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**NEW YORK STATE**

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**REGISTER**

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***INSIDE THIS ISSUE:***

- Annual Professional Performance Reviews (APPR) of Classroom Teachers and Building Principals
- Superintendent Determination as to Academic Proficiency for Certain Students with Disabilities to Graduate with a Local Diploma
- District-Wide School Safety Plans and Building-Level Emergency Response Plans

**Regulatory Agenda**

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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 September 4, 2016
- the 45-day period expires on August 20, 2016
- the 30-day period expires on August 5, 2016

**ANDREW M. CUOMO  
GOVERNOR**

**ROSSANA ROSADO  
SECRETARY OF STATE**

**NEW YORK STATE DEPARTMENT OF STATE**

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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

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

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# RULE MAKING ACTIVITIES

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

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

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

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## Department of Civil Service

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### NOTICE OF ADOPTION

#### Jurisdictional Classification

**I.D. No.** CVS-34-15-00006-A  
**Filing No.** 585  
**Filing Date:** 2016-06-17  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify a position in the exempt class.

**Text or summary was published** in the August 26, 2015 issue of the Register, I.D. No. CVS-34-15-00006-P.

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

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

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF ADOPTION

#### Jurisdictional Classification

**I.D. No.** CVS-34-15-00011-A  
**Filing No.** 587  
**Filing Date:** 2016-06-17  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To delete positions from and classify positions in the exempt class.

**Text or summary was published** in the August 26, 2015 issue of the Register, I.D. No. CVS-34-15-00011-P.

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

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

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF ADOPTION

#### Jurisdictional Classification

**I.D. No.** CVS-34-15-00013-A  
**Filing No.** 586  
**Filing Date:** 2016-06-17  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To delete a position from and classify a position in the exempt class.

**Text or summary was published** in the August 26, 2015 issue of the Register, I.D. No. CVS-34-15-00013-P.

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

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

#### Assessment of Public Comment

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

**I.D. No.** CVS-36-15-00002-A  
**Filing No.** 598  
**Filing Date:** 2016-06-21  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify positions in the exempt class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00002-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

**I.D. No.** CVS-36-15-00003-A  
**Filing No.** 595  
**Filing Date:** 2016-06-21  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify positions in the exempt class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00003-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

**I.D. No.** CVS-36-15-00004-A  
**Filing No.** 597  
**Filing Date:** 2016-06-21  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify a position in the non-competitive class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00004-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

**I.D. No.** CVS-36-15-00005-A  
**Filing No.** 607  
**Filing Date:** 2016-06-21  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To delete a position from and classify a position in the exempt class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00005-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

**I.D. No.** CVS-36-15-00008-A  
**Filing No.** 608  
**Filing Date:** 2016-06-21  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify a position in the non-competitive class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00008-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

## NOTICE OF ADOPTION

## Jurisdictional Classification

**I.D. No.** CVS-36-15-00009-A  
**Filing No.** 603  
**Filing Date:** 2016-06-21  
**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify positions in the exempt class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00009-P.



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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**

**I.D. No.** CVS-36-15-00010-A

**Filing No.** 604

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify positions in the exempt class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00010-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**

**I.D. No.** CVS-36-15-00011-A

**Filing No.** 599

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify positions in the non-competitive class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00011-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**

**I.D. No.** CVS-36-15-00012-A

**Filing No.** 606

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00012-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**

**I.D. No.** CVS-36-15-00013-A

**Filing No.** 600

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00013-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION**

**Jurisdictional Classification**

**I.D. No.** CVS-36-15-00014-A

**Filing No.** 596

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

**Purpose:** To classify positions in the non-competitive class.

**Text of final rule:** Amend Appendix 2 of the Rules for the Classified Service, listing positions in the non-competitive class, in the Executive Department under the subheading "Office of Information Technology Services," by adding thereto the positions of Deputy Cluster Chief Information Officer (10).\*

\*Originally had been submitted as including "by deleting therefrom the position of Director Office for Technology (1)" which should not have been included.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in Appendix 2.

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

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

**I.D. No.** CVS-36-15-00015-A

**Filing No.** 602

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

**Action taken:** Amendment of Appendixes 1 and 2 of Title 4 NYCRR.

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

**Subject:** Jurisdictional Classification.

**Purpose:** To delete positions/subheadings from and classify positions in the exempt class and delete positions from non-competitive class.

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00015-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

**I.D. No.** CVS-36-15-00017-A

**Filing No.** 601

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

**Action taken:** Amendment of Appendixes 1 and 2 of Title 4 NYCRR.

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

**Subject:** Jurisdictional Classification.

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

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00017-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**NOTICE OF ADOPTION****Jurisdictional Classification**

**I.D. No.** CVS-36-15-00018-A

**Filing No.** 605

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

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

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

**Subject:** Jurisdictional Classification.

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

**Text or summary was published** in the September 9, 2015 issue of the Register, I.D. No. CVS-36-15-00018-P.

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

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

**Assessment of Public Comment**

The agency received no public comment.

**Education Department****EMERGENCY/PROPOSED****RULE MAKING****NO HEARING(S) SCHEDULED****Superintendent Determination As to Academic Proficiency for Certain Students with Disabilities to Graduate with a Local Diploma**

**I.D. No.** EDU-27-16-00002-EP

**Filing No.** 588

**Filing Date:** 2016-06-20

**Effective Date:** 2016-07-01

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

**Proposed Action:** Amendment of section 100.5(d) of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101 (not subdivided), 207 (not subdivided), 208 (not subdivided), 209 (not subdivided), 305(1), (2), 308 (not subdivided) and 309 (not subdivided)

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

**Specific reasons underlying the finding of necessity:** All students with disabilities must be held to high expectations and be provided meaningfully opportunities to participate and progress in the general education curriculum to prepare them to graduate with a regular high school diploma. The majority of students with disabilities can meet the State's learning standards for graduation. However, there are some students who, because of their disabilities, are unable to demonstrate their proficiency on standard State assessments, even with testing accommodations. For these students, the proposed amendment provides a superintendent review option in order for certain students with disabilities to graduate with a local diploma, beginning with students graduating in June 2016.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the September 12-13, 2016 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be September 28, 2016, the date a Notice of Adoption would be published in the State Register. However, the proposed amendment provides a superintendent review option in order for certain students with disabilities to graduate with a local diploma, beginning with students graduating in June 2016.

Therefore, emergency action is necessary at the June 2016 Regents meeting for the preservation of the general welfare in order to ensure that certain students with disabilities who are graduating from high school in June 2016 and thereafter are aware that if they do not meet the graduation standards through the existing appeal and safety net options, that the superintendent will make a determination as to whether the student has met the academic standards and is eligible for a diploma if the student meets the requirements of the proposed amendment. It is also necessary to ensure that superintendents are on notice that they must make a determination as to whether certain students with disabilities are eligible for local diploma if the student meets the requirements of the proposed amendment.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the September 12-13, 2016 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act for State agency rule makings.

**Subject:** Superintendent determination as to academic proficiency for certain students with disabilities to graduate with a local diploma.

**Purpose:** To expand the safety net options for students with disabilities to graduate with local diplomas when certain conditions are met.

**Text of emergency/proposed rule:** A new paragraph (12) shall be added to subdivision (d) of section 100.5 of the Regulations of the Commissioner of Education, effective June 20, 2016, to read as follows:

(12) Superintendent determination pathway for certain students with disabilities for eligibility for a local diploma. School districts, registered nonpublic high schools and charter schools shall ensure that every student who is identified as a student with a disability as defined in Education Law section 4401(1) and section 200.1(zz) of this Title and who does not meet the assessment requirements for graduation through the existing appeal and safety net options available through this section but is otherwise eligible to graduate in June 2016 and thereafter shall be considered for a local diploma through the superintendent determination pathway in accordance with the requirements of this clause, provided that the student:

(i) has a current individualized education program and is receiving special education programs and/or related services pursuant to Education Law section 4402 and section 200.4 of this Title; and

(ii) took the English Regents examination required for graduation pursuant to this section and achieved a minimum score of 55 or successfully appealed a score of between 52 and 54 on such examination pursuant to paragraph (7) of this subdivision; and

(iii) took a mathematics Regents examination required for graduation pursuant to this section and achieved a minimum score of 55 or successfully appealed a score of between 52 and 54 on such examination pursuant to paragraph (7) of this subdivision; and

(iv) participated in the remaining assessments required for graduation pursuant to clauses (c), (d), (e) and (f) of subparagraph (a)(5)(i) of this section, provided that if the student was unable to achieve a passing score on one or more of the remaining assessments required for graduation or to successfully appeal a score of between 52 and 54 on one or more such examinations pursuant to paragraph (7) of this subdivision, or did not initiate such an appeal pursuant to paragraph (7) of this subdivision, or to use the compensatory score option for one or more such examinations pursuant to clause (b)(7)(vi)(c) of this section, then the superintendent shall determine whether the student has otherwise demonstrated proficiency in the knowledge, skills and abilities measured by the relevant Regents examination(s) and shall document such determination in accordance with the following:

(a) the superintendent shall consider evidence that the student attained a grade for the course that meets or exceeds the required passing grade by the school and is recorded on the student's official transcript with grades achieved by the student in each quarter of the school year. Such evidence shall include but need not be limited to the student's final course grade, student work completed throughout the school year and/or any interim grades on homework, projects, class work, quizzes and tests; and

(b) with respect to subparagraph (iv) of this paragraph, the superintendent shall consider the extent to which the student participated in such examination(s); and

(c) the superintendent shall, as soon as practicable, in a form and manner prescribed by the commissioner, document the evidence reviewed for an eligible student with disability under this paragraph and make a determination as to whether the student met the requirements for issuance of a local diploma pursuant to this clause and certify that the information provided is accurate; and

(d) the superintendent shall, as soon as practicable, provide each student(s) and parent or person in parental relation to the student with a copy of the completed form and must place a copy of the completed form in the student's record; and

(e) the superintendent shall, no later than August 31 of each year, provide the commissioner with a copy of the completed form for each student; and

(f) the commissioner may conduct audits of compliance with the requirements of this clause.

2. Clause (c) of subparagraph (i) of paragraph (7) of subdivision (d) of section 100.5 of the Regulations of the Commissioner is amended, effective June 13, 2016, as follows:

(c) A student who is otherwise eligible to graduate in January 2016 or thereafter, is identified as a student with a disability as defined in section 200.1(zz) of this Title, and fails, after at least two attempts, to attain a score of 55 or above on up to two of the required Regents examinations for graduation shall be given an opportunity to appeal such score in accordance with the provisions of this paragraph for purposes of graduation with a local diploma, provided that the student:

(1) has scored within three points of a score of 55 on the required Regents examination under appeal and has attained at least a 65 course average in the subject area of the Regents examination under appeal; and

(2) has met the criteria specified in subclauses (a)(2)-(4) of this subparagraph. [Notwithstanding the provisions of this clause, a student with a disability who makes use of the compensatory option in clause

(b)(7)(vi)(c) of this section to obtain a local diploma may not also appeal a score below 55 on the English language arts or mathematics Regents examinations pursuant to this clause.]

**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 September 17, 2016.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, New York State Education Department, 89 Washington Avenue, Room 148, Albany, NY 12234, (518) 474-8966, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Angelica Infante-Greene, Deputy Commissioner for Instructional Support, New York State Education Department, 2M West, 89 Washington Avenue, Albany, NY 12234, (518) 474-5510, email: nysedp12@nysed.gov

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

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

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY:

Education Law section 101 continues the existence of the Education Department, with the Board of Regents at its head and the Commissioner of Education as the chief administrative officer, and charges the Department with the general management and supervision of public schools and the educational work of the State.

Education Law section 207 empowers the Regents and the Commissioner to adopt rules and regulations to carry out State laws regarding education and the functions and duties conferred on the State Education Department by law.

Education Law section 208 authorizes the Regents to establish examinations as to attainments in learning and to award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

Education Law section 209 authorizes the Regents to establish secondary school examinations in studies furnishing a suitable standard of graduation and of admission to colleges; to confer certificates or diplomas on students who satisfactorily pass such examinations; and requires the admission to these examinations of any person who shall conform to the rules and pay the fees prescribed by the Regents.

Education Law section 305(1) and (2) provide that the Commissioner, as chief executive officer of the State system of education and of the Board of Regents, shall have general supervision over all schools and institutions subject to the provisions of the Education Law, or of any statute relating to education, and execute all educational policies determined by the Regents.

Education Law section 308 authorizes the Commissioner to enforce and give effect to any provision in the Education Law or in any other general or special law pertaining to the school system of the State or any rule or direction of the Regents.

Education Law section 309 charges the Commissioner with the general supervision of boards of education and their management and conduct of all departments of instruction.

Education Law 3204(3) and (4) sets forth the course of study and requires students with disabilities to receive a free appropriate public education.

##### 2. LEGISLATIVE OBJECTIVES:

The proposed rule is consistent with the authority conferred by the above statutes and is necessary to implement policy enacted by the Regents relating to a superintendent review option for students with disabilities to graduate with a local diploma.

##### 3. NEEDS AND BENEFITS:

All students with disabilities must be held to high expectations and be provided meaningful opportunities to participate and progress in the general education curriculum to prepare them to graduate with a regular high school diploma. The majority of students with disabilities can meet the State's learning standards for graduation. However, there are some students who, because of their disabilities, are unable to demonstrate their proficiency on standard State assessments, even with testing accommodations. For these students, the State is providing a superintendent review option for eligible students to graduate with a local diploma.

The proposed amendment to current regulations has been developed to ensure that students with disabilities have demonstrated that they have met the State's learning standards for graduation. As such, the school principal and superintendent must review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma. Because ELA and math are foundation skills for which there must be a standardized measure of achievement, this option does require a minimum score on the ELA and math Regents exams. However, for the other three exams required for graduation, this option allows review of other documentation



of proficiency when the student cannot pass one or more of these exams. The conditions of the review are detailed below:

#### Applicability

This option would be open to students with disabilities with a current Individualized Education Program (IEP) only. It does not apply to students with section 504 accommodation plans or students who have been declassified from special education.

#### Process

Beginning with students with disabilities who are otherwise eligible to graduate in June 2016 and thereafter, a school superintendent (or the principal of a registered nonpublic school or charter school, as applicable) has the responsibility to determine if a student with a disability has otherwise met the standards for graduation with a local diploma when such student has not been successful, because of his/her disability, at demonstrating his/her proficiency on the Regents exams required for graduation.

#### Automatic Review

The superintendent must ensure that every student with a disability who does not meet the graduation standards through the existing appeal and safety net options is considered for the superintendent determination. This option does not need to be formally requested by the student or parent.

#### Condition

1. The student has a current IEP and is receiving special education programs and/or related services.

2. The student did not meet the graduation requirements through the low pass (55-64) safety net option<sup>1</sup> or the compensatory option<sup>2</sup> [section 100.5(b)(7)(vi)(c) and (d)(7)].

3. The student must have earned the required course credits and have passed, in accordance with district policy, all courses required for graduation, including the Regents courses to prepare for the corresponding required Regents exam areas (ELA, math, social studies, and science).

4. The student must have received a minimum score of 55 on both the Regents ELA and math exams or a successful appeal of a score between 52 and 54.

5. There must be evidence that the student participated in the other exams required for graduation pursuant to section 100.5(a)(5), but has not passed one or more of these as required for graduation.

6. In a subject area where the student was not able to demonstrate his/her proficiency of the State's learning standards through the assessment required for graduation, there must be evidence that the student has otherwise demonstrated graduation level proficiency in the subject area.

#### Review and Documentation

In conducting a review to ensure the student has met the academic standards, the superintendent must consider evidence that demonstrates that the student:

1. Passed courses culminating in the exam required for graduation, in accordance with the grading policies of the district. In making this determination, the superintendent must consider the student's final course grade as well as student work completed throughout the school year and/or interim grades on homework, projects, class work, quizzes, tests, etc., that demonstrate that the student has met the learning standards for the course; and

2. Actively participated in the exam required for graduation.

The school principal and superintendent must sign a document, on a form prescribed by the Commissioner, which describes the evidence reviewed and the decision rendered by the superintendent. The student and the parent of the student must receive a copy of this documentation and written notification of the superintendent's determination. Where the superintendent determines that the student has not met requirements for graduation, the notice must inform the student that he/she has the right to attend school until receipt of a local or Regents diploma or until the end of the school year in which the student turns age 21, whichever shall occur first.<sup>3</sup>

The superintendent must sign an assurance on the form that certifies that the information is accurate and the superintendent attests that the student has met graduation requirements. A copy of the form must be placed in the student's record and a copy must be submitted to the Department no later than by August 31st following the student's graduation.

#### Decision

A determination by the superintendent is final.

#### Audit

The Commissioner shall periodically audit the determinations granted by superintendents to ensure that conditions described above are being met.

#### Allowance of Low Pass Appeal in Addition to Compensatory Option

Under current regulations, students with disabilities who make use of the compensatory option described above are not eligible to also make use of the low pass appeal wherein they are able to appeal scores of 52-54. The proposed amendment removes this prohibition and allows these students to make use of both options in meeting graduation requirements.

#### 4. COSTS:

(a) Costs to State: none.

(b) Costs to local governments: There may be costs associated with extending the population of students with disabilities can earn a local diploma. School districts, BOCES and registered non-publics may also incur costs for the superintendent review and with recording the evidence reviewed and the decision rendered by the superintendent in these reviews. However, these costs are anticipated to be minimal and capable of being absorbed by districts using existing staff and resources.

In the long term, the proposed amendment is expected to be a cost-saving measure in that it will boost the graduation rate, allowing more students to access higher education or enter the workforce with a high school diploma. Both of these outcomes will in turn stimulate workforce productivity and economic performance in local communities.

(c) Costs to private regulated parties: See (b) above.

(d) Costs to regulating agency for implementation and continued administration of this rule: none.

#### 5. LOCAL GOVERNMENT MANDATES:

The proposed amendment was developed to ensure that students with disabilities have demonstrated that they have met the State's learning standards for graduation. As such, the school principal and superintendent must review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the standards for graduation with a local high school diploma. Because ELA and math are foundation skills for which there must be a standardized measure of achievement, this option does require a minimum score on the ELA and math Regents exams. However, for the other three exams required for graduation, this allows review of other documentation of proficiency when the student cannot pass one or more of these exams. This only applies to students with disabilities with a current Individualized Education Program (IEP) only.

Beginning with students with disabilities who are otherwise eligible to graduate in June 2016 and thereafter, a school superintendent (or the principal of a registered nonpublic school or charter school, as applicable) must determine if a student with a disability has otherwise met the standards for graduation with a local diploma when such student has not been successful, because of his/her disability, at demonstrating proficiency on the Regents exams required for graduation. The superintendent must ensure that every student with a disability who does not meet the graduation standards through the existing appeal and safety net options is considered for the superintendent determination, and need not be formally requested by the student or parent.

#### 6. PAPERWORK:

The proposed rule does not impose any significant paperwork requirements, upon local government, including school districts or BOCES. However, when a superintendent makes a determination that a student has met the requirements for a local diploma, he/she must sign an assurance certifying that the information is accurate and attesting that the student has met graduation requirements. A copy of the form must be placed in the student's record and a copy must be submitted to the Department no later than by August 31st following the student's graduation.

#### 7. DUPLICATION:

The proposed rule does not duplicate any existing State or federal requirements.

#### 8. ALTERNATIVES:

There were no significant alternatives and none were considered. The proposed rule is necessary to implement Regents policy relating to safety net options for students with disabilities to graduate with a local diploma.

#### 9. FEDERAL STANDARDS:

There are no related federal standards in this area.

#### 10. COMPLIANCE SCHEDULE:

Beginning with students with disabilities who are otherwise eligible to graduate in June 2016 and thereafter, a school superintendent (or the principal of a registered nonpublic school or charter school, as applicable) has the responsibility to determine if a student with a disability has otherwise met the standards for graduation with a local diploma when such student has not been successful, because of his/her disability, at demonstrating his/her proficiency on the Regents exams required for graduation.

<sup>1</sup> A student also has the option to appeal a score of 52-54 on up to two Regents exams pursuant to section 100.5(b)(7)(vi)(c). While the appeal option exists, it is not required in order for a student to be considered for the superintendent's determination option.

<sup>2</sup> A student also has the option to appeal the ELA and/or math scores pursuant to section 100.5(d)(7). While the appeal option exists, it is not required in order for a student to be considered for the superintendent's determination option.

<sup>3</sup> A student with a disability who has not yet earned a diploma and who

has not reached the age of 21 may reenroll in school and graduate through this option, provided the student has a current IEP, is participating in the required coursework and is receiving special education programs and services.

### **Regulatory Flexibility Analysis**

#### **(a) Small businesses:**

In order to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the first administrations of the new Regents Examination in Global History & Geography II will be shifted a year to allow for a transition year and will first be offered in June 2019. In effort to conform the current social studies examination requirements for a high diploma under section 100.5 of the Commissioner's regulations to reflect this shift and to provide some flexibility to districts during this transition period, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II examination for graduation (instead of the prior Regents examination in global history and geography) for an additional year- so that it applies to students first entering grade nine on or after September 2017; and
- provides districts with flexibility during the transition period to the new Social Studies Regents examination. For the June 2019, August 2019, January 2020 and June 2020 administrations of the social studies Regents examinations, the proposed amendment provides local school districts or schools with discretion to determine whether to accept a passing score on the Global History & Geography I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography Regents examination II, or either examination, for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations; in addition to accepting a passing score on the Regents examination in U.S history and government.

Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

#### **(b) Local governments:**

##### **1. EFFECT OF RULE:**

The proposed amendment applies to each of the 689 public school districts in the State, and to charter schools and nonpublic schools that are authorized to issue regular high school diplomas with respect to State assessments and high school graduation and diploma requirements.

##### **2. COMPLIANCE REQUIREMENTS:**

The Office of State Assessment has been working closely with members of the Content Advisory Panel to develop the new Regents Examination in Global History and Geography II. This group has worked to develop claims, evidence and performance level indicators for the new assessment as well as suggested question format. Surveys detailing the suggested format of the new assessment and prototype test items have been issued to solicit feedback from educators. The Content Advisory Panel has taken a lead role in analyzing this feedback and working to incorporate educator input into the new assessment design.

In order to ensure a gradual transition to the new Social Studies frameworks, and to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the Global History and Geography Exam administered in June 2018, August 2018, and January 2019 would be based on the existing test framework, but revised to measure content only from the second year of the course consistent with the delineation made in the new frameworks (i.e., content covering approximately 1751 to the present). The transition year will allow for educators to adjust their curriculum and instruction to a model in which the scope and sequence in the second year of the course culminates in the Regents Exam. A similar transition the following year would apply to the U.S. History & Government Exam. The new Regents Examination in Global History & Geography II would first be offered in June 2019 and the Regents Examination in United States History & Government (2014 Framework) would first be offered in June 2020. Not only will this transition year allow educators a more thoughtful and gradual shift to the new frameworks, but this will also provide time for additional educator involvement in the development of these Regents Examinations to ensure they measure the new Frameworks with quality and fidelity. Additionally, this will ensure an extended period for notice and time for students to be prepared to take the new Regents Examinations in Social Studies.

The Department expects to continue to engage and inform educators regarding the ongoing development process and will issue guidance regarding the transition from the current Regents Examinations in Social Studies to the new Regents Examinations in the coming months. This will include guidance on which instruction and assessments (current vs. new

Framework) may be offered to students, based on their grade level during the applicable school year.

In an effort to conform the current diploma requirements to reflect the implementation of this transition year in 2017-18 and provide flexibility to school districts and students while the Department moves to the new Global History & Geography II Regents examination in 2018-19, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II for graduation (instead of the current Regents Examination in Global History Geography I) by one year to allow for the creation of a transition year - so that it applies to students first entering grade nine in September 2017 and thereafter; and
- provides local school districts or schools with the discretion to determine to accept a passing score on either the Global History & Geography I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography II Regents examination for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations during a period when both examinations (the current exam, but with content ranging from approximately 1751 to the present, and the new exam based on the new Social Studies Frameworks) are being administered (the June 2019, August 2019, January 2020 and June 2020 administrations).

##### **3. PROFESSIONAL SERVICES:**

The proposed rule does not impose any additional professional services requirements on local governments.

##### **4. COMPLIANCE COSTS:**

The proposed amendment does not impose any additional costs on local governments.

##### **5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:**

The proposed amendment does not impose any new technological requirements on local governments. Economic feasibility is addressed in the Costs section above.

##### **6. MINIMIZING ADVERSE IMPACT:**

The proposed amendment is necessary to implement Regents policy relating to delaying the requirement for students to take and pass the new Regents Examination in Global History & Geography II examination for graduation. The proposed rule also provides flexibility for local governments during the transition period to the new Social Studies Regents examination.

Because the Regents policy upon which the proposed amendment is based applies to all school districts in the State and to charter schools authorized to issue Regents diplomas, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt school districts or charter schools from coverage by the proposed amendment.

##### **7. LOCAL GOVERNMENT PARTICIPATION:**

Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State, from the chief school officers of the five big city school districts and from charter schools.

##### **8. INITIAL REVIEW OF RULE (SAPA § 207):**

Pursuant to State Administrative Procedure Act section 207(1)(b), the State Education Department proposes that the initial review of this rule shall occur in the fifth calendar year after the year in which the rule is adopted, instead of in the third calendar year. The justification for a five year review period is that the proposed rule is necessary to implement long-range Regents policy providing for a transition to the new Regents Examination in Global History & Geography II. The first administration of the new Regents Examination in Global History & Geography II will be in June 2019m and provides flexibility to school districts through the June 2020 administration. Accordingly, there is no need for a shorter review period.

The Department invites public comment on the proposed five year review period for this rule. Comments should be sent to the agency contact listed in item 10 of the Notice of Emergency Adoption published herewith, and must be received within 45 days of the State Register publication date of the Notice.

### **Rural Area Flexibility Analysis**

#### **1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:**

The proposed amendment applies to each of the 689 public school districts in the State, charter schools, and registered nonpublic schools in the State, to the extent that they offer instruction in the high school grades, including those located in the 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less.

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

The Office of State Assessment has been working closely with members of the Content Advisory Panel to develop the new Regents Examination in Global History and Geography II. This group has worked to develop claims, evidence and performance level indicators for the new assessment

as well as suggested question format. Surveys detailing the suggested format of the new assessment and prototype test items have been issued to solicit feedback from educators. The Content Advisory Panel has taken a lead role in analyzing this feedback and working to incorporate educator input into the new assessment design.

In order to ensure a gradual transition to the new Social Studies frameworks, and to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the Global History and Geography Exam administered in June 2018, August 2018, and January 2019 would be based on the existing test framework, but revised to measure content only from the second year of the course consistent with the delineation made in the new frameworks (i.e., content covering approximately 1751 to the present). The transition year will allow for educators to adjust their curriculum and instruction to a model in which the scope and sequence in the second year of the course culminates in the Regents Exam. A similar transition the following year would apply to the U.S. History & Government Exam. The new Regents Examination in Global History & Geography II would first be offered in June 2019 and the Regents Examination in United States History & Government (2014 Framework) would first be offered in June 2020. Not only will this transition year allow educators a more thoughtful and gradual shift to the new frameworks, but this will also provide time for additional educator involvement in the development of these Regents Examinations to ensure they measure the new Frameworks with quality and fidelity. Additionally, this will ensure an extended period for notice and time for students to be prepared to take the new Regents Examinations in Social Studies.

The Department expects to continue to engage and inform educators regarding the ongoing development process and will issue guidance regarding the transition from the current Regents Examinations in Social Studies to the new Regents Examinations in the coming months. This will include guidance on which instruction and assessments (current vs. new Framework) may be offered to students, based on their grade level during the applicable school year.

In an effort to conform the current diploma requirements to reflect the implementation of this transition year in 2017-18 and provide flexibility to school districts and students while the Department moves to the new Global History & Geography II Regents examination in 2018-19, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II for graduation (instead of the current Regents Examination in Global History Geography I) by one year to allow for the creation of a transition year - so that it applies to students first entering grade nine in September 2017 and thereafter; and
- provides local school districts or schools with the discretion to determine to accept a passing score on either the Global History & Geography I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography II Regents examination for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations during a period when both examinations (the current exam, but with content ranging from approximately 1751 to the present, and the new exam based on the new Social Studies Frameworks) are being administered (the June 2019, August 2019, January 2020 and June 2020 administrations).

### 3. COMPLIANCE COSTS:

The proposed amendment does not impose any additional costs on local governments.

### 4. MINIMIZING ADVERSE IMPACT:

Because the Regents policy upon which the proposed amendment is based applies to all public school districts in the State, charter schools, and registered nonpublic schools in the State, to the extent that they offer instruction in the high school grades, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

### 5. RURAL AREA PARTICIPATION:

The proposed rule was submitted for review and comment to the Department's Rural Education Advisory Committee, which includes representatives of school districts in rural areas.

### Job Impact Statement

All students with disabilities must be held to high expectations and be provided meaningful opportunities to participate and progress in the general education curriculum to prepare them to graduate with a regular high school diploma. The majority of students with disabilities can meet the State's learning standards for graduation. However, there are some students who, because of their disabilities, are unable to demonstrate their proficiency on standard State assessments, even with testing accommodations. For these students, the proposed amendment requires a superintendent review option for eligible students to graduate with a local diploma. The proposed amendment requires the school principal and superintendent to review, document and provide a written certification/assurance that there is evidence that the student has otherwise met the

standards for graduation with a local high school diploma. Because ELA and math are foundation skills for which there must be a standardized measure of achievement, this option does require a minimum score on the ELA and math Regents exams. However, for the other three exams required for graduation, this option allows review of other documentation of proficiency when the student cannot pass one or more of these exams.

Because it is evident from the nature of the proposed rule that it will have no impact on the number of jobs or employment opportunities in New York State, no further 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.

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

### Annual Professional Performance Reviews (APPR) of Classroom Teachers and Building Principals

**I.D. No.** EDU-27-16-00003-EP

**Filing No.** 589

**Filing Date:** 2016-06-20

**Effective Date:** 2016-06-20

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

**Proposed Action:** Amendment of sections 30-3.4 and 30-3.5 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101 (not subdivided), 207 (not subdivided), 215 (not subdivided), 305(1), (2), 3009(1) and 3012-d

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

**Specific reasons underlying the finding of necessity:** The purpose of the proposed amendment is to provide districts and BOCES with additional options for measures to use in the student performance category and greater flexibility in scoring observations in the observation category. It also seeks to clarify that the Department may require changes to a collective bargaining agreement in a corrective action plan subject to collective bargaining under Article 14 of the Civil Service Law and that teacher/principal improvement plans are required to negotiated, to the extent required under Article 14 of the Civil Service Law.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in State Administrative Procedure Act (SAPA) section 202(4-a), would be the September 12-13, 2016 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the November meeting, would be September 28, 2016, the date a Notice of Adoption would be published in the State Register.

Emergency action at the May 2016 Regents meeting is therefore necessary for the preservation of the general welfare in order to immediately adopt revisions to the proposed amendment to provide immediate notice to districts of the additional allowable measures in the student performance category, the increased flexibility in scoring observations in the observation category and to clarify the collective bargaining requirements surrounding teacher/principal improvement plans and to clarify that corrective action plans may require changes to collective bargaining agreements, subject to negotiation under Article 14 of the Civil Service Law, while they are negotiating their annual professional performance review plans under Education Law § 3012-d for the 2016-2017 school year.

**Subject:** Annual Professional Performance Reviews (APPR) of classroom teachers and building principals.

**Purpose:** To provide hardship Waiver from Independent Evaluator Requirement.

**Text of emergency/proposed rule:** 1. Clause (b) of subparagraph (i) of paragraph (2) of subdivision (d) of section 30-3.4 of the Rules of the Board of Regents shall be amended, effective June 20, 2016, to read as follows:

(b) a second observation shall be conducted by either one or more impartial independent trained evaluator(s) selected and trained by the district or in cases where a hardship waiver is granted by the department pursuant to subclause (1) of this clause, a second observation shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the evaluation pursuant to clause (a) of this paragraph; *or in cases where a hardship waiver is granted by the department pursuant to subclause (2) of this subparagraph, a second observation shall be conducted as prescribed in subclause (2).* An independent trained evaluator may be employed within the district,



but may not be assigned to the same school building as the teacher being evaluated;

(1) . . .

(2) Commencing with the 2016-2017 school year, a school district may apply to the Department for a hardship waiver on an annual basis, in a timeframe and manner prescribed by the commissioner, if the school district believes that compliance with this clause would create an undue burden on the school district in one or more of the following areas: compliance with the independent evaluator requirement would result in financial hardship; the district lacks professionally trained staff to comply with the independent evaluator requirement; the district has a large number of teachers; and/or compliance with the independent evaluator requirement could impact safety and management of a building. A hardship waiver granted by the Department under this subclause shall excuse, but not prohibit, school districts from conducting observations by impartial independent trained evaluators for teachers who received a rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting observations by impartial independent trained evaluators for the 2016-2017 school year for teachers who receive a rating of highly effective, effective, or developing for the 2015-2016 school year; school districts would be required to conduct observations by impartial independent trained evaluators for the 2016-2017 school year for, at a minimum, teachers who receive a rating of ineffective for the 2015-2016 school year). For teachers who are excused from the impartial independent trained evaluator requirement pursuant to a hardship waiver granted by the Department under this subclause, school districts shall conduct a second observation, provided that such second observation may be conducted by the building principal/supervisor or any individual selected and trained by the school district. The two observations for such teachers could be performed by the same individual. As part of its hardship waiver request, a school district shall submit a plan for conducting observations by the building principal or other individual selected and trained by the school district in lieu of the impartial independent trained evaluator subcomponent. For the other teachers in the district who must still receive a second observation by an impartial, independent trained evaluator (teachers who, at a minimum, received an ineffective rating in the preceding school year), the district must submit a plan for conducting such observations. Once a hardship waiver is approved by the Department, it shall be considered part of the school district's annual professional performance review plan for such school year.

2. Subparagraph (ii) of paragraph (1) of subdivision (d) of section 30-3.5 of the Rules of the Board of Regents shall be amended, effective June 20, 2016, to read as follows:

(ii) a second school visit shall be conducted by either one or more impartial independent trained evaluator(s) selected and trained by the district or in cases where a hardship waiver is granted by the department pursuant to clause (a) of this subparagraph, a second school visit shall be conducted by one or more evaluators selected and trained by the district, who are different than the evaluator(s) who conducted the evaluation pursuant to subparagraph (i) of this paragraph; or in cases where a hardship waiver is granted by the department pursuant to clause (b) of this subparagraph, a second school visit shall be conducted as prescribed in clause (b). An independent trained evaluator may be employed within the district, but may not be assigned to the same school building as the principal being evaluated;

(a) . . .

