exempt class
CVS-44-14-00014-P	11/05/15	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-44-14-00015-P	11/05/15	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-44-14-00016-P	11/05/15	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-44-14-00017-P	11/05/15	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-44-14-00018-P	11/05/15	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-47-14-00002-P	11/26/15	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-47-14-00003-P	11/26/15	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-47-14-00004-P	11/26/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-47-14-00005-P	11/26/15	Jurisdictional Classification	To classify a position in the exempt class
CVS-47-14-00006-P	11/26/15	Jurisdictional Classification	To delete a subheading and positions from the exempt class
CVS-47-14-00007-P	11/26/15	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-01-15-00004-P	01/07/16	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-01-15-00005-P	01/07/16	Jurisdictional Classification	To classify a position in the exempt class
CVS-01-15-00006-P	01/07/16	Jurisdictional Classification	To delete a position from and classify a position in the exempt class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-01-15-00007-P	01/07/16	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-01-15-00008-P	01/07/16	Jurisdictional Classification	To delete positions from and classify positions in the exempt class
CVS-01-15-00009-P	01/07/16	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-01-15-00021-P	01/07/16	Jurisdictional Classification	To classify a position in the exempt class
CVS-01-15-00022-P	01/07/16	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-01-15-00023-P	01/07/16	Jurisdictional Classification	To classify a position in the non-competitive class
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-02-14-00003-P	01/15/15	Privileged Correspondence	Add the definition for "Rape Crisis Program"
CCS-02-14-00004-P	01/15/15	Inmate Telephone Calls	Add the provision that an inmate may add attorney or DOH approved Rape Crisis Program to their telephone list
CCS-41-14-00007-P	10/15/15	Monterey Correctional Facility (CF), Chateaugay CF, Mt. McGregor CF, Butler CF	To remove references to Correctional Facilities that are no longer in operation
<b>ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>			
EDV-46-14-00001-EP	11/19/15	Empire State Musical and Theatrical Production Tax Credit Program	Establish application procedures for the Empire State Musical and Theatrical Production Tax Credit Program
<b>EDUCATION DEPARTMENT</b>			
EDU-08-14-00020-P	02/26/15	Hearings on charges of tenured school employees	To allow, under certain circumstances, tenured teachers and principals to raise as a defense in a section 3020-a hearing that their school district failed to timely implement the Common Core in the 2012-2013 and/or 2013-2014 school years
EDU-19-14-00009-P	05/14/15	Mandatory reporting of information regarding possession, sale, use or manufacture of illegal drugs on school property/functions	To establish a mandatory reporting requirement for school personnel, sanctions for noncompliance, and protection for school personnel who report
EDU-27-14-00013-EP	07/09/15	Elementary and Secondary Education Act (ESEA) Flexibility and school and school district accountability	Conform regulations to State's ESEA Flexibility Waiver Renewal with respect to school and district removal criteria
EDU-44-14-00019-EP	11/05/15	New York State Common Core Learning Standards (CCLS)	To provide additional opportunities for students to meet diploma requirements by passing either the Regents Comprehensive Examination in English or the Common Core ELA examination at the January 2015, June 2015 and August 2015 test administrations

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>EDUCATION DEPARTMENT</b>			
EDU-44-14-00024-EP	11/05/15	Duration of competition in high school athletics	Clarifies when a student's eligibility for senior high school athletic competition may be extended for illness or accident
EDU-44-14-00025-P	11/05/15	Pathways to Graduation	To establish criteria for multiple, comparably rigorous assessment pathways for high school graduation and college and career readiness and prescribe new unit of credit and examination requirements for social studies
EDU-44-14-00026-EP	11/05/15	Appeals process on Regents exams passing score for English Language Learners (ELLs)	Allow ELLs who enter the United States in 9th grade or above in the 2010-11 school year and thereafter to graduate with a Local Diploma if they score between 55-61 on the Regents Exam in English and meet all other conditions for appeal of a Regents score
EDU-44-14-00027-P	11/05/15	Elementary and Secondary Education Act (ESEA) Flexibility and school and school district accountability	To provide flexibility to LEAs in the administration of Regents mathematics examinations (Common Core) students in grades 7-8
EDU-48-14-00007-ERP	12/03/15	New York State Common Core Learning Standards (CCLS) in mathematics	To provide additional flexibility in the transition to the Common Core-aligned Regents Examination in Algebra 1
EDU-48-14-00008-P	12/03/15	Field tests for State assessments, alternate assessments and Regents examinations	To clarify that school districts must administer field tests in the schools for which they are assigned
EDU-48-14-00009-P	12/03/15	Professional development requirements for teachers, level III teaching assistants and administrators	To establish professional development requirements for teachers, holders of a level III teaching assistant certificate, and administrators, in language acquisition that specifically addresses the needs of students who are English Language Learners (ELLs)
EDU-52-14-00012-P	12/31/15	Local high school equivalency diplomas based upon experimental programs	To extend until 6/30/17 the provision for awarding local high school equivalency diplomas based upon experimental programs
EDU-52-14-00014-EP	12/31/15	Determination of student residency	Clarify requirements on student enrollment, particularly as to procedures for unaccompanied minors and other undocumented youth
EDU-52-14-00015-EP	12/31/15	Profession of Applied Behavior Analysis	To implement Chapter 554 of the Laws of 2013 and Chapter 8 of the Laws of 2014
EDU-52-14-00028-P	12/31/15	Certification requirements for teaching assistants	To provide extensions in one year increments on the validity of a Level II teaching assistant certificate for candidates pursuing citizenship; define "school year"; and eliminate the words "without fee" in the definition of internship certificate
EDU-01-15-00011-P	01/07/16	Epinephrine auto-injectors	Prescribe standards for provision, maintenance, and administration of epinephrine auto-injectors in the event of an emergency

**ENVIRONMENTAL CONSERVATION, DEPARTMENT OF**

ENV-37-13-00005-RP	01/28/15	Liquefied Natural Gas (LNG)	To establish criteria for the siting of and to require DEC permits for LNG facilities per ECL Article 23, Title 17
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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
ENV-31-14-00006-P	10/14/15	Petroleum Bulk Storage (PBS) and Used Oil Management	To harmonize existing State requirements with overlapping Federal requirements
ENV-31-14-00007-P	10/14/15	Chemical Bulk Storage	To amend existing CBS rule to be at least as stringent as EPA federal rule (40 CFR 280) and include NYS 2008 statutory changes
ENV-41-14-00003-P	10/15/15	Sportfish activities and associated activities	To revise sportfishing regulations & associated activities including the commercial collection, sale and use of baitfish
ENV-46-14-00002-EP	11/19/15	To amend part 189 related to the discovery of chronic wasting disease in deer in Ohio	To prevent importation of chronic wasting disease infectious material from the State of Ohio into New York
ENV-47-14-00001-P	11/26/15	The management of coastal sharks	Make state regulations consistent with federal rules and maintain compliance with the ASMFC Interstate FMP for Coastal Sharks
ENV-48-14-00005-P	01/27/16	Water quality standards for Class I and Class SD waters in New York City and Suffolk County	To amend New York's water quality standards for Class I and Class SD waters to meet the "swimmable" goal of the Clean Water Act
ENV-52-14-00027-P	02/09/16	The control of criteria air contaminants and toxic air contaminants from general process air pollution sources	To clearly define the federal and state requirements of the existing Part 212 rule, General Process Emission Sources
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
DFS-29-14-00003-P	07/23/15	Arbitration	To revise the fee structure awarded to attorneys who prevail in no-fault disputes on behalf of applicants
DFS-29-14-00014-P	07/23/15	Title insurance agents, affiliated relationships, and title insurance business	To implement requirements of Chapter 57 of Laws of NY 2014 re: title insurance agents and placement of title insurance business
DFS-29-14-00015-P	07/23/15	Regulation of the conduct of virtual currency businesses	Regulate retail-facing virtual currency business activity in order to protect New York consumers and users and ensure the safety and soundness of New York licensed providers of virtual currency products and services
DFS-44-14-00003-P	11/05/15	Replacement of life insurance policies and annuity contracts	To allow immediate binding of coverage; reduce wait time to obtain new coverage; minimize need for revised disclosure statements
DFS-46-14-00013-P	11/19/15	Reports to Central Organization	To remove an outdated references to "PILR" in the title of section 62-2.2
DFS-52-14-00009-P	12/31/15	Independent Dispute Resolution for Emergency Services and Surprise Bills	To establish a dispute resolution process and standards for that process
<b>GAMING COMMISSION, NEW YORK STATE</b>			
SGC-49-13-00009-RP	01/21/15	Per Se regulatory standardbred threshold and restricted time period for clenbuterol	To enhance the integrity and safety of standardbred horse racing with new clenbuterol rules

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>GAMING COMMISSION, NEW YORK STATE</b>			
SGC-49-13-00010-P	01/21/15	Per Se regulatory standardbred threshold limited to 24 drugs, special corticosteroid rules	To enhance the integrity and safety of standardbred horse racing by limiting standardbred equine drugs
SGC-49-13-00011-P	01/21/15	Per Se regulatory standardbred thresholds for equine drugs	To enhance the integrity and safety of standardbred horse racing by adopting permissive thresholds for 16 accepted medications
SGC-49-13-00012-P	01/21/15	Per Se regulatory standardbred threshold and restricted time period for betamethasone and triamcinolone acetonide	To enhance the integrity and safety of standardbred horse racing with new corticosteroid rules
SGC-49-13-00013-P	01/21/15	Per Se regulatory standardbred threshold and restricted time period for dexamethasone and prednisolone	To enhance the integrity and safety of standardbred horse racing with new corticosteroid rules
SGC-49-13-00014-P	01/21/15	This proposal would limit the use of the corticosteroid methylprednisolone acetate (e.g., Depo Medrol) in standardbred racing	To enhance the integrity and safety of standardbred horse racing with new corticosteroid rules
SGC-49-13-00015-P	01/21/15	Per Se regulatory standardbred threshold and restricted time period for flunixin	To enhance the integrity and safety of standardbred horse racing with new flunixin equine drug rules
SGC-49-13-00016-P	01/21/15	Per Se regulatory standardbred threshold and restricted time period for various drugs	To enhance the integrity and efficiency of standardbred horse racing with new equine drug rules
SGC-49-13-00017-P	01/21/15	Restricted time period for standardbred firocoxib use	To enhance the integrity and safety of standardbred horse racing with a firocoxib equine drug rules
SGC-49-13-00018-P	01/21/15	Per Se regulatory standardbred threshold and restricted time period for DMSO	To enhance the integrity and safety of standardbred horse racing with new DMSO equine drug rules
SGC-49-13-00023-P	01/21/15	Restricted time period for administrations of unspecified corticosteroids to thoroughbred horses	To enhance the integrity and safety of thoroughbred horse racing
SGC-28-14-00006-EP	07/16/15	Implementation of rules pertaining to gaming facility request for application and gaming facility license application	To facilitate a fair and transparent process for applying for a license to operate a gaming facility
SGC-37-14-00005-P	09/17/15	Restrictions on the use of clenbuterol in standardbred racing	To enhance the integrity and safety of standardbred horse racing
SGC-37-14-00007-P	09/17/15	Reporting of standardbred corticosteroid joint injections to the Commission	To enhance the integrity and safety of standardbred horse racing
<b>GENERAL SERVICES, OFFICE OF</b>			
GNS-33-14-00004-EP	08/20/15	Service-Disabled Veteran-Owned Business Enterprises	to establish standards, procedures and criteria with respect to the Service-Disabled Veteran-Owned Business Enterprise program
GNS-36-14-00001-P	09/10/15	Procurement of New York State food products	To provide guidance to State Agencies as to how they procure food