(b) Commencing with the 2016-2017 school year, a school district may apply to the Department for a hardship waiver on an annual basis, on a form and in a timeframe prescribed by the commissioner, if the school district believes that compliance with this clause would create an undue burden on the district in one or more of the following areas: compliance with the independent evaluator requirement would result in financial hardship; the district lacks professionally trained staff to comply with the independent evaluator requirement; the district has a large number of principals; and/or compliance with the independent evaluator requirement could impact safety and management of a building. A hardship waiver granted by the Department under this clause shall excuse, but not prohibit, school districts from conducting school visits by impartial independent trained evaluators for principals who received a rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting school visits by impartial independent trained evaluators for the 2016-2017 school year for principals who receive a rating of highly effective, effective, or developing for the 2015-2016 school year; school districts would be required to conduct school visits by impartial independent trained evaluators for the 2016-2017 school year for, at a minimum, principals who receive a rating of ineffective for the 2015-2016 school year). For principals who are excused from the impartial independent trained evaluator requirement pursuant to a hardship waiver granted by the Department

under this clause, school districts shall conduct a second school visit, provided that such second school visit may be conducted by the principal's supervisor or any individual selected and trained by the school district. The two school visits for such principals could be performed by the same individual. As part of its hardship waiver request, a school district shall submit a plan for conducting school visits by the principal's supervisor or other individual selected and trained by the school district in lieu of the impartial independent trained evaluator subcomponent. For the other principals in the district who must still receive a second school visit by an impartial, independent trained evaluator (principals who, at a minimum, received an ineffective rating in the preceding school year), the district must submit a plan for conducting such school visits. Once a hardship waiver is approved by the Department, it shall be considered part of the school district's annual professional performance review plan for such school year.

**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 September 17, 2016.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, State Education Department, Office of Counsel, State Education Building, Room 148, 89 Washington Ave., Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Peg Rivers, State Education Department, Office of Higher Education, Room 979 EBA, 89 Washington Ave., Albany, NY 12234, (518) 486-3633, email: regcomments@nysed.gov

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

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

#### Regulatory Impact Statement

##### 1. STATUTORY AUTHORITY:

Education Law § 101 charges the Department with the general management and supervision of the educational work of the State and establishes the Regents as head of the Department.

Education Law § 207 grants general rule-making authority to the Regents to carry into effect State educational laws and policies.

Education Law § 215 authorizes the Commissioner to require reports from schools under State educational supervision.

Education Law § 305(1) authorizes the Commissioner to enforce laws relating to the State educational system and execute Regents educational policies. Section 305(2) provides the Commissioner with general supervision over schools and authority to advise and guide school district officers in their duties and the general management of their schools.

Education Law § 3009(1) provides that no part of the school moneys apportioned to a district shall be applied to the payment of the salary of an unqualified teacher, nor shall his salary or part thereof, be collected by a district tax except as provided in the Education Law.

Education Law § 3012-d, as added by Section 2 of Subpart E of Part EE of Chapter 56 of the Laws of 2015 establishes a new evaluation system for classroom teachers and building principals employed by school districts and BOCES for the 2015-16 school year and thereafter.

##### 2. LEGISLATIVE OBJECTIVES:

The proposed rule is necessary to provide immediate notice to districts of the increased flexibility in the observation category by providing for a hardship waiver from the independent evaluator requirement, while they are negotiating their annual professional performance review plans under Education Law § 3012-d for the 2016-2017 school year.

##### 3. NEEDS AND BENEFITS:

On April 13, 2015, the Governor signed Chapter 56 of the Laws of 2015 to add a new Education Law § 3012-d, to establish a new evaluation system for classroom teachers and building principals. The Department implemented regulations to implement the new law in June 2015 and has revised those regulations over the course of the last year to provide school districts and BOCES with as much flexibility as possible to comply with the new law. Education Law § 3012-d(12) and the corresponding appropriation language require school districts to comply with the new law by September 1, 2016 in order to receive their State aid increases. The Department has received numerous concerns about the requirement for the use of independent evaluators in teacher observations and principal school visits, notwithstanding the fact that the Department revised the regulation in September 2015 to provide a hardship waiver for rural and single building school districts. In an effort to provide more flexibility to districts (particularly the large city school districts), the Department is proposing to revise the regulations even further to provide an additional hardship waiver from the independent evaluator requirement as follows:

The proposed amendment revises sections 30-3.4 and 30-3.5 of the Rules of the Board of Regents to provide a hardship waiver to school districts and BOCES commencing with the 2016-2017 school year who

believe that compliance with the independent evaluator requirement would create an undue burden on the school district/BOCES in one or more of the following areas:

1. compliance with the independent evaluator requirement would result in financial hardship to the district or BOCES;
2. the district or BOCES lacks professionally trained staff to comply with the independent evaluator requirement;
3. the district or BOCES has a large number of teachers and principals; and/or
4. compliance with the independent evaluator requirement could impact safety and management of a building (e.g., would result in the principal being absent from the school building).

Any hardship waiver granted by the Department would excuse, but not prohibit, school districts/BOCES from conducting observations/school visits by impartial independent trained evaluators for teachers/principals who received an APPR rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting observations/school visits by impartial independent trained evaluators for the 2016-2017 school year for teachers/principals who receive an APPR rating of highly effective, effective, or developing for the 2015-2016 school year; teachers/principals who, at a minimum, receive an APPR rating of ineffective for the 2015-2016 school year would continue to be subject to the requirement for evaluation by an independent evaluator for the 2016-2017 school year APPR process). However, teachers/principals who are not subject to the independent evaluator requirement pursuant to the hardship waiver must still receive a second observation/school visit. The second observation/school visit may be conducted by the building principal/supervisor or any individual selected and trained by the school district or BOCES. The two observations/school visits for such teachers/principals could be performed by the same individual.

As part of its hardship waiver request, a school district will be required to submit a plan for conducting observations/school visits by the building principal/supervisor or other trained administrators and for conducting the second observation/school visit by the building principal/supervisor or by an individual selected and trained by the school district or BOCES. For the other teachers/principals in the school district/BOCES who must still receive a second observation/school visit by an impartial, independent trained evaluator (those who, at a minimum, receive an APPR rating of ineffective in the preceding school year), the district/BOCES must submit a plan for conducting such observations/school visits. Once a hardship waiver is approved by the Department, it shall be considered part of the school district's annual professional performance review plan for such school year.

#### 4. COSTS:

a. Costs to State government: The amendment provides districts and BOCES with greater flexibility in their implementation of Education Law § 3012-d and does not impose any costs on State government, including the State Education Department, beyond those costs imposed by the statute.

b. Costs to local government: Education Law § 3012-d, as added by Chapter 56 of the Laws of 2015, establishes requirements for the conduct of annual professional performance reviews (APPR) of classroom teachers and building principals employed by school districts and boards of cooperative educational services (BOCES) for the 2015-2016 school year and thereafter. The amendment provides districts and BOCES with greater flexibility in their implementation of Education Law section 3012-d and does not impose any costs on local government, beyond those costs imposed by the statute.

#### 5. LOCAL GOVERNMENT MANDATES:

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

#### 6. PAPERWORK:

The proposed amendment will not increase reporting or recordkeeping requirements beyond existing requirements.

#### 7. DUPLICATION:

The rule does not duplicate existing State or Federal requirements.

#### 8. ALTERNATIVES:

The proposed amendment is necessary to provide districts and BOCES greater flexibility in their implementation of Education Law § 3012-d and, therefore, no alternatives were considered.

#### 9. FEDERAL STANDARDS:

There are no applicable Federal standards concerning the APPR for classroom teachers and building principals as established in Education Law § 3012-d.

#### 10. COMPLIANCE SCHEDULE:

The annual hardship waiver will be available commencing with the 2016-2017 school year.

#### *Regulatory Flexibility Analysis*

##### (a) Small businesses:

The purpose of proposed rule is to provide annual hardship waivers

from the independent evaluator requirement for annual professional performance reviews for school districts and BOCES commencing with the 2016-2017 school year for school districts who believe that compliance with the independent evaluator requirement would create an undue burden on the school district/BOCES.

Any hardship waiver granted by the Department would excuse, but not prohibit, school districts/BOCES from conducting observations/school visits by impartial independent trained evaluators for teachers/principals who received an APPR rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting observations/school visits by impartial independent trained evaluators for the 2016-2017 school year for teachers/principals who receive an APPR rating of highly effective, effective, or developing for the 2015-2016 school year; teachers/principals who, at a minimum, receive an APPR rating of ineffective for the 2015-2016 school year would continue to be subject to the requirement for evaluation by an independent evaluator for the 2016-2017 school year APPR process). However, teachers/principals who are not subject to the independent evaluator requirement pursuant to the hardship waiver must still receive a second observation/school visit.

Because it is evident from the nature of the rule that it does not affect small businesses, no further steps were needed to ascertain that fact and one were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

##### (b) Local governments:

###### 1. EFFECT OF RULE:

The rule applies to each of the approximately 689 school districts and 37 boards of cooperative educational services (BOCES) in the State.

###### 2. COMPLIANCE REQUIREMENTS:

On April 13, 2015, the Governor signed Chapter 56 of the Laws of 2015 to add a new Education Law § 3012-d, to establish a new evaluation system for classroom teachers and building principals. The Department implemented regulations to implement the new law in June 2015 and has revised those regulations over the course of the last year to provide school districts and BOCES with as much flexibility as possible to comply with the new law. Education Law § 3012-d(12) and the corresponding appropriation language require school districts to comply with the new law by September 1, 2016 in order to receive their State aid increases. The Department has received numerous concerns about the requirement for the use of independent evaluators in teacher observations and principal school visits, notwithstanding the fact that the Department revised the regulation in September 2015 to provide a hardship waiver for rural and single building school districts. In an effort to provide more flexibility to districts (particularly the large city school districts), the Department is proposing to revise the regulations even further to provide an additional hardship waiver from the independent evaluator requirement as follows:

The proposed amendment revises sections 30-3.4 and 30-3.5 of the Rules of the Board of Regents to provide a hardship waiver to school districts and BOCES commencing with the 2016-2017 school year who believe that compliance with the independent evaluator requirement would create an undue burden on the school district/BOCES in one or more of the following areas:

1. compliance with the independent evaluator requirement would result in financial hardship to the district or BOCES;
2. the district or BOCES lacks professionally trained staff to comply with the independent evaluator requirement;
3. the district or BOCES has a large number of teachers and principals; and/or
4. compliance with the independent evaluator requirement could impact safety and management of a building (e.g., would result in the principal being absent from the school building).

Any hardship waiver granted by the Department would excuse, but not prohibit, school districts/BOCES from conducting observations/school visits by impartial independent trained evaluators for teachers/principals who received an APPR rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting observations/school visits by impartial independent trained evaluators for the 2016-2017 school year for teachers/principals who receive an APPR rating of highly effective, effective, or developing for the 2015-2016 school year; teachers/principals who, at a minimum, receive an APPR rating of ineffective for the 2015-2016 school year would continue to be subject to the requirement for evaluation by an independent evaluator for the 2016-2017 school year APPR process). However, teachers/principals who are not subject to the independent evaluator requirement pursuant to the hardship waiver must still receive a second observation/school visit. The second observation/school visit may be conducted by the building principal/supervisor or any individual selected and trained by the school district or BOCES. The two observations/school visits for such teachers/principals could be performed by the same individual.



As part of its hardship waiver request, a school district will be required to submit a plan for conducting observations/school visits by the building principal/supervisor or other trained administrators and for conducting the second observation/school visit by the building principal/supervisor or by an individual selected and trained by the school district or BOCES. For the other teachers/principals in the school district/BOCES who must still receive a second observation/school visit by an impartial, independent trained evaluator (those who, at a minimum, receive an APPR rating of ineffective in the preceding school year), the district/BOCES must submit a plan for conducting such observations/school visits. Once a hardship waiver is approved by the Department, it shall be considered part of the school district's annual professional performance review plan for such school year.

### 3. PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional services requirements on local governments beyond those imposed by, or inherent in, the statute.

### 4. COMPLIANCE COSTS:

There are no additional costs imposed by the proposed amendment, beyond those imposed by statute.

### 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The rule does not impose any additional technological requirements on school districts or BOCES. Economic feasibility is addressed in the Costs section of the Summary of the Regulatory Impact Statement submitted herewith.

### 6. MINIMIZING ADVERSE IMPACT:

The rule is necessary to provide districts and BOCES with greater flexibility in implementing the provisions of Education Law § 3012-d. Because Education Law § 3012-d applies to all school districts and BOCES in the State, the Department did not establish differing compliance or reporting requirements or timetables or exempt schools in rural areas from coverage by the proposed amendment.

### 7. LOCAL GOVERNMENT PARTICIPATION:

The proposed amendment is submitted in direct response to feedback and comments provided by various stakeholder groups, including representatives of school districts and BOCES State-wide. Such stakeholder groups have consistently requested greater flexibility in implementing the provisions of Education Law § 3012-d in the areas addressed by the proposed amendment.

Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State, and from the chief school officers of the five big city school districts.

### *Rural Area Flexibility Analysis*

#### 1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed rule applies to all school districts and boards of cooperative educational services (BOCES) in the State, including those located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

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

On April 13, 2015, the Governor signed Chapter 56 of the Laws of 2015 to add a new Education Law § 3012-d, to establish a new evaluation system for classroom teachers and building principals. The Department implemented regulations to implement the new law in June 2015 and has revised those regulations over the course of the last year to provide school districts and BOCES with as much flexibility as possible to comply with the new law. Education Law § 3012-d(12) and the corresponding appropriation language require school districts to comply with the new law by September 1, 2016 in order to receive their State aid increases. The Department has received numerous concerns about the requirement for the use of independent evaluators in teacher observations and principal school visits, notwithstanding the fact that the Department revised the regulation in September 2015 to provide a hardship waiver for rural and single building school districts. In an effort to provide more flexibility to districts (particularly the large city school districts), the Department is proposing to revise the regulations even further to provide an additional hardship waiver from the independent evaluator requirement as follows:

The proposed amendment revises sections 30-3.4 and 30-3.5 of the Rules of the Board of Regents to provide a hardship waiver to school districts and BOCES commencing with the 2016-2017 school year who believe that compliance with the independent evaluator requirement would create an undue burden on the school district/BOCES in one or more of the following areas:

1. compliance with the independent evaluator requirement would result in financial hardship to the district or BOCES;
2. the district or BOCES lacks professionally trained staff to comply with the independent evaluator requirement;
3. the district or BOCES has a large number of teachers and principals; and/or

4. compliance with the independent evaluator requirement could impact safety and management of a building (e.g., would result in the principal being absent from the school building).

Any hardship waiver granted by the Department would excuse, but not prohibit, school districts/BOCES from conducting observations/school visits by impartial independent trained evaluators for teachers/principals who received an APPR rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting observations/school visits by impartial independent trained evaluators for the 2016-2017 school year for teachers/principals who receive an APPR rating of highly effective, effective, or developing for the 2015-2016 school year; teachers/principals who, at a minimum, receive an APPR rating of ineffective for the 2015-2016 school year would continue to be subject to the requirement for evaluation by an independent evaluator for the 2016-2017 school year APPR process). However, teachers/principals who are not subject to the independent evaluator requirement pursuant to the hardship waiver must still receive a second observation/school visit. The second observation/school visit may be conducted by the building principal/supervisor or any individual selected and trained by the school district or BOCES. The two observations/school visits for such teachers/principals could be performed by the same individual.

As part of its hardship waiver request, a school district will be required to submit a plan for conducting observations/school visits by the building principal/supervisor or other trained administrators and for conducting the second observation/school visit by the building principal/supervisor or by an individual selected and trained by the school district or BOCES. For the other teachers/principals in the school district/BOCES who must still receive a second observation/school visit by an impartial, independent trained evaluator (those who, at a minimum, receive an APPR rating of ineffective in the preceding school year), the district/BOCES must submit a plan for conducting such observations/school visits. Once a hardship waiver is approved by the Department, it shall be considered part of the school district's annual professional performance review plan for such school year.

### 3. COSTS:

The proposed amendment will not impose any additional costs beyond those imposed by, or inherent in, the statute.

### 4. MINIMIZING ADVERSE IMPACT:

The rule is necessary to provide districts and BOCES with greater flexibility in their implementation of Education Law § 3012-d. Because Education Law § 3012-d applies to all school districts and BOCES in the State, the Department did not prescribe differing compliance or reporting requirements for rural areas of the State.

### 5. RURAL AREA PARTICIPATION:

The proposed amendment provides districts and BOCES with greater flexibility in their implementation of Education Law § 3012-d and Subpart 30-3 of the Rules of the Board of Regents. The proposed amendments are submitted in response, in part, to comments received from rural school districts and BOCES.

The Department has solicited comments on the proposed amendment from the Rural Area Advisory Council, whose members live or work in rural areas of this State.

### *Job Impact Statement*

The purpose of proposed rule is to provide annual hardship waivers from the independent evaluator requirement for annual professional performance reviews for school districts and BOCES commencing with the 2016-2017 school year for school districts who believe that compliance with the independent evaluator requirement would create an undue burden on the school district/BOCES.

Any hardship waiver granted by the Department would excuse, but not prohibit, school districts/BOCES from conducting observations/school visits by impartial independent trained evaluators for teachers/principals who received an APPR rating of highly effective, effective, or developing in the preceding school year (e.g., school districts would be excused, but not prohibited, from conducting observations/school visits by impartial independent trained evaluators for the 2016-2017 school year for teachers/principals who receive an APPR rating of highly effective, effective, or developing for the 2015-2016 school year; teachers/principals who, at a minimum, receive an APPR rating of ineffective for the 2015-2016 school year would continue to be subject to the requirement for evaluation by an independent evaluator for the 2016-2017 school year APPR process). However, teachers/principals who are not subject to the independent evaluator requirement pursuant to the hardship waiver must still receive a second observation/school visit.

Because it is evident from the nature of the proposed rule that it will have no impact on the number of jobs or employment opportunities in New York State, no further 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.

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

**Superintendent Determination As to Academic Proficiency for Certain Students with Disabilities to Graduate with a Local Diploma**

**I.D. No.** EDU-27-16-00004-EP

**Filing No.** 590

**Filing Date:** 2016-06-20

**Effective Date:** 2016-07-01

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

**Proposed Action:** Amendment of section 100.5(a) of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101 (not subdivided), 207 (not subdivided), 208 (not subdivided), 209 (not subdivided), 305(1), (2), 308 (not subdivided) and 309 (not subdivided)

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

**Specific reasons underlying the finding of necessity:** In order to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the first administrations of the new Regents Examination in Global History & Geography II will be shifted a year to allow for a transition year and will first be offered in June 2019. In effort to conform the current social studies examination requirements for a high diploma under section 100.5 of the Commissioner's regulations to reflect this shift and to provide some flexibility to districts during this transition period, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II examination for graduation (instead of the prior Regents examination in global history and geography) for an additional year- so that it applies to students first entering grade nine on or after September 2017; and
- provides districts with flexibility during the transition period to the new Social Studies Regents examination. For the June 2019, August 2019, January 2020 and June 2020 administrations of the social studies Regents examinations, the proposed amendment provides local school districts or schools with discretion to determine whether to accept a passing score on the Global History & Geography I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography Regents examination II, or either examination, for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations; in addition to accepting a passing score on the Regents examination in U.S history and government.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the September 12-13, 2016 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be September 28, 2016, the date a Notice of Adoption would be published in the State Register. However, the current regulations require students who are entering grade nine on or after September 1, 2016 to take and pass the new Regents Examination in Global History & Geography II examination.

Therefore, emergency action is necessary at the June 2016 Regents meeting for the preservation of the general welfare in order to ensure that students who are entering grade nine on or after September 1, 2016 are on notice of the shift in implementation of the new Social Studies Regents examination and of the new diploma requirements that will be required of them so that they can adequately prepare for these new examination requirements.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the September 12-13, 2016 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act for State agency rule makings.

**Subject:** Superintendent determination as to academic proficiency for certain students with disabilities to graduate with a local diploma.

**Purpose:** To expand the safety net options for students with disabilities to graduate with local diplomas when certain conditions are met.

**Text of emergency/proposed rule:** Paragraph (5) of subdivision (a) of section 100.5 of the Regulations of the Commissioner of Education is amended, effective July 1, 2016, to read as follows:

- (5) State assessment system.

(i) Except as otherwise provided in clause (f) of this subparagraph and subparagraphs (ii), (iii) and (iv) of this paragraph, all students shall demonstrate attainment of the New York State learning standards:

- (a) ...  
(b) ...  
(c) United States history and government:

- (1) ...  
(2) ...

(3) for students who first enter grade nine in September 2011 and thereafter or who are otherwise eligible to receive a high school diploma pursuant to this section in June 2015 and thereafter, by passing one of the following assessments:

(i) the Regents examination in United States history and government; or

(ii) *except as otherwise provided in item (iv)*, the Regents examination in global history and geography (for students first entering grade nine prior to September [2016] 2017);

(iii) *except as otherwise provided in item (iv)*, the Regents examination in global history and geography II (1750 to present) (for students first entering grade nine in September [2016] 2017 and thereafter);

(iv) *at the discretion of the applicable local school district or school, the Regents examination in global history and geography or the Regents examination in global history and geography II, for students who take and pass such assessments during the June 2019, August 2019, January 2020 and June 2020 administrations of these assessments; or*

[iii] (v) a department-approved alternative to either item

(i) [or], (ii), (iii) or (iv) of this subclause; or

- (4) ...  
(5) ...

(d) ...

(e) Global history and geography:

- (1) ...  
(2) ...  
(3) ...

(4) for students who first enter grade nine in September 2011 and thereafter or who are otherwise eligible to receive a high school diploma pursuant to this section in June 2015 and thereafter, by passing one of the following assessments:

(i) the Regents examination in United States history and government; or

(ii) *except as otherwise provided in item (iv)*, the Regents examination in global history and geography (for students first entering grade nine prior to September [2016] 2017);

(iii) *except as otherwise provided in item (iv)*, the Regents examination in global history and geography II (1750 to present) (for students first entering grade nine in September [2016] 2017 and thereafter);

(iv) *at the discretion of the applicable local school district or school, the Regents examination in global history and geography or the Regents examination in global history and geography II, for students who take and pass such assessments during the June 2019, August 2019, January 2020 and June 2020 administrations of these assessments; or*

[iii] (v) a department-approved alternative to either item

(i) [or], (ii), (iii) or (iv) of this subclause; or

- (iii) ...  
(f) ...

**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 September 17, 2016.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, New York State Education Department, 89 Washington Avenue, Room 148, Albany, NY 12234, (518) 474-8966, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Angelica Infante-Greene, Deputy Commissioner for Instructional Support, New York State Education Department, 2M West, 89 Washington Avenue, Albany, NY 12234, (518) 474-5510, email: nysedp12@nysed.gov

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

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

**Regulatory Impact Statement**

**1. STATUTORY AUTHORITY:**

Education Law section 101 continues the existence of the Education Department, with the Board of Regents as its head, and authorizes the Regents to appoint the Commissioner as chief administrative officer of the Department, which is charged with the general management and supervision of public schools and the educational work of the State.

Education Law section 207 empowers the Board of Regents and the Commissioner of Education to adopt rules and regulations to carry out the laws of the State regarding education and the functions and duties conferred on the State Education Department by law.

Education Law section 208 authorizes the Regents to establish examinations as to attainments in learning and to award and confer suitable certificates, diplomas and degrees on persons who satisfactorily meet the requirements prescribed.

Education Law section 209 authorizes the Regents to establish secondary school examinations in studies furnishing a suitable standard of graduation and of admission to colleges; to confer certificates or diplomas on students who satisfactorily pass such examinations; and requires the admission to these examinations of any person who shall conform to the rules and pay the fees prescribed by the Regents.

Education Law section 215 authorizes the Regents and the Commissioner to require school districts to prepare and submit reports containing such information as they may prescribe.

Education Law section 305(1) and (2) provide the Commissioner, as chief executive officer of the State's education system, with general supervision over all schools and institutions subject to the Education Law, or any statute relating to education, and responsibility for executing all educational policies of the Regents.

Education Law section 309 charges the Commissioner with the general supervision of boards of education and their management and conduct of all departments of instruction.

## 2. LEGISLATIVE OBJECTIVES:

The proposed rule is consistent with the authority conferred by the above statutes and is necessary to implement policy enacted by the Board of Regents relating to a transition period to the new Regents Examination in Global History & Geography II.

## 3. NEEDS AND BENEFITS:

The Office of State Assessment has been working closely with members of the Content Advisory Panel to develop the new Regents Examination in Global History and Geography II. This group has worked to develop claims, evidence and performance level indicators for the new assessment as well as suggested question format. Surveys detailing the suggested format of the new assessment and prototype test items have been issued to solicit feedback from educators. The Content Advisory Panel has taken a lead role in analyzing this feedback and working to incorporate educator input into the new assessment design.

In order to ensure a gradual transition to the new Social Studies frameworks, and to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the Global History and Geography Exam administered in June 2018, August 2018, and January 2019 would be based on the existing test framework, but revised to measure content only from the second year of the course consistent with the delineation made in the new frameworks (i.e., content covering approximately 1751 to the present). The transition year will allow for educators to adjust their curriculum and instruction to a model in which the scope and sequence in the second year of the course culminates in the Regents Exam. A similar transition the following year would apply to the U.S. History & Government Exam. The new Regents Examination in Global History & Geography II would first be offered in June 2019 and the Regents Examination in United States History & Government (2014 Framework) would first be offered in June 2020. Not only will this transition year allow educators a more thoughtful and gradual shift to the new frameworks, but this will also provide time for additional educator involvement in the development of these Regents Examinations to ensure they measure the new Frameworks with quality and fidelity. Additionally, this will ensure an extended period for notice and time for students to be prepared to take the new Regents Examinations in Social Studies.

The Department expects to continue to engage and inform educators regarding the ongoing development process and will issue guidance regarding the transition from the current Regents Examinations in Social Studies to the new Regents Examinations in the coming months. This will include guidance on which instruction and assessments (current vs. new Framework) may be offered to students, based on their grade level during the applicable school year.

In an effort to conform the current diploma requirements to reflect the implementation of this transition year in 2017-18 and provide flexibility to school districts and students while the Department moves to the new Global History & Geography II Regents examination in 2018-19, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II for graduation (instead of the current Regents Examination in Global History Geography I) by one year to allow for the creation of a transition year - so that it applies to students first entering grade nine in September 2017 and thereafter; and
- provides local school districts or schools with the discretion to determine to accept a passing score on either the Global History & Geog-

raphy I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography II Regents examination for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations during a period when both examinations (the current exam, but with content ranging from approximately 1751 to the present, and the new exam based on the new Social Studies Frameworks) are being administered (the June 2019, August 2019, January 2020 and June 2020 administrations).

## 4. COSTS:

- (a) Costs to State: none.
- (b) Costs to local governments: none.
- (c) Costs to private regulated parties: none.
- (d) Costs to regulating agency for implementation and continued administration of this rule: none.

## 5. LOCAL GOVERNMENT MANDATES:

The proposed amendment is necessary to implement enacted by the Board of Regents relating to the new Regents Examination in Global History & Geography II and does not impose any additional program, service, duty or responsibility upon local governments. The proposed amendment delays the requirement for students to take and pass the new Regents Examination in Global History & Geography II examination for graduation (instead of the prior Regents examination in global history and geography) for an additional year- so that it applies to students first entering grade nine on or after September 2017. It also provides flexibility for school districts during a transition period which includes the June 2019, August 2019, January 2020 and June 2020 administrations, by allowing school districts the discretion to determine whether to accept a passing score on the Global History & Geography I Regents examination or the Global History & Geography Regents examination II, or either examination, for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations; in addition to accepting a passing score on the Regents examination in U.S history and government.

## 6. PAPERWORK:

The proposed amendment does not impose any specific recordkeeping, reporting or other paperwork requirements.

## 7. DUPLICATION:

The proposed rule does not duplicate any existing State or federal requirements.

## 8. ALTERNATIVES:

There were no significant alternatives and none were considered. The proposed rule is necessary to implement Regents policy relating to delaying the requirement for students to take and pass the new Regents Examination in Global History & Geography II examination for graduation. The proposed rule also provides flexibility for school districts during the transition period to the new Social Studies Regents examination.

## 9. FEDERAL STANDARDS:

There are no related federal standards in this area.

## 10. COMPLIANCE SCHEDULE:

It is anticipated that regulated parties can achieve compliance with the proposed rule by its effective date. The first administrations of the new Regents Examination in Global History & Geography II will be offered in June 2019. For the transition period which will include the June 2019, August 2019, January 2020 and June 2020 administrations, school districts will have discretion to determine whether to accept a passing score on the Global History & Geography I Regents examination or the Global History & Geography Regents examination II, or either examination, for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations; in addition to accepting a passing score on the Regents examination in U.S history and government.

## *Regulatory Flexibility Analysis*

### (a) Small businesses:

In order to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the first administrations of the new Regents Examination in Global History & Geography II will be shifted a year to allow for a transition year and will first be offered in June 2019. In effort to conform the current social studies examination requirements for a high diploma under section 100.5 of the Commissioner's regulations to reflect this shift and to provide some flexibility to districts during this transition period, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II examination for graduation (instead of the prior Regents examination in global history and geography) for an additional year- so that it applies to students first entering grade nine on or after September 2017; and
- provides districts with flexibility during the transition period to the new Social Studies Regents examination. For the June 2019, August 2019, January 2020 and June 2020 administrations of the social studies Regents examinations, the proposed amendment provides local school districts or schools with discretion to determine whether to accept a passing score on



the Global History & Geography I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography Regents examination II, or either examination, for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations; in addition to accepting a passing score on the Regents examination in U.S. history and government.

Because it is evident from the nature of the proposed amendment that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

(b) Local governments:

1. EFFECT OF RULE:

The proposed amendment applies to each of the 689 public school districts in the State, and to charter schools and nonpublic schools that are authorized to issue regular high school diplomas with respect to State assessments and high school graduation and diploma requirements.

2. COMPLIANCE REQUIREMENTS:

The Office of State Assessment has been working closely with members of the Content Advisory Panel to develop the new Regents Examination in Global History and Geography II. This group has worked to develop claims, evidence and performance level indicators for the new assessment as well as suggested question format. Surveys detailing the suggested format of the new assessment and prototype test items have been issued to solicit feedback from educators. The Content Advisory Panel has taken a lead role in analyzing this feedback and working to incorporate educator input into the new assessment design.

In order to ensure a gradual transition to the new Social Studies frameworks, and to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the Global History and Geography Exam administered in June 2018, August 2018, and January 2019 would be based on the existing test framework, but revised to measure content only from the second year of the course consistent with the delineation made in the new frameworks (i.e., content covering approximately 1751 to the present). The transition year will allow for educators to adjust their curriculum and instruction to a model in which the scope and sequence in the second year of the course culminates in the Regents Exam. A similar transition the following year would apply to the U.S. History & Government Exam. The new Regents Examination in Global History & Geography II would first be offered in June 2019 and the Regents Examination in United States History & Government (2014 Framework) would first be offered in June 2020. Not only will this transition year allow educators a more thoughtful and gradual shift to the new frameworks, but this will also provide time for additional educator involvement in the development of these Regents Examinations to ensure they measure the new Frameworks with quality and fidelity. Additionally, this will ensure an extended period for notice and time for students to be prepared to take the new Regents Examinations in Social Studies.

The Department expects to continue to engage and inform educators regarding the ongoing development process and will issue guidance regarding the transition from the current Regents Examinations in Social Studies to the new Regents Examinations in the coming months. This will include guidance on which instruction and assessments (current vs. new Framework) may be offered to students, based on their grade level during the applicable school year.

In an effort to conform the current diploma requirements to reflect the implementation of this transition year in 2017-18 and provide flexibility to school districts and students while the Department moves to the new Global History & Geography II Regents examination in 2018-19, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II for graduation (instead of the current Regents Examination in Global History Geography I) by one year to allow for the creation of a transition year - so that it applies to students first entering grade nine in September 2017 and thereafter; and

- provides local school districts or schools with the discretion to determine to accept a passing score on either the Global History & Geography I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography II Regents examination for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations during a period when both examinations (the current exam, but with content ranging from approximately 1751 to the present, and the new exam based on the new Social Studies Frameworks) are being administered (the June 2019, August 2019, January 2020 and June 2020 administrations).

3. PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional services requirements on local governments.

4. COMPLIANCE COSTS:

The proposed amendment does not impose any additional costs on local governments.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed amendment does not impose any new technological requirements on local governments. Economic feasibility is addressed in the Costs section above.

6. MINIMIZING ADVERSE IMPACT:

The proposed amendment is necessary to implement Regents policy relating to delaying the requirement for students to take and pass the new Regents Examination in Global History & Geography II examination for graduation. The proposed rule also provides flexibility for local governments during the transition period to the new Social Studies Regents examination.

Because the Regents policy upon which the proposed amendment is based applies to all school districts in the State and to charter schools authorized to issue Regents diplomas, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt school districts or charter schools from coverage by the proposed amendment.

7. LOCAL GOVERNMENT PARTICIPATION:

Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State, from the chief school officers of the five big city school districts and from charter schools.

8. INITIAL REVIEW OF RULE (SAPA § 207):

Pursuant to State Administrative Procedure Act section 207(1)(b), the State Education Department proposes that the initial review of this rule shall occur in the fifth calendar year after the year in which the rule is adopted, instead of in the third calendar year. The justification for a five year review period is that the proposed rule is necessary to implement long-range Regents policy providing for a transition to the new Regents Examination in Global History & Geography II. The first administration of the new Regents Examination in Global History & Geography II will be in June 2019m and provides flexibility to school districts through the June 2020 administration. Accordingly, there is no need for a shorter review period.

The Department invites public comment on the proposed five year review period for this rule. Comments should be sent to the agency contact listed in item 10 of the Notice of Emergency Adoption published herewith, and must be received within 45 days of the State Register publication date of the Notice.

*Rural Area Flexibility Analysis*

1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed amendment applies to each of the 689 public school districts in the State, charter schools, and registered nonpublic schools in the State, to the extent that they offer instruction in the high school grades, including those located in the 44 rural counties with less than 200,000 inhabitants and the 71 towns in urban counties with a population density of 150 per square mile or less.