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
*HLT-14-94-00006-P	..... exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
HLT-08-14-00001-RP	..... 02/26/15	Physician Assistants and Specialist Assistants	Allows LPAs to prescribe controlled substances (including Schedule II) to patients under the care of the supervising physician
HLT-28-14-00008-P	..... 07/16/15	Immediate Needs for Personal Care Services	To provide for meeting the immediate needs of Medicaid applicants and recipients for personal care services
HLT-28-14-00015-ERP	..... 07/16/15	Rate Rationalization – Intermediate Care Facilities for Persons with Developmental Disabilities	To amend the new rate methodology effective July 1, 2014
HLT-28-14-00016-ERP	..... 07/16/15	Rate Rationalization for Community Residences/Individualized Residential Alternatives Habilitation and Day Habilitation	To amend the new rate methodology effective July 1, 2014
HLT-29-14-00013-P	..... 07/23/15	Amendment of Certificate of Need (CON) Applications	To eliminate requirement for Public Health & Health Planning Council review of certain types of amendments to CON applications
HLT-31-14-00002-P	..... 08/06/15	Outpatient Services Licensed Under the Mental Hygiene Law	Creates methodology for adjusting provider reimbursement in OPWDD, OHM & OASAS certified clinics based on annual patient visits
HLT-32-14-00001-P	..... 08/13/15	Blood Banks	Update practice standards, reflect changes and provide clarification of reg. provisions for blood banks and transfusion services
HLT-35-14-00002-P	..... 09/03/15	Statewide Health Information Network for New York (SHIN-NY)	To promulgate regulations, consistent with federal law and policies, that govern the Statewide Health Information Network for NY
HLT-36-14-00012-P	..... 09/10/15	Personal Care Services Program (PCSP) and Consumer Directed Personal Assistance Program (CDPAP)	To establish definitions, criteria and requirements associated with the provision of continuous PC and continuous CDPA services
HLT-37-14-00003-P	..... 09/17/15	Emergency Medical Services	To clarify terminology, eliminate vagueness, address legal statutes/crimes & incorp. modern professional, ethical & moral standards
HLT-39-14-00018-P	..... 10/01/15	Medical Records Access Review Committees (MRARCs)	To designate rather than appoint MRARCs to hear appeals from the denial of access to patient information
HLT-40-14-00016-P	..... 10/08/15	Inpatient Rate for Language Assistance Services	To establish hospital inpatient payment rate to reimburse hospitals for the costs of providing language interpretation services
HLT-40-14-00017-P	..... 10/08/15	Nursing Home (NH) Transfer and Discharge Rights	To clarify requirements governing NH transfers and discharges so that facilities will uniformly comply with federal regulations
HLT-40-14-00018-P	..... 10/08/15	Managed Care Organizations	To lower the contingent reserve requirement applied to the Medicaid Managed Care, Family Health Plus & HIV SNP Programs
HLT-41-14-00002-P	..... 10/15/15	Certificate of Need (CON) Requirements	Simplify CON review requirements for projects involving nonclinical infrastructure, equipment replacement & repair & maintenance

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-42-14-00001-P	10/22/15	Audited Financial Statements for Managed Care Organizations	To extend audit and reporting standards to all managed care organizations (MCOs), including PHSPs, HIV SNPs and MLTCPs
HLT-43-14-00001-P	10/29/15	Hospital Observation Services	To amend current observation services provisions to be in compliance with changes in Public Health Law, Section 2805-v
HLT-50-14-00001-P	12/17/15	Transgender Related Care and Services	To authorize Medicaid coverage for transgender related care and services
HLT-52-14-00013-P	12/31/15	Medical Use of Marihuana	To comprehensively regulate the manufacture, sale and use of medical marihuana
<b>HIGHER EDUCATION SERVICES CORPORATION</b>			
ESC-52-14-00016-P	12/31/15	Default fee	To repeal section 2101.5 of Title 8 of the NYCRR as obsolete
ESC-52-14-00017-P	12/31/15	New York State Math and Science Teaching Incentive Program	To delete an outdated and incorrect reference
ESC-52-14-00018-P	12/31/15	Volunteer Recruitment Service Scholarships Program	To repeal section 2201.11 of Title 8 of the NYCRR as obsolete
ESC-01-15-00003-P	01/07/16	Adjustments to income	To delete incorrect references
<b>LIQUOR AUTHORITY, STATE</b>			
LQR-02-15-00002-P	03/09/16	Signage, Services and Gifts to Retailers	To enact business friendly amendments; eliminate interior sign restrictions; and increase annual dollar limits for advertising
<b>LONG ISLAND POWER AUTHORITY</b>			
*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-02-15-00006-P	exempt	The provisions of LIPA's Tariff for adjustment to rates and changes of service classifications	To modify and add to the Tariff in order to implement revenue-neutral changes required to maintain the 3-year LIPA rate freeze
<b>MENTAL HEALTH, OFFICE OF</b>			
OMH-38-14-00001-P	09/24/15	Telepsychiatry services in OMH-licensed clinics	Establish basic standards and parameters to approve telepsychiatry in OMH-licensed clinic programs choosing to offer this service
OMH-46-14-00005-EP	11/19/15	Vital Access Program and Providers	To establish a process by which providers may be designated as Vital Access Providers to receive supplemental funding



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>MENTAL HEALTH, OFFICE OF</b>			
OMH-47-14-00011-P	11/26/15	Medical Assistance Rates of Payment for Residential Treatment Facilities for Children and Youth	Elimination of trend factor effective July 1, 2014
OMH-02-15-00003-P	01/14/16	Clinic Treatment Programs	Amend reimbursement structure for delivery of psychotherapy services; eliminate utilization threshold for court-mandated svcs
<b>MOTOR VEHICLES, DEPARTMENT OF</b>			
MTV-01-14-00006-P	01/08/15	Personalized plates for historical motor vehicles	To permit the issuance of personalized plates to persons who own historical motor vehicles
MTV-48-14-00006-P	12/03/15	Relicensing after revocation	To clarify and strengthen criteria relative to relicensing after revocation
MTV-51-14-00001-P	12/24/15	Colored lights on fire vehicles, ambulances, emergency ambulance service vehicles and county emergency medical service vehicles	To make a technical correction to align the regulation with the statute
<b>NIAGARA FALLS WATER BOARD</b>			
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
<b>PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR</b>			
PDD-46-14-00003-EP	01/06/16	Amendments to Rate Setting Methodology: Rates for Residential Habilitation Delivered in IRAs and CRs and for Day Habilitation	To amend the new rate setting methodology effective July 2014
PDD-46-14-00004-EP	11/19/15	Amendment to Rate Setting for Non-State Providers: Intermediate Care Facilities for Persons with Developmental Disabilities	To amend the new rate setting methodology effective July 2014
PDD-02-15-00007-EP	03/08/16	Direct Care and Clinical Compensation Payments	To amend rate-setting for eligible services in order to implement increases in direct care and clinical compensation
PDD-02-15-00008-EP	03/02/16	Updates to SSI offset and SNAP benefit offset	To adjust reimbursement to affected providers for rent and food costs
<b>POWER AUTHORITY OF THE STATE OF NEW YORK</b>			
*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-01-15-00012-P	exempt	Rates for the Sale of Power and Energy	To recover the Authority's Fixed Costs
PAS-01-15-00013-P	exempt	Rates for the Sale of Power and Energy	To align rates and costs

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-28-97-00032-P	..... exempt	General service by Central Hudson Gas & Electric Corporation	To limit certain special provisions
*PSC-34-97-00009-P	..... exempt	Collection agency fees by Consolidated Edison Company of New York, Inc.	To pass collection agency fees on to the customer
*PSC-04-98-00015-P	..... exempt	Interconnection service overcharges by Niagara Mohawk Power Corporation	To consider a complaint by Azure Mountain Power Co.
*PSC-19-98-00008-P	..... exempt	Call forwarding by CPU Industries Inc./MKL Net, et al.	To rehear the petition
*PSC-02-99-00006-EP	..... exempt	Intralata freeze plan by New York Telephone Company	To approve the plan
*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
*PSC-50-99-00009-P	..... exempt	Retail access uniform business practices by The Brooklyn Union Gas Company and KeySpan Gas East Corporation d/b/a Brooklyn Union of Long Island	To approve a joint petition requesting a waiver extension of a requirement set forth in the commission's order
*PSC-52-99-00006-P	..... exempt	Wide area rate center calling	To implement number conservation measures
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-14-00-00004-EP	..... exempt	NXX code in the 716 NPA by Broadview Networks	To assign an NXX code in Buffalo
*PSC-14-00-00026-P	..... exempt	Interconnection agreement between New York Telephone Company d/b/a Bell Atlantic-New York and Media Log, Inc.	To review the terms and conditions of the negotiated agreement
*PSC-14-00-00027-P	..... exempt	Interconnection agreement between New York Telephone Company d/b/a Bell Atlantic-New York and Pilgrim Telephone, Inc.	To review the terms and conditions of the negotiated agreement
*PSC-14-00-00029-P	..... exempt	Interconnection agreement between New York Telephone Company d/b/a Bell Atlantic-New York and CoreComm New York, Inc.	To review the terms and conditions of the negotiated agreement
*PSC-16-00-00012-P	..... exempt	Termination of local telecommunications traffic by Hyperion Communications of New York, Inc.	To determine appropriate compensation levels
*PSC-21-00-00007-P	..... exempt	Initial tariff schedule by Drew Road Association	To set forth the rates, charges, rules and regulations
*PSC-31-00-00026-P	..... exempt	Water service by Windover Water Works	To abandon the water system
*PSC-33-00-00010-P	..... exempt	Electric rate and restructuring plan by Rochester Gas and Electric Corporation	To evaluate possible modifications
*PSC-36-00-00039-P	..... exempt	Steam increase by Consolidated Edison Company of New York, Inc.	To provide for an annual increase in the first year of a proposed four-year rate plan