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

The Office of State Assessment has been working closely with members of the Content Advisory Panel to develop the new Regents Examination in Global History and Geography II. This group has worked to develop claims, evidence and performance level indicators for the new assessment as well as suggested question format. Surveys detailing the suggested format of the new assessment and prototype test items have been issued to solicit feedback from educators. The Content Advisory Panel has taken a lead role in analyzing this feedback and working to incorporate educator input into the new assessment design.

In order to ensure a gradual transition to the new Social Studies frameworks, and to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the Global History and Geography Exam administered in June 2018, August 2018, and January 2019 would be based on the existing test framework, but revised to measure content only from the second year of the course consistent with the delineation made in the new frameworks (i.e., content covering approximately 1751 to the present). The transition year will allow for educators to adjust their curriculum and instruction to a model in which the scope and sequence in the second year of the course culminates in the Regents Exam. A similar transition the following year would apply to the U.S. History & Government Exam. The new Regents Examination in Global History & Geography II would first be offered in June 2019 and the Regents Examination in United States History & Government (2014 Framework) would first be offered in June 2020. Not only will this transition year allow educators a more thoughtful and gradual shift to the new frameworks, but this will also provide time for additional educator involvement in the development of these Regents Examinations to ensure they measure the new Frameworks with quality and fidelity. Additionally, this will ensure an extended period for notice and time for students to be prepared to take the new Regents Examinations in Social Studies.

The Department expects to continue to engage and inform educators regarding the ongoing development process and will issue guidance

regarding the transition from the current Regents Examinations in Social Studies to the new Regents Examinations in the coming months. This will include guidance on which instruction and assessments (current vs. new Framework) may be offered to students, based on their grade level during the applicable school year.

In an effort to conform the current diploma requirements to reflect the implementation of this transition year in 2017-18 and provide flexibility to school districts and students while the Department moves to the new Global History & Geography II Regents examination in 2018-19, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II for graduation (instead of the current Regents Examination in Global History Geography I) by one year to allow for the creation of a transition year - so that it applies to students first entering grade nine in September 2017 and thereafter; and
- provides local school districts or schools with the discretion to determine to accept a passing score on either the Global History & Geography I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography II Regents examination for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations during a period when both examinations (the current exam, but with content ranging from approximately 1751 to the present, and the new exam based on the new Social Studies Frameworks) are being administered (the June 2019, August 2019, January 2020 and June 2020 administrations).

### 3. COMPLIANCE COSTS:

The proposed amendment does not impose any additional costs on local governments.

### 4. MINIMIZING ADVERSE IMPACT:

Because the Regents policy upon which the proposed amendment is based applies to all public school districts in the State, charter schools, and registered nonpublic schools in the State, to the extent that they offer instruction in the high school grades, it is not possible to establish differing compliance or reporting requirements or timetables or to exempt schools in rural areas from coverage by the proposed amendment.

### 5. RURAL AREA PARTICIPATION:

The proposed rule was submitted for review and comment to the Department's Rural Education Advisory Committee, which includes representatives of school districts in rural areas.

### Job Impact Statement

In order to continue the extensive role played by NYS educators in the development of the new Social Studies Regents Exams, the first administrations of the new Regents Examination in Global History & Geography II will be shifted a year to allow for a transition year and will first be offered in June 2019. In effort to conform the current social studies examination requirements for a high diploma under section 100.5 of the Commissioner's regulations to reflect this shift and to provide some flexibility to districts during this transition period, the proposed amendment does the following:

- shifts the requirement for students to take and pass the new Regents Examination in Global History & Geography II examination for graduation (instead of the prior Regents examination in global history and geography) for an additional year- so that it applies to students first entering grade nine on or after September 2017; and
- provides districts with flexibility during the transition period to the new Social Studies Regents examination. For the June 2019, August 2019, January 2020 and June 2020 administrations of the social studies Regents examinations, the proposed amendment provides local school districts or schools with discretion to determine whether to accept a passing score on the Global History & Geography I Regents examination (with content ranging from approximately 1751 to the present) or the Global History & Geography Regents examination II, or either examination, for the purpose of satisfying the general requirements for a diploma under section 100.5 of the Commissioner's regulations; in addition to accepting a passing score on the Regents examination in U.S history and government.

Because it is evident from the nature of the amendment that it will have a positive impact, or no impact, on jobs or employment opportunities, no further steps were needed to ascertain those facts and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

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

### District-Wide School Safety Plans and Building-Level Emergency Response Plans

**I.D. No.** EDU-27-16-00005-EP

**Filing No.** 609

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-01

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

**Proposed Action:** Amendment of section 155.17 of Title 8 NYCRR.

**Statutory authority:** Education Law, sections 101 (not subdivided), 207 (not subdivided), 305(1), (2), 807 and 2801-a, as amended by L. 2016, ch. 54

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

**Specific reasons underlying the finding of necessity:** The proposed rule is necessary to implement certain provisions of Part B of Chapter 54 of the Laws of 2016, which amended sections 807 and 2801-a of the Education Law, effective July 1, 2016 relating to fire and emergency drills, district-wide school safety plans, and building-level emergency response plans.

Since the Board of Regents meets at fixed intervals, the earliest the proposed rule can be presented for regular (non-emergency) adoption, after expiration of the required 45-day public comment period provided for in the State Administrative Procedure Act (SAPA) sections 201(1) and (5), would be the September 12-13, 2016 Regents meeting. Furthermore, pursuant to SAPA section 203(1), the earliest effective date of the proposed rule, if adopted at the September meeting, would be September 28, 2016, the date a Notice of Adoption would be published in the State Register. However, the provisions of Part B of Chapter 54 of the Laws of 2016 become effective on July 1, 2016. Therefore, emergency action is necessary at the June 2016 Regents meeting for the preservation of the general welfare in order to immediately implement the amendments to fire and emergency drills, district-wide school safety plans, and building-level emergency response plans in accordance with Part B of Chapter 54 of the Laws of 2016, and thus ensure the timely implementation of the statute on its effective date.

It is anticipated that the proposed rule will be presented for adoption as a permanent rule at the September 12-13, 2016 Regents meeting, which is the first scheduled meeting after expiration of the 45-day public comment period prescribed in the State Administrative Procedure Act for State agency rule makings.

**Subject:** District-wide school safety plans and building-level emergency response plans.

**Purpose:** The purpose of the proposed rule is to implement the provisions of part B of chapter 54 of the Laws of 2016.

**Text of emergency/proposed rule:** 1. Section 155.17 of the Regulations of the Commissioner of Education is amended, effective July 1, 2016, as follows:

§ 155.17

[(a) ...]

[b] (a) Development of school safety plans. Every board of education of a school district, every board of cooperative educational services and county vocational education and extension board and the chancellor of the City School District of the City of New York shall adopt by July 1, 2001, and shall update by [July 1st of each succeeding year] July 1 for the 2002-2003 through the 2015-2016 school years and by September 1 for the 2016-2017 school year and each subsequent September 1 thereafter, a comprehensive district-wide school safety plan and building-level [school safety] emergency response plans regarding crisis intervention and emergency response and management, provided that in the City School District of the City of New York, such plans shall be adopted by the chancellor of the city school district. Such plans shall be developed by a district-wide school safety team and a building-level [school safety] emergency response team, as such terms are defined in subdivision [(c)] (b) of this section, and shall be in a form developed by the commissioner in consultation with the Division of Criminal Justice Services, the superintendent of the State Police and any other appropriate State agencies. [A school district having only one school building shall develop a single building-level school safety plan, which shall also fulfill all requirements for development of a district-wide plan to insure the safety and health of children and staff and to insure integration and coordination with similar emergency

planning at the municipal, county and State levels.] Each *district-wide school safety plan* and *building-level emergency response plan* shall be reviewed by the appropriate school safety team on at least an annual basis, and updated as needed.

[(c)] (b) Definitions. As used in this section:

(1) ...

(2) ...

(3) ...

(4) Emergency means a situation, including but not limited to a disaster[, ] that requires immediate action, occurs unpredictably, and poses a threat of injury or loss of life to students or school personnel or of severe damage to school property.

(5) ...

(6) ...

(7) ...

(8) ...

(9) ...

(10) *Lock-down* means to immediately clear the hallways, lock and/or barricade doors, hide from view, and remain silent while readying a plan of evacuation as a last resort. *Lock-down* will only end upon physical release from the room or secured area by law enforcement.

[(10)] (11) Building-level [school safety] *emergency response plan* means a building-specific school emergency response plan that addresses crisis intervention, emergency response and management at the building level and has the contents prescribed in paragraph [(e)](c)(2) of this section.

[(11)] (12) Building-level [school safety] *emergency response team* means a building-specific team appointed by the building principal, in accordance with regulations or guidelines prescribed by the board of education, the chancellor in the case of New York City, or other governing body. The building-level *emergency response team* is responsible for the designation of the *emergency response team* and the development of the *building-level emergency response plan* and its required components. The *building-level emergency response team* shall include, but not be limited to, representatives of teacher, administrator, and parent organizations, school safety personnel, other school personnel, community members, local law enforcement officials, local ambulance, *fire officials* or other emergency response agencies, and any other representatives the school board, chancellor or other governing body deems appropriate.

[(12)] (13) District-wide school safety plan means a comprehensive, multi-hazard school safety plan that covers all school buildings of the school district, BOCES or county vocational education and extension board, that addresses crisis intervention, emergency response and management at the district level and has the contents prescribed in paragraph [(e)](c)(1) of this section.

[(13)] (14) District-wide school safety team means a district-wide team appointed by the board of education, the chancellor in the case of New York City, or other governing board. The district-wide team shall include, but not be limited to, representatives of the school board, [student,] teacher, administrator, and parent organizations, school safety personnel and other school personnel. *At the discretion of the board of education, or the chancellor in the case of the City of New York, a student may be allowed to participate on the safety team, provided however, that no portion of a confidential building-level emergency response plan shall be shared with such student nor shall such student be present where details of a confidential building-level emergency response plan or confidential portions of a district-wide emergency response strategy are discussed.*

[(14)] (15) Emergency response team means a building-specific team designated by the building-level [school safety] *emergency response team* that [includes appropriate] is comprised of school personnel, [local] law enforcement officials, *fire officials*, and representatives from local, regional and/or State emergency response agencies and assists the school community in responding to a [serious] violent incident or emergency. In a school district in a city having a population of more than one million inhabitants, such emergency response team may be created on the district-level with building-level participation, and such district shall not be required to establish a unique team for each of its schools.

[(15)] (16) Post-incident response team means a building-specific team designated by the building-level [school safety] *emergency response team* that includes appropriate school personnel, medical personnel, mental health counselors and others who can assist the school community in coping with the aftermath of a [serious] violent incident or emergency. In a school district in a city having a population of more than one million inhabitants, such post-incident response team may be created on the district-level with building-level participation, and such district shall not be required to establish a unique team for each of its schools.

[(16)] (17) ...

[(17)] (18) ...

[(d)] ...

[(e)] (c) District-wide [School] school safety plans and building-level

*emergency response plans.* District-wide school safety plans and building-level [school safety] *emergency response plans* shall be designed to prevent or minimize the effects of [serious] violent incidents and emergencies and to facilitate the coordination of schools and school districts with local and county resources in the event of such incidents or emergencies.

(1) District-wide school safety plans. A district-wide school safety plan shall be developed by the district-wide school safety team and shall include, but not be limited to:

[(i)] ...

[(ii)] ...

[(iii)] (i) policies and procedures for responding to implied or direct threats of violence by students, teachers, other school personnel and visitors to the school, *including threats by students against themselves, which for the purposes of this subdivision shall include suicide;*

[(iv)] (ii) ...

[(v)] (iii) ...

[(vi)] (iv) ...

[(vii)] (v) ...

[(viii)] (vi) ...

[(ix)] (vii) ...

[(x)] (viii) ...

[(xi)] (ix) ...

(x) policies and procedures for contacting parents, guardians or persons in parental relation to an individual student of the district in the event of an implied or direct threat of violence by such student against themselves, which for the purposes of this subdivision shall include suicide;

[(xii)] (xi) ...

[(xiii)] (xii) ...

[(xiv)] (xiii) policies and procedures for annual multi-hazard school safety training for staff and students, *provided that the district must certify to the commissioner that all staff have undergone annual training by September 15, 2016 and each subsequent September 15 thereafter on the building-level emergency response plan which must include components on violence prevention and mental health, provided further that new employees hired after the start of the school year shall receive such training within 30 days of hire or as part of the district's existing new hire training program, whichever is sooner.*

[(xv)] (xiv) ...

[(xvi)] (xv) ...

[(xvii)] (xvi) ...

[(xviii)] (xvii) ...

[(xix)] (xviii) in the case of a school district, except in a school district in a city having more than one million inhabitants, a system for informing all educational agencies within such school district of a disaster[.]; and

(xix) the designation of the superintendent, or superintendent's designee, as the district chief emergency officer whose duties shall include, but not be limited to:

(a) coordination of the communication between school staff, law enforcement, and other first responders;

(b) lead the efforts of the district-wide school safety team in the completion and yearly update of the district-wide school safety plan and the coordination of the district-wide plan with the building-level emergency response plans;

(c) ensure staff understanding of the district-wide school safety plan;

(d) ensure the completion and yearly update of building-level emergency response plans for each school building;

(e) assist in the selection of security related technology and development of policies for the use of such technology;

(f) coordinate appropriate safety, security, and emergency training for district and school staff, including required training in the emergency response plan; and

(g) ensure the conduct of required evacuation and lock-down drills in all district buildings as required by Education Law section 807;

(h) ensure the completion and yearly update of building-level emergency response plans by the dates designated by the commissioner.

(2) [School] *Building-level emergency response plan.* A [school] building-level emergency response plan shall be developed by the building-level [school safety] *emergency response team*, shall be kept confidential, including but not limited to the floor plans, blueprints, schematics or other maps of the immediate surrounding area, and shall not be disclosed except to authorized department or school staff, and law enforcement officers, and shall include the following elements:

(i) policies and procedures for the [safe evacuation of students, teachers, other school personnel and visitors to the school in the event of a serious violent incident or other emergency which may occur before, during or after school hours] *response to emergency situations, such as those*



requiring evacuation, sheltering, and lock-down, which shall include, at a minimum, the description of plans of action for evacuation [and], sheltering, lock-down, evacuation routes and shelter sites, and procedures for addressing medical needs, transportation and emergency notification to persons in parental relation to a student;

(ii) ...  
 (iii) [procedures for assuring that crisis response, fire and law enforcement officials have access to] floor plans, blueprints, schematics or other maps of the school interior, school grounds and road maps of the immediate surrounding area;

(iv) ...  
 (v) ...  
 (vi) coordination of the [school safety] *building-level emergency response* plan with the statewide plan for disaster mental health services to assure that the school has access to Federal, State and local mental health resources in the event of a violent incident;

(vii) procedures for an annual review of the *building-level emergency response plan* and the conduct of drills and other exercises to test components of the *building-level emergency response plan*, including the use of tabletop exercises, in coordination with local, [and] county, and state emergency responders and preparedness officials;

(viii) ...  
 (ix) ...

(3) Each board of education, chancellor or other governing body shall make each district-wide [and building-level school] safety plan available for public comment at least 30 days prior to its adoption[, provided that only a summary of each building-level emergency response plan shall be made available for public comment]. Such district-wide [and building-level] plans may be adopted by the school board only after at least one public hearing that provides for the participation of school personnel, parents, students and any other interested parties. Each district shall file a copy of its district-wide [comprehensive] safety plan with the commissioner and all amendments to such plan shall be filed with the commissioner no later than 30 days after their adoption. *Each board of education, chancellor or other governing body or officer shall ensure that a copy of each building-level [safety] emergency response plan and any amendments thereto, [shall be] is filed with the appropriate local law enforcement agency and with the State Police within 30 days of its adoption, but no later than October 15, 2016 and each subsequent October 15 thereafter.* Building-level emergency response plans shall be confidential and shall not be subject to disclosure under article six of the Public Officers Law or any other provision of law.

[(4) ...]  
 [(f)] (d) ...  
 [(g)] (e) ...  
 [(h)] (f) ...  
 [(i)] (g) ...  
 [(j)] (h) Fire and Emergency Drills. Each school district and board of cooperative educational services shall, at least once every school year, and where possible in cooperation with local county emergency preparedness plan officials, conduct one test of its [emergency plan or its] emergency response procedures under each of its building-level *emergency response* [school safety] plans, including sheltering, lock-down, or early dismissal, at a time not to occur more than 15 minutes earlier than the normal dismissal time.

(1) ...  
 (2) ...  
 (3) ...  
 [(k)] (i) ...  
 [(l)] (j) ...  
 [(m)] (k) ...

(1) ...  
 (2) ...  
 (3) ...  
 [(k)] (i) ...  
 [(l)] (j) ...  
 [(m)] (k) ...

**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 September 18, 2016.

**Text of rule and any required statements and analyses may be obtained from:** Kirti Goswami, New York State Education Department, 89 Washington Avenue, Room 138, Albany, NY 12234, (518) 474-6400, email: legal@nysed.gov

**Data, views or arguments may be submitted to:** Renee Rider, Assistant Commissioner for Student Supports, New York State Education Department, 89 Washington Avenue, Albany, New York 12234, (518) 474-4817, email: regcomments@nysed.gov

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

**Regulatory Impact Statement**

1. STATUTORY AUTHORITY:  
 Education Law section 101 continues the existence of the Education Department, with the Board of Regents as its head, and authorizes the Regents to appoint the Commissioner as chief administrative officer of the

Department, which is charged with the general management and supervision of public schools and the educational work of the State.

Education Law section 207 empowers the Board of Regents and the Commissioner of Education to adopt rules and regulations to carry out the laws of the State regarding education and the functions and duties conferred on the State Education Department by law.

Education Law section 305(1) and (2) provide the Commissioner, as chief executive officer of the State’s education system, with general supervision over all schools and institutions subject to the Education Law, or any statute relating to education, and responsibility for executing all educational policies of the Regents.

Part B of Chapter 54 of the Laws of 2016 amended sections 2801-a and 807 of the Education Law, effective July 1, 2016, relating to district-wide school safety plans, building-level emergency response plans, and fire and emergency drills.

2. LEGISLATIVE OBJECTIVES:

The proposed rule is consistent with the above statutory authority and is necessary to implement Education Law sections 807 and 2801-a, as amended by Chapter 54 of the Laws of 2016.

3. NEEDS AND BENEFITS:

Over the past few decades, threats to schools have evolved and recent events have demonstrated that there are people who seek to commit violent acts in schools. Whether this threat is posed by a member of the school community or an outside individual or group, school staff must be prepared to take immediate protective action in the event of such an incident. Historically, school emergency planning focused on fire safety through regular fire drills in schools. As a result of good planning and modern safety systems such as fire alarms and sprinklers, fire-related fatalities in public schools are now nearly nonexistent in the United States. However, it has become clear that for schools to be equally as prepared for a possible occurrence of violence, expanded emergency response drills, including lock-down drills, are essential.

Due to the importance of school preparedness in an emergency, the New York State School Safety Improvement Team—which is composed of staff from the Governor’s Office of Public Safety, the New York State Police, the New York State Education Department, the New York State Division of Homeland Security and Emergency Services, and the New York State Division of Criminal Justice Services—recommended statutory amendments to improve the scope of school emergency response planning. These changes included reducing the required number of annual fire drills as well as adding a new requirement that schools conduct four annual lock-down drills. As such, the 2016-17 enacted State budget included amendments to Education Law Sections 2801-a and 807 (Chapter 54 of the Laws of 2016). These amendments will take effect on July 1, 2016. Highlights of these changes are below.

Amendments to Education Law § 2801-a: School Safety Plans

- In addition to the existing notification requirements in the event of a violent incident, the statute now requires that each district develop policies and procedures for contacting parents, guardians, or persons in a parental relation to a student in the event of an implied or direct threat of violence by a student against themselves, including threat of suicide.

- The statute includes a new requirement that each district submit certification to NYSED that all district and school staff have undergone annual training on the emergency response plan, and that the school safety training include components on violence prevention and mental health. New employees hired after the start of the school year must receive training within 30 days of hire. The Department will require schools to certify that all school staff received this training by September 15th of each school year, or within 30 days of hire, whichever is sooner.<sup>1</sup>

- The amendments require district-wide safety plans to include the designation of a chief emergency officer who is responsible for coordinating communication between staff and law enforcement and first responders and for ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring completion and yearly update of building-level emergency response plans. The building-level emergency response plan shall be kept confidential and shall not be disclosed except to authorized department staff and law enforcement officers.<sup>2</sup>

- The amendments require that building-level emergency response plans include policies and procedures for response to emergency situations such as those requiring evacuation, sheltering and lock-down (evacuation routes, shelter sites, procedures for addressing medical needs, transportation and emergency notification of parents and guardians). The building-level emergency response team is now expanded to include fire officials, and at the discretion of the board, a student may be permitted to participate in the school safety team, but may not have access to confidential building-level emergency response plans or be present where confidential building-level emergency response plans are being discussed.

- The statute eliminated the provision allowing single building districts to create a building-level emergency response plan that contains all aspects

of the district plan. However, the statute now authorizes the Commissioner, in consultation with the Superintendent of State Police, to develop an appeals process from duplicative requirements of district-wide school safety plans for districts with only one school building.

- The amendments require the district-wide safety plans to be made available for public comment, however, to comply with the confidentiality provisions of this section, public comment is no longer required for the summary of the building-level emergency response plan.

- Additional technical amendments were made to the statute to eliminate certain expired provisions relating to Project SAVE Legislation, making the language throughout more consistent and easier to understand.

- The amendments removed the Commissioner's authority to provide a waiver from the requirements of this section for a two-year period for schools that had plans in substantial compliance prior to the effective date of this section.

Amendments to Education Law §§ 807(1-a), 807 (b): Fire and Emergency Drills

- The amendments expanded fire drill requirements to also include emergency drills to prepare students to be able to respond appropriately in the event of a sudden emergency.

- The statute now requires twelve drills be conducted each school year, four of which must be lock-down drills, the remaining eight are required to be evacuation drills.

- There is still a requirement that eight of the required twelve drills must be completed in the first half of the school year. However, the date of completion has been changed from December 1 to December 31 of each school year.

The statute now explicitly requires schools to conduct lock-down drills, which are essential, because they prepare students and staff to respond to the highest level of threat with the most urgent action and the least margin for error. The goal is to have schools conduct drills where they immediately clear hallways, lock doors and take positions out of sight to practice their ability to put the building into a protective posture as quickly as possible. These emergency measures allow time for responding law enforcement to arrive on scene and neutralize the threat. If possible, law enforcement should be involved in the drills to help prepare students and staff for their interactions and release from lock-down by uniformed officers. However, law enforcement involvement is not required by the new legislative mandate. Other protective actions such as lock-out or shelter in place are emergency actions that are usually preceded by some degree of warning time and do not require the immediate response necessary for a lock-down. While the school should be well versed in their lock-out and shelter in place protocols, lock-down is the only type of protective action that is specifically required by the statute.

The proposed amendment makes conforming changes to section 155.17 of the Commissioner's regulations to implement these new statutory requirements.

#### 4. COSTS:

(a) Costs to State: none.

(b) Costs to local governments: in general, the proposed rule does not impose any costs beyond those inherent in Chapter 54 of the Laws of 2016.

(c) Costs to private regulated parties: none.

(d) Costs to regulating agency for implementation and continued administration of this rule: none.

#### 5. LOCAL GOVERNMENT MANDATES:

Consistent with the statute, in addition to the existing plan submission requirements, school district must now submit certification to NYSED that all staff members have completed annual training on the emergency response plan, which must include components on violence prevention and mental health. It is anticipated that this certification will be added to the existing method for submission of the school safety plans and will not be overly burdensome.

Consistent with the statute, the proposed rule now also requires district-wide safety plans to include the designation of a chief emergency officer who is responsible for coordinating communication between staff and law enforcement and first responders and for ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring completion and yearly update of building-level emergency response plans.

#### 6. PAPERWORK:

The proposed rule does not impose any new paperwork requirements beyond the existing statutory requirements, upon local government, including school districts or BOCES. Consistent with the statute, in addition to the existing plan submission requirements, school district must now submit certification to NYSED that all staff members have completed annual training on the emergency response plan, which must include components on violence prevention and mental health. It is anticipated that this certification will be added to the existing method for submission of the school safety plans and will not be overly burdensome.

#### 7. DUPLICATION:

The proposed rule does not duplicate any existing State or Federal requirements, and is necessary to implement Education Law sections 807 and 2801-a as amended by Chapter 54 of the Laws of 2016. The proposed rule makes certain amendments to the current requirement for district-wide school safety plans and building level emergency response plans.

#### 8. ALTERNATIVES:

The proposed rule is necessary to implement Education Law sections 807 and 2801-a as amended by Chapter 54 of the Laws of 2016 by its effective date of July 1, 2016. There were no significant alternatives and none were considered.

#### 9. FEDERAL STANDARDS:

There are no applicable Federal standards

#### 10. COMPLIANCE SCHEDULE:

It is anticipated that regulated parties can achieve compliance with the proposed rule by its effective date. Additionally, the proposed rule provides that, beginning with the 2016-2017 school year, school districts have until September 1st of each year to update existing district-wide school safety plans and building-level emergency response plans. The proposed rule provides school districts with additional time to make and implement any changes to the district-wide school safety plans and building-level emergency response plans because the prior rule required such updates to be completed by July 1st of each year.

<sup>1</sup> Certification that staff has received training as indicated in #2 will be collected as part of the Basic Educational Data System (BEDS) collection beginning in October 2016.

<sup>2</sup> Information relating to the designation of the Chief Emergency Officer will be collected as part of BEDS beginning in October 2016.

#### Regulatory Flexibility Analysis

##### (a) Small businesses:

The purpose of the proposed rule is to implement the provisions of Part B of Chapter 54 of the Laws of 2016, which amended sections 807 and 2801-a of the Education Law, effective July 1, 2016 relating to fire and emergency drills, district-wide school safety plans, and building-level emergency response plans. Because it is evident from the nature of the proposed rule that it does not affect small businesses, no further measures were needed to ascertain that fact and none were taken. Accordingly, a regulatory flexibility analysis for small businesses is not required and one has not been prepared.

##### (b) Local governments:

##### 1. EFFECT OF RULE:

The rule applies to all school districts, BOCES, county vocational education and extension boards required to adopt and implement comprehensive district-wide school safety plans and building-level emergency response plans as required by Education Law 2801-a.

Over the past few decades, threats to schools have evolved and recent events have demonstrated that there are people who seek to commit violent acts in schools. Whether this threat is posed by a member of the school community or an outside individual or group, school staff must be prepared to take immediate protective action in the event of such an incident. Historically, school emergency planning focused on fire safety through regular fire drills in schools. As a result of good planning and modern safety systems such as fire alarms and sprinklers, fire-related fatalities in public schools are now nearly nonexistent in the United States. However, it has become clear that for schools to be equally as prepared for a possible occurrence of violence, expanded emergency response drills, including lock-down drills, are essential.

Due to the importance of school preparedness in an emergency, the New York State School Safety Improvement Team—which is composed of staff from the Governor's Office of Public Safety, the New York State Police, the New York State Education Department, the New York State Division of Homeland Security and Emergency Services, and the New York State Division of Criminal Justice Services—recommended statutory amendments to improve the scope of school emergency response planning. These changes included reducing the required number of annual fire drills as well as adding a new requirement that schools conduct four annual lock-down drills. As such, the 2016-17 enacted State budget included amendments to Education Law Sections 2801-a and 807 (Chapter 54 of the Laws of 2016). These amendments will take effect on July 1, 2016. Highlights of these changes are below.

##### Amendments to Education Law § 2801-a: School Safety Plans

1. In addition to the existing notification requirements in the event of a violent incident, the statute now requires that each district develop policies and procedures for contacting parents, guardians, or persons in a parental relation to a student in the event of an implied or direct threat of violence by a student against themselves, including threat of suicide.

2. The statute includes a new requirement that each district submit certification to NYSED that all district and school staff have undergone annual training on the emergency response plan, and that the school safety



training include components on violence prevention and mental health. New employees hired after the start of the school year must receive training within 30 days of hire. The Department will require schools to certify that all school staff received this training by September 15th of each school year, or within 30 days of hire, whichever is sooner.<sup>1</sup>

3. The amendments require district-wide safety plans to include the designation of a chief emergency officer who is responsible for coordinating communication between staff and law enforcement and first responders and for ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring completion and yearly update of building-level emergency response plans. The building-level emergency response plan shall be kept confidential and shall not be disclosed except to authorized department staff and law enforcement officers.<sup>2</sup>

4. The amendments require that building-level emergency response plans include policies and procedures for response to emergency situations such as those requiring evacuation, sheltering and lock-down (evacuation routes, shelter sites, procedures for addressing medical needs, transportation and emergency notification of parents and guardians). The building-level emergency response team is now expanded to include fire officials, and at the discretion of the board, a student may be permitted to participate in the school safety team, but may not have access to confidential building-level emergency response plans or be present where confidential building-level emergency response plans are being discussed.

5. The statute eliminated the provision allowing single building districts to create a building-level emergency response plan that contains all aspects of the district plan. However, the statute now authorizes the Commissioner, in consultation with the Superintendent of State Police, to develop an appeals process from duplicative requirements of district-wide school safety plans for districts with only one school building.

6. The amendments require the district-wide safety plans to be made available for public comment, however, to comply with the confidentiality provisions of this section, public comment is no longer required for the summary of the building-level emergency response plan.

7. Additional technical amendments were made to the statute to eliminate certain expired provisions relating to Project SAVE Legislation, making the language throughout more consistent and easier to understand.

8. The amendments removed the Commissioner's authority to provide a waiver from the requirements of this section for a two-year period for schools that had plans in substantial compliance prior to the effective date of this section.

Amendments to Education Law §§ 807(1-a), 807 (b): Fire and Emergency Drills

1. The amendments expanded fire drill requirements to also include emergency drills to prepare students to be able to respond appropriately in the event of a sudden emergency.

2. The statute now requires twelve drills be conducted each school year, four of which must be lock-down drills, the remaining eight are required to be evacuation drills.

3. There is still a requirement that eight of the required twelve drills must be completed in the first half of the school year. However, the date of completion has been changed from December 1 to December 31 of each school year.

The statute now explicitly requires schools to conduct lock-down drills, which are essential, because they prepare students and staff to respond to the highest level of threat with the most urgent action and the least margin for error. The goal is to have schools conduct drills where they immediately clear hallways, lock doors and take positions out of sight to practice their ability to put the building into a protective posture as quickly as possible. These emergency measures allow time for responding law enforcement to arrive on scene and neutralize the threat. If possible, law enforcement should be involved in the drills to help prepare students and staff for their interactions and release from lock-down by uniformed officers. However, law enforcement involvement is not required by the new legislative mandate. Other protective actions such as lock-out or shelter in place are emergency actions that are usually preceded by some degree of warning time and do not require the immediate response necessary for a lock-down. While the school should be well versed in their lock-out and shelter in place protocols, lock-down is the only type of protective action that is specifically required by the statute. The proposed amendment makes conforming changes to section 155.17 of the Commissioner's regulations to implement these new statutory requirements.

#### 2. COMPLIANCE REQUIREMENTS:

The proposed rule does not impose any additional compliance requirements upon local governments beyond those required by the statute. Consistent with the statute, the proposed rule updates the required components of existing district-wide school safety plans and building-level emergency response plans (formerly referred to as building-level school safety plans). In addition to the existing plan submission requirements, school district must now submit certification to NYSED that all staff members have

completed annual training on the emergency response plan, which must include components on violence prevention and mental health. It is anticipated that this certification will be added to the existing method for submission of the school safety plans and will not be overly burdensome.

The proposed rule now requires district-wide safety plans to include the designation of a chief emergency officer who is responsible for coordinating communication between staff and law enforcement and first responders and for ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring completion and yearly update of building-level emergency response plans.

#### 3. PROFESSIONAL SERVICES:

The proposed rule does not impose any additional professional services requirements on local governments.

#### 4. COMPLIANCE COSTS:

In general, the proposed rule does not impose any costs beyond those inherent in Chapter 54 of the Laws of 2016. Consistent with the statute, school districts, boards of cooperative educational services, and county vocational education and extension boards are responsible for adopting and updating comprehensive district-wide school safety plans and building-level emergency response plans. The proposed rule updates the required components of district-wide school safety plans and building-level emergency response plans (formerly referred to as building-level school safety plans). In addition to the existing plan submission requirements, school district must now submit certification to NYSED that all staff members have completed annual training on the emergency response plan, which must include components on violence prevention and mental health. It is anticipated that this certification will be added to the existing method for submission of the school safety plans and will not be overly burdensome. There may be costs associated with the training; however, costs are anticipated to be minimal and capable of being absorbed by districts using existing staff and resources.

#### 5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY:

The proposed rule does not impose any additional costs or technological requirements on local governments.

#### 6. MINIMIZING ADVERSE IMPACT:

Consistent with the statute, the proposed rule is necessary to implement Education Law sections 807 and 2801-a as amended by Chapter 54 of the Laws of 2016 by its effective date of July 1, 2016.

#### 7. LOCAL GOVERNMENT PARTICIPATION:

Comments on the proposed rule were solicited from school districts through the offices of the district superintendents of each supervisory district in the State, from the chief school officers of the five big city school districts and from charter schools.

#### 8. INITIAL REVIEW OF RULE (SAPA § 207):

Pursuant to State Administrative Procedure Act section 207(1)(b), the State Education Department proposes that the initial review of this rule shall occur in the fifth calendar year after the year in which the rule is adopted, instead of in the third calendar year. The justification for a five year review period is that the proposed rule is necessary to implement the statutory requirements of Part B of Chapter 54 of the Laws of 2016, and, therefore, the substantive provisions of the proposed rule cannot be repealed or modified unless there is a further statutory change. Accordingly, there is no need for a shorter review period. The Department invites public comment on the proposed five year review period for this rule. Comments should be sent to the agency contact listed in item 10 of the Notice of Proposed Rule Making published herewith, and must be received within 45 days of the State Register publication date of the Notice.

<sup>1</sup> Certification that staff has received training as indicated in #2 will be collected as part of the Basic Educational Data System (BEDS) collection beginning in October 2016.

<sup>2</sup> Information relating to the designation of the Chief Emergency Officer will be collected as part of BEDS beginning in October 2016.

#### *Rural Area Flexibility Analysis*

##### 1. TYPES AND ESTIMATED NUMBER OF RURAL AREAS:

The proposed rule applies to school districts, boards of cooperative educational services (BOCES), and county vocational education and extension boards, including those located in the 44 rural counties with fewer than 200,000 inhabitants and the 71 towns and urban counties with a population density of 150 square miles or less.

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

Over the past few decades, threats to schools have evolved and recent events have demonstrated that there are people who seek to commit violent acts in schools. Whether this threat is posed by a member of the school community or an outside individual or group, school staff must be prepared to take immediate protective action in the event of such an incident. Historically, school emergency planning focused on fire safety through regular fire drills in schools. As a result of good planning and modern

safety systems such as fire alarms and sprinklers, fire-related fatalities in public schools are now nearly nonexistent in the United States. However, it has become clear that for schools to be equally as prepared for a possible occurrence of violence, expanded emergency response drills, including lock-down drills, are essential.

Due to the importance of school preparedness in an emergency, the New York State School Safety Improvement Team—which is composed of staff from the Governor’s Office of Public Safety, the New York State Police, the New York State Education Department, the New York State Division of Homeland Security and Emergency Services, and the New York State Division of Criminal Justice Services—recommended statutory amendments to improve the scope of school emergency response planning. These changes included reducing the required number of annual fire drills as well as adding a new requirement that schools conduct four annual lock-down drills. As such, the 2016-17 enacted State budget included amendments to Education Law Sections 2801-a and 807 (Chapter 54 of the Laws of 2016). These amendments will take effect on July 1, 2016. Highlights of these changes are below.

#### Amendments to Education Law § 2801-a: School Safety Plans

- In addition to the existing notification requirements in the event of a violent incident, the statute now requires that each district develop policies and procedures for contacting parents, guardians, or persons in a parental relation to a student in the event of an implied or direct threat of violence by a student against themselves, including threat of suicide.

- The statute includes a new requirement that each district submit certification to NYSED that all district and school staff have undergone annual training on the emergency response plan, and that the school safety training include components on violence prevention and mental health. New employees hired after the start of the school year must receive training within 30 days of hire. The Department will require schools to certify that all school staff received this training by September 15th of each school year, or within 30 days of hire, whichever is sooner.<sup>1</sup>

- The amendments require district-wide safety plans to include the designation of a chief emergency officer who is responsible for coordinating communication between staff and law enforcement and first responders and for ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring completion and yearly update of building-level emergency response plans. The building-level emergency response plan shall be kept confidential and shall not be disclosed except to authorized department staff and law enforcement officers.<sup>2</sup>

- The amendments require that building-level emergency response plans include policies and procedures for response to emergency situations such as those requiring evacuation, sheltering and lock-down (evacuation routes, shelter sites, procedures for addressing medical needs, transportation and emergency notification of parents and guardians). The building-level emergency response team is now expanded to include fire officials, and at the discretion of the board, a student may be permitted to participate in the school safety team, but may not have access to confidential building-level emergency response plans or be present where confidential building-level emergency response plans are being discussed.

- The statute eliminated the provision allowing single building districts to create a building-level emergency response plan that contains all aspects of the district plan. However, the statute now authorizes the Commissioner, in consultation with the Superintendent of State Police, to develop an appeals process from duplicative requirements of district-wide school safety plans for districts with only one school building.

- The amendments require the district-wide safety plans to be made available for public comment, however, to comply with the confidentiality provisions of this section, public comment is no longer required for the summary of the building-level emergency response plan.

- Additional technical amendments were made to the statute to eliminate certain expired provisions relating to Project SAVE Legislation, making the language throughout more consistent and easier to understand.

- The amendments removed the Commissioner’s authority to provide a waiver from the requirements of this section for a two-year period for schools that had plans in substantial compliance prior to the effective date of this section.

#### Amendments to Education Law §§ 807(1-a), 807 (b): Fire and Emergency Drills

- The amendments expanded fire drill requirements to also include emergency drills to prepare students to be able to respond appropriately in the event of a sudden emergency.

- The statute now requires twelve drills be conducted each school year, four of which must be lock-down drills, the remaining eight are required to be evacuation drills.

- There is still a requirement that eight of the required twelve drills must be completed in the first half of the school year. However, the date of completion has been changed from December 1 to December 31 of each school year.

The statute now explicitly requires schools to conduct lock-down drills, which are essential, because they prepare students and staff to respond to the highest level of threat with the most urgent action and the least margin for error. The goal is to have schools conduct drills where they immediately clear hallways, lock doors and take positions out of sight to practice their ability to put the building into a protective posture as quickly as possible. These emergency measures allow time for responding law enforcement to arrive on scene and neutralize the threat. If possible, law enforcement should be involved in the drills to help prepare students and staff for their interactions and release from lock-down by uniformed officers. However, law enforcement involvement is not required by the new legislative mandate. Other protective actions such as lock-out or shelter in place are emergency actions that are usually preceded by some degree of warning time and do not require the immediate response necessary for a lock-down. While the school should be well versed in their lock-out and shelter in place protocols, lock-down is the only type of protective action that is specifically required by the statute.

The proposed amendment makes conforming changes to section 155.17 of the Commissioner’s regulations to implement these new statutory requirements. The proposed rule does not impose any additional professional services requirements on entities in rural areas.

#### 3. COMPLIANCE COSTS:

In general, the proposed rule does not impose any costs beyond those inherent in Chapter 54 of the Laws of 2016. Consistent with the statute, school districts, boards of cooperative educational services, and county vocational education and extension boards are responsible for adopting and updating comprehensive district-wide school safety plans and building-level emergency response plans. The proposed rule updates the required components of district-wide school safety plans and building-level emergency response plans (formerly referred to as building-level school safety plans). In addition to the existing plan submission requirements, school district must now submit certification to NYSED that all staff members have completed annual training on the emergency response plan, which must include components on violence prevention and mental health. It is anticipated that this certification will be added to the existing method for submission of the school safety plans and will not be overly burdensome. There may be costs associated with the training; however, costs are anticipated to be minimal and capable of being absorbed by districts using existing staff and resources.

Consistent with the statute, the proposed rule now also requires district-wide safety plans to include the designation of a chief emergency officer who is responsible for coordinating communication between staff and law enforcement and first responders and for ensuring staff understanding of the district-level safety plan. The chief emergency officer shall also be responsible for ensuring completion and yearly update of building-level emergency response plans.

#### 4. MINIMIZING ADVERSE IMPACT:

Consistent with the statute, the proposed rule is necessary to implement Education Law sections 807 and 2801-a as amended by Chapter 54 of the Laws of 2016 by its effective date of July 1, 2016. Therefore, no alternatives were considered.

#### 5. RURAL AREA PARTICIPATION:

The proposed rule was submitted for review and comment to the Department’s Rural Education Advisory Committee, which includes representatives of school districts in rural areas.

#### 6. INITIAL REVIEW OF RULE (SAPA § 207):

Pursuant to State Administrative Procedure Act section 207(1)(b), the State Education Department proposes that the initial review of this rule shall occur in the fifth calendar year after the year in which the rule is adopted, instead of in the third calendar year. The justification for a five year review period is that the proposed rule is necessary to implement the statutory requirements of Part B of Chapter 54 of the Laws of 2016, and, therefore, the substantive provisions of the proposed rule cannot be repealed or modified unless there is a further statutory change. Accordingly, there is no need for a shorter review period. The Department invites public comment on the proposed five year review period for this rule. Comments should be sent to the agency contact listed in item 10 of the Notice of Emergency Adoption published herewith, and must be received within 45 days of the State Register publication date of the Notice.

<sup>1</sup> Certification that staff has received training as indicated in #2 will be collected as part of the Basic Educational Data System (BEDS) collection beginning in October 2016.

<sup>2</sup> Information relating to the designation of the Chief Emergency Officer will be collected as part of BEDS beginning in October 2016.

#### Job Impact Statement

The purpose of the proposed rule is to implement the provisions of Part B of Chapter 54 of the Laws of 2016, which amended sections 807 and 2801-a of the Education Law, effective July 1, 2016 relating to fire and

emergency drills, district-wide school safety plans, and building-level emergency response plans. Because it is evident from the nature of the proposed rule that it will have no impact on the number of jobs or employment opportunities in New York State, no further 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.

## Department of Environmental Conservation

### NOTICE OF EXPIRATION

The following notice has expired and cannot be reconsidered unless the Department of Environmental Conservation publishes a new notice of proposed rule making in the *NYS Register*.

#### Rule Making to Implement ECL 17-0826-a

| I.D. No.          | Proposed      | Expiration Date |
|-------------------|---------------|-----------------|
| ENV-24-15-00013-P | June 17, 2015 | June 16, 2016   |

## Department of Financial Services

### EMERGENCY RULE MAKING

#### Standard Financial Aid Award Information Sheet for Institutions of Higher Education

**I.D. No.** DFS-03-16-00003-E  
**Filing No.** 584  
**Filing Date:** 2016-06-16  
**Effective Date:** 2016-06-16

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

**Action taken:** Addition of Part 421 to Title 3 NYCRR.

**Statutory authority:** Banking Law, section 9-w

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

**Specific reasons underlying the finding of necessity:** I determined that it is necessary for the preservation of the general welfare that this regulation be adopted on an emergency basis as authorized by section 202(6) of the State Administrative Procedure Act, effective immediately upon filing with the Department of State.

This regulation is adopted as an emergency measure because time is of the essence. Banking Law Section 9-w requires schools to use a standard financial aid information letter in responding to all financial aid applicants for the 2016-2017 academic year and thereafter. Schools are currently sending award packages and the regulations provide important clarity for schools using the model financial aid information letter. An April 2016 amendment to Banking Law Section 9-w, which took effect immediately, requires amended emergency regulations. In order for schools to comply with Banking Law Section 9-w, these rules are being re-adopted on an emergency basis.

No other publication or prior notice is required by statute.

**Subject:** Standard financial aid award information sheet for institutions of higher education.

**Purpose:** Provides guidance to institutions of higher education for the implementation of a financial aid award information sheet.

**Text of emergency rule: Part 421**

*Financial Aid Award Information Sheet*

§ 421.1 Scope and application of this Part

Section 9-w of the Banking Law authorizes the superintendent to adopt rules and regulations for the implementation of a standard financial aid award letter.

§ 421.2 Definitions

For purposes of this Part, unless otherwise stated herein, terms shall have the same meaning as set forth in section 601 of New York State Education Law.

§ 421.3 Content and Delivery of Financial Aid Award Information Sheet On or After May 15, 2016

(a) In responding to an incoming or prospective undergraduate student's financial aid application on or after May 15, 2016, a college, vocational institution or other institution that offers an approved program as defined in section 601 of the Education Law shall provide the letter required in section 9-w of the Banking Law, hereby referred to as the "Financial Aid Award Information Sheet", in the form available at [www.dfs.ny.gov/studentprotection](http://www.dfs.ny.gov/studentprotection).

(b) For purposes of the Financial Aid Award Information Sheet, the term "Campus" shall mean an institution affiliated with a single U.S. Department of Education Office of Postsecondary Education Identification code.

§ 421.4 Content and Delivery of Financial Aid Award Information Sheet Prior to May 15, 2016

(a) In responding to an incoming or prospective undergraduate student's financial aid application prior to May 15, 2016, a college, vocational institution or other institution that offers an approved program as defined in section 601 of the Education Law shall provide the Financial Aid Award Information Sheet in accordance with section 421.3 of this Part or satisfy the requirements in subsections 421.4(b) and 421.4(c) of this Part.

(b) Beginning on or before February 1, 2016, and ending on or after September 1, 2016, a college, vocational institution or other institution that offers an approved program as defined in section 601 of the Education Law that offers financial aid to undergraduate students shall publish online an "Interim Period Financial Aid Award Information Sheet" in the form available at [www.dfs.ny.gov/studentprotection](http://www.dfs.ny.gov/studentprotection).

(c) In responding to an incoming or prospective undergraduate student's financial aid application before May 15, 2016, a college, vocational institution or other institution that offers an approved program as defined in section 601 of the Education Law shall include in, or accompany with, the response a clear and conspicuous disclosure stating "Additional Information Including Estimated Cost of Attendance Can be Found On the Web Page Below" and setting forth the URL address of the webpage that includes a completed Interim Period Financial Aid Award Information Sheet. For responses to an incoming or prospective undergraduate student's financial aid application between January 1, 2016 and February 1, 2016, this disclosure shall be provided by February 1, 2016.

(d) For purposes of the Interim Period Financial Aid Award Information Sheet, the term "Campus" shall mean an institution affiliated with a single U.S. Department of Education Office of Postsecondary Education Identification code.

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt the provisions of this emergency rule as a permanent rule, having previously submitted to the Department of State a notice of proposed rule making, I.D. No. DFS-03-16-00003-EP, Issue of January 20, 2016. The emergency rule will expire August 14, 2016.

**Text of rule and any required statements and analyses may be obtained from:** Max Dubin, Department of Financial Services, One State Street, New York, NY 10004, (212) 480-7232, email: [max.dubin@dfs.ny.gov](mailto:max.dubin@dfs.ny.gov)

**Regulatory Impact Statement**

1. **Statutory Authority:** The Superintendent of Financial Services' ("Superintendent") authority for the promulgation of this rule derives from New York Banking Law § 9-w, which calls on the Superintendent to promulgate regulations implementing that section.

2. **Legislative Objectives:** The Legislature called on the Superintendent to issue this rule to implement New York Banking Law § 9-w, which requires all New York schools to use a uniform financial aid award letter. The Legislature mandated a uniform financial aid letter to give students a better understanding of the costs of a particular school and the options to pay for the education. The uniform letter will also help students to easily compare costs and financial aid options between schools.

3. **Needs and Benefits:** DFS consulted the New York State Higher Education Services Corporation for thoughts and challenges associated with implementing the form required in Banking Law § 9-w. The rule is required by New York Banking Law § 9-w. The rule provides needed guidance to institutions of higher education, including when and to whom schools must provide the financial aid award letter.

4. **Costs:** This rule does not create any additional costs to regulated parties or state and local governments. Any costs incurred by higher education institutions in implementing a standard financial aid award information sheet, including building any information technology infrastructure to generate and send the award sheets, were imposed by the Legislature by statute. No new costs are created by this rule, which simply implements New York Banking Law § 9-w.

5. **Local Government Mandates:** The rule does not create any new local government mandates.

6. **Paperwork:** There are no new paperwork requirements created by the rule.



7. Duplication: Some institutions of higher education have volunteered to, and in some cases are required, to use a standard student shopping sheet developed by the U.S. Department of Education when responding to financial aid applications. DFS consulted with U.S. Department of Education and designed a model shopping sheet that would meet federal and state requirements. New York schools already committed to using the federal form can add a supplement to their existing form to meet both requirements and avoid duplicative financial aid award information sheets.

8. Alternatives: No significant alternatives to the rule were considered.

9. Federal Standards: The rule does not exceed any federal standards.

10. Compliance Schedule: The rule should not take any time to implement. It has been previously proposed as a permanent rule and adopted on an emergency basis.

#### **Regulatory Flexibility Analysis**

The rule will not impose any new adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses and local governments. The rule implements Banking Law § 9-w. Some of the covered educational institutions may be small businesses. Any costs or compliance requirements were created statutorily by the Legislature and this rule does not create any additional costs or requirements.

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

The rule will not impose any new adverse economic impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The rule implements Banking Law § 9-w. Some of the covered educational institutions are located in rural areas. However, the rule does not impose any new costs or compliance requirements. Any costs or compliance requirements were created statutorily by the Legislature.

#### **Job Impact Statement**

The rule should have no adverse impact on jobs and employment opportunities in New York. The rule implements Banking Law § 9-w. It does not create any new burden or costs to businesses that are not already required by statute.

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

The agency received no public comment.

(1) demonstrate a need for certification, such as New York State residence or employment opportunity;

(2) have successfully completed a course that meets or exceeds a curriculum based on the current department EMS certification guidelines;

(3) have successfully completed

(i) an out-of-state recognized or National Registry of Emergency Medical Technicians practical skills and written examination within 18 months of the date the application is received by the department; or

(ii) if a member or veteran of the United States Military, an approved medical training program from the Army, Navy, Air Force, Marines or Coast Guard that meets or exceeds current national emergency medical services education guidelines within three (3) years of the date the application is received by the department;

[(2)] (4) submit a [written request for New York State certification, including a copy of the out-of-state credentials and complete an application for certification on a form to be] complete application for reciprocal certification on forms provided by the department;

[(3)] (5) [pay in advance a] submit the filing fee of \$25 dollars for [certified first responder] emergency medical responder or emergency medical technician[-basic] certification or \$50 for [any other level] all other levels of certification;

[(4)] not have any convictions for any crime or crimes related to murder, manslaughter, assault, sexual abuse, theft, robbery, drug abuse, or sale of drugs or currently be under charges for such a crime unless the department finds that such conviction or charges do not demonstrate a present risk or danger to patients; and]

(6) if the applicant has been convicted of one or more criminal offenses, as defined in section 800.3(ak) of this part, be found eligible after a balancing of the factors set out in Article 23-A of the Correction Law. In accordance with that Article, no application for a license shall be denied by reason of the applicant having been previously convicted of one or more criminal offenses unless (i) there is a direct relationship between one or more of the previous criminal offenses and duties required of this certificate or (ii) certifying the applicant would involve an unreasonable risk to property or the safety or welfare of a specific individual or the general public. In determining these questions, the department will look at all factors listed under New York State Correction Law Section 753;

(7) not have been found guilty or in violation, in any jurisdiction, of any other non-criminal offense or statutory and/or regulatory violation, as those terms are defined in section 800.3 of this Part, relating to patient safety unless the department determines such applicant would not involve an unreasonable risk to property or the safety or welfare of a specific individual or the general public; and

[(5)] (8) be at least eighteen years of age.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in section 800.12(a).

**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: regsqa@health.ny.gov

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

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

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

The agency received no public comment.

## Department of Health

### NOTICE OF ADOPTION

#### **Reciprocal Emergency Medical Technician Certification Requirements**

**I.D. No.** HLT-30-15-00007-A

**Filing No.** 612

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

**Action taken:** Amendment of section 800.12 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 3002

**Subject:** Reciprocal Emergency Medical Technician Certification Requirements.

**Purpose:** To replace the emergency medical technician-intermediate category with the advanced emergency medical technician category.

**Text of final rule:** Section 800.12 of Part 800 is amended to read as follows:

800.12 Reciprocal Certification Requirements

(a) To qualify for New York State certification based on out-of-state emergency medical responder, emergency medical technician[-basic], advanced emergency medical technician [-intermediate], emergency medical technician-critical care, [or] emergency medical technician-paramedic, emergency medical services instructor certification or emergency medical services training credentials, a person must be currently certified or licensed by another state, the United States Military, or the National Registry of Emergency Medical Technicians, based on an out-of-state training program. The out-of-state [other state's] training must be equivalent to or more stringent than New York State training and examination requirements.

(b) The applicant must:

### NOTICE OF ADOPTION

#### **Protection Against Legionella**

**I.D. No.** HLT-16-16-00007-A

**Filing No.** 613

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

**Action taken:** Addition of Part 4 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 225(5)(a)

**Subject:** Protection Against Legionella.

**Purpose:** To protect the public from the immediate threat posed by Legionella.

**Substance of final rule:** The following summarizes the purpose and impact of each section. The summary is for convenience, and it is not a substitute for the express terms of the regulation.

- 4-1.1 Scope.
  - o Provides that the regulation applies to all owners of cooling towers.
- 4-1.2 Definitions.
  - o This section defines key terms.
    - o In particular, a “cooling tower” is now defined as: “a cooling tower, evaporative condenser, fluid cooler or other wet cooling device that is capable of aerosolizing water, and that is part of, or contains, a recirculated water system and is incorporated into a building’s cooling process, an industrial process, a refrigeration system, or an energy production system.”
    - o The definition of “owner” is now defined as follows: “any person, agent, firm, partnership, corporation or other legal entity having a legal or equitable interest in, or control of, a cooling tower or the premises where the cooling tower is located. In all instances, the legal owner of the building shall be deemed an owner within the meaning of the Subpart. Further, where a tenant owns a cooling tower that services the tenant’s leased premises, the tenant is an “owner” within the meaning of this Subpart. Additionally, if a tenant does not own the cooling tower but has a lease or contractual arrangement to maintain the cooling tower, the tenant shall be deemed an agent having control of the cooling tower, and thus an “owner,” for purposes of this Subpart.”
- 4-1.3 Electronic registration and reporting.
  - o Requires owners of cooling towers to register such towers with the Department using a statewide electronic system. Required registration fields have been slightly revised.
    - o Establishes a schedule for routine Legionella culture sampling and analysis, which includes reporting intervals not exceeding 90 days.
      - o Requires reporting of certain events, including:
        - \* last bacteriological culture sample collection date and result;
        - \* last Legionella culture sample collection date and result;
        - \* date of any required remedial action;
        - \* last inspection date;
        - \* last certification date;
        - \* date of removal or permanent discontinued use of a cooling tower;
- and
  - \* cooling tower system volume (including any piping, basin, and sump).
  - o The proposed regulations generally require reporting of certain events every 90 days. This is a change from the emergency regulations, which required reporting within 10 days.
    - o Affords public access to the statewide electronic system, as appropriate, and requires such system to be accessible and searchable to local health departments.
      - o Clarifies that where both a landlord and a tenant are considered “owners” of a cooling tower pursuant to Section 4-1.2, then either the owner or the tenant shall register the cooling tower. Both parties, however, are obligated to ensure that registration and reporting are completed.
- 4-1.4 Maintenance program and plan.
  - o Requires owners to obtain or update the maintenance program and plan for all operational cooling towers by September 1, 2016, and prior to the startup of newly installed cooling towers. The plan must include the following elements:
    - \* A schedule for routine bacteriological culture sampling and analysis to assess microbiological activity. The proposed regulation establishes a new, minimum sampling requirement, in which such sampling and analysis must be conducted: (1) at intervals not to exceed 30 days while the cooling tower is in use; and (2) at additional times, as needed, to validate process adjustments. The component that specifies a minimum sampling interval is a new requirement.
    - \* The emergency regulation contained a requirement for a schedule of routine Legionella culture sampling and analysis. The new regulation requires sampling within two weeks of seasonal start-up and thereafter at intervals not to exceed 90 days. In addition, the new regulation requires that year-round use towers be sampled at intervals not to exceed 90 days and within two weeks after start-up following maintenance. These are new requirements.
    - \* Provisions for immediate Legionella culture sampling and analysis following specified conditions, such as power failure, loss of biocide of sufficient duration to allow for the growth of bacteria, and if the State or local health department determines that one or more cases of legionellosis is or may be associated with the tower. In addition to the conditions above, the proposed regulation describes conditions whereby the department or local health department may require sampling.
    - \* Provisions requiring immediate and appropriate action, including any necessary remedial action, in response to bacteriological and Legionella culture analyses.
    - \* Provisions requiring that any and all Legionella culture analysis must be performed in accordance with Section 4-1.5. This is a new requirement.
    - \* Provisions for shutdown and for removing or permanently discontinuing use of a cooling tower. These are new requirements.
    - \* Provisions requiring appropriate actions during idle conditions. This is a new requirement.
- \* Provisions requiring cleaning and disinfection of a cooling tower that has been shut down without treatment for more than five days. This is a new requirement.
  - 4-1.5 Legionella culture analysis.
    - o Requires that Legionella culture analysis be performed by a laboratory that is approved to perform such analysis by the New York State Environmental Laboratory Approval Program (ELAP). This is a new requirement.
  - 4-1.6 Notification.
    - o Requires an owner of a cooling tower to notify the local health department within 24 hours of receipt of a Legionella culture sample result that exceeds 1,000 colony forming units per milliliter (CFU/mL). The owner must also notify the public of the test result in a manner determined by the local health department or by the department, if the department elects to determine the manner of public notification. This is a new requirement.
  - 4-1.7 Disinfection.
    - o Establishes qualifications of persons who may disinfect a cooling tower.
      - o Requires that the name and certification number of the applicator or the business name and registration number of the company providing the disinfection be maintained on-site in accordance with Section 4-1.9. This is a new requirement.
      - o Permits only biocide products registered by the New York State Department of Environmental Conservation for use in cooling towers or pesticidal devices in a USEPA registered establishment to be used in disinfection.
        - o Clarifies the terms “disinfect” and “disinfection” to mean the control of microorganisms or microbial growth. The term “disinfection” is also clarified to exclude the cleaning of a cooling tower through application of detergents, penetrants, brushes or other tools, high-powered water, or any other method that does not involve the use of a pesticide, as defined in 6 NYCRR Part 325.
  - 4-1.8 Inspection and certification.
    - o Inspection.
      - \* Requires that all owners of cooling towers ensure that such towers are inspected prior to seasonal start up and at intervals not exceeding every 90 days while in use. Year-round towers shall be inspected at intervals not exceeding every 90 days and prior to start up following maintenance. The inspection requirement prior to start up is new.
    - o Certification.
      - \* By November 1, 2016, and by November 1st of each year thereafter, the owner of a cooling tower must obtain a certification that the cooling tower has a maintenance program and plan, and that all activities within that plan or required by this Subpart were implemented.
        - o Reporting.
          - \* All inspection findings, deficiencies, and corrective actions, and all certifications, must be reported to the owner. This section is new to the regulation.
  - 4-1.9 Recordkeeping.
    - o Describes the records and documentation that the owner must maintain onsite for at least three years. Such records must be made available to the department or local health department upon request.
  - 4-1.10 Enforcement.
    - o Provides that the department or local health department may require any owner to conduct Legionella culture sampling and analysis, following a determination, based upon epidemiologic or laboratory testing, that one or more cases of legionellosis are or may be associated with a cooling tower. This is a new provision.
      - o Permits an officer or employee of the department or local health department to enter onto any property to inspect a cooling tower for compliance with the requirements of this Subpart. The proposed regulation clarifies that such officers or employees may take water samples.
      - o Provides that a violation of any provision in this Subpart is subject to all civil and criminal penalties as provided for by law. Further, every day that an owner remains in violation of any provision constitutes a separate and distinct violation of such provision.
  - 4-1.11 Variances and waivers.
    - o Grants local health departments authority to issue variances from this regulation, upon approval of the New York State Department of Health. The local and State health department must be satisfied that the variance will not present a danger to public health.
      - o The department may also grant general or specific waivers where it is satisfied that a waiver will not present a danger to public health.
  - 4-1.12 Severability.
    - o Standard severability clause is included.
- Appendix 4-A
  - o This Appendix describes required responsive actions for Legionella culture test results. As compared to the emergency regulations, these regulations raise the threshold level for detecting Legionella in laboratory culture analyses, from  $\geq 10$  colony forming units per milliliter (CFU/mL) to  $\geq 20$  CFU/mL.

o Responsive actions have been updated and clarified. The term “acceptable improvement” was changed to an actual quantitative target of “< 20 CFU/mL.” Also, where an owner receives a laboratory Legionella culture analyses result  $\geq 1000$  CFU/mL, the owner must provide appropriate notifications per section 4-1.6.

o The footnotes for on-line decontamination and system decontamination were modified to allow the use of a halogen-based compounds (chlorine or bromine).

- 4-2.1 Scope.

o This Subpart addresses Legionella exposure in general hospitals and residential health care facilities (collectively, “covered facilities”). This area was addressed through section 4.11 of the emergency regulation.

- 4-2.2 Definitions.

- o Defines key terms.

- 4-2.3 Environmental assessment.

o Requires covered facilities to perform an environmental assessment of the facility, using forms provided or approved by the department, no later than September 1, 2016, unless an environmental assessment was performed on or after September 1, 2015.

o Requires an annual update of the environmental assessment, and in specified conditions.

o Requires that copies of the completed environmental assessment form be retained in accordance with Section 4-2.6.

- 4-2.4 Sampling and Management Plan.

o Requires that all covered facilities adopt and implement a sampling and management plan for their potable water systems by December 1, 2016, and that new covered facilities must adopt such plan prior to providing services.

o In addition to any sampling required by the sampling plan, Legionella culture sampling and analysis of the potable water system must occur immediately, as directed by the department, where (1) the department determines that one or more cases of legionellosis are, or may be, associated with the facility; and (2) under any other condition specified by the department.

o The sampling and management plan must be reviewed and updated annually, and in specified conditions.

o The proposed regulation requires that the sampling and management plan and sampling results be retained in accordance with Section 4-2.6 of this Subpart.

- 4-2.5 Legionella culture analysis.

o Legionella culture analyses must be performed by a laboratory approved to perform such analyses by the New York State Environmental Laboratory Program (ELAP).

- 4-2.6 Recordkeeping.

o Specifies that all records related to the environmental assessment, sampling and management plan, and associated sampling results must be retained for three years and must be made available immediately to the department upon request.

- 4-2.7 Enforcement.

o Authorizes the department to conduct an assessment and/or a Legionella culture sampling and analysis of the potable water system at any time.

o Provides that where an owner of a covered facility does not comply with any provision contained within this Subpart, the department may determine that such condition constitutes a violation and may take such action as authorized by law. Further, each day an owner is in violation of a provision constitutes a separate and distinct violation.

- 4-2.8 Variances and waivers.

o Grants the department authority to issue variances and waivers from this regulation, subject to specified conditions.

- 4-2.9 Severability.

- o Standard severability clause is included.

- Appendix 4-B

o This new appendix contains a table with comparison thresholds for routine Legionella culture sampling results. However, in the event that one or more cases of legionellosis are, or may be, associated with the facility, the sampling interpretation shall be in accordance with the direction of a qualified professional and the department.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 4-1.4, 4-1.6, 4-1.7, 4-1.8, 4-1.10, 4-2.4, 4-2.6 and Appendix 4-A&B.

**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: regsqa@health.ny.gov

#### Summary of Revised Regulatory Impact Statement

##### Needs and Benefits:

Legionellosis describes any illness caused by exposure to Legionella bacteria, including Legionnaire’s Disease and Pontiac Fever. Potential

sources of exposure to Legionella bacteria include water in the home, workplace, healthcare facilities or aerosol-producing devices in public places. Improper maintenance of cooling towers can contribute to the growth and dissemination of Legionella bacteria. Inadequate surveillance for Legionella bacteria in the potable water systems at general hospitals and residential health care facilities can also increase the risk of legionellosis.

Symptoms of legionellosis may include cough, shortness of breath, high fever, muscle aches, and headaches, and can result in pneumonia. Hospitalization is often required, and between 5 and 30% of cases are fatal. People at highest risk are those 50 years of age or older; current or former smokers; those with chronic lung diseases; those with weakened immune systems from diseases like cancer, diabetes, or kidney failure; and those who take drugs to suppress the immune system during chemotherapy or after an organ transplant. The number of cases of legionellosis reported in New York State between 2005 and 2014 increased 323%, compared to those reported in the previous ten-year period.

Outbreaks of legionellosis have been associated with cooling towers, as well as with the potable water systems of general hospitals and residential health care facilities. Subpart 4-1 of these regulations establish requirements for cooling towers relating to: registration, reporting and record-keeping; testing; disinfection; maintenance; inspection; and certification of compliance. Subpart 4-2 of these regulations require general hospitals and residential health care facilities to implement an environmental assessment and Legionella sampling and management plan for their potable water systems and take necessary responsive actions.

These proposed regulations incorporate important clarifications and revisions from the emergency regulations initially adopted by the Public Health and Health Planning Council on August 17, 2015. In general, the Department organized and streamlined the language for concision and clarity. Certain sections were renumbered and related provisions consolidated. Further, the proposed regulations have been divided into two Subparts.

##### Costs:

##### Subpart 4-1

Building owners already incur costs for routine operation and maintenance of cooling towers. There will be some increased costs associated with sampling, inspection, and certification of cooling towers. These costs are detailed in the Regulatory Impact Statement.

State and local governments will incur costs for administration, implementation, and enforcement. Exact costs cannot be predicted at this time. However, some local costs may be offset through the collection of fees, fines and penalties authorized pursuant to this Part. Costs to State and local governments may be offset further by a reduction in the need to respond to community legionellosis outbreaks.

##### Subpart 4-2

General hospitals and residential healthcare facilities already incur costs associated with running infection control programs. The regulations would incur new costs for those facilities that are not already conducting annual environmental assessments, and would require all such facilities to adopt and implement a Legionella sampling and management plan. In many instances, facilities can complete the environmental assessment using existing hospital staff (maintenance, operations, and nursing staff). The cost of these requirements is expected to be offset by the reduced risk of Legionellosis in such facilities.

#### Revised Regulatory Flexibility Analysis

##### Effect of Rule:

The rule will affect the owner of any building with a cooling tower, as those terms are defined in the regulation, which could include small businesses and local governments. Any general hospitals and residential health care facilities owned or operated by a local government or that qualifies as a small business will be required to complete an environmental assessment, adopt and implement a Legionella sampling and management plan for the facilities’ potable water system, and take appropriate responsive actions. At this time, it is not possible to determine the number of small businesses or local governments affected.

Local governments must also enforce Subpart 4-1, relating to regulation of cooling towers. Local governments have the power to enforce the provisions of the State Sanitary Code, including this new Part. PHL §§ 228, 229, 309(1)(f) and 324(1)(e).

##### Compliance Requirements:

Compliance requirement for small businesses and local governments are the same as those requirements set forth in the Regulatory Impact Statement.

##### Professional Services:

To comply with inspection and certification requirements with respect to cooling towers, small businesses and local governments will need to obtain services of a P.E., C.I.H., certified water technologist, or environmental consultant with training and experience performing inspections in accordance with current standard industry protocols including, but not



limited to ASHRAE 188-2015. Small businesses and local governments will need to secure laboratory services for Legionella culture analysis. To comply with disinfection requirements with respect to cooling towers, small businesses and local governments will need to obtain the services of a commercial pesticide applicator or pesticide technician, or pesticide apprentice under supervision of a commercial pesticide applicator.

Compliance with the provisions that apply to general hospitals and healthcare facilities may require expertise in areas such as engineering, physical facility management, water treatment methods, and monitoring of the environmental conditions of their potable water distribution systems.

#### Compliance Costs:

Compliance costs for small business and local government are consistent with the costs outlined in the Regulatory Impact Statement.

#### Economic and Technological Feasibility:

Although there will be an impact on building owners, including small businesses and local governments, compliance with the regulation is considered economically and technologically feasible, in part because the requirements are consistent industry best practices. This regulation is also necessary to protect public health, and it is expected to reduce cases of legionellosis in communities around cooling towers, as well as for patients and residents in general hospitals and residential healthcare facilities. Accordingly, the benefits to public health are anticipated to outweigh any costs.