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-37-00-00001-EP	..... exempt	Interruptible gas customers	To ensure customers have an adequate supply of alternative fuel available
*PSC-39-00-00004-P	..... exempt	Blockable central office codes by PaeTec Communications, Inc.	To review the commission's requirements for assignment of numbering resources
*PSC-44-00-00014-P	..... exempt	Recovery of costs through adjustment mechanisms by Consolidated Edison Company of New York, Inc.	To permit the recovery of certain costs
*PSC-49-00-00007-P	..... exempt	Gas sales and purchases by Corning Natural Gas Corporation	To determine whether certain gas sales and purchases were in the public interest and whether customers should bear the resulting costs
*PSC-01-01-00023-P	..... exempt	Installation, maintenance and ownership of service laterals by Rochester Gas and Electric Corporation	To update and clarify the provisions
*PSC-06-01-00009-P	..... exempt	Uniform system of accounts by Rochester Gas and Electric Corporation	To defer an item of expense beyond the end of the year in which it was incurred
*PSC-13-01-00001-P	..... exempt	Request for accounting authorization by Rochester Gas and Electric Corporation	To defer an item of expense beyond the end of the year in which it was incurred
*PSC-13-01-00002-P	..... exempt	Request for accounting authorization by Rochester Gas and Electric Corporation	To defer an item of expense beyond the end of the year in which it was incurred
*PSC-13-01-00003-P	..... exempt	Request for accounting authorization by Rochester Gas and Electric Corporation	To defer an item of expense beyond the end of the year in which it was incurred
*PSC-15-01-00012-P	..... exempt	Transfer of a controlling leasehold interest by Huntley Power LLC	To approve the transfer
*PSC-22-01-00006-P	..... exempt	Con Edison's phase 4 plan for retail access by AES Energy, Inc.	To review the request for rehearing
*PSC-26-01-00012-P	..... exempt	Interconnection of networks between Sprint PCS and Verizon New York Inc.	To review the terms and conditions of the negotiated agreement
*PSC-36-01-00010-P	..... exempt	Competitive metering by eBidenergy.com	To clarify meter ownership rules and requirements
*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-01-02-00007-P	..... exempt	Accounting and rate treatment of proceeds by Consolidated Edison Company of New York, Inc.	To consider proceeds from sale of nuclear generating facilities
*PSC-05-02-00005-P	..... exempt	Uniform system of accounts by Consolidated Edison Company of New York, Inc.	To defer expenditures incurred in connection with emergency response services affected by the World Trade Center disaster
*PSC-06-02-00015-P	..... exempt	Network reliability performance mechanism by Consolidated Edison Company of New York, Inc.	To earn rewards for meeting the targets of the network reliability performance mechanism
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-29-02-00014-P	..... exempt	Financing by Valley Energy, Inc.	To issue a note and allocate costs

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-49-02-00021-P	..... exempt	Requests for lightened regulation by PSEG Power Bellport, LLC	To consider the company's request
*PSC-08-03-00009-P	..... exempt	Provision of gas service to World Kitchen Incorporated	To establish terms and conditions
*PSC-09-03-00012-P	..... exempt	Incremental service line installations by New York State Electric & Gas Corporation	To revise the current flat rate per foot charged
*PSC-09-03-00014-P	..... exempt	Deferral accounting by Consolidated Edison Company of New York, Inc. and Orange and Rockland Utilities, Inc.	To defer expense items beyond the end of the year(s) in which they were incurred
*PSC-11-03-00012-P	..... exempt	Economic development plan by New York State Electric & Gas Corporation	To consider the plan
*PSC-18-03-00004-P	..... exempt	Lightened regulation by East Hampton Power and Light Corporation (EHPLC)	To provide for lightened regulation and grant financing approval
*PSC-22-03-00020-P	..... exempt	Inter-departmental gas pricing by Consolidated Edison Company of New York, Inc.	To revise the method used in steam and steam-electric generating stations
*PSC-32-03-00020-P	..... exempt	Issuance of debt and approval of surcharge by Rainbow Water Company	To approve necessary financing
*PSC-34-03-00019-P	..... exempt	Issuance of securities by KeySpan East Corporation d/b/a KeySpan Energy Delivery Long Island	To obtain authorization to issue securities
*PSC-35-03-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and MCIMetro Access Transmission Services LLC	To amend the agreement
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-39-03-00013-P	..... exempt	Complaint by State University of New York (SUNY) regarding a NYSEG operating agreement	To consider the complaint
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00008-P	..... exempt	Lightened regulation by Sterling Power Partners, L.P.	To consider granting lightened regulation
*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-42-03-00005-P	..... exempt	Interest rate by the Bath Electric, Gas, and Water Systems	To use an alternate interest rate
*PSC-43-03-00036-P	..... exempt	Merchant function backout credit and transition balancing account by KeySpan Gas East Corporation	To continue the credit and account until May 31, 2005

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-43-03-00037-P	..... exempt	Merchant function backout credit and transition balancing account by The Brooklyn Union Gas Company	To continue the credit and account until May 31, 2005
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-47-03-00024-P	..... exempt	Lightened regulation and financing approval by Medford Energy LLC	To consider the requests
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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-39-06-00018-P	..... exempt	Order establishing rate plan by Central Hudson Gas & Electric Corporation and the Consumer Protection Board	To consider the petitions for rehearing
*PSC-39-06-00019-P	..... exempt	Investigation of Richard M. Osborne by Corning Natural Gas Corporation	To determine the interests, plans and commitments that will be in place if he is successful in blocking the merger of Corning Gas and C&T Enterprises
*PSC-39-06-00022-P	..... exempt	Uniform business practices and related matters by U.S. Energy Savings Corporation	To establish a contest period
*PSC-40-06-00005-P	..... exempt	Orion Integral automatic meter reading transmitter by New York State Electric and Gas Corporation	To permit gas utilities in NYS to use the Badger Meter Incorporated Orion Integral transmitters
*PSC-42-06-00011-P	..... exempt	Submetering of electricity by 225 5th LLC	To submeter electricity at 255 Fifth Ave., New York, NY
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-44-06-00014-P	..... exempt	Electric power outages in Northwest Queens by Consolidated Edison Company of New York, Inc.	To review the terms and conditions of the agreement
*PSC-45-06-00007-P	..... exempt	Alleged failure to provide electricity by Robert Andrews	To assess validity of allegations and appropriateness of fines
*PSC-01-07-00031-P	..... exempt	Enforcement mechanisms by National Fuel Gas Distribution Corporation	To modify enforcement mechanisms
*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
*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



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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.
*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-23-08-00009-P	..... exempt	The transfer of certain real property with an original cost under \$100,000 in the Town of Throop	To consider the filing for the transfer of certain real property in the Town of Throop
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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-29-09-00006-P	..... exempt	Petition for the submetering of electricity at a residential senior citizen facility	To consider the request of Shinda Management Corp. to submeter electricity at 107-37 166th Street, Jamaica, New York
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-30-09-00010-P	..... exempt	Additional funding for interim gas energy efficiency programs currently being implemented by Niagara Mohawk	To fund the continued operation of Niagara Mohawk's interim gas energy efficiency programs through October 31, 2009
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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
*PSC-08-10-00009-P	..... exempt	Consolidated Edison of New York, Inc. energy efficiency programs	To modify approved energy efficiency programs
*PSC-11-10-00011-P	..... exempt	Niagara Mohawk's EEPS "Fast Track" Residential Electric HVAC Program	To encourage cost effective electric energy conservation in the State
*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

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<b>PUBLIC SERVICE COMMISSION</b>			
*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-25-10-00015-P	..... exempt	To allow NYWC to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2009	Consideration of NYWC's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2009
*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-31-10-00007-P	..... exempt	Waiver of the Attachment 23 requirement in 2001 Rate Order that NMPC Board of Directors consist of "outside directors"	To consider the waiver of the requirement that a majority of NMPC Board of directors consist of "outside directors"
*PSC-31-10-00008-P	..... exempt	KEDNY's Interim Low Income Energy Efficiency Program	Consideration of KEDNY's request for approval of costs related to large multifamily energy efficiency services
*PSC-31-10-00009-P	..... exempt	KEDLI's Interim Low Income Energy Efficiency Program	Consideration of KEDLI's request for approval of costs related to low income large multifamily energy efficiency services
*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
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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-50-10-00005-P	..... exempt	Metered gas deliveries and lost and unaccounted for gas	To allow BEGWS to recover a refund from Corning for overcharges of gas deliveries
*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-12-11-00008-P	..... exempt	To allow NYWC to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2010	Consideration of NYWC's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2010
*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-13-11-00007-P	..... exempt	Budget allocations and use of System Benefits Charge funds to pay State Cost Recovery Fee	To encourage cost effective gas and electric energy conservation in the State
*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-16-11-00010-P	..... exempt	The Energy Efficiency Portfolio Standard	To promote gas and electricity energy conservation programs in New York
*PSC-16-11-00011-P	..... exempt	The Energy Efficiency Portfolio Standard	To promote gas and electricity energy conservation programs in 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
*PSC-23-11-00018-P	..... exempt	NYSERDA's energy efficiency program for low-income customers	To promote energy conservation in New York State



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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-33-11-00017-P	..... exempt	Petition for the submetering of electricity	To consider the request of 56-7th Avenue LLC to submeter electricity at 56-7th Avenue, New York, New York
*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-51-11-00010-P	..... exempt	The Total Resource Cost (TRC) test, used to analyze measures in the Energy Efficiency Portfolio Standard program	Petitioners request that the TRC test and/or its application to measures should be revised

## Action Pending Index

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-52-11-00017-P	..... exempt	Reparations and refunds	Reparations and refunds
*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
*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-17-12-00007-P	..... exempt	Whether a proposed agreement for the provision of water service by Saratoga Water Services, Inc. is in the public interest	Whether the Commission should issue an order approving the proposed provision of water service
*PSC-17-12-00008-P	..... exempt	Whether a proposed agreement for the provision of water service by Saratoga Water Services, Inc. is in the public interest	Whether the Commission should issue an order approving the proposed provision of water service
*PSC-17-12-00009-P	..... exempt	Whether a proposed agreement for the provision of water service by Saratoga Water Services, Inc. is in the public interest	Whether the Commission should issue an order approving the proposed provision of water service
*PSC-17-12-00015-P	..... exempt	Whether a proposed agreement for the provision of water service by Saratoga Water Services, Inc. is in the public interest	Whether the Commission should issue an order approving the proposed provision of water service
*PSC-19-12-00019-P	..... exempt	EEPS programs administered by New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation	To modify the C&I sector by combining multiple approved C&I programs into a single C&I program for each PA
*PSC-19-12-00022-P	..... exempt	Approval of a combined heat and power performance program funding plan administered by NYSERDA	Modify NYSERDA's EEPS programs budget and targets to fund the CHP program
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-23-12-00005-P	..... exempt	EEPS multifamily programs administered by Consolidated Edison Company of New York, Inc.	To redesign the multifamily electric and gas programs and modify the budgets and targets
*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-35-12-00014-P	..... exempt	To implement an abandonment of White Knight's water system	To approve the implementation of abandonment of White Knight's water system
*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-42-12-00007-P	..... exempt	Petition for the submetering of electricity	To consider the request of 215 West 91st Street Corp. to submeter electricity at 215 West 91st Street, New York, New York
*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
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-14-13-00005-P	..... exempt	Recovery of incremental expense.	To consider petition for recovery of incremental expense.
PSC-17-13-00008-P	..... exempt	Provision of historical utility pricing information for comparison purposes for residential ESCO customers	Provision of historical utility pricing information for comparison purposes for residential ESCO customers
PSC-17-13-00010-P	..... exempt	Provision of historical pricing information for comparison purposes for residential ESCO customers	Provision of historical pricing information for comparison purposes for residential ESCO customers
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-20-13-00008-P	..... exempt	Relief of the exhausting 315 Area Code	To reinstate the relief process for the 315 area code region beyond 2015
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
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-24-13-00009-P	..... exempt	Repowering options for the Cayuga generating station located in Lansing, New York, and alternatives	To establish whether utility plans should include repowering options for the Cayuga generating station, or other alternatives
PSC-24-13-00010-P	..... exempt	Repowering options for the Dunkirk generating station located in Dunkirk, New York, and alternatives	To establish whether utility plans should include repowering options for the Dunkirk generating station, or other alternatives
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-25-13-00011-P	..... exempt	Waiver of certain Commission requirements related to provision of customer information to credit reporting agencies.	To waive a utility's right to provide information to credit reporting agencies related to customers' payment histories.
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-32-13-00010-P	..... exempt	Permission to write off and eliminate record keeping for regulatory reserves for Pensions and Other Post Retirement Benefits	To allow write off and eliminate record keeping of Pension and Other Post Retirement Benefits Reserves
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

## Action Pending Index

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-37-13-00007-P	..... exempt	Dissolution of Garrow Water Works Company, Inc..	To allow for the dissolution of Garrow Water Works Company, Inc.
PSC-39-13-00010-P	..... exempt	NY-Sun initiative within the Customer-Sited Tier of the RPS Program.	To increase the statewide adoption of customer sited photovoltaic solar generation through the NY-Sun Initiative.
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.
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-46-13-00007-P	..... exempt	Whether to permit the use of the GE/Dresser ES3 Index Assembly for use in commercial and industrial gas meter applications.	To permit gas utilities in New York State to use the GE/Dresser ES3 Index Assembly.
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-01-14-00017-P	..... exempt	Residential Time-of-Use Rates	To establish residential optional time of use delivery and commodity rates
PSC-03-14-00009-P	..... exempt	disposition of tax refunds and other related matters	to determine the disposition of tax refunds and other related matters
PSC-04-14-00005-P	..... exempt	National Fuel Gas Corporation's Conservation Incentive Programs.	To modify National Fuel Gas Corporation's Non-Residential Conservation Incentive Program.
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 HDFC, 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
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-11-14-00004-P	..... exempt	Petition for submetering of electricity	To consider the request of Plaza Athenee Hotel Company Limited to submeter electricity at 35 East 64th Street, New York, NY
PSC-12-14-00007-P	..... exempt	Transfer of water supply assets.	Transfer the water supply assets of Yellow Barn Water Company, Inc. to the Town of Dryden.
PSC-14-14-00016-P	..... exempt	Whether to permit the use of the Leviton Series 8000 electric submeter.	Pursuant to 16 NYCRR Parts 93 and 96, is necessary to permit the use of the Leviton Series 8000 electric submeter.
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-16-14-00016-P	..... exempt	Waiver of Commission regulations governing termination of service.	Consider United Water New York Inc.'s proposal to expand termination of service provisions.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-17-14-00005-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-17-14-00006-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-18-14-00007-P	..... exempt	Petition for submetering of electricity.	To consider the request of EBNB 70 Pine Owner LLC to submeter electricity at 70 Pine Street, New York, New York.
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-19-14-00018-P	..... exempt	Uniform System of Accounts, deferral of an expense item	Authorization of a deferral for an expense item beyond the end of the year in which it was incurred
PSC-20-14-00011-P	..... exempt	Petitioners request an order approving enhanced benefits under the Renewable Portfolio Standard Program.	To enable continued operation of a 51 MW biomass fueled electric generating facility in Niagara Falls, New York.
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-23-14-00012-P	..... exempt	Whether to permit the use of the Elster Instromet Q.Sonic Plus Ultrasonic meter for use in industrial gas meter applications	To permit gas utilities in New York State to use the Elster Instromet Q.Sonic Plus Ultrasonic 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-24-14-00004-P	..... exempt	Approval of asset transfer.	To allow or disallow transfer of assets from Heritage Hills Water Works Corp. to Community Utilities of New York, Inc.
PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-25-14-00012-P	..... exempt	The inclusion of certain New York Power Authority (NYPA) municipal customers in the SBC and RPS programs	To establish whether certain NYPA municipal customers should be included in the SBC and RPS programs
PSC-25-14-00014-P	..... exempt	Whether to permit the use of the SATEC Branch Feeder Monitor BFM-136 electric submeter	Pursuant to 16 NYCRR Parts 93 and 96, is necessary to permit the use of the SATEC Branch Feeder Monitor BFM electric submeter
PSC-25-14-00015-P	..... exempt	Surcharges related to the System Benefits Charge, Energy Efficiency Portfolio Standard, Retail Renewable Portfolio Standard	To reduce the public benefit surcharge applicable to large industrial, commercial and institutional energy consumers
PSC-26-14-00010-P	..... exempt	Petitioner requests an order authorizing its participation in the next Main Tier solicitation offered under the RPS Program.	To enable continued operation of a 21 MW biomass fueled electric generating facility in Chateaugay, New York.
PSC-26-14-00012-P	..... exempt	The Commission's framework for regulating utilities and methods of ratemaking will be revised.	To allow energy efficiency and other distributed resources to take a primary role in the planning and operation of the grid.
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-26-14-00014-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-26-14-00015-P	..... exempt	Whether to order natural gas distribution companies to expand their public education programs.	To improve gas safety by ordering natural gas distribution companies to expand their public education programs.
PSC-26-14-00016-P	..... exempt	The Commission's regulatory framework will be revised to create a flexible platform for new energy products and services.	To allow energy efficiency and other distributed resources to take a primary role in the planning and operation of the grid.
PSC-26-14-00017-P	..... exempt	Existing ratemaking and rate design practices will be revised with a focus on outcomes and incentives.	To use the Commission's ratemaking authority to foster a DER-intensive system.
PSC-26-14-00018-P	..... exempt	Rules regarding ownership and/or operation of the DSPPs will be created.	To best enable system-wide efficiency and market-based deployment of distributed energy resources and load management.
PSC-26-14-00019-P	..... exempt	Prohibitions or restrictions regarding the DSPPs ownership of DER will be created.	To protect against abuses associated with imbalances in market power.
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.
PSC-28-14-00011-P	..... exempt	Whether to permit the use of the MiniCloset - 5N Multi Tenant Smart Meter.	Pursuant to 16 NYCRR Parts 93 and 96, it is necessary to permit the use of the MiniCloset - 5N Multi Tenant Smart Meter.
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-29-14-00008-P	..... exempt	To consider a Joint Proposal resolving a dispute	To consider a Joint Proposal that would resolve a dispute regarding gas imbalances
PSC-30-14-00019-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company deferred accounting treatment for expenses related to the change in corporate leadership.
PSC-30-14-00020-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company deferred accounting treatment for expenses related to the change in corporate leadership.
PSC-30-14-00021-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company deferred accounting treatment for expenses related to the change in corporate leadership.
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-30-14-00025-P	..... exempt	Allocation of uncommitted Technology and Market Development Funds to the Combined Heat & Power Performance Program.	To consider allocation of uncommitted Technology & Market Development Funds to the Combined Heat & Power Performance Program.
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-31-14-00003-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s request to retain a portion of a property tax refund
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-32-14-00009-P	..... exempt	Refueling options for the Dunkirk generating station located in Dunkirk, New York, and alternatives	To address the joint petition for rehearing of the Commission's Order related to refueling the Dunkirk generating station
PSC-32-14-00010-P	..... exempt	Petition for rehearing and/or clarification of the Order Establishing Rates, issued in Case 13-W-0295	to consider the petition for rehearing and/or clarification filed by the Municipal Consortium
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-32-14-00013-P	..... exempt	Petition for submetering of electricity	To consider the request of 1 John Street LLC to submeter electricity at 1 John Street, Brooklyn, New York
PSC-32-14-00015-P	..... exempt	Revisions to modify and clarify provisions related to electric generators taking transportation service under SC Nos. 7 and 14	To modify and clarify provisions related to electric generators taking transportation service under SC Nos. 7 and 14
PSC-32-14-00017-P	..... exempt	Transfer of Franchise or stocks and Issuance of Securities	To allow or disallow the merger of United Water Resources and United Water Mid-Atlantic Inc into United Water Works
PSC-32-14-00018-P	..... exempt	Modifications to provisions related to electric generators and cogeneration facilities	Revisions related to electric generators and cogeneration facilities and align KEDNY's tariff provisions with those of KEDLI