#### Minimizing Adverse Impact:

The Department provides a cooling tower registry, technical consultation, coordination, and information and updates. In addition, the Department has issued guidance for general hospitals and cooling towers, which is consistent with the proposed regulations. Covered facilities that have followed the guidance will already be in compliance with most of the new regulations.

#### Small Business and Local Government Participation:

Development of the emergency regulations, upon which these regulations were based, was coordinated with New York City.

#### Cure Period:

Violation of this regulation can result in civil and criminal penalties. However, the regulations allow for time to adopt plans and perform required actions. Accordingly, and in light of the magnitude of the public health threat posed by Legionella, no cure period is warranted.

#### *Revised Rural Area Flexibility Analysis*

Changes made to the last published rule do not necessitate revision to the previously published Rural Area Flexibility Analysis.

#### *Revised Job Impact Statement*

Changes made to the last published rule do not necessitate revision to the previously published Job Impact Statement.

#### *Assessment of Public Comment*

This assessment summarizes and responds to the comments received on proposed regulations for Subparts 4-1 and 4-2 of Title 10 of the New York State Code of Rules and Regulations, which address protection against Legionella in cooling towers and in the potable water systems of general hospitals and residential health care facilities. The Notice of Proposed Rulemaking was published in the State Register on April 20, 2016. The public comment period for this proposal was open from April 20, 2016 until June 6, 2016.

The Department of Health (“DOH” or the “Department”) received approximately 80, letters and emails, containing over 200 comments and questions from various stakeholders, including but not limited to, manufacturers of cooling towers, cooling tower operators, consultants, power production consortia, analytical laboratories, healthcare facilities and associations, local health departments, and other organizations representing the interests of the affected parties. While the Department processed every comment and each one received equal consideration, in providing responses, the Department grouped together similar comments. The Department made some technical revisions to the regulations in response to these comments, as further explained below. No substantive changes were made to the regulations.

The Assessment of Public Comment presents and responds to all of the comments; this serves as a summary of the most frequent comments and the Department’s corresponding responses. The full text of the regulations, as well as the full Assessment of Public Comment, are available on the Department’s website.

#### Scope of the Regulation

Several comments recommended the Department broaden the scope of the regulations to include management of entire building water systems, through incorporation of the ANSI/ASHRAE Standard 188-2015. The commenters urged the Department to require the management of the entire building water system for “high-risk” buildings.

The Department acknowledges there are many potential sources of exposure to Legionella bacteria including water in the home, workplace, healthcare facilities or aerosol-producing devices in public places. Part 4

addresses two of those sources—cooling towers and potable water systems in general hospitals and residential health care facilities. Improper maintenance of cooling towers can contribute to the growth and dissemination of Legionella bacteria. Inadequate surveillance for Legionella bacteria in the potable water systems at general hospitals and residential health care facilities can increase the risk for exposure. Findings from a recent Centers for Disease Control and Prevention (CDC) review of legionellosis between 2000 and 2014 (CDC; Morbidity and Mortality Weekly Report, Vol. 65, June 7, 2016) support the Department’s focus on cooling towers and potable water systems in health care facilities. The Department will continue to consider whether and how to regulate other sources of Legionella but does not intend to expand the regulation at this time. Dividing Part 4 into Subparts enables the Department to amend the regulations to address other sources.

#### Cost of the Regulation

The Department received several comments concerning the cost of the regulation associated with the requirements in both Subparts. The Department will work with local health departments as well as the regulated parties to identify methods to streamline implementation. Subpart 4-2 will be implemented by the Department and will not impact local health departments.

#### SUBPART 4-1 Cooling Towers

##### Bacteriological and Legionella culture sampling and analysis

The Department received several comments requesting additional specificity for the sampling methods and conditions describing when additional Legionella culture sampling and analysis must occur. The Department declined to add additional specificity to accommodate new sampling and analytical technologies, professional judgment, and differences between cooling towers and their conditions. No change was made to the regulation.

The Department also received several comments suggesting modification to the bacteriological and Legionella culture sampling and analysis frequency to provide more flexibility. The Department believes the sampling intervals are reasonable and attainable and no change was made to the regulation.

Differences between power production plant cooling towers and those used by other industries

The Department received several comments describing the differences between power production plant cooling towers and those used for other purposes. The Department has had substantial discussions with power production consortia and with the New York State Department of Environmental Conservation (DEC) to discuss the unique issues involving disinfection and discharge permits for power production plant cooling towers.

The Department will continue to address these concerns through guidance. No change was made to the regulation.

#### Registry

The Department received several comments regarding coordination with New York City Department of Health and Mental Hygiene (DOHMH), given the recently adopted DOHMH regulations pertaining to cooling towers. The Department continues to work with DOHMH to address reporting and data sharing. No change was made to the regulation.

#### Environmental Laboratory Approval Program (ELAP)

The Department received comments concerning the requirement that Legionella culture analysis be performed by a New York State Environmental Laboratory Approval Program (ELAP) certified laboratory. On June 1, 2016, the Department made application materials available for laboratories to apply for certification for Legionella culture analysis and has begun receiving applications for laboratories. No change was made to the regulation.

#### Public Notification

The Department received comments concerning the public notification requirement, requesting clarification and a standard approach for notification. The Department will work with local health departments to ensure a standard approach for public notification.

#### Disinfection

One commenter raised a concern over the technical accuracy of the disinfection language in 10 NYCRR 4-1.7. The Department, in consultation with the DEC, made technical clarifications to the regulation to specify that the terms “disinfect” and “disinfection” mean the control of microorganisms or microbial growth. Further, the regulation permits only biocide products registered by the DEC for use in cooling towers or pesticidal devices in a US EPA registered establishment to be used in disinfection.

#### Inspection and Certification

The Department received several comments and questions related to the inspections and certification requirements in 10 NYCRR 4-1.8. Several commenters requested changes to the inspection interval. The Department believes the inspection interval is reasonable and attainable, and no change was made to the regulation. Additional clarification was provided in the

full Assessment of Public Comment. The Department will publish additional guidance as needed.

#### Appendix 4-A

The Department received several comments recommending revisions to Appendix 4-A. In particular, commenters requested a revision to the language prohibiting the use of halogen-based compounds. In response, the Department provided a technical revision to a footnote to address that online disinfection may involve the use of stabilized halogens that are part of normal operations. In addition, the Department revised the second column heading in Appendix 4-A from "Approach" to "Response," as suggested.

#### SUBPART 4-2 Health Care Facilities Environmental Assessment

The Department received several comments concerning the environmental assessment form, including how to access the form, who should prepare it, and when must it be updated. The forms are currently available to local health departments in the Health Commerce System and will be posted on the Department's website. Assessments should be completed by individuals, or members of an internal multi-disciplinary team, that have the knowledge related to the facility's components, operations, and contract services. As stated in the regulation, the environmental assessment needs to be updated annually or when major construction is conducted at the facility. This means that the environmental assessment must be revised whenever building or plumbing modifications occur that will affect the remainder of the potable water system. No changes were made to the regulation.

#### Sampling and Management Plan

The Department received comments stating that a comprehensive management program and plan is necessary for healthcare facilities. Specifically, some commenters requested that Subpart 4-2 incorporate ANSI/ASHRAE 188-2015, Annex A, by reference.

The Department did not make substantive amendments to 10 NYCRR 4-2.4 in response to these comments. Elements of Annex A are contained in Department guidance issued as a Health Advisory sent to Article 28 facilities on August 10, 2015 (Health Advisory). In addition, the Department clarified the regulation by changing the term "Sampling Plan" to "Sampling and Management Plan." Inclusion of "Management" in the title better represents the intent of the plan.

The Department also received several questions concerning when samples must be collected, from where, how many, and other details. Many of these answers are available in a Department's Health Advisory, and responsive details are provided in the full Assessment of Public Comment. In addition, the Department will issue updated guidance with additional information. No changes were made to the regulation in response to these comments.

#### Appendix 4-B

The Department received several comments concerning the sampling result interpretation and response actions for Legionella culture results. The Department revised the second column heading in Appendix 4-B from "Approach" to "Response," as suggested. The Department provided a technical revision to a footnote to remove mention of specific treatment alternatives. Specific answers to the questions received are provided in the full Assessment of Public Comment.

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## Department of Motor Vehicles

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### NOTICE OF ADOPTION

#### Relicensing After Revocation Pursuant to a Fatal Accident Hearing

**I.D. No.** MTV-18-16-00001-A

**Filing No.** 610

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

**Action taken:** Amendment of sections 136.4 and 136.5 of Title 15 NYCRR.

**Statutory authority:** Vehicle and Traffic Law, sections 215(a), 501(2)(c), 510(6), 1193(2)(b)(12), (c)(1) and 1194(2)(d)(1)

**Subject:** Relicensing after revocation pursuant to a fatal accident hearing.

**Purpose:** Provide that an application for relicensure may be denied pursuant to a revocation arising out of a fatal accident hearing.

**Text or summary was published** in the May 4, 2016 issue of the Register, I.D. No. MTV-18-16-00001-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Heidi Bazicki, DMV, 6 Empire State Plaza; Rm. 522A, Albany, NY 12228, (518) 474-0871, email: heidi.bazicki@dmv.ny.gov

#### Initial Review of Rule

As a rule that does not require a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2021, which is no later than the 5th year after the year in which this rule is being adopted

#### Assessment of Public Comment

The agency received no public comment.

### NOTICE OF ADOPTION

#### Driver License Endorsements

**I.D. No.** MTV-18-16-00002-A

**Filing No.** 611

**Filing Date:** 2016-06-21

**Effective Date:** 2016-07-06

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

**Action taken:** Amendment of section 3.2 of Title 15 NYCRR.

**Statutory authority:** Vehicle and Traffic Law, sections 215(a) and 501-a(8)

**Subject:** Driver license endorsements.

**Purpose:** To conform regulation with federal and state laws for the covered farm vehicles and the P license endorsement.

**Text or summary was published** in the May 4, 2016 issue of the Register, I.D. No. MTV-18-16-00002-P.

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

**Text of rule and any required statements and analyses may be obtained from:** Heidi Bazicki, DMV, 6 Empire State Plaza, Rm. 522A, Albany, NY 12228, (518) 474-0871, email: heidi.bazicki@dmv.ny.gov

#### Assessment of Public Comment

Comment: The New York State Farm Bureau commented that they understand the DMV's justification for promulgating the regulation, due to the need to comply with federal regulations. The Farm Bureau expressed appreciation for DMV's efforts to reach out to and educate persons affected by the law and asked the DMV give special consideration to persons who must now obtain a CDL with a hazardous materials endorsement. Response: The Department will continue to work with the Farm Bureau and the farm community to assist with implementation of this new law.

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

#### Certified Examiners

**I.D. No.** MTV-27-16-00001-P

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

**Proposed Action:** This is a consensus rule making to repeal section 6.13 and add a new section 6.13 to Title 15 NYCRR.

**Statutory authority:** Vehicle and Traffic Law, sections 215(a), 509-g and 509-m(2)

**Subject:** Certified examiners.

**Purpose:** To clarify and strengthen guidelines regarding certified examiners.

**Text of proposed rule:** Section 6.13 is repealed and a new section 6.13 is added to read as follows:

*Examiners Certified by the Department of Motor Vehicles  
6.13 Certified examiners and related carrier responsibilities.*

*(a) Any individual conducting any of the examinations required by Section 6.8(c), defensive driving performance; 6.11, biennial behind-the-wheel driving test; and 6.12, the biennial oral or written examination, of this Part must be certified by the Department of Motor Vehicles or be a motor vehicle license examiner. In order to be certified, an individual must have an acceptable driving record (no more than six points accumulated on his or her abstract of operating record within the preceding*



18-month period). Such individual must have a valid driver's license with the appropriate endorsements and must be properly licensed in the class in which he or she will be testing drivers as required under this Part. (Note: Such individual is not required to hold an "S" endorsement). In addition, the individual must complete and submit an application for certified examiner, along with supporting documentation, if applicable, to the DMV and must meet the following qualifications:

(1) A person must have a minimum of two years of experience in driver training and evaluation of the driving ability of others; and either:

(i) have successfully completed a college level course with a minimum of four credit hours in driver education instruction and have, within the preceding three years, a minimum of 18 months experience in the operation of the type of vehicle in which he or she will be testing while in the employ of an article 19-A motor carrier; or

(ii) have successfully completed a course in driver training and traffic safety approved by the commissioner for the purpose of becoming a 19-A certified examiner, and have, within the preceding three years, a minimum of 18 months experience in the operation of the type of vehicle in which he or she will be testing while in the employ of an article 19-A carrier.

(2) If a person is unable to meet the requirements of subparagraphs (1)(i) and (ii) of this subdivision, he or she may complete an application for qualification and deliver it with special affidavits (which note in detail his or her experience in training and any other special circumstances which might qualify the person to become a certified examiner) to the Department of Motor Vehicles. The applicant should present such affidavits and application to DMV for final review and a decision on whether certification is granted.

(3) A person must pass an appropriate written, vision, and road test. An applicant must also participate in a qualifying interview conducted by the New York State Department of Motor Vehicles.

(b) In conjunction with the above certification requirements, additional information and verification may also be required.

(c) A certified examiner is required to attend at least once, every three years, an Article 19-A seminar approved by DMV. A completion certificate, demonstrating completion of such seminar, must be submitted to the DMV in order to maintain valid status as a certified examiner.

(d) Period of validity of examiner's certificate. An examiner's certificate shall be valid from its date of issuance until the expiration of such person's driver's license. (NOTE: The certified examiner is responsible for renewing his or her certificate with DMV by filing the 19-A Certified Examiner renewal application form.)

(e) An examiner's certificate may be terminated:

(1) on a finding made by the commissioner of incompetence, malfeasance, misfeasance, misrepresentation or nonfeasance of the examiner;

(2) if a certified examiner has accumulated seven or more points in an 18-month period on his or her license or if his or her license has been suspended or revoked;

(3) if such examiner is found to have violated any provisions of this Part, Article 19-A or any other section of the Vehicle and Traffic Law;

(4) if a certified examiner has not renewed the certification;

(5) if a certified examiner has not provided the Article 19-A course completion certificate required every three years; or

(6) if the certified examiner does not hold a valid commercial driver license with required endorsements.

(f) If an examiner's certification is terminated, the commissioner may require a motor carrier's employees to be retested, if they had most recently been tested by such terminated examiner.

(g) Upon the termination of a certified examiner's certification, such examiner shall:

(1) report the termination and the reason for such termination (e.g., license suspension, revocation, etc.) to their employer or employers immediately.

(2) surrender his/her certified examiner certificate within 10 days to DMV.

(h) To return to certified examiner status after termination, a former examiner must:

(1) resolve the termination within one year if caused by non-renewed certification; non-provided Article 19-A course completion certificate; an invalid commercial license, endorsement, suspension or revocation, or otherwise;

(2) file a new application to be a certified examiner as required under Section 6.13 of this Part after one year. DMV will review such application and make a determination as to whether to grant re-certification. In addition, retesting may be required.

(i) Requirements for Motor Carriers. Carriers subject to 19-A of the Vehicle and Traffic Law shall utilize the services of certified examiners to carry out, at a minimum, the annual defensive driving performance - regular observation, biennial behind-the-wheel driving test, and the biennial oral or written examinations that are required for bus drivers under Article 19-A. The carrier responsibilities include:

(1) At a minimum, having the services of at least one certified examiner for every 100 drivers. These certified examiners can either be employees of the carrier or contracted by the carrier.

(2) Reporting the name, driver license number and certified examiner number to the DMV unit responsible for the 19-A regulations within 10 days of the date a certified examiner begins employment, no matter the length of employment.

(3) Reporting the name, driver license number and certified examiner number to the DMV unit responsible for the 19-A regulations within 10 days a certified examiner terminates employment, no matter the length of employment.

**Text of proposed rule and any required statements and analyses may be obtained from:** Heidi Bazicki, DMV, 6 Empire State Plaza, Room 522A, Albany, NY 12228, (518) 474-0871, email: heidi.bazicki@dmv.ny.gov

**Data, views or arguments may be submitted to:** Ida Traschen, DMV, 6 Empire State Plaza, Room 522A, Albany, NY 12228, (518) 474-0871, email: heidi.bazicki@dmv.ny.gov

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

#### Consensus Rule Making Determination

Section 509-g(4) of the Vehicle and Traffic Law and Part 6.13 of the Commissioner's Regulations authorize the use of "competent supervisory personnel", also known as certified examiners, to supervise the defensive driving performance, biennial behind the wheel driving test and the biennial oral and written tests of Article 19-A bus and school bus drivers.

The purpose of this rulemaking is to clarify and strengthen the requirements related to certified examiners. The proposed rule clarifies the process to become a certified examiner, to maintain such certification and the basis for termination of one's status as a certified examiner. For example, the rule provides that an examiner's certificate may be terminated if the person has not provided the Article 19-A course completion certificate required every three years or if the certified examiner does not hold a valid commercial driver license with required endorsements. In addition, the regulation sets forth minimum requirements for motor carriers who employ certified examiners, e.g., the carrier must have the services of at least one examiner per 100 drivers.

The Department submitted the proposed rule for review to over 100 carriers and associations across New York State, including small, medium and large carriers. No adverse comments were received; only minor technical revisions were recommended, which were incorporated into the final proposed rule. Since the Department anticipates no opposition to the proposed rule, a consensus rulemaking is appropriate.

#### Job Impact Statement

A Job Impact Statement is not submitted with this proposed rule because it has no adverse impact on job development or job opportunities.

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Driving Schools

I.D. No. MTV-27-16-00008-P

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

**Proposed Action:** This is a consensus rule making to amend Part 76 of Title 15 NYCRR.

**Statutory authority:** Vehicle and Traffic Law, sections 215 and 394

**Subject:** Driving schools.

**Purpose:** Makes technical and clarifying amendments to improve consumer protection and increases department efficiency.

**Substance of proposed rule (Full text is posted at the following State website: [www.nys.dmv.gov](http://www.nys.dmv.gov)):** The purpose of this proposed rulemaking is to conform Part 76 to current procedures or planned updates intended to increase efficiency, and to correct errors and delete references to obsolete Departmental procedures in relation to driving schools and driving school instructors.

The key changes include:

Clarifications and revisions to driving school and driving school instructor forms;

Changes to the period of validity for driving school licenses and certificates;

Extends the time within which driving school license may be renewed;

Deletes references to the three hour pre-licensing course, which is now 5 hours;

Changes the square footage of a driving school classroom space from 200 to 150 square feet for the first ten or fewer students and from 20 to 15

square feet for each additional student to correspond with the point and insurance reduction requirements;

Eliminates references to a vehicle certificate, which was discontinued by the Department prior to 1990;

Eliminates the requirement that a driving instructor must first be certified as an instructor for "car" instruction;

Clarifies the requirements for instructor-applicants seeking to instruct in a vehicles requiring a higher class license than they hold;

Eliminates the subdivision which allows driving school's desiring to employ a previously certified instructor to obtain any and all notices on form MV-526 previously filed by other schools with respect to the instructor's termination;

Deletes references to a "student record card", and to a "bound book" related to record receipts and disbursements, and permits driving schools to keep these records electronically;

Deletes an obsolete process in subdivision (g) of section 76.8 which states that "[a] duplicating process such as ditto or mimeograph will not be considered to constitute preprinting for the purposes of this section"; and

Adds "or other payment method as specified by the commissioner" which would allow for fees related to driving schools to be paid in forms other than check or money order.

The full text of the proposed rule is available on the DMV's website at [www.dmv.ny.gov](http://www.dmv.ny.gov).

**Text of proposed rule and any required statements and analyses may be obtained from:** Heidi Bazicki, DMV, 6 Empire State Plaza, Rm. 522A, Albany, NY 12228, (518) 474-0871, email: [heidi.bazicki@dmv.ny.gov](mailto:heidi.bazicki@dmv.ny.gov)

**Data, views or arguments may be submitted to:** David Cadalso, DMV, 6 Empire State Plaza, Rm. 522A, Albany, NY 12228, (518) 474-0871, email: [heidi.bazicki@dmv.ny.gov](mailto:heidi.bazicki@dmv.ny.gov)

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

#### **Consensus Rule Making Determination**

The purpose of this proposed rulemaking is to conform Part 76 to current procedures or planned updates intended to increase efficiency, and to correct errors and delete references to obsolete Departmental procedures in relation to driving schools and driving school instructors.

These amendments include changes to driving school and driving school instructor application forms, the types of application or renewal documents necessary for driving school and/or driving school instructor applications or renewals, changes to the application submission process and changes to the period of validity of driving school licenses and driving instructors' certificates.

The changes to the validity of the driving school licenses and instructor certificates would spread out the workload for Department employees over the course of the year rather than requiring that all renewals due to expire that year be processed by the end of June (for driving schools) and by the end of September (for instructors). These changes would also avoid the additional work that goes along with the proration of fees paid for licenses that expire in less than full-year increments, as is required under Vehicle and Traffic Law Section 394. With these changes, all driving school licenses and driving instructor certificates would be valid for a full year from when originally issued or two full years from when renewed, with the exception instructors with out-of-state issued driver licenses. Those certificates will expire on the last day of the twelfth month following the date of the New York certificate issuance.

This proposal also extends the time within which driving school licenses may be renewed. Currently, driving school licenses have to be renewed prior to expiration; otherwise, the driving school has to reapply for the license which includes, among other things, physical inspection of the place of business by a Department employee. This change would allow driving schools to renew the license up to six months following expiration, saving Department employees the additional work that goes along with processing the application of an otherwise qualified driving school.

Other changes in this proposal include deleting reference to the "three-hour prelicensing course" and replacing it with the term "Pre-licensing course" because individuals seeking a drivers' license are now required to take a five hour long course; changing the square footage of a driving school classroom space from 200 to 150 square feet for the first ten or fewer students and from 20 to 15 square feet for each additional student to correspond with the point and insurance reduction requirements; eliminating references to a vehicle certificate, which was discontinued by the Department prior to 1990; eliminating the requirement that a driving instructor must first be certified as an instructor for "car" instruction; and clarifying the requirements for instructor-applicants seeking to instruct in a vehicles requiring a higher class license than they hold. This proposal also eliminates the subdivision which allows driving school's desiring to employ a previously certified instructor to obtain any and all notices on form MV-526 previously filed by other schools with respect to the instructor's termination. Such requests are very rare and such notices

contain instructor personal information. This proposal also deletes references to a "student record card", and to a "bound book" related to record receipts and disbursements, and permits driving schools to keep these records electronically. It also deletes an obsolete process in subdivision (g) of section 76.8 which states that "[a] duplicating process such as ditto or mimeograph will not be considered to constitute preprinting for the purposes of this section", and re-letters the subsequent subdivisions to account for such deletion.

Changes made to correct errors include replacing the term "licensed" with "certified" when referring to instructors in paragraph (3) of subdivision (c) of section 76.1 because instructors are certified and not licensed by the Department, and adding "with dual controls on foot brakes" in paragraph (2) of subdivision (d) of section 76.11 because this language was mistakenly deleted in a previous amendment. Changes to reflect current procedures include adding "or other payment method as specified by the commissioner" which would allow for fees related to driving schools to be paid in forms other than check or money order.

The proposed rule focuses on efficiencies, clarifications and removing obsolete provisions. Therefore, it is submitted as a consensus rule because there are no persons or businesses likely to object.

#### **Job Impact Statement**

A Job Impact Statement is not submitted because this rule will have no adverse impact on job creation or job development in New York State.

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## Public Service Commission

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### NOTICE OF ADOPTION

#### **Submetering of Electricity**

**I.D. No.** PSC-23-15-00007-A

**Filing Date:** 2016-06-20

**Effective Date:** 2016-06-20

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

**Action taken:** On 6/15/16, the PSC adopted an order approving 200 W. 54 Corp.'s (200 West) petition to submeter electricity at 200 West 54th Street, New York, New York.

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

**Subject:** Submetering of electricity.

**Purpose:** To approve 200 West's petition to submeter electricity at 200 West 54th Street, New York, New York.

**Substance of final rule:** The Commission, on June 15, 2016, adopted an order approving 200 W. 54 Corp.'s petition to submeter electricity at 200 West 54th Street, New York, New York, subject to the terms and conditions set forth in the order.

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

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

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

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

(15-E-0214SA1)

### NOTICE OF ADOPTION

#### **NYSEG's Electric Rate Plan**

**I.D. No.** PSC-37-15-00006-A

**Filing Date:** 2016-06-15

**Effective Date:** 2016-06-15

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

**Action taken:** On 6/15/16, the PSC adopted a joint proposal approving New York State Electric and Gas Corporation's (NYSEG) electric rate plan.

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

**Subject:** NYSEG's electric rate plan.

**Purpose:** To approve NYSEG's electric rate plan.

**Substance of final rule:** The Commission, on June 15, 2016, adopted a joint proposal executed by New York State Electric and Gas Corporation, Rochester Gas and Electric Corporation, trial staff of the Department of Public Service, the New York State Department of State, Division of Consumer Protection, Utility Intervention Unit, Nucor Steel Auburn, Inc., Pace Energy and Climate Center, and Wal-Mart Stores East, LP and Sam's East, Inc., approving New York State Electric and Gas Corporation's three-year electric rate plan, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(15-E-0283SA1)

### NOTICE OF ADOPTION

#### NYSEG's Gas Rate Plan

**I.D. No.** PSC-37-15-00008-A

**Filing Date:** 2016-06-15

**Effective Date:** 2016-06-15

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

**Action taken:** On 6/15/16, the PSC adopted a joint proposal approving New York State Electric and Gas Corporation's (NYSEG) gas rate plan.

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

**Subject:** NYSEG's gas rate plan.

**Purpose:** To approve NYSEG's gas rate plan.

**Substance of final rule:** The Commission, on June 15, 2016, adopted a joint proposal executed by New York State Electric and Gas Corporation, Rochester Gas and Electric Corporation, trial staff of the Department of Public Service, the New York State Department of State, Division of Consumer Protection, Utility Intervention Unit, Nucor Steel Auburn, Inc., Pace Energy and Climate Center, and Wal-Mart Stores East, LP and Sam's East, Inc., approving New York State Electric and Gas Corporation's three-year gas rate plan, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(15-G-0284SA1)

### NOTICE OF ADOPTION

#### RG&E's Electric Rate Plan

**I.D. No.** PSC-37-15-00009-A

**Filing Date:** 2016-06-15

**Effective Date:** 2016-06-15

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

**Action taken:** On 6/15/16, the PSC adopted a joint proposal approving Rochester Gas and Electric Corporation's (RG&E) electric rate plan.

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

**Subject:** RG&E's electric rate plan.

**Purpose:** To approve RG&E's electric rate plan.

**Text or summary was published** in the September 16, 2015 issue of the Register, I.D. No. PSC-37-15-00009-P.

**Substance of final rule:** The Commission, on June 15, 2016, adopted a joint proposal executed by New York State Electric and Gas Corporation, Rochester Gas and Electric Corporation, trial staff of the Department of Public Service, the New York State Department of State, Division of Consumer Protection, Utility Intervention Unit, Nucor Steel Auburn, Inc., Pace Energy and Climate Center, and Wal-Mart Stores East, LP and Sam's East, Inc., approving Rochester Gas and Electric Corporation's three-year electric rate plan, subject to the terms and conditions set forth in the order.

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

**Assessment of Public Comment**

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

(15-E-0285SA1)

### NOTICE OF ADOPTION

#### RG&E's Gas Rate Plan

**I.D. No.** PSC-37-15-00010-A

**Filing Date:** 2016-06-15

**Effective Date:** 2016-06-15

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

**Action taken:** On 6/15/16, the PSC adopted a joint proposal approving Rochester Gas and Electric Corporation's (RG&E) gas rate plan.

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

**Subject:** RG&E's gas rate plan.

**Purpose:** To approve RG&E's gas rate plan.

**Text or summary was published** in the September 16, 2015 issue of the Register, I.D. No. PSC-37-15-00010-P.

**Substance of final rule:** The Commission, on June 15, 2016, adopted a joint proposal executed by New York State Electric and Gas Corporation, Rochester Gas and Electric Corporation, trial staff of the Department of Public Service, the New York State Department of State, Division of Consumer Protection, Utility Intervention Unit, Nucor Steel Auburn, Inc., Pace Energy and Climate Center, and Wal-Mart Stores East, LP and Sam's East, Inc., approving Rochester Gas and Electric Corporation's three-year gas rate plan, subject to the terms and conditions set forth in the order.

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

**Assessment of Public Comment**

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

(15-G-0286SA1)

### NOTICE OF ADOPTION

#### Transfer of Cable Entities

**I.D. No.** PSC-47-15-00015-A

**Filing Date:** 2016-06-15

**Effective Date:** 2016-06-15

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

**Action taken:** On 6/15/16, the PSC adopted an order approving Altice N.V. (Altice) and Cablevision Systems Corporation's (Cablevision) joint petition of a holding company level transaction transferring control of Cablevision's entities operating in New York to Altice.

**Statutory authority:** Public Service Law, sections 99(2), 100(1), 101 and 222



**Subject:** Transfer of cable entities.

**Purpose:** To approve Altice and Cablevision's joint petition to transfer Cablevision's cable entities in New York to Altice.

**Text or summary was published in** the November 25, 2015 issue of the Register, I.D. No. PSC-47-15-00015-P.

**Substance of final rule:** The Commission, on June 15, 2016, adopted an order approving Altice N.V. (Altice) and Cablevision Systems Corporation's joint petition of a holding company level transaction transferring control of Cablevision Lightpath, Inc. and Cablevision System Corporation's cable entities operating in New York to Altice, subject to the terms and conditions set forth in the order.

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

**Assessment of Public Comment**

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

(15-M-0647SA1)

### NOTICE OF ADOPTION

#### Submetering of Electricity

**I.D. No.** PSC-52-15-00014-A

**Filing Date:** 2016-06-20

**Effective Date:** 2016-06-20

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

**Action taken:** On 6/15/16, the PSC adopted an order approving EO 180 Water LLC's (EO 180) petition to submeter electricity at 180 Water Street, New York, New York.

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

**Subject:** Submetering of electricity.

**Purpose:** To approve EO 180's petition to submeter electricity at 180 Water Street, New York, New York.

**Substance of final rule:** The Commission, on June 15, 2016, adopted an order approving EO 180 Water LLC's petition to submeter electricity at 180 Water Street, New York, New York, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(15-E-0690SA1)

### NOTICE OF ADOPTION

#### Submetering of Electricity

**I.D. No.** PSC-03-16-00007-A

**Filing Date:** 2016-06-15

**Effective Date:** 2016-06-15

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

**Action taken:** On 6/15/16, the PSC adopted an order approving Longhouse Cooperative's (Longhouse) petition to submeter electricity at 772 Elm Street Extension, Ithaca, New York.

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

**Subject:** Submetering of electricity.

**Purpose:** To approve Longhouse's petition to submeter electricity at 772 Elm Street Extension, Ithaca, New York.

**Substance of final rule:** The Commission, on June 15, 2016, adopted an order approving Longhouse Cooperative's petition to submeter electricity at 772 Elm Street Extension, Ithaca, New York, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(15-E-0736SA1)

### NOTICE OF ADOPTION

#### Increase in Annual Revenues and Escrow Account

**I.D. No.** PSC-06-16-00009-A

**Filing Date:** 2016-06-17

**Effective Date:** 2016-06-17

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

**Action taken:** On 6/15/16, the PSC adopted an order approving Rainbow Water Company, Inc. (Rainbow Water) to increase its annual revenues by \$12,555 or 17.5% and escrow account from \$8,640 to \$14,400, combining with Sunrise Ridge Water Company (Sunrise).

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

**Subject:** Increase in annual revenues and escrow account.

**Purpose:** To approve Rainbow Water to increase its annual revenues and escrow account, combining with Sunrise.

**Substance of final rule:** The Commission, on June 15, 2016, adopted an order approving Rainbow Water Company, Inc. (Rainbow Water) to increase its annual revenues by \$12,555 or 17.5% in order to recover increases in its operating costs and increase its escrow account from \$8,640 to \$14,400, to combine both Rainbow Water and Sunrise Ridge Water Company under one tariff (P.S.C. No. 3 – Water) and one escrow account, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(16-W-0019SA1)

### NOTICE OF ADOPTION

#### Transfer of Ownership of the 1985 Bell 206L-3 Helicopter

**I.D. No.** PSC-13-16-00010-A

**Filing Date:** 2016-06-16

**Effective Date:** 2016-06-16

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

**Action taken:** On 6/15/16, the PSC adopted an order approving Niagara Mohawk Power Corporation d/b/a National Grid's petition (National Grid) to transfer ownership of the 1985 Bell 206L-3 model helicopter to Fly Hangar 13, LLC (Fly Hangar).

**Statutory authority:** Public Service Law, sections 65, 66 and 70

**Subject:** Transfer of ownership of the 1985 Bell 206L-3 helicopter.

**Purpose:** To approve the transfer of ownership of the 1985 Bell 206L-3 helicopter from National Grid to Fly Hangar.

**Substance of final rule:** The Commission, on June 15, 2016, adopted an order approving Niagara Mohawk Power Corporation d/b/a National

Grid's petition to transfer ownership of the 1985 Bell 206L-3 model helicopter to Fly Hangar 13, LLC, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(16-M-0083SA1)

## NOTICE OF ADOPTION

### Transfer of Control of Certain Cable Television Assets from SCCC to Zito

**I.D. No.** PSC-15-16-00011-A

**Filing Date:** 2016-06-16

**Effective Date:** 2016-06-16

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

**Action taken:** On 6/15/16, the PSC adopted an order approving Zito New York, LLC [DE] (Zito) and Southern Cayuga County Cablevision, LLC's [NY] (SCCC) joint petition for the transfer of control of certain cable television assets from SCCC to Zito.

**Statutory authority:** Public Service Law, section 222

**Subject:** Transfer of control of certain cable television assets from SCCC to Zito.

**Purpose:** To approve Zito and SCCC's joint petition for a transfer of control of certain cable television assets from SCCC to Zito.

**Substance of final rule:** The Commission, on June 15, 2016, adopted an order approving Zito New York, LLC [DE] (Zito) and Southern Cayuga County Cablevision, LLC's [NY] (SCCC) joint petition for the transfer of the systems, assets, facilities and Certificates of Confirmation from SCCC to Zito for the provision of cable service in the Towns of Locke, Genoa and Moravia, and the Village of Moravia, all in Cayuga County, subject to the terms and conditions set forth in the order.

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

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

**Assessment of Public Comment**

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

(16-V-0185SA1)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Continuation of the State Universal Service Fund

**I.D. No.** PSC-27-16-00006-P

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

**Proposed Action:** The Commission is considering a Joint Proposal filed by several parties that would continue the current State Universal Service Fund (SUSF) past its expiration date of 12/31/16 for four years.