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-34-14-00006-P	..... exempt	Authorization of long-term loan	To allow or disallow Forever Wild Water Company to enter into long-term loan agreement.
PSC-34-14-00008-P	..... exempt	Petition for submetering of electricity.	To consider the request of 18 Gramercy Park Condominium to submeter electricity at 18 Gramercy Park, New York, New York.
PSC-34-14-00009-P	..... exempt	Whether to approve the Quadlogic S10N residential submeter.	Approval of the Quadlogic S10N Smart Meter for use in residential electric submetering is required by 16 NYCRR Parts 93 and 96.
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-35-14-00006-P	..... exempt	Minor electric rate filing	For approval to increase annual revenues by about \$135,554 or 27.8%
PSC-35-14-00008-P	..... exempt	Whether to approve, modify or reject in whole or in part an increase in annual revenues of approximately \$264,166 or 25%	Whether to approve, modify or reject in whole or in part an increase in annual revenues of approximately \$264,166 or 25%
PSC-36-14-00008-P	..... exempt	The Commission's regulatory framework will be revised to create a flexible platform for new energy products and services.	To allow energy efficiency and other distributed resources to take a primary role in the planning and operation of the grid.
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-36-14-00010-P	..... exempt	The procurement of Main Tier renewable resources will become the responsibility of the State's electric utilities.	To ensure the development of large-scale renewables in New York State to promote fuel diversity and reduce carbon emissions.
PSC-36-14-00011-P	..... exempt	To defer pension settlement losses associated with retirements in the year ended March 31, 2014.	To resolve the ratemaking of the pension settlement loss.
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-38-14-00006-P	..... exempt	Demand Response Program.	To make revisions to Rider S - Commercial System Relief Program and Rider U - Distribution Load Relief Program.
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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-38-14-00009-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-38-14-00010-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-38-14-00013-P	..... exempt	Communication devices for daily meter reading for gas balancing services.	To allow for the installation of alternative communication devices used for daily meter reading for gas balancing services.
PSC-38-14-00016-P	..... exempt	Communication devices for daily meter reading for gas balancing services.	To allow for the installation of alternative communication devices used for daily meter reading for gas balancing services.
PSC-38-14-00018-P	..... exempt	New electric utility demand response tariffs may be adopted.	To develop mature DER markets by enabling the development and use of DR as an economic system resource.
PSC-38-14-00019-P	..... exempt	Whether to approve, modify or reject in whole or in part an increase in annual revenues of approximately \$18,356 or 17.8%.	Whether to approve, modify or reject in whole or in part an increase in annual revenues of approximately \$18,356 or 17.8%.
PSC-38-14-00020-P	..... exempt	Various tariff revisions to the rates, charges, rules and regulations.	For approval to make various tariff revisions to P.S.C. No. 4 - Steam.
PSC-38-14-00021-P	..... 09/24/15	Service lines, leakage surveys, testing req'ts., MAOP, odorization, 16 NYCRR § § 255.3(29); 255.723; 255.507; 255.619, 255.625.	To align State gas safety rules with federal gas safety requirements.
PSC-39-14-00012-P	..... exempt	Minor electric rate filing.	For approval to increase total annual revenues by about \$300,000 or 8.1%.
PSC-39-14-00014-P	..... exempt	Whether to permit the use of the SATEC EM133 electric submeter.	Pursuant to 16 NYCRR Parts 93 and 96, is necessary to permit the use of the SATEC EM133 electric submeter.
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
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-40-14-00010-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of Kimball Brooklands Corporation to submeter electricity at 1000 Palmer Road, Bronxville , New York.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-41-14-00009-P	..... exempt	Establishment of a Clean Energy Fund and related actions	Consideration of proposal by NYSERDA for the establishment of a Clean Energy Fund and related actions
PSC-41-14-00010-P	..... exempt	Reallocation of EEPS and SBC funds	Consideration of proposal by NYSERDA for reallocation of EEPS and SBC funds
PSC-41-14-00011-P	..... exempt	Establishment of annual collections caps and collection and spending mechanisms as described in the Clean Energy Fund Proposal	Consideration of proposal by NYSERDA for the establishment of annual collections caps and collection and spending mechanisms
PSC-41-14-00012-P	..... exempt	Funding and management of the NY-Sun program as described in the Clean Energy Fund Proposal	Consideration of proposal by NYSERDA for the funding and management of the NY-Sun program
PSC-41-14-00013-P	..... exempt	Funding and management of the New York Green Bank as described in the Clean Energy Fund Proposal and NY Green Bank Petition	Consideration of proposal by NYSERDA for the funding and management of the New York Green Bank
PSC-41-14-00014-P	..... exempt	Funding and management of a Market Development program as described in the Clean Energy Fund Proposal	Consideration of proposal by NYSERDA for the funding and management of a Market Development program
PSC-41-14-00015-P	..... exempt	Funding and management of a Technology and Business Innovation program as described in the Clean Energy Fund Proposal	Consideration of proposal by NYSERDA for the funding and management of a Technology and Business Innovation program
PSC-41-14-00016-P	..... exempt	Inter-carrier telephone service quality standards and metrics	To review recommendations from the Carrier Working Group and incorporate modifications to the existing Guidelines
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-43-14-00004-P	..... exempt	Modification to the Commission's Electric Safety Standards	To consider revisions to the Commission's Electric Safety Standards
PSC-44-14-00020-P	..... exempt	LDC inspection and remediation plans for plastic fusions	Whether to order LDCs to comply with their filed plans that address any safety risks associated with plastic fusions

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-44-14-00021-P	..... exempt	Define incremental cost of gas	To define the incremental cost of gas and to streamline the Definitions and Abbreviations section
PSC-44-14-00022-P	..... exempt	To enter into a loan agreement and to extend the loan surcharge with EFC	To allow Beaver Dam Lake Water Corporation to enter into a loan agreement and to extend the loan surcharge
PSC-44-14-00023-P	..... exempt	Petition for rehearing filed by West Valley Crystal Water Company, Inc. on October 9, 2014	Petition for rehearing filed by West Valley Crystal Water Company, Inc. on October 9, 2014
PSC-45-14-00002-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-45-14-00003-P	..... exempt	Notice of Intent to Submeter electricity	To consider the request of Bedford-Stuyvesant South One LLC to submeter electricity at 27 Albany Avenue, Brooklyn, NY
PSC-45-14-00004-P	..... exempt	Petition for submetering of electricity	To consider the request of C B Frontier LLC, to submeter electricity at 200 East 39th Street, New York, New York
PSC-46-14-00006-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-46-14-00007-P	..... exempt	Modifications to General Rule 17.5 - Requests for Aggregated Company Records.	Modifications to General Rule 17.5 - Requests for Aggregated Company Records.
PSC-46-14-00008-P	..... exempt	Funding and eligibility rules for the Green Bank program as described in the Green Bank Petition.	Consideration of proposal by NYSEDA for the funding and eligibility rule changes for the Green Bank program.
PSC-46-14-00009-P	..... exempt	Continuation of exemptions from standby rates for beneficial forms of distributed generation and small combined heat and power.	To continue the exemptions from standby rates for beneficial forms of distributed generation and small combined heat and power.
PSC-46-14-00010-P	..... exempt	Modifications to General Information Section IV.3(c) - Requests for Aggregated Company Records.	Modifications to General Information Section IV.3(c) - Requests for Aggregated Company Records.
PSC-46-14-00011-P	..... exempt	Disposition of proceeds from sale of headquarters.	To allow or disallow New York American Water Company to use sales proceeds to offset its Revenue and Property Tax Reconciliation
PSC-46-14-00012-P	..... exempt	To consider proposals for changes to the Electronic Data Interchange standards.	To consider proposals for changes to the Electronic Data Interchange standards.
PSC-47-14-00012-P	..... exempt	Consideration of the National Grid Implementation Plan and audit recommendations	To approve, modify or reject, in whole or in part, National Grid's Implementation Plan
PSC-48-14-00010-P	..... exempt	Major gas rate increase filing.	To establish rates and practices for gas service.
PSC-48-14-00011-P	..... exempt	Major electric rate increase filing.	To establish rates and practices for electric service.
PSC-48-14-00012-P	..... exempt	Authority to update its System Improvement Charge (SIC Mechanism).	To allow or disallow New York American Water Company to update its System Improvement Charge (SIC Mechanism).

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-48-14-00013-P	..... exempt	Petition for submetering of electricity.	To consider the request of Albee Tower 1 Owners LLC to submeter electricity at 70 Fleet Street, Brooklyn, New York.
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-49-14-00002-P	..... exempt	Whether to make revisions to Rider S - Commercial System Relief Program and Rider U - Distribution Load Relief Program	Whether to make revisions to Rider S - Commercial System Relief Program and Rider U - Distribution Load Relief Program
PSC-51-14-00005-P	..... exempt	Petitioner requests an order modifying its existing maintenance tier contract offered under the RPS Program	To resume operation of a 21 MW biomass fueled electric generating facility in Chateaugay, New York
PSC-51-14-00006-P	..... exempt	The Northeast Power Coordinating Council, Inc's A-Criteria documents and Criteria	To adopt revisions to various rules and measurements of the Northeast Power Coordinating Council, Inc.
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-52-14-00020-P	..... exempt	The New York State Reliability Council's establishment of an Installed Reserve Margin of 17.0%.	To adopt an Installed Reserve Margin for the Capability Year beginning May 1, 2015, and ending April 30, 2016.
PSC-52-14-00021-P	..... exempt	Requirements and conditions for the net metering of customer-sited generation facilities.	To consider requirements and conditions for the net metering of customer-sited generation facilities.
PSC-52-14-00022-P	..... exempt	Petition for submetering of electricity.	To consider the request of Kingsview Homes, Inc. to submeter electricity at 125 Ashland Place, Brooklyn, New York.
PSC-52-14-00023-P	..... exempt	LDC inspection and remediation plans for plastic fusions.	Whether to order Con Ed and ORU to comply with their filed plans that address any safety risks associated with plastic fusions.
PSC-52-14-00024-P	..... exempt	Distributed Generation (DG), Natural Gas Vehicle (NGV) and Prime-WNY programs.	To extend the DG and NGV programs to March 31, 2018 and for authorization of the Prime-WNY program.
PSC-52-14-00025-P	..... exempt	Whether to approve, modify or reject in whole or in part an increase in annual revenues of approximately \$24,000 or 48%.	Whether to approve, modify or reject in whole or in part an increase in annual revenues of approximately \$24,000 or 48%.
PSC-52-14-00026-P	..... exempt	Community Choice Aggregation.	To consider action related to Community Choice Aggregation.
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-01-15-00015-P	..... exempt	NYSEG is seeking waivers from certain regulatory requirements contained in an Order issued in Case 14-G-0197 on October 6, 2014	NYSEG is seeking waivers because it cannot certify the existing propane distribution system complies with certain regulations

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-01-15-00016-P	..... exempt	State Universal Service Fund Disbursements	To consider Port Byron Telephone Company's request for State Universal Service Fund disbursements
PSC-01-15-00017-P	..... exempt	Reimbursement of costs for construction under 16 NYCRR 230	To determine proper reimbursement for costs related to trenching and construction
PSC-01-15-00018-P	..... exempt	State Universal Service Fund Disbursements	To consider Township Telephone Company's request for State Universal Service Fund disbursements
PSC-01-15-00019-P	..... exempt	Rule 50 - Reliability Support Services (RSS) Surcharge.	To make a clarifying revision to Rule 50 - Reliability Support Services (RSS) Surcharge.
PSC-01-15-00020-P	..... exempt	A Pilot Community Choice Aggregation Program	To consider approval of a Pilot Community Choice Program and customer information transfer
PSC-02-15-00005-P	..... exempt	Approving the 2014 electric emergency response plans for New York's six major electric utilities.	Approving the 2014 electric emergency response plans for New York's six major electric utilities.
<b>STATE, DEPARTMENT OF</b>			
DOS-41-14-00001-P	..... 10/20/15	Minimum standards for code enforcement training	To establish minimum training standards so as to increase the level of competency and reliability of code enforcement personnel
DOS-02-15-00004-EP	..... 03/01/16	Use of truss type, pre-engineered wood or timber construction in residential structures	To implement the provisions of new section 382-b of the Executive Law, as added by chapter 353 of the Laws of 2014
<b>STATE UNIVERSITY OF NEW YORK</b>			
SUN-47-14-00009-P	..... 11/26/15	Tuition and fees at State-operated units of State University	To amend the in-state tuition rates where so required under state or federal law
<b>TAXATION AND FINANCE, DEPARTMENT OF</b>			
TAF-48-14-00002-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, 2015 through March 31, 2015
TAF-48-14-00003-P	..... 12/03/15	Filing requirements for farm distilleries under Article 18 of the Tax Law	To allow farm distilleries to file annual rather than monthly alcoholic beverage tax returns
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-49-14-00001-P	..... 12/10/15	Local Advisory Councils	Repeal the regulatory requirement that social services districts establish and maintain local advisory councils
TDA-49-14-00003-P	..... 12/10/15	Public Assistance Schedules	To update certain public assistance schedules to comply with the schedules in Social Services Law § 131-a



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-52-14-00001-P	..... 12/31/15	"Food Stamp Program" renamed "Supplemental Nutrition Assistance Program" (SNAP); Food Assistance Program (FAP) repealed; certain public assistance employment program reporting requirements modified	To render subject State regulations consistent with cited statutory authority and chapter 360 of the Laws of 2003, part C of chapter 57 of the Laws of 2005 and chapter 41 of the Laws of 2012
<b>TRANSPORTATION, DEPARTMENT OF</b>			
TRN-35-14-00001-P	..... 09/03/15	Regulation of commercial motor carriers operating in New York State	The rules incorporate Title 49 CFR provisions pursuant to regulation of commercial motor carriers operating in New York State
TRN-40-14-00005-P	..... 10/08/15	Consolidated Local Street and Highway Improvement Program (CHIPS)	To correct minor inaccuracies and to reduce certification requirements for municipalities in regard to CHIPS grant allocations
<b>TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY</b>			
TBA-48-14-00004-P	..... exempt	A proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA	A proposal to raise additional revenue



# REGULATORY AGENDA

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## Department of State

Pursuant to subdivision 1 of section 202-d of the State Administrative Procedure Act (SAPA), notice is hereby provided of the following rules that the Department of State is considering proposing, but for which a rule making proceeding has not been commenced. All following references to regulatory provisions are to Title 19 of the New York Code of Rules and Regulations, unless otherwise noted. Please note that regulatory plans of the Department of State are subject to change; the Department reserves the right to add, delete, or modify items appearing on this list. Further, as indicated in SAPA section 202-d(2), the Department of State is not required to propose or adopt any rule listed on a regulatory agenda, and may propose or adopt a rule that has not been listed on an agenda.

Publication of this notice is intended to further assure that small businesses, local governments, and public and private interests in rural areas are given opportunity to participate in the rule making process, as provided by sections 202-b and 202-bb of SAPA. Each rule listed below may require a regulatory flexibility analysis or a rural area flexibility analysis, pursuant to SAPA sections 202-b and 202-bb, respectively.

The public is welcome to send written comments regarding this regulatory agenda of the Department of State to the agency representative indicated at the end of this list.

### DIVISION OF BUILDING STANDARDS AND CODES

#### Chapter XXXII

Considering adding new Part(s) and/or amending existing Parts to establish rules, regulations, standards and procedures relating to (1) the approval of code enforcement training programs for code enforcement personnel charged with enforcement of the Uniform Fire Prevention and Building Code and/or the State Energy Conservation Construction Code and for certified code technicians (CCTs), and the revocation of such approvals; (2) minimum courses of study, attendance requirements, and equipment and facilities to be required for approved code enforcement training programs for code enforcement personnel and CCTs; (3) minimum qualifications for instructors for approved code enforcement training programs for code enforcement personnel and CCTs; (4) the requirements of minimum basic training which code enforcement personnel and CCTs shall complete in order to be eligible for continued employment or permanent appointment, and the time within which such basic training must be completed following such appointment; (5) the requirements for in-service training programs designed to assist code enforcement personnel and CCTs in maintaining skills and being informed of technological advances; (6) categories or classifications of advanced in-service training programs and minimum courses of study and attendance requirements with respect to such categories or classifications; (7) approval of code enforcement training programs for code enforcement personnel and CCTs, the issuance of certificates of approval to such programs, and the revocation of such approvals and certificates; (8) certification of instructors for approved code enforcement training programs for code enforcement personnel and CCTs and the issuance of appropriate certificates to such instructors, and the revocation of such approvals and certificates; (9) certification of code enforcement personnel and CCTs

who have satisfactorily completed basic training programs and in-service training programs, the issuance of appropriate certificates to such code enforcement personnel and CCTs, and the revocation of such certificates; (10) measurement of the rate of compliance with the State Energy Conservation Construction Code, and requirements that such rate of compliance be measured on an annual basis; and (11) otherwise to implement Chapter 560 of the Laws of 2010 and section 376-a of the Executive Law.

Considering adding new Parts relating to energy efficiency standards for appliances and equipment.

#### Part 1201

Considering amending this Part to provide that (1) where a county elects not to enforce the Uniform Code, the local government in which a county facility is situated shall be responsible for enforcement of the Uniform Code with respect to such facility and (2) where both a county and the local government in which a county facility is located have elected not to enforce the Uniform Code, the Secretary of State shall be responsible for enforcement of the Uniform Code with respect to such facility.

#### Part 1202

Considering amending this Part to make the provisions relating to the administration of the Uniform Fire Prevention and Building Code by the Department of State in certain local governments and counties substantially similar to the corresponding provisions in revised Part 1203 (which became effective on January 1, 2007), to update the provisions authorizing the use of third party inspectors, to add provisions authorizing the use of third party plan reviewers, and to update the fee schedule currently contained in section 1202.7.

#### Part 1203

Considering amending this Part to (1) establish more appropriate inspection intervals for normally unoccupied buildings; (2) clarify the language found in this Part; (3) make such changes to this Part as may be required or appropriate to reflect the applicability of this Part to enforcement of the State Energy Conservation Construction Code; (4) make such other changes to this Part as may be required or appropriate to implement Chapter 560 of the Laws of 2010 and Section 376-a of the Executive Law; (5) delete the requirement that local governments and counties file annual reports related to their code enforcement activities; and/or (6) add provisions fixing the time within which a person or entity served with an Order to Remedy violation(s) of the Uniform Code must comply with such Order to Remedy.

#### Part 1204

Considering amending this Part to make the provisions relating to the administration of the Uniform Fire Prevention and Building Code by state agencies substantially similar to the corresponding provisions in revised Part 1203 (which became effective on January 1, 2007).

Considering amending this Part to authorize the Department of State to prescribe the form to be used for construction-permitting agencies' annual reports, to require construction-permitting agencies to submit their annual reports to the Department of State, to authorize the Department of State to post construction-permitting agencies' annual reports on the Department's website, and otherwise to implement recommendations made in the New York State / New York City Building Code Task Force report issued June 2012.

## Part 1205

Considering amending this Part to (1) make the procedures for variances under the State Uniform Fire Prevention and Building Code applicable to variances under the State Energy Conservation Construction Code; (2) add new provisions relating to variances under the State Energy Conservation Construction Code; (3) revise procedures for appeals on variance matters; (4) address reopening and rehearing of variance hearings; (5) establish procedures for decisions to be made on a written record; (6) revise and/or clarify the circumstances under which an appeal of a determination made by a code enforcement official may be filed under this Part; and (7) expand and clarify the circumstances under which a Uniform Code variance may be granted by Department of State staff without referral to a Regional Board of Review.

## Part 1208

Considering amending provisions relating to the minimum qualifications of code enforcement personnel.

## Part 1209

Considering amending this Part pertaining to factory manufactured housing to update it, to increase fees for plan review and Insignias of Approval, and to add provisions relating to non-residential modular buildings.

## Part 1210

Considering updating and amending this Part concerning manufactured homes and the certification and training of manufacturers, retailers, installers and mechanics of manufactured homes.

## Chapter XXXIII

## Parts 1219-1228

Considering amending the Uniform Fire Prevention and Building Code (Uniform Code) to add provisions allowing certain buildings to be used for certain alternative uses for short periods of time; to amend provisions applicable to abandoned buildings; to make technical corrections to the updated version of the Uniform Code adopted in 2010; to update the Uniform Code to one based substantially on the 2012 edition or the 2015 edition of the model International Codes published by the International Code Council; and otherwise update the provisions of the Uniform Code. Consider amending Part 1225 (Fire Code) to implement recommendations made in the New York State / New York City Building Code Task Force report issued June 30, 2012. Consider amending Part 1228 by adding provisions relating to buildings and structures where "sparkling devices" are manufactured, stored, sold or used.

## Part 1240

Considering amending the State Energy Conservation Construction Code (Energy Code) to make the Energy Code provisions applicable to residential building meet or exceed the 2012 edition or the 2015 edition of the International Energy Conservation Code, to make the Energy Code provisions applicable to commercial buildings meet or exceed the 2015 edition of the International Energy Code and/or the 2013 edition of ASHRAE Standard 90.1, and otherwise to update the provisions of the Energy Code.

## Part 1260

Considering amending or repealing the provisions relating to Certificates of Acceptability.

## Part 1265

Consider adding a new Part 1265 containing provisions relating to signs or symbols to be attached to residential buildings using truss-type construction, pre-engineered wood construction or timber construction.

## DIVISION OF CEMETERIES

## Part 200 et seq.

Considering adding new regulations regarding various financial matters, such as permanent maintenance fund allocations, pre-need sales, trust fund reconciliations, and financial reports.

Considering adding new regulations pursuant to recent legislation that permits cemetery corporations to seek to appropriate: a percentage of its net appreciation in its permanent maintenance fund, and a percentage of its net appreciation in its perpetual care fund.

## DIVISION OF CONSUMER PROTECTION

## 21 NYCRR 4600 et seq.

Considering renumbering and amending regulations of the former State Consumer Protection Board.

## 21 NYCRR Part 4603

Considering amending regulations pertaining to "do-not-call" registry in order to conform them to recent statutory changes.

## 21 NYCRR Part 4608 Safety Standards for Moveable Soccer Goals

Considering adding implementation regulations, pursuant to Chapter 436 of the Laws of 2014.

DIVISION OF CORPORATIONS, STATE RECORDS AND UCC  
Part 150

Considering adding a new section 150.8 regarding punctuation in entity names on filing certificates. The section would authorize the Division to accept for filing corporation and other business entity documents, such as certificates of amendment, that list the entity's name with or without a comma or period that is present in the entity's real name. The filing of such certificates would not change an entity's name on the records of the Division.

## DIVISION OF LICENSING SERVICES

## Part 160

Considering amending regulations to clarify that appearance enhancement practitioners may maintain material safety data sheets in electronic form.

Considering amending appearance enhancement regulations regarding esthetics curriculum and waxing procedures.

Considering adding new section to clarify documentation required for review of new application for original licensing.

## Part 175

Considering amending regulations pertaining to the deposit of money into escrow by real estate brokers and salespeople.

Considering amending regulations pertaining to the record retention requirements for real estate brokers.

## Section 175.17

Considering amending this section to update the Albany address of the Division of Licensing Services.

## Parts 175-179

Considering revising regulations applicable to real estate brokers and salespeople to account for statutory and industry changes, and to add clarity to existing regulations.

## Part 195

Considering amending regulations pertaining to alarm installation, service and maintenance in order to clarify licensing requirements and to incorporate new technology and terminology.

## Part 1102 et seq.

Considering amending regulations pertaining to real estate appraisal in order to permit the completion of qualifying education via distance learning.

Considering amending regulations pertaining to real estate appraisal in order to update the regulation pertaining to acceptable appraisal experience.

Considering amending regulations pertaining to appraisal qualifications in order to conform them to upcoming federal requirements.

Considering amending regulations to adopt updated Uniform Standards of Professional Appraisal Practice for 2016-2017.

## Section 1106.1

Considering amending this section to update the Albany address of the Division of Licensing Services.

## Parts 170-175 and Part 1102 et seq.

Considering amending regulations pertaining to private investigators, watch guard patrol companies, security guards and real estate appraisers in order to further implement the New York State Enterprise E-Licensing initiative.

## NEW YORK STATE ATHLETIC COMMISSION

## Part 217

Considering repealing obsolete sections of Part 217 regarding professional wrestling in order to achieve consistency with Title 25 of the Unconsolidated Laws.

Part 218

Considering adding a new Part 218 concerning special rules for review, addition, and removal of single-discipline martial arts sanctioning organizations in New York State.