**Statutory authority:** Public Service Law, sections 4, 5, 90, 91, 92, 94 and 97

**Subject:** Continuation of the State Universal Service Fund.

**Purpose:** To consider a proposal to continue the SUSF for an additional four years, through 12/31/20.

**Substance of proposed rule:** The Public Service Commission is considering a Joint Proposal that would provide for a four-year continuation of the current State Universal Service Fund (SUSF), past its December 31, 2016

expiration date, with a \$6.5 million per year maximum funding commitment, for a total of \$26 million. The terms of the Joint Proposal would continue the administrative and eligibility framework established by the Commission in its August 17, 2012 decision in Case 09-M-0527. For example, eligible recipients for SUSF disbursements will remain unchanged from the 31 smaller incumbent local exchange carriers (ILECs) previously determined by the Commission to be eligible to receive SUSF disbursements. Also, Voice Over Internet Protocol (VOIP) and wireless carriers would not be required to contribute to the fund. The Joint Proposal signatories are Department of Public Service Staff, Verizon New York Inc., Frontier Communications, New York State Telecommunications Association, Smaller ILEC Group, Cable Telecommunications Association of New York, Inc., and the Department of State Utility Intervention Unit. The Commission may adopt, reject or modify, in whole or in part, the Joint Proposal and may consider related matters.

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

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

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

(15-M-0742SP1)

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

### Waiver of a Commission Policy on Test Years in Rate Cases

**I.D. No.** PSC-27-16-00007-P

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

**Proposed Action:** The Commission is considering the petition of Corning Natural Gas Corporation for a waiver of the Commission's policy requiring a rate case be filed no more than 150 day after the end of the test year.

**Statutory authority:** Public Service Law, sections 66, 89-c and 92

**Subject:** Waiver of a Commission policy on test years in rate cases.

**Purpose:** To consider the waiver of the Commission's 150 day requirement.

**Substance of proposed rule:** The Public Service Commission is considering the petition of Corning Natural Gas Corporation (the Company) for a waiver of the Commission's policy in its Statement of Policy on Test Periods in Major Rate Proceedings, issued November 23, 1977, requiring that all major rate cases be filed no more than 150 days after the end of the utility's test year. In a petition filed on May 25, 2016, the Company requested a waiver of the policy requirement for its impending rate filing, which the Company anticipates will be made within 180 days from the end of its test year. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

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

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

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

(16-G-0325SP1)

**HEARINGS SCHEDULED  
FOR PROPOSED RULE MAKINGS**

| Agency I.D. No.                                  | Subject Matter  | Location—Date—Time  |
|--|---|---|
| <b>Environmental Conservation, Department of</b> |   |   |
| ENV-25-16-00007-P .....                          | Low emission vehicle (LEV) III and zero emission vehicle (ZEV) emission standards | Department of Environmental Conservation, 625 Broadway, Public Assembly Rm. 129A/B, Albany, NY—Aug. 8, 2016, 1:00 p.m.  |
| <b>Public Service Commission</b>                 |   |   |
| PSC-17-16-00004-P .....                          | Major electric rate filing  | Department of Public Service, 90 Church St., 4th Fl. Board Rm., New York, NY—July 20, 2016, 10:00 a.m., and continuing daily as needed (Evidentiary Hearing)*<br>*On occasion there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Cases 16-E-0060 and 16-G-0061.    |
| PSC-17-16-00007-P .....                          | Major gas rate filing   | Department of Public Service, 90 Church St., 4th Fl. Board Rm., New York, NY—July 20, 2016, 10:00 a.m., and continuing daily as needed (Evidentiary Hearing)*<br>*On occasion there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Cases 16-E-0060 and 16-G-0061.    |
| PSC-22-16-00013-P .....                          | Disposition of tax refunds and other related matters                              | Department of Public Service, Three Empire State Plaza, 3rd Fl. Hearing Rm., Albany, NY—August 3, 2016, 10:30 a.m., and continuing as needed (Evidentiary Hearing)*<br>*On occasion there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 16-M-0231.             |
| PSC-26-16-00019-P .....                          | Major water rate filing   | Department of Public Service, Three Empire State Plaza, 19th Fl. Board Rm., Albany, NY—August 16, 2016, 9:30 a.m., and continuing daily as needed (Evidentiary Hearing)*<br>*On occasion, there are requests to reschedule or postpone evidentiary hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.state.ny.gov) under Case 16-W-0130. |

**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>ADIRONDACK PARK AGENCY</b>                             |          |   |  |
| APA-09-16-00005-P   | 03/02/17 | Access to Agency Records  | To conform Adirondack Park Agency rules to the Public Officers Law and rules promulgated by the Committee on Open Government     |
| <b>AGRICULTURE AND MARKETS, DEPARTMENT OF</b>             |          |   |  |
| AAM-28-15-00003-P   | 07/14/16 | Incorporate by reference in 1 NYCRR of the 2015 edition of National Institute of Standards and Technology ("NIST") Handbook 133   | To incorporate by reference in 1 NYCRR the 2015 edition of NIST Handbook 133   |
| AAM-19-16-00003-EP  | 05/11/17 | Various trees and plants of the Prunus species  | To amend the plum pox virus quarantined and regulated areas for purposes of helping prevent the further spread of this virus     |
| AAM-23-16-00005-P   | 06/08/17 | National Institute of Standards and Technology ("NIST") Handbook 44; receipts issued by taxicab operators, digital scales         | To incorporate NIST Handbook 44 (2016 edition); to allow handwritten taxicab receipts; to liberalize scale requirements          |
| AAM-25-16-00006-EP  | 06/22/17 | Species of ash trees, parts thereof and products and debris therefrom which are at risk for infestation by the emerald ash borer. | To expand and combine the 14 existing restricted zones where EAB infestations exist.   |
| <b>ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF</b> |          |   |  |
| ASA-20-16-00002-P   | 05/18/17 | OASAS Treatment Services: General Provisions  | Include all mental health practitioners as qualified health professionals (QHP)  |
| ASA-20-16-00003-P   | 05/18/17 | General Facility Requirements   | Updates provisions applicable to all certified facilities due to: residential redesign, changes in certification and inspections |
| ASA-20-16-00004-P   | 05/18/17 | Incident reporting in Oasas certified, licensed, funded, or operated services   | To clarify requirements for reporting patient deaths   |



| Agency I.D. No.                                | Expires  | Subject Matter  | Purpose of Action   |
|--|----------|---|---|
| <b>CHILDREN AND FAMILY SERVICES, OFFICE OF</b> |          |   |   |
| CFS-49-15-00005-P                              | 12/08/16 | Youth development program funding and implementation  | To implement changes in the Executive Law regarding youth development program funding and implementation                        |
| CFS-23-16-00004-EP                             | 06/08/17 | Requirements regarding the cooperation of school districts with investigations of suspected child abuse or maltreatment | To clarify requirements for the cooperation of school districts with investigations of suspected child abuse or maltreatment    |
| CFS-24-16-00001-P                              | 06/15/17 | Child care for children experiencing homelessness.  | To reduce barriers for children experiencing homelessness to receive child care assistance and to attend child care.            |
| CFS-24-16-00005-EP                             | 06/15/17 | New York State Child Care Market Rates  | To establish payment rates for federally-funded child care subsidies to allow equal access to child care for eligible children. |
| <b>CIVIL SERVICE, DEPARTMENT OF</b>            |          |   |   |
| CVS-29-15-00008-P                              | 07/21/16 | Jurisdictional Classification   | To classify positions in the non-competitive class  |
| CVS-29-15-00010-P                              | 07/21/16 | Jurisdictional Classification   | To delete positions from the exempt class   |
| CVS-34-15-00007-P                              | 08/25/16 | Jurisdictional Classification   | To classify a position in the exempt class and to classify a position in the non-competitive class                              |
| CVS-34-15-00008-P                              | 08/25/16 | Jurisdictional Classification   | To delete positions from the non-competitive class  |
| CVS-34-15-00009-P                              | 08/25/16 | Jurisdictional Classification   | To delete positions from and classify positions in the non-competitive class  |
| CVS-34-15-00010-P                              | 08/25/16 | Jurisdictional Classification   | To classify a position in the non-competitive class   |
| CVS-34-15-00012-P                              | 08/25/16 | Jurisdictional Classification   | To delete positions from and classify positions in the exempt class   |
| CVS-36-15-00001-P                              | 09/08/16 | Jurisdictional Classification   | To classify a position in the non-competitive class   |
| CVS-36-15-00006-P                              | 09/08/16 | Jurisdictional Classification   | To classify a position in the non-competitive class   |
| CVS-36-15-00007-P                              | 09/08/16 | Jurisdictional Classification   | To classify a position in the non-competitive class   |
| CVS-36-15-00016-P                              | 09/08/16 | Jurisdictional Classification   | To delete positions from and classify positions in the non-competitive class  |
| CVS-44-15-00004-P                              | 11/03/16 | Jurisdictional Classification   | To classify a position in the exempt class  |
| CVS-44-15-00005-P                              | 11/03/16 | Jurisdictional Classification   | To classify positions in the non-competitive class  |
| CVS-44-15-00006-P                              | 11/03/16 | Jurisdictional Classification   | To classify positions in the exempt class   |
| CVS-44-15-00007-P                              | 11/03/16 | Jurisdictional Classification   | To classify positions in the exempt class   |



| Agency I.D. No.                     | Expires  | Subject Matter                | Purpose of Action   |
|-------------------------------------|----------|-------------------------------|---|
| <b>CIVIL SERVICE, DEPARTMENT OF</b> |          |                               |   |
| CVS-44-15-00008-P                   | 11/03/16 | Jurisdictional Classification | To classify positions in the non-competitive class  |
| CVS-44-15-00009-P                   | 11/03/16 | Jurisdictional Classification | To classify positions in the exempt class   |
| CVS-44-15-00010-P                   | 11/03/16 | Jurisdictional Classification | To classify positions in the non-competitive class  |
| CVS-44-15-00011-P                   | 11/03/16 | Jurisdictional Classification | To delete a position from and classify positions in the exempt class                                |
| CVS-44-15-00012-P                   | 11/03/16 | Jurisdictional Classification | To classify a subheading and positions in the non-competitive class                                 |
| CVS-44-15-00013-P                   | 11/03/16 | Jurisdictional Classification | To classify a position in the non-competitive class   |
| CVS-44-15-00014-P                   | 11/03/16 | Jurisdictional Classification | To delete a position from and classify a position in the non-competitive class                      |
| CVS-44-15-00015-P                   | 11/03/16 | Jurisdictional Classification | To classify a position in the non-competitive class   |
| CVS-44-15-00016-P                   | 11/03/16 | Jurisdictional Classification | To delete a position from and classify a position in the non-competitive class                      |
| CVS-44-15-00017-P                   | 11/03/16 | Jurisdictional Classification | To classify a position in the non-competitive class   |
| CVS-44-15-00018-P                   | 11/03/16 | Jurisdictional Classification | To classify positions in the exempt class and to classify a position from the non-competitive class |
| CVS-45-15-00003-P                   | 11/09/16 | Jurisdictional Classification | To classify positions in the exempt class   |
| CVS-45-15-00004-P                   | 11/09/16 | Jurisdictional Classification | To classify a position in the exempt class  |
| CVS-45-15-00005-P                   | 11/09/16 | Jurisdictional Classification | To classify a position in the exempt class  |
| CVS-45-15-00006-P                   | 11/09/16 | Jurisdictional Classification | To classify a position in the non-competitive class   |
| CVS-45-15-00007-P                   | 11/09/16 | Jurisdictional Classification | To classify positions in the non-competitive class  |
| CVS-51-15-00002-P                   | 12/22/16 | Jurisdictional Classification | To classify a position in the non-competitive class   |
| CVS-51-15-00003-P                   | 12/22/16 | Jurisdictional Classification | To classify a position in the exempt class  |
| CVS-02-16-00003-P                   | 01/12/17 | Jurisdictional Classification | To classify a position in the exempt class  |
| CVS-02-16-00004-P                   | 01/12/17 | Jurisdictional Classification | To delete positions from and classify positions in the non-competitive class                        |
| CVS-02-16-00005-P                   | 01/12/17 | Jurisdictional Classification | To delete a position from and classify a position in the non-competitive class                      |

## Action Pending Index

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| Agency I.D. No.                     | Expires  | Subject Matter                       | Purpose of Action   |
|-------------------------------------|----------|--------------------------------------|---|
| <b>CIVIL SERVICE, DEPARTMENT OF</b> |          |                                      |   |
| CVS-02-16-00006-P                   | 01/12/17 | Jurisdictional Classification        | To delete positions from the non-competitive class  |
| CVS-07-16-00005-P                   | 02/16/17 | Jurisdictional Classification        | To delete positions from and classify positions in the exempt class   |
| CVS-07-16-00006-P                   | 02/16/17 | Jurisdictional Classification        | To classify a position in the exempt class  |
| CVS-07-16-00007-P                   | 02/16/17 | Jurisdictional Classification        | To classify a position in the non-competitive class   |
| CVS-07-16-00008-P                   | 02/16/17 | Jurisdictional Classification        | To classify a position in the non-competitive class   |
| CVS-07-16-00009-P                   | 02/16/17 | Jurisdictional Classification        | To classify a position in the exempt class  |
| CVS-07-16-00010-P                   | 02/16/17 | Jurisdictional Classification        | To delete a position from and to classify a position in the non-competitive class   |
| CVS-11-16-00001-P                   | 03/16/17 | Jurisdictional Classification        | To delete positions from and classify positions in the exempt and non-competitive classes                                       |
| CVS-11-16-00002-P                   | 03/16/17 | Jurisdictional Classification        | To classify a position in the exempt class  |
| CVS-11-16-00003-P                   | 03/16/17 | Jurisdictional Classification        | To classify positions in the non-competitive class  |
| CVS-14-16-00005-P                   | 04/06/17 | Supplemental military leave benefits | To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2016 |
| CVS-15-16-00004-P                   | 04/13/17 | Jurisdictional Classification        | To classify a position in the exempt class  |
| CVS-15-16-00005-P                   | 04/13/17 | Jurisdictional Classification        | To delete positions from and classify positions in the non-competitive class  |
| CVS-15-16-00006-P                   | 04/13/17 | Jurisdictional Classification        | To classify a position in the exempt class  |
| CVS-15-16-00007-P                   | 04/13/17 | Jurisdictional Classification        | To delete positions from and classify positions in the exempt and non-competitive classes                                       |
| CVS-15-16-00008-P                   | 04/13/17 | Jurisdictional Classification        | To classify a position in the non-competitive class   |
| CVS-20-16-00005-P                   | 05/18/17 | Jurisdictional Classification        | To delete positions from and classify positions in the non-competitive class  |
| CVS-20-16-00006-P                   | 05/18/17 | Jurisdictional Classification        | To classify positions in the non-competitive class  |
| CVS-26-16-00003-P                   | 06/29/17 | Jurisdictional Classification        | To classify positions in the exempt class and to delete positions from the non-competitive class                                |
| CVS-26-16-00004-P                   | 06/29/17 | Jurisdictional Classification        | To classify a position in the non-competitive class   |
| CVS-26-16-00005-P                   | 06/29/17 | 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-26-16-00006-P   | 06/29/17 | Jurisdictional Classification  | To classify a position in the non-competitive class  |
| CVS-26-16-00007-P   | 06/29/17 | Jurisdictional Classification  | To classify positions in the non-competitive classes   |
| CVS-26-16-00008-P   | 06/29/17 | Jurisdictional Classification  | To classify a position in the non-competitive class  |
| CVS-26-16-00009-P   | 06/29/17 | Jurisdictional Classification  | To classify positions in the exempt class  |
| CVS-26-16-00010-P   | 06/29/17 | Jurisdictional Classification  | To classify positions in the non-competitive class   |
| CVS-26-16-00011-P   | 06/29/17 | Jurisdictional Classification  | To classify positions in the non-competitive class   |
| <b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b> |          |  |  |
| CCS-35-15-00018-P   | 09/01/16 | Applicability of Title and Definitions   | Update the Department name and add new definitions   |
| CCS-24-16-00006-P   | 06/15/17 | Department Records   | Update Department name and address, update who appoints records access officer, and adds Regional Directors as custodians.   |
| <b>CRIMINAL JUSTICE SERVICES, DIVISION OF</b>               |          |  |  |
| CJS-09-16-00002-P   | 03/02/17 | Central Registry of Police Officers and Peace Officers   | To consolidate the police officer and peace officer registries; and to clarify the reporting requirements  |
| CJS-25-16-00004-P   | 06/22/17 | Handling of Ignition Interlock Cases Involving Certain Criminal Offenders.   | To promote public/traffic safety, offender accountability and quality assurance through the establishment of minimum standards.  |
| <b>EDUCATION DEPARTMENT</b>                                 |          |  |  |
| EDU-04-16-00004-RP  | 02/25/17 | Procedures for State-level review of impartial hearing officer determinations regarding services for students with disabilities. | To revise the procedures for appealing impartial hearing officer decisions to a State review officer.  |
| EDU-06-16-00004-P   | 02/09/17 | School counseling, certification requirements for school counselors and the school counselor program registration requirements.  | To implement policy enacted by the Board of Regents to enhance existing public school district guidance programs to require comprehensive developmental counseling programs for all students in grades prekindergarten through 12 by certified school counselors |
| EDU-10-16-00018-P   | 03/09/17 | Dental Anesthesia Certification Requirements for Licensed Dentists   | To conform regulations to the current practice of dental anesthesia administration   |
| EDU-18-16-00004-P   | 05/04/17 | To authorize NY Higher Education Institutions to participate in SARA and approve out-of-state institutions for distance learning | To set forth requirements for authorization of NYS higher education institutions to participate in State Authorization Reciprocity Agreement (SARA)  |



| Agency I.D. No.             | Expires  | Subject Matter  | Purpose of Action   |
|-----------------------------|----------|---|---|
| <b>EDUCATION DEPARTMENT</b> |          |   |   |
| EDU-18-16-00005-P           | 05/04/17 | Academic Intervention Services  | To revise the methodology by which school districts shall identify students in grades 3-8 who receive academic intervention services (AIS) for the 2016-2017 school year, and then for the 2017-2018 school year and each school year thereafter                |
| EDU-18-16-00006-P           | 05/04/17 | Substitute Teachers   | To address the issue of school districts having difficulty finding certified teachers to serve as substitutes   |
| EDU-18-16-00007-P           | 05/04/17 | Licensing Examination Requirements for Certified Shorthand Reporters  | To permit the Department to accept a passing score on an exam determined by the State Board to be acceptable for licensure  |
| EDU-18-16-00008-P           | 05/04/17 | Licensure of Professional Geologists and Continuing Education for Land Surveyors  | To establish the new profession of geology including licensure requirements, and extend continuing education for land surveyors   |
| EDU-18-16-00009-P           | 05/04/17 | Endorsement of out-of-state certificates for teaching and educational leadership  | To provide an alternative pathway for endorsement of out-of-state certificates for service as a teacher, school district leader, school district business leader and school building leader   |
| EDU-18-16-00010-EP          | 05/04/17 | Teacher Certification   | To provide a safety net for candidates who take and fail Part 2: Mathematics of the new Multi-Subject: Secondary Teachers Grades 7-12 Content Specialty Test (CST) which is required for Student with Disabilities-Grades 7-12-Generalist Teacher Certification |
| EDU-22-16-00006-EP          | 06/01/17 | Teacher certification in career and technical education   | Establishes a new pathway for Transitional A certificate  |
| EDU-22-16-00008-EP          | 06/01/17 | Licensure of Occupational Therapy Assistants (OTAs)   | To define the practice of OTAs, establish requirements for licensure, and alter the composition of the State Board  |
| EDU-26-16-00015-EP          | 06/29/17 | Annual Professional Performance Reviews (APPR) of classroom teachers and building principals                                    | Technical Amendments  |
| EDU-26-16-00016-EP          | 06/29/17 | Teacher certification in career and technical education   | Establishes new pathways for Transitional A certificate   |
| EDU-26-16-00017-P           | 06/29/17 | Licensure of Perfusionists  | To establish licensure requirements for perfusionists, including education, experience and examination  |
| EDU-26-16-00018-P           | 06/29/17 | Regulation of consent orders in disciplinary proceedings in the professions   | To remove requirement that the State Board of Pharmacy Executive Secretary agree to consent orders for pharmacists/pharmacies   |
| EDU-27-16-00002-EP          | 07/06/17 | Superintendent determination as to academic proficiency for certain students with disabilities to graduate with a local diploma | To expand the safety net options for students with disabilities to graduate with local diplomas when certain conditions are met   |
| EDU-27-16-00003-EP          | 07/06/17 | Annual Professional Performance Reviews (APPR) of classroom teachers and building principals                                    | To provide hardship Waiver from Independent Evaluator Requirement   |

| Agency I.D. No.                                  | Expires  | Subject Matter  | Purpose of Action   |
|--|----------|---|---|
| <b>EDUCATION DEPARTMENT</b>                      |          |   |   |
| EDU-27-16-00004-EP                               | 07/06/17 | Superintendent determination as to academic proficiency for certain students with disabilities to graduate with a local diploma | To expand the safety net options for students with disabilities to graduate with local diplomas when certain conditions are met |
| EDU-27-16-00005-EP                               | 07/06/17 | District-wide school safety plans and building-level emergency response plans.  | The purpose of the proposed rule is to implement the provisions of Part B of Chapter 54 of the Laws of 2016.                    |
| <b>ELECTIONS, STATE BOARD OF</b>                 |          |   |   |
| SBE-17-16-00009-P                                | 04/27/17 | Routine testing of voting systems   | To provide for testing of voting machines not less than once per year   |
| <b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b> |          |   |   |
| *ENV-19-15-00010-RP                              | 08/10/16 | Fisher trapping seasons and bag limits and general trapping regulations for furbearers  | Revise existing fisher seasons, establish a new season in central/western NY, update and clarify general trapping regulations   |
| *ENV-23-15-00008-RP                              | 07/28/16 | Environmental Remediation - Brownfield Cleanup Program  | To amend the Environmental Remediation Program regulations that pertain to the Brownfield Cleanup Program                       |
| *ENV-24-15-00013-P                               | 06/16/16 | Rule making to implement ECL 17-0826-a  | To implement the reporting, notification and record keeping requirements of ECL 17-0826-a                                       |
| ENV-34-15-00028-P                                | 08/25/16 | Qualifications for License Issuing Agents and Wildlife Rehabilitators   | To remove regulatory requirements that exclude individuals with felonies from obtaining certain licenses and authorizations     |
| ENV-45-15-00028-P                                | 11/09/16 | Science-based State sea-level rise projections  | To establish a common source of sea-level rise projections for consideration in relevant programs and decision-making           |
| ENV-50-15-00003-P                                | 12/15/16 | Atlantic Ocean surfclam management  | To amend surfclam regulations to provide consistency with management measures of the Fishery Management Plan                    |
| ENV-51-15-00004-P                                | 02/10/17 | Distributed generation (DG) sources that feed the distribution grid or produce electricity for use at host facilities or both   | Establish emission limits for distributed generation sources  |
| ENV-51-15-00005-P                                | 12/22/16 | Big bore air rifles   | To allow big bore air rifles as legal implements for hunting big game   |
| ENV-52-15-00010-P                                | 12/29/16 | Procedures for modifying or extinguishing a conservation easement held by the NYS DEC   | Establish standards for the DEC to follow when modifying or extinguishing a CE and provide for a formal public review process   |
| ENV-11-16-00004-P                                | 06/07/17 | Solid Waste Management Regulations  | Amend the rules that implement the solid waste program in New York State to incorporate changes in law and technology           |
| ENV-17-16-00001-P                                | 05/18/17 | Croton Gorge Unique Area  | To protect public safety and natural resources on the Croton Gorge Unique Area  |
| ENV-19-16-00001-P                                | 05/11/17 | Deer and Bear Hunting   | To revise regulations governing deer hunting seasons, issuance and use of deer hunting tags, and hunting black bear             |

| Agency I.D. No.                                  | Expires  | Subject Matter  | Purpose of Action  |
|--|----------|---|--|
| <b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b> |          |   |  |
| ENV-19-16-00002-P                                | 05/11/17 | The management of menhaden  | To add menhaden and the menhaden trip limit to Table B - Commercial Fishing of 6 NYCRR subdivision 40.1(i)                       |
| ENV-19-16-00006-EP                               | 06/30/17 | Chemical Bulk Storage (CBS)   | To amend Part 597 of the CBS regulations   |
| ENV-23-16-00001-EP                               | 06/21/17 | Peekamoose Valley Riparian Corridor   | Protect public health, safety and general welfare, as well as the natural resources on the Peekamoose Valley Riparian Corridor   |
| ENV-25-16-00007-P                                | 08/08/17 | Low emission vehicle (LEV) III and zero emission vehicle (ZEV) emission standards.                                | To incorporate revisions to California's LEV III and ZEV standards.  |
| ENV-26-16-00002-P                                | 06/29/17 | To amend 6 NYCRR Part 40 pertaining to recreational party and charter boat regulations for striped bass           | To allow filleting of striped bass aboard party and charter boats  |
| ENV-26-16-00013-P                                | 06/29/17 | Rule making to implement ECL 17-0826-a  | To implement the reporting, notification and record keeping requirements of ECL 17-0826-a  |
| <b>FINANCIAL SERVICES, DEPARTMENT OF</b>         |          |   |  |
| DFS-50-15-00004-P                                | 12/15/16 | Regulating Transaction Monitoring and Filtering Systems maintained by banks, check cashers and money transmitters | To improve efficiency and transparency in the mortgage banker and mortgage broker licensing process                              |
| DFS-03-16-00003-EP                               | 01/19/17 | Standard financial aid award information sheet for institutions of higher education                               | Provides guidance to institutions of higher education for the implementation of a financial aid award information sheet          |
| DFS-08-16-00002-P                                | 02/23/17 | Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure | To prohibit a health insurance policy or contract from providing coverage for conversion therapy to insureds under the age of 18 |
| DFS-17-16-00003-P                                | exempt   | Plan of Conversion by Commercial Travelers Mutual Insurance Company   | To convert a mutual accident and health insurance company to a stock accident and health insurance company                       |
| DFS-24-16-00004-P                                | 06/15/17 | FINANCIAL STATEMENT FILINGS AND ACCOUNTING PRACTICES AND PROCEDURES   | To update citations in Part 83 to the Accounting practices and Procedures Manual as of March 2014 (instead of 2013).             |
| <b>GAMING COMMISSION, NEW YORK STATE</b>         |          |   |  |
| SGC-39-15-00005-RP                               | 09/29/16 | Thoroughbred restricted time periods for various drugs  | To enhance the integrity and safety of thoroughbred horse racing   |
| SGC-39-15-00006-P                                | 09/29/16 | Reimbursement of awards for capital improvement projects at video lottery gaming ("VLG") facilities               | Clarify when VLG agent must reimburse State upon divestment of a capital improvement for which capital award was received        |
| SGC-19-16-00013-P                                | 05/11/17 | Surveillance standards for a licensed gaming facility   | To govern a gaming facility licensee's system of procedures and standards for surveillance                                       |
| SGC-19-16-00014-P                                | 05/11/17 | Conduct and operation of a gaming facility  | To govern a gaming facility licensee's system of procedures for the conduct and operation of gaming                              |
| SGC-22-16-00004-P                                | 06/01/17 | Simplifying how a trainer may alter the use of hoppers  | To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government                |



| Agency I.D. No.                          | Expires  | Subject Matter   | Purpose of Action   |
|--|----------|--|---|
| <b>GAMING COMMISSION, NEW YORK STATE</b> |          |  |   |
| SGC-22-16-00005-P                        | 06/01/17 | Decoupling of harness horses in major stakes races   | To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government             |
| SGC-23-16-00006-P                        | 06/08/17 | Voidable claims based on race day samples  | To enhance the safety and integrity of horse racing while generating a reasonable return for government                       |
| SGC-23-16-00014-P                        | 06/08/17 | Criteria for the licensing, conduct and operation of independent testing laboratories  | To govern the licensing, conduct and operation, testing and reporting requirements of independent testing laboratories        |
| SGC-24-16-00007-P                        | 06/15/17 | Repeal of obsolete thoroughbred rule giving extra weight allowance for apprentice jockey riding for "original contract employer" | To preserve the safety and integrity of pari-mutuel racing while generating reasonable revenue for the support of government. |
| <b>GENERAL SERVICES, OFFICE OF</b>       |          |  |   |
| GNS-07-16-00013-P                        | 02/16/17 | Outdoor lighting standards   | To provide lighting standards that will help state agencies comply with Public Buildings Law section 143                      |
| <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-30-15-00005-P                        | 07/28/16 | Practice of radiologic technology  | To update regulations related to the practice of radiologic technology  |
| HLT-30-15-00008-P                        | 07/28/16 | Controlled Substances for EMS Agency Agent and Requirements for an Advanced Life Support System                                  | To amend the regulations regarding the EMS Agency Agent and the Requirements for an Advanced Life Support System              |
| HLT-30-15-00009-P                        | 07/28/16 | Requirements for Manufacturers and Distributors Regarding Controlled Substances  | To clarify and use language consistent with current terminology used by the State Board of Pharmacy                           |
| HLT-39-15-00015-P                        | 09/29/16 | Women Infants and Children (WIC) Program Vendor Applicant Enrollment Criteria  | To align NYS WIC Program operations with current federal requirements by amending the existing vendor enrollment criteria     |
| HLT-46-15-00006-P                        | 01/10/17 | Early Intervention Program   | To conform existing program regulations to federal regulations and state statute  |
| HLT-06-16-00002-P                        | 02/09/17 | Perinatal Services   | To update the Breastfeeding Mother's Bill of Rights to conform with recommended standards of care                             |
| HLT-06-16-00005-P                        | 02/09/17 | Hospice Operational Rules  | To implement hospice expansion  |
| HLT-15-16-00016-P                        | 04/13/17 | Zika Action Plan; Performance Standards.   | To require local health departments to develop a Zika Action Plan as a condition of State Aid                                 |
| HLT-16-16-00002-P                        | 04/20/17 | NYS Medical Indemnity Fund   | To provide additional guidance and clarity to the Fund's requirements and operations  |
| HLT-19-16-00008-P                        | 05/11/17 | Transgender Related Care and Services  | To revise and clarify the criteria for Medicaid coverage of transgender related care and services                             |

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|---|----------|--|--|
| <b>HEALTH, DEPARTMENT OF</b>  |          |  |  |
| HLT-21-16-00003-P   | 05/25/17 | New York State Newborn Screening Panel   | To add adrenoleukodystrophy (ALD) and Pompe disease to the list of diseases and conditions on the newborn screening panel        |
| HLT-23-16-00007-P   | 06/08/17 | School Immunization Requirements   | To update school immunization and NYSIS regulations.   |
| HLT-24-16-00002-P   | 06/15/17 | Neurodegenerative Specialty Rate   | To authorize Medicaid rate of payment for providing quality of care to the neurodegenerative population.                         |
| HLT-24-16-00003-P   | 06/15/17 | Specialized Programs for Residents with Neurodegenerative Diseases   | To establish nursing home specialty units for residents with Huntington's Disease (HD) & Amyotrophic Lateral Sclerosis (ALS).    |
| <b>HIGHER EDUCATION SERVICES CORPORATION</b>                          |          |  |  |
| ESC-26-16-00012-P   | 06/29/17 | Tuition awards for part-time undergraduate students  | The purpose of the rule is to conform the provision regarding income to a recent statutory change                                |
| <b>JUSTICE CENTER FOR THE PROTECTION OF PEOPLE WITH SPECIAL NEEDS</b> |          |  |  |
| JCP-28-15-00008-EP  | 07/14/16 | Protocols for interviewing service recipients during investigations of abuse or neglect                                  | To enhance protections for people with special needs during investigations of abuse or neglect                                   |
| <b>LABOR, DEPARTMENT OF</b>   |          |  |  |
| *LAB-21-15-00009-RP   | 08/24/16 | Methods of Payment of Wages  | This regulation provides clarification and specification as to the permissible methods of payment, including payroll debit cards |
| LAB-03-16-00009-P   | 01/19/17 | Employer Imposed Limitations on the Inquiry, Discussion, and Disclosure of Wages   | This regulation sets forth standards for limitations on inquiry, discussion, or the disclosure of wages amongst employees        |
| <b>LAW, DEPARTMENT OF</b>   |          |  |  |
| LAW-47-15-00007-ERP   | 11/24/16 | Clarification of Protections for Senior and Disabled Tenants During Condominium or Cooperative Ownership Conversions     | To clarify the Martin Act's non-purchasing tenant protections for eligible senior citizens and eligible disabled persons         |
| <b>LIQUOR AUTHORITY, STATE</b>  |          |  |  |
| LQR-02-16-00002-P   | 01/12/17 | Update outdated Freedom of Information Law procedures utilized by Authority  | To update Authority procedures and ensure compliance with Freedom of information Law requirements under Pub. Off. Law., art. 6   |
| LQR-17-16-00002-P   | 04/27/17 | Updated price posting rules, license durations, and recordkeeping requirements, and rescinding of whiskey dividend rules | To update price posting rules, license durations, recordkeeping, and joint advertising rules for certain license types           |
| <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  |

| Agency I.D. No.   | Expires        | Subject Matter   | Purpose of Action  |
|---|----------------|--|--|
| <b>LONG ISLAND POWER AUTHORITY</b>                        |                |  |  |
| *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-19-16-00015-P   | ..... exempt   | Customer requests for rehearings of LIPA's decisions on appeals and shared meter determinations                                  | To transfer certain responsibilities regarding handling of customer petitions to DPS Long Island                               |
| LPA-20-16-00001-P   | ..... exempt   | Proposed Feed-in Tariffs for new commercial solar and fuel cell generation   | To authorize development of up to 20MW of new solar generation and 40MW of new fuel cell generation through feed-in tariffs    |
| <b>MENTAL HEALTH, OFFICE OF</b>                           |                |  |  |
| OMH-17-16-00010-P   | ..... 04/27/17 | Telepsychiatry Services  | Establish basic standards to approve telepsychiatry in certain OMH-licensed programs; repeal unnecessary existing provisions   |
| OMH-18-16-00003-P   | ..... 05/04/17 | Incident Management; Criminal History Record Checks; Operation of Psychiatric Inpatient Units General Hospitals, RTFs, and CPEPs | To update existing regulations and conform to non-discretionary statutory provisions   |
| <b>MOTOR VEHICLES, DEPARTMENT OF</b>                      |                |  |  |
| MTV-22-16-00003-P   | ..... 06/01/17 | Wyoming County motor vehicle use tax   | Raises the amount of the Wyoming County motor vehicle use tax  |
| MTV-22-16-00007-P   | ..... 06/01/17 | Special and reserved series plates   | Establish guidelines for the issuance of special and reserved series plates  |
| MTV-25-16-00003-P   | ..... 06/22/17 | Points for railroad crossing violations.   | Increases the points for railroad crossing violations from 3 to 5 points.  |
| MTV-27-16-00001-P   | ..... 07/06/17 | Certified examiners  | To clarify and strengthen guidelines regarding certified examiners   |
| MTV-27-16-00008-P   | ..... 07/06/17 | Driving schools  | makes technical and clarifying amendments to improve consumer protection & increases Department efficiency                     |
| <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-48-15-00003-P   | ..... 12/01/16 | Agency Name Change and Terminology Updates   | To update the agency name and other terminology in the Title 14 NYCRR Part 600 series  |



| Agency I.D. No.                                 | Expires      | Subject Matter  | Purpose of Action  |
|---|--------------|---|--|
| <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     |
| <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  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| *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  |
| *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              |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *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   |
| *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                                   |