OFFICE OF PLANNING AND DEVELOPMENT

Parts 600 - 603

Considering amending the New York State Coastal and Inland Waterway Regulations affecting federal, state, local, and individual actions concerned with Article 42 of the New York State Executive Law (“Waterfront Revitalization of Coastal Areas and Inland Waterways”) and implementation of the Federal Coastal Zone Management Act in New York as described in the New York Coastal Management Program.

To obtain information or submit written comments concerning an item listed above, please contact David Treacy, Esq., Office of General Counsel, New York State Department of State, One Commerce Plaza, Albany, New York 12231-0001, (518) 474-6740; David.Treacy@dos.ny.gov. This agenda is posted on the Department’s website at [http://www.dos.ny.gov/info/regulatory\\_\\_activity/index.html](http://www.dos.ny.gov/info/regulatory__activity/index.html).



# RULE REVIEW

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## Department of Civil Service

### Five Year Review of Existing Regulations

Pursuant to section 207 of the State Administrative Procedure Act (SAPA), notice is hereby provided of rules adopted by the New York State Civil Service Commission and the President of the New York State Civil Service Commission during calendar years 2000, 2005 and 2010 and which remain in effect.

Contained herein is a brief description of each rule, including the statutory authority therefor; and where appropriate, a statement setting forth the ongoing need for each rule without further modification.

2000

Amendment to Chapter I of Title 4 of NYCRR (Rules for the Classified Service)

Statutory Authority: Civil Service Law section 6

Description of the Regulation:

The resolution added a new subdivision (vii) to paragraph (2) of section (b) of Rule 4.5 to provide for a probationary term for the position of “Thruway Maintenance Worker” of not less than 26 weeks nor more than 52 weeks.

Action: The rule has functioned consistent with the purposes underlying its adoption and the Department of Civil Service recommends continuation without modification.

Amendments to Chapter IV of 4 NYCRR (Regulations of the State Civil Service Commission [Commission’s Regulations])

Statutory Authority: Civil Service Law section 6

Description of the Regulations:

A new section 55.5 was added to the Commission’s Regulations and the previous sections 55.5 and 55.6 were renumbered 55.6 and 55.7, respectively.

Section 55.5 codified the long-standing Civil Service Commission practice of granting prior approval for certain examination rating keys, according to the conditions and standards set forth within such section, upon the request of the Department’s director of examinations or his or her designee.

Action: The rule has functioned consistent with the purposes underlying its adoption and the Department of Civil Service recommends continuation without modification.

2005

Amendment to Chapter I of Title 4 of NYCRR (Rules for the Classified Service)

Statutory Authority: Civil Service Law section 6

Description of the Regulation:

The resolution added a new paragraph (viii) to subdivision (1) of subsection (b) of Rule 4.5 to provide for a probationary term for the positions of “University Police Officer 1 and “University Police Officer 1 (Spanish Language)” of not less than 52 weeks nor more than 78 weeks.

Action: The rule has functioned consistent with the purposes

underlying its adoption and the Department of Civil Service recommends continuation without modification.

2010

Amendment to Chapter V of Title 4 of NYCRR (Regulations of the Department of Civil Service [President’s Regulations])

Statutory Authority: Civil Service Law sections 7 and 80

Description of the Regulation:

The resolution added a new paragraph to Rule 72.1 designating the Authorities Budget Office as a separate unit for suspension, demotion or displacement within the Department of State.

Action: The rule has functioned consistent with the purposes underlying its adoption and the Department of Civil Service recommends continuation without modification.

Various amendments to the Appendices to the Rules for the Classified Service

Appendix 1 (Exempt Class)

Appendix 2 (Non-competitive Class)

Statutory Authority:

Appendix 1: Civil Service Law, sections 6 and 41; 4 NYCRR 2.1

Appendix 2: Civil Service Law, sections 6 and 42; 4 NYCRR 2.2

Description of the Regulations:

Civil Service Commission rules relating to the jurisdictional classification of positions were specifically exempted from compliance with Executive Order No. 20 review requirements by the former Governor’s Office of Regulatory Reform, upon a finding that such review lacked substantial benefit. Based upon this determination, and pursuant to SAPA section 207(5), a full recitation of amendments to Appendices 1 and 2 to Title 4 of NYCRR adopted by the Civil Service Commission during calendar years 2000, 2005 and 2010 is hereby omitted.

Public Comments

There will be a forty-five (45) day public comment period following publication of this Notice. *Requests for information and public comments regarding the foregoing may be directed to:* J. Marc Hannibal, Special Counsel, Department of Civil Service, Empire State Plaza, Albany, NY 12239, (518) 473-2624, e-mail: marc.hannibal@cs.ny.gov





# SECURITIES OFFERINGS

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## STATE NOTICES

Published pursuant to provisions of General Business Law  
[Art. 23-A, § 359-e(2)]

## DEALERS; BROKERS

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Acrobatiq, LLC  
2100 Wharton St., Suite 625, Pittsburgh, PA 15203  
*State or country in which incorporated* — Pennsylvania

Alpha Audiotechnics, Inc.  
105 Duane St., #28C, New York, NY 10007  
*State or country in which incorporated* — Delaware

b.good LLC  
278 Pearl St., Malden, MA 02148  
*State or country in which incorporated* — Massachusetts

Calistoga Hotel Group, LP  
790 Estate Dr., Suite 150, Deerfield, IL 60015  
*Partnership* — Calistoga GP Partners, LLC

Condition One Nutrition Inc.  
169 W. Valley Stream Blvd., Valley Stream, NY 11580  
*State or country in which incorporated* — New York

DMS Funds  
2619 Leisetz's Bridge Rd., Suite 200, Leesport, PA 19533  
*State or country in which incorporated* — Pennsylvania

GMI-Orlando, LP  
17330 Preston Rd., Suite 210B, Dallas, TX 75252  
*Partnership* — GMI-Orlando GP, LLC

GMI-Overland Park, LP  
17330 Preston Rd., Suite 210B, Dallas, TX 75252  
*Partnership* — GMI-Overland Park GP, LLC

Graham Growth Partners, L.P.  
780 Third Ave., Suite 1500, New York, NY 10017  
*Partnership* — Harber Asset Management, LLC

Graham Institutional Partners, L.P.  
780 Third Ave., Suite 1500, New York, NY 10017  
*Partnership* — Harber Asset Management, LLC

Graham Partners LP  
780 Third Ave., Suite 1500, New York, NY 10017  
*Partnership* — Harber Asset Management, LLC

Harbor Light Securities, LLC  
16765 Fish Hawk Blvd. 302, Lithia, FL 33547  
*State or country in which incorporated* — North Carolina limited liability company

High Peaks Ventures III, L.P.  
30 W. 21st St., Fl. 2, New York, NY 10010  
*Partnership* — High Peaks Venture Partners III, LLC

Investment Managers Series Trust  
235 W. Galena St., Milwaukee, WI 53212  
*State or country in which incorporated* — Delaware

Investment Managers Series Trust II  
235 W. Galena St., Milwaukee, WI 53212  
*State or country in which incorporated* — Delaware

Leafline Labs, LLC  
200 S. Sixth St., #4000, Minneapolis, MN 55402

Local Store Identity, Inc.  
4052 Del Rey Ave., Suite 102, Marina Del Rey, CA 90292

Monteverdi, LLC  
201 E. Fifth St., 1730 PNC Center, Cincinnati, OH 45202  
*State or country in which incorporated* — Delaware limited liability company

Pediatric Bioscience, Inc.  
10581 Roselle St., San Diego, CA 92121  
*State or country in which incorporated* — California

Pixelligent Technologies LLC  
6411 Beckley St., Baltimore, MD 21224  
*State or country in which incorporated* — Delaware

Richman Luxury Apartment Development Partners LLC  
340 Pemberwick Rd., Greenwich, CT 06831

ROC Debt Strategies Fund-A LP  
5295 S. Commerce Dr., Suite 100, Murray, UT 84107  
*Partnership* — ROC Debt Strategies Fund GP, LLC

ROC Multifamily & Commercial Office Fund III LP  
5295 S. Commerce Dr., Suite 100, Murray, UT 84107  
*Partnership* — ROC Fund III GP, LLC

ROC Multifamily & Commercial Office Fund III-A LP  
5295 S. Commerce Dr., Suite 100, Murray, UT 84107  
*Partnership* — ROC Fund III GP, LLC

RPS Diagnostics, Inc.  
7227 Delainey Ct., Sarasota, FL 34240  
*State or country in which incorporated* — Delaware

SCM RVV1 Fund LLC  
200 S. Wacker, Suite 1900, Chicago, IL 60606

Simple Entry, LLC  
1200 18th St. NW, Suite 700, Washington, D.C. 20036  
*State or country in which incorporated* — Maryland

Stonepine Capital, L.P.  
475 Gate Five Rd., Suite 324, Sausalito, CA 94965  
*Partnership* — Stonepine Capital Management, LLC

Texlark Exploration Company, Inc.  
801 E. Plano Pkwy., Suite 230, Plano, TX 75074  
*State or country in which incorporated* — Texas

Tiffin Ave 2023 LLC  
2407 Columbia Pike, Suite 200, Arlington, VA 22204

Two Bridges Addison Townhomes LLC  
159 20th St., Suite 2B, Brooklyn, NY 11232  
*State or country in which incorporated* — Delaware limited liability  
company

# 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](http://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.

## PUBLIC NOTICE

### Uniform Code Regional Boards of Review

Pursuant to 19 NYCRR 1205, the petitions below have been received by the Department of State for action by the Uniform Code Regional Boards of Review. 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 Tollsens, Building Standards And Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2014-0608 Matter of Shyam & Shimantika Kumar for a variance concerning fire safety issues including the required ceiling height in a basement alteration.

Involved is the alteration of a basement in an existing building and the required minimum ceiling height. The alteration is complete and the actual ceiling height does not comply with the residential code nor the criteria for granting a routine variance. The building contains a (single family) occupancy, is two stories in height, of Type VB (wood frame) construction having a cumulative gross floor area of 3,400 square feet. The building is located at Six Algonquin Rd., Town of Clifton Park, Saratoga County, New York.

2014-0661 Matter of Robert Segura, Code Administrator for the College of Nanoscale Science and Engineering, 251 Fuller Rd., Albany, NY 12203 for a variance concerning public safety and the code prohibition against transporting hazardous production materials through exit corridors.

Involved is a proposed change in the route that the hazardous production materials will take through the building in the future. This proposal involves transporting hazardous material through an exit corridor. The building contains an H-5 (Semiconductor Manufacturing Facility) occupancy, is three stories in height, of Type 1B (Fire resistive) construction, having a cumulative gross floor area of 283,300 square feet. The building is commonly known as the College

of Nanoscale Science and Engineering, located at 251 Fuller Rd., City of Albany, Albany County, New York.

2014-0662 Matter of Michael J. Roth, RA, of the firm Stracher, Roth, Gilmore, Architects, 143 Jay Street, Schenectady, NY 12305 for a variance concerning fire safety issues including the code requirement for a complete sprinkler system installation in a proposed new building.