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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| *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                                      |
| *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   |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *PSC-28-04-00006-P               | ..... exempt | Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation                                    | To authorize participation in the parent corporation's line of credit                                  |
| *PSC-31-04-00023-P               | ..... exempt | Distributed generation service by Consolidated Edison Company of New York, Inc.  | To provide an application form   |
| *PSC-34-04-00031-P               | ..... exempt | Flat rate residential service by Emerald Green Lake Louise Marie Water Company, Inc.   | To set appropriate level of permanent rates  |
| *PSC-35-04-00017-P               | ..... exempt | Application form for distributed generation by Orange and Rockland Utilities, Inc.   | To establish a new supplementary application form for customers  |
| *PSC-43-04-00016-P               | ..... exempt | Accounts receivable by Rochester Gas and Electric Corporation  | To include in its tariff provisions for the purchase of ESCO accounts receivable                       |
| *PSC-46-04-00012-P               | ..... exempt | Service application form by Consolidated Edison Company of New York, Inc.  | To revise the form and make housekeeping changes   |
| *PSC-46-04-00013-P               | ..... exempt | Rules and guidelines governing installation of metering equipment  | To establish uniform statewide business practices  |
| *PSC-02-05-00006-P               | ..... exempt | Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.   | To consider imposing remedial actions against the company and its owners, officers and directors       |
| *PSC-09-05-00009-P               | ..... exempt | Submetering of natural gas service by Hamlet on Olde Oyster Bay  | To consider submetering of natural gas to a commercial customer  |
| *PSC-14-05-00006-P               | ..... exempt | Request for deferred accounting authorization by Freeport Electric Inc.  | To defer expenses beyond the end of the fiscal year  |
| *PSC-18-05-00009-P               | ..... exempt | Marketer Assignment Program by Consolidated Edison Company of New York, Inc.   | To implement the program   |
| *PSC-20-05-00028-P               | ..... exempt | Delivery point aggregation fee by Allied Frozen Storage, Inc.  | To review the calculation of the fee   |
| *PSC-25-05-00011-P               | ..... exempt | Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation  | To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11 |
| *PSC-27-05-00018-P               | ..... exempt | Annual reconciliation of gas costs by New York State Electric & Gas Corporation  | To consider the manner in which the gas cost incentive mechanism has been applied                      |
| *PSC-41-05-00013-P               | ..... exempt | Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities                 | To consider the filings  |
| *PSC-45-05-00011-P               | ..... exempt | Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation   | To defer certain costs   |
| *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  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |   |
| *PSC-50-05-00008-P               | ..... exempt | Long-term debt by Saratoga Glen Hollow Water Supply Corp.   | To obtain long-term debt  |
| *PSC-04-06-00024-P               | ..... exempt | Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.                | To approve of the transfer  |
| *PSC-06-06-00015-P               | ..... exempt | Gas curtailment policies and procedures   | To examine the manner and extent to which gas curtailment policies and procedures should be modified and/or established                               |
| *PSC-07-06-00009-P               | ..... exempt | Modification of the current Environmental Disclosure Program  | To include an attributes accounting system  |
| *PSC-22-06-00019-P               | ..... exempt | Hourly pricing by National Grid   | To assess the impacts   |
| *PSC-22-06-00020-P               | ..... exempt | Hourly pricing by New York State Electric & Gas Corporation   | To assess the impacts   |
| *PSC-22-06-00021-P               | ..... exempt | Hourly pricing by Rochester Gas & Electric Corporation  | To assess the impacts   |
| *PSC-22-06-00022-P               | ..... exempt | Hourly pricing by Consolidated Edison Company of New York, Inc.   | To assess the impacts   |
| *PSC-22-06-00023-P               | ..... exempt | Hourly pricing by Orange and Rockland Utilities, Inc.   | To assess the impacts   |
| *PSC-24-06-00005-EP              | ..... exempt | Supplemental home energy assistance benefits  | To extend the deadline to Central Hudson's low-income customers   |
| *PSC-25-06-00017-P               | ..... exempt | Purchased power adjustment by Massena Electric Department   | To revise the method of calculating the purchased power adjustment and update the factor of adjustment  |
| *PSC-34-06-00009-P               | ..... exempt | Inter-carrier telephone service quality standards and metrics by the Carrier Working Group                  | To incorporate appropriate modifications  |
| *PSC-37-06-00015-P               | ..... exempt | Procedures for estimation of customer bills by Rochester Gas and Electric Corporation                       | To consider estimation procedures   |
| *PSC-37-06-00017-P               | ..... exempt | Procedures for estimation of customer bills by Rochester Gas and Electric Corporation                       | To consider estimation procedures   |
| *PSC-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   |

**Action Pending Index**

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| *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   |
| *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   |



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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |   |
| *PSC-39-07-00017-P               | ..... exempt | Gas bill issuance charge by New York State Electric & Gas Corporation   | To create a gas bill issuance charge unbundled from delivery rates  |
| *PSC-41-07-00009-P               | ..... exempt | Submetering of electricity rehearing  | To seek reversal  |
| *PSC-42-07-00012-P               | ..... exempt | Energy efficiency program by Orange and Rockland Utilities, Inc.  | To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service  |
| *PSC-42-07-00013-P               | ..... exempt | Revenue decoupling by Orange and Rockland Utilities, Inc.   | To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.  |
| *PSC-45-07-00005-P               | ..... exempt | Customer incentive programs by Orange and Rockland Utilities, Inc.  | To establish a tariff provision   |
| *PSC-02-08-00006-P               | ..... exempt | Additional central office codes in the 315 area code region   | To consider options for making additional codes   |
| *PSC-03-08-00006-P               | ..... exempt | Rehearing of the accounting determinations  | To grant or deny a petition for rehearing of the accounting determinations  |
| *PSC-04-08-00010-P               | ..... exempt | Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation  | To grant easement rights to Millennium Pipeline Company, L.L.C.   |
| *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  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *PSC-25-08-00008-P               | ..... exempt | Report on Callable Load Opportunities  | Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years        |
| *PSC-28-08-00004-P               | ..... exempt | Con Edison's procedure for providing customers access to their account information | To consider Con Edison's implementation plan and timetable for providing customers access to their account information       |
| *PSC-31-08-00025-P               | ..... exempt | Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)            | To authorize recovery of the DRS costs from the CMR  |
| *PSC-32-08-00009-P               | ..... exempt | The ESCO referral program for KEDNY to be implemented by October 1, 2008           | To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program                                 |
| *PSC-33-08-00008-P               | ..... exempt | Noble Allegany's request for lightened regulation                                  | To consider Noble Allegany's request for lightened regulation as an electric corporation                                     |
| *PSC-36-08-00019-P               | ..... exempt | Land Transfer in the Borough of Manhattan, New York                                | To consider petition for transfer of real property to NYPH   |
| *PSC-39-08-00010-P               | ..... exempt | RG&E's economic development plan and tariffs                                       | Consideration of the approval of RG&E's economic development plan and tariffs  |
| *PSC-40-08-00010-P               | ..... exempt | Loans from regulated company to its parent   | To determine if the cash management program resulting in loans to the parent should be approved                              |
| *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  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| *PSC-51-08-00006-P               | ..... exempt | Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458                                       | To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458                          |
| *PSC-51-08-00007-P               | ..... exempt | Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078   | To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078 |
| *PSC-53-08-00011-P               | ..... exempt | Use of deferred Rural Telephone Bank funds  | To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds       |
| *PSC-53-08-00012-P               | ..... exempt | Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY                                    | Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY                               |
| *PSC-53-08-00013-P               | ..... exempt | To transfer common stock and ownership  | To consider transfer of common stock and ownership   |
| *PSC-01-09-00015-P               | ..... exempt | FCC decision to redefine service area of Citizens/Frontier  | Review and consider FCC proposed redefinition of Citizens/Frontier service area  |
| *PSC-02-09-00010-P               | ..... exempt | Competitive classification of independent local exchange company, and regulatory relief appropriate thereto                     | To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2     |
| *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                     |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |   |
| *PSC-16-09-00010-P               | ..... exempt | Petition for the submetering of electricity  | To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York |
| *PSC-16-09-00020-P               | ..... exempt | Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity       | Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity        |
| *PSC-17-09-00010-P               | ..... exempt | Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts             | To permit electric utilities in New York State to use the Elster REX2   |
| *PSC-17-09-00011-P               | ..... exempt | Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes        | Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes         |
| *PSC-17-09-00012-P               | ..... exempt | Petition for the submetering of gas at commercial property   | To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY |
| *PSC-17-09-00014-P               | ..... exempt | Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff   | To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff                                      |
| *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   |



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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| *PSC-27-09-00011-P               | ..... exempt | Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.  | To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.                  |
| *PSC-27-09-00014-P               | ..... exempt | Billing and payment for energy efficiency measures through utility bill   | To promote energy conservation   |
| *PSC-27-09-00015-P               | ..... exempt | Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access | To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p.                |
| *PSC-29-09-00011-P               | ..... exempt | Consideration of utility compliance filings   | Consideration of utility compliance filings  |
| *PSC-32-09-00009-P               | ..... exempt | Cost allocation for Consolidated Edison's East River Repowering Project   | To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project   |
| *PSC-34-09-00016-P               | ..... exempt | Recommendations made in the Management Audit Final Report   | To consider whether to take action or recommendations contained in the Management Audit Final Report                           |
| *PSC-34-09-00017-P               | ..... exempt | To consider the transfer of control of Plattsburgh Cablevision, Inc. d/b/a Charter Communications to CH Communications, LLC     | To allow the Plattsburgh Cablevision, Inc. to distribute its equity interest in CH Communications, LLC                         |
| *PSC-36-09-00008-P               | ..... exempt | The increase in the non-bypassable charge implemented by RG&E on June 1, 2009   | Considering exemptions from the increase in the non-bypassable charge implemented by RG&E on June 1, 2009                      |
| *PSC-37-09-00015-P               | ..... exempt | Sale of customer-generated steam to the Con Edison steam system   | To establish a mechanism for sale of customer-generated steam to the Con Edison steam system                                   |
| *PSC-37-09-00016-P               | ..... exempt | Applicability of electronic signatures to Deferred Payment Agreements   | To determine whether electronic signatures can be accepted for Deferred Payment Agreements                                     |
| *PSC-39-09-00015-P               | ..... exempt | Modifications to the \$5 Bill Credit Program  | Consideration of petition of National Grid to modify the Low Income \$5 Bill Credit Program                                    |
| *PSC-39-09-00018-P               | ..... exempt | The offset of deferral balances with Positive Benefit Adjustments   | To consider a petition to offset deferral balances with Positive Benefit Adjustments   |
| *PSC-40-09-00013-P               | ..... exempt | Uniform System of Accounts - request for deferral and amortization of costs   | To consider a petition to defer and amortize costs   |
| *PSC-51-09-00029-P               | ..... exempt | Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs                 | To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period             |
| *PSC-51-09-00030-P               | ..... exempt | Waiver or modification of Capital Expenditure condition of merger   | To allow the companies to expend less funds for capital improvement than required by the merger                                |
| *PSC-52-09-00006-P               | ..... exempt | ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology                  | To consider whether to change the Order Prescribing Study Methodology  |
| *PSC-52-09-00008-P               | ..... exempt | Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000                 | To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| *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-12-10-00015-P               | ..... exempt | Recommendations made by Staff intended to enhance the safety of Con Edison's gas operations                                     | To require that Con Edison implement the Staff recommendations intended to enhance the safety of Con Edison's gas operations |
| *PSC-14-10-00010-P               | ..... exempt | Petition for the submetering of electricity   | To consider the request of 61 Jane Street Owners Corporation to submeter Electricity at 61 Jane Street, Manhattan, NY        |
| *PSC-16-10-00005-P               | ..... exempt | To consider adopting and expanding mobile stray voltage testing requirements  | Adopt additional mobile stray voltage testing requirements   |
| *PSC-16-10-00007-P               | ..... exempt | Interconnection of the networks between TDS Telecom and PAETEC Communications for local exchange service and exchange access    | To review the terms and conditions of the negotiated agreement between TDS Telecom and PAETEC Communications                 |
| *PSC-16-10-00015-P               | ..... exempt | Interconnection of the networks between Frontier and Choice One Communications for local exchange service and exchange access   | To review the terms and conditions of the negotiated agreement between Frontier and Choice One Communications                |
| *PSC-18-10-00009-P               | ..... exempt | Electric utility transmission right-of-way management practices   | To consider electric utility transmission right-of-way management practices  |
| *PSC-19-10-00022-P               | ..... exempt | Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York      | To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York        |
| *PSC-22-10-00006-P               | ..... exempt | Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service   | Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service   |
| *PSC-22-10-00008-P               | ..... exempt | Petition for the submetering of electricity   | To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York           |
| *PSC-24-10-00009-P               | ..... exempt | Verizon New York Inc. tariff regulations relating to voice messaging service  | To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff                  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |   |
| *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-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                              |
| *PSC-42-10-00011-P               | ..... exempt | Petition for the submetering of electricity  | To consider the request of 4858 Group, LLC to submeter electricity at 456 Main Street, Buffalo, New York                        |
| *PSC-43-10-00016-P               | ..... exempt | Utility Access to Ducts, Conduit Facilities and Utility Poles  | To review the complaint from Optical Communications Group   |
| *PSC-44-10-00003-P               | ..... exempt | Third and fourth stage gas rate increase by Corning Natural Gas Corporation  | To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase                            |
| *PSC-51-10-00018-P               | ..... exempt | Commission proceeding concerning three-phase electric service by all major electric utilities                          | Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities          |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *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-16-11-00011-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   |
| *PSC-26-11-00007-P               | ..... exempt | Water rates and charges  | To approve an increase in annual revenues by about \$25,266 or 50%   |
| *PSC-26-11-00009-P               | ..... exempt | Petition for the submetering of electricity at commercial property   | To consider the request of by Hoosick River Hardwoods, LLC to submeter electricity at 28 Taylor Avenue, in Berlin, New York  |
| *PSC-26-11-00012-P               | ..... exempt | Waiver of generation retirement notice requirements  | Consideration of waiver of generation retirement notice requirements   |
| *PSC-29-11-00011-P               | ..... exempt | Petition requesting the Commission reconsider its May 19, 2011 Order and conduct a hearing, and petition to stay said Order. | To consider whether to grant or deny, in whole or in part, Windstream New York's Petition For Reconsideration and Rehearing. |
| *PSC-35-11-00011-P               | ..... exempt | Whether to permit Consolidated Edison a waiver to commission regulations Part 226.8  | Permit Consolidated Edison to conduct a inspection program in lieu of testing the accuracy of Category C meters              |
| *PSC-36-11-00006-P               | ..... exempt | To consider expanding mobile stray voltage testing requirements  | Adopt additional mobile stray voltage testing requirements   |



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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |   |
| *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                                      |
| *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  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *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-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                       |
| *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   |

| Agency I.D. No.                  | Expires      | Subject Matter  | Purpose of Action  |
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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| *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-42-12-00009-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.  |
| *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                               |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |   |
| *PSC-18-13-00007-P               | ..... exempt | Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes | Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes   |
| *PSC-21-13-00003-P               | ..... exempt | To consider policies that may impact consumer acceptance and use of electric vehicles   | To consider and further develop policies that may impact consumer acceptance and use of electric vehicles                       |
| *PSC-21-13-00005-P               | ..... exempt | To implement an abandonment of Windover's water system  | To approve the implementation of abandonment of Windover's water system   |
| *PSC-21-13-00008-P               | ..... exempt | Rates of National Fuel Gas Distribution Corporation   | To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive |
| *PSC-21-13-00009-P               | ..... exempt | Reporting requirements for natural gas local distribution companies   | To help ensure efficient and economic expansion of the natural gas system as appropriate  |
| *PSC-22-13-00009-P               | ..... exempt | On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers     | On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers                                       |
| *PSC-23-13-00005-P               | ..... exempt | Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations    | Equalize regulatory treatment based on level of competition and practical considerations  |
| *PSC-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-25-13-00012-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                                      |



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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *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  |
| *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-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.            |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *PSC-47-13-00012-P               | ..... exempt | Conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.                  | Consideration of conditioning,restricting or prohibiting the purchase of services by NYSEG and RG&E from certain affiliates.     |
| *PSC-49-13-00008-P               | ..... exempt | Authorization to transfer all of Crystal Water Supply Company, Inc. stocks to Essel Infra West Inc.                          | To allow Crystal Water Supply Company, Inc to transfer all of its issued and outstanding stocks to Essel Infra West Inc.         |
| *PSC-51-13-00009-P               | ..... exempt | Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.      | To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.                          |
| *PSC-51-13-00010-P               | ..... exempt | Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.      | To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.                          |
| *PSC-51-13-00011-P               | ..... exempt | Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.      | To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.                          |
| *PSC-52-13-00012-P               | ..... exempt | The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC). | To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).  |
| *PSC-52-13-00015-P               | ..... exempt | To enter into a loan agreement with the banks for up to an amount of \$94,000.   | To consider allowing Knolls Water Company to enter into a long-term loan agreement.  |
| *PSC-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 andthe 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           |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *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.                                    |
| *PSC-17-14-00003-P               | ..... exempt | Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism                       | Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism                       |
| *PSC-17-14-00004-P               | ..... exempt | To consider certain portions of petitions for rehearing, reconsideration and/or clarification                                  | To consider certain portions of petitions for rehearing, reconsideration and/or clarification                                  |
| *PSC-17-14-00007-P               | ..... exempt | To consider petitions for rehearing, reconsideration and/or clarification  | To consider petitions for rehearing, reconsideration and/or clarification  |
| *PSC-17-14-00008-P               | ..... exempt | To consider certain portions of petitions for rehearing, reconsideration and/or clarification                                  | To consider certain portions of petitions for rehearing, reconsideration and/or clarification                                  |
| *PSC-19-14-00014-P               | ..... exempt | Market Supply Charge   | To make tariff revisions to the Market Supply Charge for capacity related costs  |
| *PSC-19-14-00015-P               | ..... exempt | Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications                  | To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter   |
| *PSC-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-22-14-00013-P               | ..... exempt | Petition to transfer and merge systems, franchises and assets.   | To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.                           |
| *PSC-23-14-00010-P               | ..... exempt | Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications | To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter                        |
| *PSC-23-14-00014-P               | ..... exempt | Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric                | Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric              |
| *PSC-24-14-00005-P               | ..... exempt | To examine LDC's performance and performance measures.   | To improve gas safety performance.   |
| *PSC-26-14-00010-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-26-14-00013-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-26-14-00017-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.   |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |   |
| *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-28-14-00014-P               | ..... exempt | Petition to transfer systems, franchises and assets.  | To consider the Comcast and Charter transfer of systems, franchise and assets.  |
| *PSC-30-14-00023-P               | ..... exempt | Whether to permit the use of the Sensus iPERL Fire Flow Meter.  | Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.                        |
| *PSC-30-14-00025-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-31-14-00004-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-32-14-00012-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-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-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.                                  |



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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *PSC-38-14-00004-P               | ..... exempt | The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn. | The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn. |
| *PSC-38-14-00005-P               | ..... exempt | Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.             | Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.             |
| *PSC-38-14-00007-P               | ..... exempt | Whether to expand Con Edison's low income program to include Medicaid recipients.  | Whether to expand Con Edison's low income program to include Medicaid recipients.  |
| *PSC-38-14-00008-P               | ..... exempt | The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn. | The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn. |
| *PSC-38-14-00010-P               | ..... exempt | Inter-carrier telephone service quality standard and metrics and administrative changes.   | To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.   |
| *PSC-38-14-00012-P               | ..... exempt | Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.             | Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.             |
| *PSC-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-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-40-14-00011-P               | ..... exempt | Late Payment Charge.   | To modify Section 7.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.                  |
| *PSC-40-14-00013-P               | ..... exempt | Regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.                     | To consider regulation of a proposed natural gas pipeline and related facilities located in the Town of Ticonderoga, NY.         |
| *PSC-40-14-00014-P               | ..... exempt | Waiver of 16 NYCRR Sections 894.1 through 894.4(b)(2)  | To allow the Town of Goshen, NY, to waive certain preliminary franchising procedures to expedite the franchising process.        |
| *PSC-40-14-00015-P               | ..... exempt | Late Payment Charge.   | To modify Section 6.6 - Late Payment Charge to designate a specific time for when a late payment charge is due.                  |
| *PSC-42-14-00003-P               | ..... exempt | Annual Reconciliation of Gas Expenses and Gas Cost Recoveries  | The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries     |
| *PSC-42-14-00004-P               | ..... exempt | Winter Bundled Sales Service Option  | To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge     |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| *PSC-48-14-00014-P               | ..... exempt | Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line. | To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.            |
| *PSC-52-14-00019-P               | ..... exempt | Petition for a waiver to master meter electricity.  | Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY.. |
| *PSC-01-15-00014-P               | ..... exempt | State Universal Service Fund Disbursements  | To consider Edwards Telephone Company's request for State Universal Service Fund disbursements                                 |
| *PSC-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-03-15-00002-P               | ..... exempt | Waiver of tariff provisions related to SC 14 Non-Core Transportation Services for Electric Generation               | To determine whether a waiver is warranted   |
| *PSC-04-15-00008-P               | ..... exempt | Re-billing SC No. 2 customers from March 2008 through March 2014.   | To determine whether re-billing SC No. 2 customers by the Companies' proposed methodology customers is appropriate.            |
| *PSC-04-15-00010-P               | ..... exempt | To modify the retail access program under SC No. 19 - Seller Transportation Aggregation Service.                    | To modify the retail access program to implement Tier 2A - Storage Capacity Release and make other tariff changes.             |
| *PSC-04-15-00011-P               | ..... exempt | To modify the retail access program under SC No. 8 - Seller Services.   | To modify the retail access program to implement Tier 2A - Storage Capacity Release and make other tariff changes.             |
| *PSC-04-15-00012-P               | ..... exempt | Disposition of tax refunds and other related matters.   | To determine the disposition of tax refunds and other related matters.   |
| *PSC-06-15-00003-P               | ..... exempt | Petition for submetering of electricity   | To consider the request of City Point Residential LLC, to submeter electricity at 366 Flatbush Avenue Ext, Brooklyn, New York  |
| *PSC-07-15-00006-P               | ..... exempt | Whether to order a remand regarding payphone rates  | Whether to order a remand regarding payphone rates and award refunds   |
| *PSC-08-15-00009-P               | ..... exempt | Approval of a surcharge.  | To allow or disallow Emerald Green Lake Louise Marie Water Company, Inc. for a surcharge.                                      |
| *PSC-08-15-00010-P               | ..... exempt | Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.                   | To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.                 |
| *PSC-10-15-00007-P               | ..... exempt | Notification concerning tax refunds   | To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds   |
| *PSC-10-15-00008-P               | ..... exempt | Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes      | Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes                 |
| *PSC-10-15-00009-P               | ..... exempt | Contingency Tariffs regarding demand response issues  | To consider Contingency Tariffs regarding demand response issues   |
| *PSC-12-15-00007-P               | ..... exempt | The Annual Reconciliation of Gas Expenses and Gas Cost Recoveries codified at Title 16 NYCRR Section 720.6.5        | Examine the Annual Reconciliation of Gas Expenses and Gas Cost Recoveries mechanism  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| *PSC-13-15-00024-P               | ..... exempt | Whether Leatherstocking should be permitted to recover a shortfall in earnings   | To decide whether to approve Leatherstocking's request to recover a shortfall in earnings                                |
| *PSC-13-15-00026-P               | ..... exempt | Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product  | To permit the use of the Sensus Smart Point Gas AMR/AMI product  |
| *PSC-13-15-00027-P               | ..... exempt | Whether to permit the use of the Measurlogic DTS 310 electric submeter   | To permit the use of the Measurlogic DTS 310 submeter  |
| *PSC-13-15-00028-P               | ..... exempt | Whether to permit the use of the SATEC EM920 electric meter  | To permit necessary to permit the use of the SATEC EM920 electric meter  |
| *PSC-13-15-00029-P               | ..... exempt | Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters                   | To permit the use of the Triacta submeters   |
| *PSC-17-15-00004-P               | ..... exempt | Rehearing of the Commission's Order Adopting Regulatory Policy Framework and Implementation Plan                         | Consideration of a petition for rehearing  |
| *PSC-17-15-00007-P               | ..... exempt | To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million | To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million |
| *PSC-18-15-00004-P               | ..... exempt | National Grid's electric Economic Development Programs   | To revise the economic development assistance to qualified businesses  |
| *PSC-18-15-00005-P               | ..... exempt | Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism                 | Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism                 |
| *PSC-18-15-00007-P               | ..... exempt | National Grid's Economic Development Programs  | To authorize a new economic development program for National Grid's natural gas service territory                        |
| *PSC-19-15-00011-P               | ..... exempt | Gas Safety Performance Measures and associated negative revenue adjustments  | To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid                        |
| *PSC-20-15-00006-P               | ..... exempt | Implementation of the proposed Microgrid Business Model as a reliability and demand management resource                  | Consider implementation of the proposed Microgrid Business Model as a reliability and demand management resource         |
| *PSC-22-15-00015-P               | ..... exempt | To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)            | To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)            |
| *PSC-23-15-00005-P               | ..... exempt | The modification of New York American Water's current rate plan  | Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff   |
| *PSC-23-15-00006-P               | ..... exempt | The modification of New York American Water's current rate plan  | Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff   |
| *PSC-25-15-00008-P               | ..... exempt | Notice of Intent to Submeter electricity.  | To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York. |
| *PSC-26-15-00014-P               | ..... exempt | To consider the request for partial waiver of the energy audit requirements in 16 NYCRR Section 96.5(k)                  | To consider the request for partial waiver of the energy audit requirements in 16 NYCRR Section 96.5(k)                  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |   |
| *PSC-26-15-00016-P               | ..... exempt | Petition to Submeter electricity  | To consider the request of 39 Plaza Housing Corporation to submeter electricity at 39 Plaza Street West, Brooklyn, New York |
| PSC-27-15-00014-P                | ..... exempt | Authorization for NYAW to accrue interest on internal reserve debit balances                          | To allow NYAW to accrue interest on internal reserve debit balances   |
| PSC-28-15-00006-P                | ..... exempt | The minor electric rate filing of Mohawk Municipal Commission   | Whether to increase Mohawk Municipal Commission's annual electric revenues by approximately \$113,119 or 13.74%             |
| PSC-29-15-00018-P                | ..... exempt | Approval of ratemaking related to amendment a certificate of public convenience and necessity         | To approve or reject the ratemaking aspects of SLG's petition to amend its certificate of public convenience and necessity  |
| PSC-29-15-00025-P                | ..... exempt | Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY | Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY                  |
| PSC-31-15-00007-P                | ..... exempt | Plan to convert petroleum pipeline into a natural gas pipeline  | Whether to approve the proposed conversion plan submitted by NIC Holding Corp   |
| PSC-32-15-00005-P                | ..... exempt | Petition for rehearing of the Order Adopting Dynamic Load Management Filings with Modifications       | To consider a petition for rehearing of the Order Adopting Dynamic Load Management Filings with Modifications               |
| PSC-32-15-00006-P                | ..... exempt | Development of a Community Solar Demonstration Project.   | To approve the development of a Community Solar Demonstration Project.  |
| PSC-32-15-00007-P                | ..... exempt | Approval of cost recovery and incentive mechanisms for the NWA Project.                               | To approve the cost recovery and incentive mechanisms for the NWA Project.  |
| PSC-32-15-00012-P                | ..... exempt | Proposed standards for Commission oversight of Distributed Energy Resource suppliers.                 | To consider proposed standards for Commission oversight of Distributed Energy Resource suppliers.                           |
| PSC-33-15-00009-P                | ..... exempt | Remote net metering of a demonstration community net metering program.                                | To consider approval of remote net metering of a demonstration community net metering program.                              |
| PSC-33-15-00012-P                | ..... exempt | Remote net metering of a Community Solar Demonstration Project.                                       | To consider approval of remote net metering of a Community Solar Demonstration Project.                                     |
| PSC-34-15-00021-P                | ..... exempt | Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs                 | To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs                       |
| PSC-35-15-00010-P                | ..... exempt | Notice of Intent to Submeter Electricity  | To consider the request of 605 West 42nd Owner LLC to submeter electricity at 605 West 42nd Street, New York, New York      |
| PSC-35-15-00011-P                | ..... exempt | Demand based Standby Service Charges levied upon Offset Tariff customers accounts                     | To consider a revision to demand based Standby Service Charges levied upon Offset Tariff customers accounts                 |
| PSC-35-15-00014-P                | ..... exempt | Consideration of consequences against Light Power & Gas, LLC for violations of the UBP                | To consider consequences against Light Power & Gas, LLC for violations of the UBP   |
| PSC-37-15-00007-P                | ..... exempt | Submetered electricity  | To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007   |