Involved is the construction of a new building on the site of an existing correctional facility. The code requires a complete installation and the petitioner seeks relief from the requirement to have sprinkler heads located in the individual cells in an attempt to avoid vandalism at the facility. The building contains an I-3 (Institutional) occupancy, two stories in height, of Type IIB (non-combustible) construction having a 22,540 square feet. The building is located at the Coxsackie Correctional Facility, 11260 Route 9W, Village of Coxsackie, Greene County, New York.

2014-0673 Matter of Joseph Riley, Architect/HCP Architects, 302 Washington Ave. Ext., Albany, NY 12203 for a variance concerning fire safety issues including the code prohibition against openings in zero lot line walls.

Involved is the joining of two buildings located on separate lots. There is a proposed opening in the wall between the buildings that does not comply the building code. The buildings contain B (business) occupancies are of Type IIIB (ordinary) construction, five and six stories in height, having cumulative gross floor areas of 9,600 square feet and 20,400 square feet. The buildings are located at 132 and 136 State Street, City of Albany, Albany County, New York.

2014-0674 Matter of Marc Caprara, Project Manager, Condor Sprinkler Co., 3434 Carman Rd., Schenectady, NY 12363 for a variance concerning fire safety issues including the code requirement for sprinkler heads at exterior balconies.

Involved is the construction of a series of apartment buildings with exterior balconies, containing R-2 (multiple dwelling) occupancies, of Type VB (combustible) construction, three stories in height, each having a cumulative gross floor area of 5,694 square feet. The buildings are located at 3204 Thornbrook Dr., Town of Bethlehem, Albany County, New York.

2014-0699 Matter of Gregory Klokiw, CS Arch, 40 Beaver St., Albany, NY 12207 for a variance concerning fire safety issues including the maximum allowable building area allowed in an elementary school.

Involved are the proposed additions to an existing school building which currently exceeds the allowable building area as prescribed by the Building Code of New York State (2010). When the school was built, it complied with the construction rules of the day as written by the NYS Education Department. The building contains an E (Educational) occupancy, of Type 2/b (non-combustible) construction, one story in height, having a cumulative gross floor area of 73,000 square feet, located at 901 Kings Road, Town of Rotterdam, Schenectady County, State of New York.



# ADJUDICATORY REPORTS

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## Office of Temporary and Disability Assistance Office of Administrative Hearings

Pursuant to Executive Order No. 131 issued by Governor Mario Cuomo on December 4, 1989, and reconfirmed by Executive Order No. 2 issued by Governor Andrew M. Cuomo on January 1, 2011, each agency is required to publish a report that sets forth the steps taken by the agency to comply with the Order. The report published on January 30, 1991, detailed the steps taken to comply with the Order.

The Order (Section V) requires that the report include “statistics on Article 78 proceedings brought against the agency, including the outcome of such proceedings and the reasons for any reversal or modification of an agency determination.” The following statistics on Article 78 proceedings are from the period commencing December 1, 2012, through November 30, 2014.

Cases opened: 104

Cases closed: 76

The closed cases resulted in the following outcomes:

Stipulation of settlement: 25

Decisions favorable to the Office: 33

Withdrawn or abandoned by the petitioner: 8

Decisions adverse to the Office: 10

Reasons for adverse decisions:

Mistake of law as applied to facts: 8

Record deficient: 2



# EXECUTIVE ORDERS

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## **Executive Order No. 140: Declaring an Emergency in Order to Appoint New Jersey and Connecticut Police Officers as Railroad Police Officers to Provide Enhanced Security on Commuter Trains, Buses and Ferries.**

WHEREAS, the holiday season, including New Year's Eve and Day, is a time of heightened alert and risk of terrorist attack as terrorists typically consider significant, symbolic dates when planning attacks, with the objective of inflicting mass casualties and maximizing the economic and psychological damage to the United States, as evidenced by the 2009 Christmas Day plot to blow up a Detroit-bound airliner; the November 2010 plot to bomb a holiday tree lighting ceremony in Portland, Oregon, by a homegrown violent extremist; the December 2010 attack on a market filled with Christmas shoppers in Stockholm, Sweden, by a suicide bomber; and the December 2010 arrests in the United Kingdom of 12 individuals plotting to conduct attacks during the holiday season; and

WHEREAS, New York State has historically been targeted by terrorists, including the World Trade Center bombing in 1993; the attacks on the World Trade Center on September 11, 2001; the Brooklyn Bridge Plot in 2003; the Financial Centers Plot in 2004 targeting the New York Stock Exchange and Citigroup Center in New York City and the Prudential Plaza in Newark, New Jersey; the 2007 plot to blow up jet fuel supply tanks and the pipeline that fed the tanks located underneath the John F. Kennedy International Airport; the May 2009 plot to bomb a Bronx synagogue and the Stewart Air National Guard Base; the failed plot of Faisal Shahzad in May 2010; the May 2011 plot by Ahmed Ferhani and Mohamed Mamdouh to bomb New York City synagogues, during which Ferhani and Mamdouh discussed additional targets in New York City, including churches and the Empire State Building; the October 2012 foiled attempt by Quazi Mohammad Rezwanaul Ahsan Nafis to detonate a 1,000 pound car bomb outside the Federal Reserve Bank of New York in Lower Manhattan; the planned attacks by Qazi and his brother in November 2012 directed at landmarks in New York; and the recent indictment of Mufid Elfgeeh, a Rochester resident who is alleged to have provided material support to the Islamic State (often referred to as ISIS or ISIL), all of which demonstrate that terrorists continue to pose a persistent threat to the State of New York; and

WHEREAS, while there is no known confirmed threat to the New York metropolitan area, New York transportation systems have been repeatedly targeted by terrorists, including: the 2013 al-Qa'ida directed plot to derail a passenger train traveling from Toronto to New York; the Zazi plot against New York City subways in 2009; the 2008 plot by Bryant Neal Vinas aimed at the Long Island Railroad; the 2006 plot to bomb the Port Authority-Trans Hudson (PATH) train tunnels; and the 2004 plot to bomb Herald Square in Manhattan. The targeting of transportation systems by terrorist groups is further demonstrated by the bombings in London in 2005 and in Madrid in 2004; and

WHEREAS, thousands of commuters travel between the states of New York, New Jersey and Connecticut via mass transit systems that include interstate rail, bus and ferry systems accessible to the public, and enhanced law enforcement presence on these conveyances is prudent to protect public safety; and

WHEREAS, the recent rise of the Islamic State terrorist organization further exacerbates the terrorism threat environment facing New York State; and

WHEREAS, on September 24, 2014, in response to this heightened

concern of terrorist activities, New York State and New Jersey formalized its counterterrorism partnership through a Memorandum of Understanding whereby, in response to the current threat environment, additional security measures and protocols were agreed upon in an effort to bolster the security posture of the Bi-State Region; and

WHEREAS, over the last several months, members of the Islamic State have used social media sites to repeatedly call on sympathizers to carry out attacks within the United States and Western countries in any manner or way, including using a knife or ax and committing acts of violence; and

WHEREAS, terrorist attacks have recently occurred in the same manner as the Islamic State has been encouraging as evidenced by the recent hatchet attack on four (4) New York City police officers in Queens, New York; two (2) attacks on military personnel in Canada; and the taking of 17 hostages, resulting in the death of two (2), at a café in Sydney, Australia this month; and

WHEREAS, the Islamic State, al-Qa'ida, and their supporters continue to issue threats in an attempt to motivate homegrown terror attacks in the United States; and

WHEREAS, New York's sister states, Connecticut and New Jersey, have agreed to deploy police officers to provide increased security on commuter trains, buses and ferries going in and out of New York State; and

WHEREAS, sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey are restricted in their law enforcement authority once such a conveyance crosses the jurisdictional boundary between Connecticut and New York or between New Jersey and New York; and

WHEREAS, New York, New Jersey, Connecticut are all members of the Emergency Management Assistance Compact ("EMAC"), which allows for mutual assistance and resource sharing among sister states; and

WHEREAS, EMAC provides that emergency forces from the sending state, while operating within the jurisdictional boundaries of the receiving state pursuant to the compact, shall have the same powers (except that of arrest, unless specifically authorized by the receiving state), duties, rights and privileges as are afforded forces of the receiving state in which they are performing emergency services; and

WHEREAS, to utilize the police resources provided by our sister states, we must confer police officer powers, including arrest powers, on such officers while they are within the geographic jurisdiction of New York State; and

WHEREAS, Section 88 of the Railroad Law authorizes the Superintendent of the State Police to appoint any person as a railroad police officer only under prescribed circumstances and subject to certain limitations; and

WHEREAS, if such circumstances and limitations were applied to sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey who are serving as railroad police officers from December 31, 2014, through 12:01 A.M., January 2, 2015, such application would prevent, hinder and delay action necessary to respond to a terrorist attack or a threat thereof; and

WHEREAS, Section 29-a of the Executive Law authorizes the suspension, alteration and modification of statutes, local laws, ordinances, orders, rules or regulations, or parts thereof, if compliance with such provisions would prevent, hinder or delay action necessary to cope with a disaster emergency and the inclusion of any other terms and conditions;

NOW, THEREFORE, I, ANDREW M. CUOMO, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York, do hereby find that a disaster may be imminent, and to which the affected local governments are unable to respond adequately without assistance. Therefore, pursuant to the authority vested in me by the Constitution of the State of New York and Section 28 of Article 2-B of the Executive Law, I hereby declare a State Disaster Emergency effective December 31, 2014; and

FURTHER, pursuant to the authority vested in me by Section 29-a of the Executive Law to temporarily suspend and modify specific provisions of any statute, local law, ordinance, order, rule or regulation, or parts thereof, of any agency during a State Disaster Emergency, if compliance with such provisions would prevent, hinder or delay action necessary to cope with the disaster, I hereby temporarily suspend and modify, for the period from 12:01 AM on December 31, 2014 until 12:01 AM on January 2 2015, the following laws for purposes of appointment of sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as Railroad Police; and

Subdivision 1 of Section 88 of the Railroad Law insofar as it requires the Superintendent of the State Police to appoint railroad police officers only upon the application of a corporation, express company, or steamboat company, is modified to the extent necessary to allow the Governor to appoint, and I do hereby appoint, sworn members of the Connecticut State Police, sworn police officers of any county or municipality in the State of Connecticut, sworn members of the New Jersey State Police, and sworn police officers of any county or municipality in the State of New Jersey as railroad police officers, and to include all rail and bus facilities and property owned, operated or in the custody or control of the Port Authority of New York and New Jersey or its subsidiaries, the Metropolitan Transit Authority or its subsidiaries, New Jersey Transit or its subsidiaries, and ferries certified to carry passengers to and from New York State; and

Subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16 and 17 of Section 88 of the Railroad Law, as necessary to effectuate this Order; and

FURTHER, this Order shall take effect at 12:01 AM on December 31, 2014 and shall remain in effect until 12:01 AM on January 2, 2015, at which time the suspension of laws may be extended upon consideration of a continued heightened alert of terrorist attack.

(L.S.) GIVEN under my hand and the Privy Seal of the State in the City of Albany, this twenty-ninth day of December in the year two thousand fourteen.

*BY THE GOVERNOR*  
/S/ Andrew M. Cuomo  
/s/ Lawrence Schwartz  
*Secretary to the Governor*