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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |   |
| PSC-38-15-00008-P                | ..... exempt | Notice of Intent to submeter electricity   | To consider the request of Community Counseling and Mediation to submeter electricity at 226 Linden Blvd., Brooklyn, New York   |
| PSC-39-15-00010-P                | ..... exempt | Major gas revenue increase   | To consider an increase to its annual gas revenues by approximately \$1,228,000 or 2.96%  |
| PSC-39-15-00012-P                | ..... exempt | Petition to submeter electricity   | To consider the request of 47 East 34th Street (NY), L.P., to submeter electricity at 49 East 34th Street New York, New York    |
| PSC-40-15-00012-P                | ..... exempt | Establishment of the regulatory regime applicable to an approximately 106 MW electric generating facility                        | Consideration of approval of a lightened regulatory regime for an approximately 106 MW electric generating facility             |
| PSC-40-15-00014-P                | ..... exempt | Whether to permit the use of the Open Way 3.5 with cellular communications   | To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93                                    |
| PSC-41-15-00005-P                | ..... exempt | Intergrow disputes National Grid's revenue assurance calculations  | To consider whether the revenue assurance National Grid is requiring of Intergrow for the new interconnection is appropriate    |
| PSC-41-15-00007-P                | ..... exempt | The allocation of costs for the extension of electric service  | Whether to grant the complaint of Glenwyck Development, LLC   |
| PSC-41-15-00009-P                | ..... exempt | Main Tier of the Renewable Portfolio Standard program  | To consider allocating funding from the Main Tier to an eligible hydroelectric facility   |
| PSC-41-15-00011-P                | ..... exempt | Deferral of incremental costs incurred in 2014 associated with increased gas leak response and repair activities                 | To consider a petition by Con Edison to defer certain incremental costs associated with gas leak response and repair activities |
| PSC-42-15-00006-P                | ..... exempt | Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC. | Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.        |
| PSC-42-15-00007-P                | ..... exempt | Notice of Intent to submeter electricity.  | To consider the request of Sandy Clarkson LLC to submeter electricity at 310 Clarkson Avenue, Brooklyn, New York.               |
| PSC-42-15-00010-P                | ..... exempt | Petition for modification of Con Edison's S.C. No. 4 (Back-up/Supplementary) Steam Service.                                      | To consider modifications to S.C. No. 4 of Con Edison's Schedule for Steam Service.   |
| PSC-42-15-00012-P                | ..... exempt | Establishment of the regulatory regime applicable to a proposed natural gas pipeline facility.                                   | Consideration of a lightened regulatory regime for a proposed natural gas pipeline facility.                                    |
| PSC-42-15-00013-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-44-15-00028-P                | ..... exempt | Deferral of incremental expenses associated with new compliance requirements   | Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements             |
| PSC-44-15-00030-P                | ..... exempt | System Improvement Plan mechanism  | To consider Bath's petition to implement a SIP mechanism  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| PSC-45-15-00010-P                | ..... exempt | Notice of Intent to submeter electricity.  | To consider the request of One Vandam Condominium to submeter electricity at 180 Avenue of the Americas, New York, New York.     |
| PSC-47-15-00010-P                | ..... exempt | Use of the AMETEK JEMStar II Digital Power Meter   | To consider permitting the use of AMETEK Power Instrument's JEMStar II Digital Power Meter for electric metering applications    |
| PSC-47-15-00012-P                | ..... exempt | Reimbursement of costs for construction under 16 NYCRR 230   | To determine proper reimbursement for costs related to trenching and construction  |
| PSC-47-15-00013-P                | ..... exempt | Whitepaper on Implementing Lightened Ratemaking Regulation.  | Consider Whitepaper on Implementing Lightened Ratemaking Regulation.   |
| PSC-48-15-00010-P                | ..... exempt | Lightened and incidental regulation of a 55 MW electric and steam generating facility.                             | Consider the lightened and incidental regulation of a 55 MW electric and steam generating facility.                              |
| PSC-48-15-00011-P                | ..... exempt | Proposal to retire Huntley Units 67 and 68 on March 1, 2016.   | Consider the proposed retirement of Huntley Units 67 and 68.   |
| PSC-49-15-00009-P                | ..... exempt | Petition for rehearing of the Order Establishing Interim Ceilings on the Interconnection of Net Metered Generation | To consider a Petition for rehearing of the Order Establishing Interim Ceilings on the Interconnection of Net Metered Generation |
| PSC-50-15-00006-P                | ..... exempt | The reduction of rates.  | To consider the reduction of rates charged by Independent Water Works, Inc.  |
| PSC-50-15-00007-P                | ..... exempt | Collaborative Report on proposed consumer protections for the low income customers of energy services companies.   | To consider the Collaborative Report on proposed consumer protections for the low income customers of energy services companies. |
| PSC-50-15-00008-P                | ..... exempt | The transfer of 1,064 utility poles.   | To consider the transfer of 1,064 utility poles from Orange and Rockland Utilities, Inc. to Frontier Communications Corp.        |
| PSC-50-15-00009-P                | ..... exempt | Notice of Intent to submeter electricity.  | To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.               |
| PSC-51-15-00010-P                | ..... exempt | Modification of the EDP  | To consider modifying the EDP  |
| PSC-51-15-00011-P                | ..... exempt | National Grid's electric Economic Development Programs   | To consider modifications to the economic development assistance to qualified businesses   |
| PSC-52-15-00015-P                | ..... exempt | Consequences pursuant to the Commission's Uniform Business Practices (UBP).  | To consider whether to impose consequences on Astral for its apparent non-compliance with Commission requirements.               |
| PSC-52-15-00016-P                | ..... exempt | Notice of Intent to submeter electricity.  | To consider the Notice of Intent of G-Z/10 UNP Realty, LLC to submeter electricity at 823 First Avenue, New York, New York.      |
| PSC-01-16-00002-P                | ..... exempt | Revenue assurance calculations   | To consider whether the revenue assurance National Grid is requiring of Tiashoke for the upgraded service is appropriate         |
| PSC-01-16-00003-P                | ..... exempt | Deferral of expenses   | To consider a petition for the deferral of expenses  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| PSC-01-16-00004-P                | ..... exempt | Notice of Intent to submeter electricity   | To consider the Notice of Intent of 10 Madison Square West to submeter electricity at 10 Madison Square West, New York, NY       |
| PSC-01-16-00005-P                | ..... exempt | Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices  | To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices   |
| PSC-02-16-00007-P                | ..... exempt | The application of the earnings sharing mechanism related to a partial year period.                                      | To consider Orange and Rockland Utilities, Inc.'s petition to address the application of the earnings sharing mechanism.         |
| PSC-03-16-00008-P                | ..... exempt | Petition to submeter electricity   | To consider the request of 910 Fifth Avenue Corporation to submeter electricity at 910 Fifth Avenue, New York, New York          |
| PSC-04-16-00007-P                | ..... exempt | Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility. | Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.    |
| PSC-04-16-00008-P                | ..... exempt | Clean Energy Standard  | To consider funding for renewable and other non-emitting electric generation facilities  |
| PSC-04-16-00010-P                | ..... exempt | Proposed revisions to add and clarify provisions related to electric generators under SC No. 14.                         | To consider revisions to SC No. 14 and align the electric generator provisions with its downstate companies, KEDLI and KEDNY.    |
| PSC-04-16-00011-P                | ..... exempt | Investigation that certain practices of Central Hudson Gas and Electric Corporation resulted in violations of HEFPA.     | To consider the Petition of Nobody Leaves Mid-Hudson to investigate Central Hudson for claims of HEFPA violations.               |
| PSC-04-16-00012-P                | ..... exempt | Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.                           | Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.                      |
| PSC-04-16-00013-P                | ..... exempt | Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.           | Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.                        |
| PSC-04-16-00015-P                | ..... exempt | Minor electric rate filing.  | To consider the Village of Fairport's proposed increase in annual electric revenues by approximately \$464,440 or 2.49%.         |
| PSC-06-16-00007-P                | ..... exempt | Transfer of water supply assets.   | To consider the sale of water supply assets of Northeast Water Services to Suez Water Owego-Nichols, Inc.                        |
| PSC-06-16-00008-P                | ..... exempt | Notice of Intent to submeter electricity.  | To consider the Notice of Intent of 31 Lincoln Road Development LLC to submeter electricity at 31-33 Lincoln Road, Brooklyn, NY. |
| PSC-06-16-00010-P                | ..... exempt | Lakewood disputes National Grid's revenue assurance calculations, specifically the duration used.                        | To consider whether the revenue assurance National Grid is requiring of Lakewood for the new interconnection is appropriate.     |
| PSC-06-16-00011-P                | ..... exempt | Continuation of lightened regulation for electric generating plant.  | To consider the continuation of lightened regulation for electric generating plant.  |
| PSC-06-16-00012-P                | ..... exempt | Inclusion of a Farm and Food Community program in the community distributed generation program.                          | To consider the inclusion of a Farm and Food Community program in the community distributed generation program.                  |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| PSC-06-16-00013-P                | ..... exempt | Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.                            | To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.                    |
| PSC-06-16-00014-P                | ..... exempt | MEGA's proposed demonstration CCA program.   | To consider MEGA's proposed demonstration CCA program.   |
| PSC-06-16-00015-P                | ..... exempt | Notice of Intent to submeter electricity.  | To consider the Notice of Intent of 31 Lincoln Road Development LLC to submeter electricity at 510 Flatbush Ave., Brooklyn, NY.  |
| PSC-07-16-00015-P                | ..... exempt | Notice of Intent to submeter electricity   | To consider the Notice of Intent of 20 Lafayette LLC to submeter electricity at 286 Ashland Place, Brooklyn, New York            |
| PSC-07-16-00016-P                | ..... exempt | Use of the Electro Industries Shark 200 electric submeter in residential applications                                    | To consider the use of the Electro Industries Shark 200 submeter   |
| PSC-07-16-00017-P                | ..... exempt | To modify the retail access program under SC No. 8 - Seller Services   | To consider changes to the retail access program to implement Tier 2A - Storage Capacity Release and other tariff revisions      |
| PSC-07-16-00018-P                | ..... exempt | The use of the Open Way Centron 3.5 commercial meter, with 4G LTE cellular or modem communications for electric metering | To consider the use of the Itron Open Way Centron 3.5 meter  |
| PSC-07-16-00019-P                | ..... exempt | Conversion of P.S.C. No. 1 to an electronic format and add a provision to its Service Classification No.1                | To consider conversion of P.S.C. No. 1 to an electronic format and add a provision to its Service Classification No.1            |
| PSC-07-16-00020-P                | ..... exempt | To modify the retail access program under SC No. 19 - Seller Transportation Aggregation Service                          | To consider changes to the retail access program to implement Tier 2A - Storage Capacity Release and other tariff revisions      |
| PSC-07-16-00021-P                | ..... exempt | NYSEG's request to collect funding for natural gas Energy Efficiency Portfolio Standard programs                         | To consider NYSEG's request to collect funding for natural gas Energy Efficiency Portfolio Standard programs                     |
| PSC-08-16-00006-P                | ..... exempt | Examination of terms and conditions of utility service received by Fastrac Markets, LLC.                                 | To consider the terms and conditions of utility service received by Fastrac Markets, LLC.  |
| PSC-08-16-00007-P                | ..... exempt | Notice of Intent to submeter electricity.  | To consider the Notice of Intent of BOP MW Residential Market LLC and BOP MW Residential Affordable LLC to submeter electricity. |
| PSC-09-16-00004-P                | ..... exempt | Stock Acquisition  | To consider the acquisition of the stock of Bristol Water-Works Corporation by Bristol Harbour Resort Management LLC             |
| PSC-10-16-00010-P                | ..... exempt | Stock Acquisition  | To consider the acquisition of the stock of Whistle Tree Development Corporation by Scribners Catskill Lodge, LLC.               |
| PSC-11-16-00008-P                | ..... exempt | Proposed zero-emissions credits purchase program regarding certain nuclear power plants                                  | To avoid adverse air emissions from fossil-fueled generation that would replace nuclear generation                               |
| PSC-11-16-00010-P                | ..... exempt | To establish a process to facilitate the transfer of complete systems of street lighting equipment                       | To consider the establishment of a process to facilitate the transfer of complete systems of street lighting equipment           |



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| <b>PUBLIC SERVICE COMMISSION</b> |              |   |   |
| PSC-11-16-00011-P                | ..... exempt | To establish a process to facilitate the transfer of complete systems of street lighting equipment                | To consider the establishment of a process to facilitate the transfer of complete systems of street lighting equipment          |
| PSC-11-16-00012-P                | ..... exempt | To establish a process to facilitate the transfer of complete systems of street lighting equipment                | To consider the establishment of a process to facilitate the transfer of complete systems of street lighting equipment          |
| PSC-11-16-00013-P                | ..... exempt | Leakage survey and corrosion inspection requirements  | To establish protocols and timeframes for completing leakage surveys and corrosion inspections on gas service lines             |
| PSC-11-16-00014-P                | ..... exempt | To establish a process to facilitate the transfer of complete systems of street lighting equipment                | To consider the establishment of a process to facilitate the transfer of complete systems of street lighting equipment          |
| PSC-11-16-00015-P                | ..... exempt | To establish a process to facilitate the transfer of complete systems of street lighting equipment                | To consider the establishment of a process to facilitate the transfer of complete systems of street lighting equipment          |
| PSC-11-16-00016-P                | ..... exempt | Notice of Intent to submeter electricity  | To consider the Notice of Intent of 504 Myrtle Residential Owner LLC to submeter electricity at 504 Myrtle Avenue, Brooklyn, NY |
| PSC-11-16-00017-P                | ..... exempt | Notice of Intent to submeter electricity  | To consider the Notice of Intent of 140 West Street Condominium to submeter electricity at 100 Barclay Street, New York, NY     |
| PSC-11-16-00018-P                | ..... exempt | Rolling Meadows Water Corporation's rates for the provision of water  | To consider an increase in Rolling Meadows Water Corporation's annual water revenues by approximately \$169,841 or 34.05%       |
| PSC-12-16-00003-P                | ..... exempt | The use of the GE Energy low voltage transformers   | To consider the use of the GE Energy low voltage transformers   |
| PSC-12-16-00004-P                | ..... exempt | The option to opt out of using an AMR device, and substitute an electro-mechanical meter, at no additional charge | To consider the option to opt out of using an AMR device, and substitute an electro-mechanical meter, at no additional charge   |
| PSC-12-16-00005-P                | ..... exempt | Notice of Intent to submeter electricity  | To consider the Notice of Intent of 3475 Third Avenue Owner Realty LLC to submeter electricity at 3475 Third Avenue, Bronx, NY  |
| PSC-12-16-00006-P                | ..... exempt | Use of Artech transformers in commercial applications   | To consider the use of Artech transformers  |
| PSC-12-16-00007-P                | ..... exempt | Deferral of incremental costs incurred in 2015 associated with increased gas leak response and repair activities  | To consider a petition by Con Edison to defer certain incremental costs associated with gas leak response and repair activities |
| PSC-12-16-00008-P                | ..... exempt | Notice of Intent to submeter electricity.   | To consider the Notice of Intent of Promenade Global LLC to submeter electricity at 150 West 225th Street, Bronx, New York.     |
| PSC-13-16-00007-P                | ..... exempt | Notice of Intent to submeter electricity  | To consider the Notice of Intent to submeter electricity at 131-05, 131-03 and 131-01 40th Road, Flushing, New York             |
| PSC-13-16-00008-P                | ..... exempt | Standby rate exemption for Offset Tariff customers  | Consideration of the standby rate exemption for Offset Tariff customers   |

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| <b>PUBLIC SERVICE COMMISSION</b> |              |  |  |
| PSC-13-16-00009-P                | ..... exempt | Notice of Intent to submeter electricity   | To consider the Notice of Intent of Franklin Place Condominium to submeter electricity at 5 Franklin Place, New York, New York   |
| PSC-13-16-00011-P                | ..... exempt | Transfer of stock  | To consider the sale of all outstanding Crystal Water Corp. stock to Bruce McNab   |
| PSC-14-16-00006-P                | ..... exempt | Revisions to S.C. No. 4 Back-Up/ Supplementary Service related to contract demand.                               | To consider revisions to S.C. No. 4 Back-Up/ Supplementary Service related to contract demand.                                   |
| PSC-14-16-00007-P                | ..... exempt | Regulation of customer name changes on pending interconnection applications for grandfathered projects.          | To consider regulation of customer name changes on pending interconnection applications for grandfathered projects.              |
| PSC-14-16-00008-P                | ..... exempt | Resetting retail markets for ESCO mass market customers.   | To ensure consumer protections with respect to residential and small non-residential ESCO customers.                             |
| PSC-15-16-00010-P                | ..... exempt | Proposed financial incentives for projects undertaken through the Targeted Demand Management program             | To consider financial incentives for projects undertaken through the Targeted Demand Management program                          |
| PSC-15-16-00012-P                | ..... exempt | Adequate service of Verizon New York, Inc.   | To consider the adequacy of Verizon New York Inc.'s service quality  |
| PSC-15-16-00013-P                | ..... exempt | Waiver of certain Commission requirements related to the distribution of telephone directories                   | To consider a waiver of certain Commission requirements related to the distribution of telephone directories                     |
| PSC-15-16-00014-P                | ..... exempt | Establishment of SC No. 7 - Purchase of Renewable Energy from New Distributed Generators                         | To consider the establishment of SC No. 7 - Purchase of Renewable Energy from New Distributed Generators                         |
| PSC-15-16-00015-P                | ..... exempt | Notice of Intent to submeter electricity   | To consider the Notice of Intent of IGI-GGP Renwick LLC to submeter electricity at 15 Renwick Street, New York, New York         |
| PSC-16-16-00003-P                | ..... exempt | Waiver and/or clarification of certain Commission requirements related to distribution of telephone directories. | To consider a waiver and/or clarification of certain Commission requirements related to distribution of telephone directories.   |
| PSC-16-16-00004-P                | ..... exempt | Utility Codes of Conduct for affiliate interactions.   | To update and/or modify utility codes of conduct in anticipation of changes related to evolving Commission policies.             |
| PSC-16-16-00005-P                | ..... exempt | A Clean Energy Standard - Tier 3.  | To avoid adverse air emissions related to fossil fuel fired electricity generation and support upstate nuclear facilities.       |
| PSC-16-16-00006-P                | ..... exempt | A Clean Energy Standard - Tier 1 and Tier 2.   | To avoid adverse air emissions related to fossil fuel fired electricity generation and promote renewable sources of electricity. |
| PSC-17-16-00004-P                | ..... exempt | Major electric rate filing   | To consider an increase in Con Edison's electric delivery revenues of approximately \$482 million or 9.5%                        |
| PSC-17-16-00005-P                | ..... exempt | Major gas rate filing  | To consider an increase in KEDNY's gas delivery revenues by approximately \$290 million or 32%                                   |

| Agency I.D. No.                  | Expires        | Subject Matter   | Purpose of Action   |
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| <b>PUBLIC SERVICE COMMISSION</b> |                |  |   |
| PSC-17-16-00006-P                | ..... exempt   | Proposal to revise General Rule 20 Standby Service   | To consider proposed tariff revisions related to standby service multi-party offset under General Rule 20                     |
| PSC-17-16-00007-P                | ..... exempt   | Major gas rate filing  | To consider an increase in Con Edison's gas delivery revenues of approximately \$154 million or 13.4%                         |
| PSC-17-16-00008-P                | ..... exempt   | Major gas rate filing  | To consider an increase in KEDLI's gas delivery revenues by approximately \$175 million or 27%                                |
| PSC-18-16-00011-P                | ..... exempt   | Transfer of certain streetlights located in the City of Beacon.  | To consider the transfer of certain streetlights from Central Hudson to the City of Beacon.                                   |
| PSC-18-16-00012-P                | ..... exempt   | Petition for additional stock acquisition.   | To consider the petition for additional stock acquisition.  |
| PSC-18-16-00013-P                | ..... exempt   | Amendments to the Uniform Business Practices of ESCOs.   | To ensure consumer protection for ESCO customers.   |
| PSC-18-16-00014-P                | ..... exempt   | Amendments to the Uniform Business Practices of ESCOs.   | To ensure consumer protection for ESCO customers.   |
| PSC-18-16-00015-P                | ..... exempt   | Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process.                     | To ensure consumer protections for ESCO customers.  |
| PSC-18-16-00016-P                | ..... exempt   | Amendments to the Uniform Business Practices of ESCOs.   | To ensure consumer protection for ESCO customers.   |
| PSC-18-16-00017-P                | ..... exempt   | Transfer of certain streetlights located in the City of Poughkeepsie.  | To consider the transfer of certain streetlights from Central Hudson to the City of Poughkeepsie.                             |
| PSC-18-16-00018-P                | ..... exempt   | Amendments to the Uniform Business Practices of ESCOs.   | To ensure consumer protection for ESCO customers.   |
| PSC-19-16-00009-P                | ..... exempt   | Rider T - Commercial Demand Response Programs  | To consider revisions to Rider T regarding participating in the Commercial System Relief Program                              |
| PSC-19-16-00010-P                | ..... 05/11/17 | Technical Amendments of State regulations  | To align State regulations with their corollary Federal regulations   |
| PSC-19-16-00011-P                | ..... exempt   | Public Street Lighting - LED Options   | To consider the addition of LED options to O&R's SC No. 4 - Public Street Lighting  |
| PSC-19-16-00012-P                | ..... exempt   | Proposed corporate reorganization and transfer of ownership interests between members in Cricket Valley Energy Center, LLC | To consider corporate reorganization and transfer of ownership interests between members in Cricket Valley Energy Center, LLC |
| PSC-20-16-00007-P                | ..... exempt   | Notice of Intent to submeter electricity.  | To consider the Notice of Intent of BAM GO Developers, LLC to submeter electricity at 250 Ashland Place, Brooklyn, New York.  |
| PSC-20-16-00008-P                | ..... exempt   | Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).     | To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).             |

| Agency I.D. No.                  | Expires      | Subject Matter  | Purpose of Action  |
|----------------------------------|--------------|---|--|
| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| PSC-20-16-00009-P                | ..... exempt | Standards for affiliate relationships.  | To consider whether to permit the expansion of employees who are permitted to perform services on behalf of affiliates.        |
| PSC-20-16-00010-P                | ..... exempt | Deferral and recovery of incremental expense.   | To consider deferring costs of conducting leak survey and repairs for subsequent recovery.                                     |
| PSC-20-16-00011-P                | ..... exempt | Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.                     | To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.   |
| PSC-20-16-00012-P                | ..... exempt | Accounting changes related to residual unbilled revenue for financial accounting and regulatory purposes.                       | To consider accounting changes related to residual unbilled revenue for financial accounting and regulatory purposes.          |
| PSC-20-16-00013-P                | ..... exempt | Accounting changes related to residual unbilled revenue for financial accounting and regulatory purposes.                       | To consider accounting changes related to residual unbilled revenue for financial accounting and regulatory purposes.          |
| PSC-20-16-00014-P                | ..... exempt | Transfer of ownership interests from CEC to Fortistar, and lightened regulation.  | To consider the transfer of ownership interests from CEC to Fortistar, and lightened regulation.                               |
| PSC-21-16-00006-P                | ..... exempt | Petition to submeter electricity  | To consider the petition of HV Housing, LLC to submeter electricity at 45 Vanderburgh Avenue, Troy, New York                   |
| PSC-21-16-00007-P                | ..... exempt | Notice of Intent to submeter electricity  | To consider the Notice of Intent to submeter electricity at 206 Outer Main Street, Building #67, Potsdam, New York             |
| PSC-21-16-00008-P                | ..... exempt | GE I-210+c with Silver Spring Network Interface Card (NIC) 510  | To consider the use of the GE I-210+c with Silver Spring Networks Interface Card (NIC) 510                                     |
| PSC-21-16-00009-P                | ..... exempt | Establishment of compensation for nuclear facilities relative to a Zero-Emissions Credit program                                | To preserve zero-emissions attributes of generation facilities serving New York electric customers                             |
| PSC-22-16-00010-P                | ..... exempt | Notice of Intent to submeter electricity and waiver of 16 NYCRR § 96.5(k)(3).   | To consider the Notice of Intent to submeter electricity and waiver of 16 NYCRR § 96.5(k)(3).                                  |
| PSC-22-16-00011-P                | ..... exempt | Petition for rehearing of the Order Modifying Standardized Interconnection Requirements and alternative enforcement mechanisms. | To ensure compliance with the Standardized Interconnection Requirements.   |
| PSC-22-16-00012-P                | ..... exempt | Notice of Intent to submeter electricity.   | To consider the Notice of Intent of 20 West 53rd Street, L.L.C. to submeter electricity at 20 West 53 Street, New York, NY.    |
| PSC-22-16-00013-P                | ..... exempt | Disposition of tax refunds and other related matters.   | To consider the disposition of tax refunds and other related matters.  |
| PSC-22-16-00014-P                | ..... exempt | Request for waiver of 16 NYCRR § 96.5(k)(3) and § 96.6(b).  | To consider the request for waiver of 16 NYCRR § 96.5(k)(3) and 16 NYCRR § 96.6(b)   |
| PSC-22-16-00015-P                | ..... exempt | Notice of Intent to submeter electricity.   | To consider the Notice of Intent to submeter electricity at 100 Willoughby Street and 210 Duffield Street, Brooklyn, New York. |
| PSC-23-16-00008-P                | ..... exempt | Notice of Intent to submeter electricity  | To consider the Notice of Intent to submeter electricity at 135 West 52nd Street, New York, New York                           |



| Agency I.D. No.                  | Expires      | Subject Matter   | Purpose of Action   |
|----------------------------------|--------------|--|---|
| <b>PUBLIC SERVICE COMMISSION</b> |              |  |   |
| PSC-23-16-00009-P                | ..... exempt | Transfer of assets and dissolution of Birch Hill Water Company Inc.  | To consider the transfer of assets and dissolution of the Birch Hill Water Company Inc.   |
| PSC-23-16-00010-P                | ..... exempt | Minor water rate filing  | To consider an increase in Pheasant Hill Water Corporation's annual water revenues by approximately \$66,325 or 126%            |
| PSC-23-16-00011-P                | ..... exempt | Notification concerning tax refunds  | To consider Verizon New York Inc.'s request to retain a portion of a property tax refund  |
| PSC-23-16-00012-P                | ..... exempt | Area Code Overlay  | To consider an area code overlay in the current 518 area code   |
| PSC-23-16-00013-P                | ..... exempt | Acquisition of all of the assets of Beaver Dam Lake Water Corporation  | To consider the acquisition of all assets of Beaver Dam Lake Water Corporation by New York American Water Company Inc.          |
| PSC-24-16-00008-P                | ..... exempt | Notice of Intent to submeter electricity.  | To consider the Notice of Intent to submeter electricity at 220 Central Park South, New York, New York.                         |
| PSC-24-16-00009-P                | ..... exempt | Petition to submeter gas service.  | To consider the Petition of New York City Economic Development Corp. to submeter gas at Pier 17, 89 South Street, New York, NY. |
| PSC-24-16-00010-P                | ..... exempt | Establishment of reliability contingency plan(s) to address the potential closure of Indian Point Energy Center. | To address reliability needs associated with the potential closure of the Indian Point Energy Center.                           |
| PSC-25-16-00008-P                | ..... exempt | Consideration of the Avangrid Implementation Plan and audit recommendations.                                     | To consider Avangrid's Implementation Plan.   |
| PSC-25-16-00009-P                | ..... exempt | To delay Companies' third-party assessments of customer personally identifiable information until 2018.          | To extend the time period between the Companies' third-party assessments of customer personally identifiable information.       |
| PSC-25-16-00010-P                | ..... exempt | Consideration of Consolidated Edison Company of New York, Inc.'s Implementation Plan and audit recommendations.  | To consider Consolidated Edison Company of New York, Inc.'s Implementation Plan.  |
| PSC-25-16-00011-P                | ..... exempt | A petition for rehearing of the Order Authorizing Framework for Community Choice Aggregation Opt-out Program.    | To determine appropriate rules for Community Choice Aggregation Programs.   |
| PSC-25-16-00012-P                | ..... exempt | Consideration of NYISO's Western New York PPTN Viability and Sufficiency Assessment.                             | To identify whether NYISO should proceed to further evaluate solutions to a Western New York PPTN.                              |
| PSC-25-16-00013-P                | ..... exempt | Petition for reconsideration of the Order Authorizing Framework for Community Choice Aggregation Opt-out Program | To determine appropriate rules for Community Choice Aggregation Programs  |
| PSC-25-16-00014-P                | ..... exempt | Consideration of the National Grid companies' Implementation Plan and audit recommendations.                     | To consider the National Grid companies' Implementation Plan.   |
| PSC-25-16-00015-P                | ..... exempt | Consideration of the National Fuel Gas Distribution Corporation Implementation Plan and audit recommendations.   | To consider National Fuel Gas Distribution Corporation's Implementation Plan.   |

| Agency I.D. No.                  | Expires      | Subject Matter  | Purpose of Action  |
|----------------------------------|--------------|---|--|
| <b>PUBLIC SERVICE COMMISSION</b> |              |   |  |
| PSC-25-16-00016-P                | ..... exempt | Consideration of the Orange and Rockland Utilities, Inc. Implementation Plan and audit recommendations.           | To consider Orange and Rockland Utilities, Inc.'s Implementation Plan.   |
| PSC-25-16-00017-P                | ..... exempt | Consideration of the Central Hudson Gas & Electric Corporation Implementation Plan and audit recommendations.     | To consider Central Hudson Gas & Electric Corporation 's Implementation Plan.  |
| PSC-25-16-00018-P                | ..... exempt | Proposed Community Choice Aggregation Data Security Agreement.  | To ensure appropriate consumer protections in Community Choice Aggregation programs.   |
| PSC-25-16-00019-P                | ..... exempt | Revision of customer service metrics.   | To consider revisions to customer service metrics previously approved by the Commission.   |
| PSC-25-16-00020-P                | ..... exempt | Notice of Intent to submeter electricity.   | To consider the Notice of Intent of Gemini Residential, LLC to submeter electricity at 225 East 39th Street, New York, New York. |
| PSC-25-16-00021-P                | ..... exempt | Notice of Intent to submeter electricity.   | To consider the Notice of Intent of 28th Highline Associates, LLC to submeter electricity at 520 West 28th Street, New York, NY. |
| PSC-25-16-00022-P                | ..... exempt | Transfer of ownership interests in Crestwood Pipeline East LLC.   | Consideration of transfer of ownership interests in Crestwood Pipeline East LLC.   |
| PSC-25-16-00023-P                | ..... exempt | Use of the Elster Solutions Energy Axis transponder.  | To consider the use of the Elster Solutions Energy Axis transponder.   |
| PSC-25-16-00024-P                | ..... exempt | Pole Attachment Rules.  | To determine that the Commission's existing pole attachment rules apply to wireless providers.                                   |
| PSC-25-16-00025-P                | ..... exempt | Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel. | To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.    |
| PSC-25-16-00026-P                | ..... exempt | Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications. | To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.             |
| PSC-25-16-00027-P                | ..... exempt | Use of the Badger Meter HR E LCD High Resolution E Series Encoder Register.                                       | To consider the use of the Badger Meter HR E LCD High Resolution E Series Encoder Register.                                      |
| PSC-25-16-00028-P                | ..... exempt | Notice of Intent to submeter electricity.   | To consider the Notice of Intent of 421 Kent Development LLC to submeter electricity at 60 South 8th Street, Brooklyn, New York. |
| PSC-25-16-00029-P                | ..... exempt | Use of the Orion Water Endpoints meter reading system.  | To consider the use of the Orion Water Endpoints.  |
| PSC-26-16-00019-P                | ..... exempt | Major water rate filing.  | To consider a proposal to increase annual base rates by approximately \$11.6 million or 13.7%.                                   |
| PSC-26-16-00020-P                | ..... exempt | Notice of Intent to submeter electricity.   | To consider the Notice of Intent to submeter electricity at 23-01 42nd Street, Long Island City, New York.                       |
| PSC-26-16-00021-P                | ..... exempt | To extend the implementation date for its retail access program cash-out process.                                 | To consider an extension for the implementation of the retail access program cash-out process.                                   |

| Agency I.D. No.  | Expires        | Subject Matter  | Purpose of Action   |
|--|----------------|---|---|
| <b>PUBLIC SERVICE COMMISSION</b>                           |                |   |   |
| PSC-27-16-00006-P  | ..... exempt   | Continuation of the State Universal Service Fund.   | To consider a proposal to continue the SUSF for an additional four years, through 12/31/20.                                     |
| PSC-27-16-00007-P  | ..... exempt   | The waiver of a Commission policy on test years in rate cases.  | To consider the waiver of the Commission's 150 day requirement.   |
| <b>ROCHESTER-GENESEE REGIONAL TRANSPORTATION AUTHORITY</b> |                |   |   |
| RGT-04-16-00002-P  | ..... 01/26/17 | Identifies prohibited conduct, consequences of prohibited conduct, and the available appeals process                            | To provide rules governing prohibited conduct to enhance the safety of the public using RGRTA's transportation services         |
| <b>STATE, DEPARTMENT OF</b>                                |                |   |   |
| *DOS-22-15-00017-RP  | ..... 08/31/16 | Facility requirements for businesses which offer appearance enhancement services  | Increase ventilation standards for businesses which offer appearance enhancement services                                       |
| <b>TAXATION AND FINANCE, DEPARTMENT OF</b>                 |                |   |   |
| TAF-21-16-00002-P  | ..... 05/25/17 | Computation of property percentage for personal income tax  | To clarify that the property percentage includes rented tangible personal property in the apportionment factor                  |
| TAF-23-16-00003-P  | ..... exempt   | Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith                   | To set the sales tax component and the composite rate per gallon for the period July 1, 2016 through September 30, 2016         |
| <b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>      |                |   |   |
| *TDA-22-15-00005-RP  | ..... 08/31/16 | Supplemental Nutrition Assistance Program   | Update regulations for the Transitional Benefits Alternative program  |
| TDA-46-15-00005-P  | ..... 11/17/16 | Storage of furniture and personal belongings  | Provide clarification regarding allowances for the storage of furniture and personal belongings                                 |
| TDA-06-16-00016-ERP  | ..... 02/09/17 | Emergency shelters  | Emergency measures concerning shelters  |
| TDA-19-16-00007-P  | ..... 05/11/17 | Supplemental Nutrition Assistance Program (SNAP)  | Update State regulations concerning household cooperation with SNAP quality control reviews to reflect federal changes          |
| TDA-21-16-00005-P  | ..... 05/25/17 | Income withholding of child or combined child and spousal support   | Update State regulations to conform to federally-mandated changes to CPLR §§ 5241 and 5242 and SSL § 111-b                      |
| TDA-25-16-00002-EP   | ..... 06/22/17 | Emergency shelters  | To address security measures and incident reporting in shelters for the homeless  |
| <b>TRANSPORTATION, DEPARTMENT OF</b>                       |                |   |   |
| TRN-47-15-00002-P  | ..... 11/24/16 | Various regulations addressing accident reporting, record retention, insurance, vehicle inspection and equipment identification | Updates to regulations addressing accident reporting, record retention, insurance, vehicle inspection, equipment identification |
| TRN-48-15-00005-P  | ..... 12/01/16 | Updates to various household goods provisions   | Updates various household goods provisions  |

| Agency I.D. No.                               | Expires  | Subject Matter  | Purpose of Action  |
|---|----------|---|--|
| <b>TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY</b> |          |   |  |
| TBA-08-16-00005-P                             | 02/23/17 | Proposal to strengthen toll violation enforcement on TBTA bridges and tunnels | To deter toll evasion  |
| <b>WORKERS' COMPENSATION BOARD</b>            |          |   |  |
| WCB-45-15-00019-P                             | 11/09/16 | Stipulations  | To streamline the process for parties to enter into stipulations in workers' compensation proceedings                    |
| WCB-45-15-00020-RP                            | 11/09/16 | Requests for Administrative Review  | To clarify the process for requesting administrative review and full Board review including requests for reconsideration |
| WCB-45-15-00025-P                             | 11/09/16 | Medical Treatment Guideline variances   | Permit the Chair to require submission of variance requests via an electronic medical portal                             |
| WCB-45-15-00026-P                             | 11/09/16 | Medical Authorizations  | Permit the Chair to require submission of medical authorization requests via an electronic medical portal                |
| WCB-45-15-00027-P                             | 11/09/16 | Medical Treatment Guideline optional prior approval                           | Change the time to respond from business days to calendar days   |

# REGULATORY AGENDA

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## Department of Financial Services REVISED REGULATORY AGENDA

Pursuant to State Administrative Procedure Act (“SAPA”) Section 202-d, the following Regulatory Agenda is a list of the regulatory additions and amendments to Titles 3, 11, and 23 of the NYCRR that the New York State Department of Financial Services (“Department”) is presently considering proposing during the second half of 2016. Many of these items were previously published in the January 2016 Regulatory Agenda. Items that have already been published in the State Register as “proposed” actions are not included on the list. The Department’s regulatory plans are subject to change and the Department reserves the right to add to, delete from, or modify items in the Agenda without further notice.

This notice also is intended to provide small businesses, local governments, and public and private interests in rural areas with the opportunity to participate in the rule making process, as required by Sections 202-b and 202-bb of SAPA.

### I. Insurance Regulations

For inquiries about a specific item, please contact the person identified in the item. For general inquiries about the Insurance Regulations included in this Regulatory Agenda, or to obtain copies of current Insurance Regulations, please contact:

Sally Geisel, Supervising Attorney or

Camielle Barclay, Senior Attorney

New York State Department of Financial Services

One State Street

New York, NY 10004

Telephone Numbers: Sally Geisel - (212) 480-5287 and Camielle Barclay - (212) 480-5299

1. Summary description of proposal: Promulgation of new regulations governing paid family leave insurance coverage. Agency contact: Laura Evangelista, Deputy Superintendent for Insurance, Executive Office - 212-480-4738.

2. Summary description of proposal: Amendment of Part 101 to 11 NYCRR (Standards for Financial Risk Transfer Between Insurers and Health Care Providers) (Insurance Regulation 164) to permit, in consultation with the commissioner of the Department of Health, certain insurers to enter into financial risk transfer agreements with Accountable Care Organizations. Agency contact: Pascale Jean-Baptiste, Associate Attorney, Office of General Counsel - (212) 480-5289.

3. Summary description of proposal: Adoption of a new Part 5 to 11 NYCRR (Insurance Regulation 195) to implement the Superintendent’s authority under Insurance Law Section 316 to require an insurer or other person or entity making a filing or submission with the Superintendent to do so by electronic means, unless the insurer or other person or entity applies for, and the Superintendent grants, an exemption from the electronic filing requirement. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

4. Summary description of proposal: Amendment of 11 NYCRR 28

(Professional Bail Bond Agents) (Insurance Regulation 42) to provide standards designed to prevent the use of bail bond businesses in furtherance of organized crime and to protect collateral given by indemnitors for the purpose of posting bail. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General Counsel – (212) 480-5286.

5. Summary description of proposal: Amendment of 11 NYCRR 25 (Public Adjusters) (Insurance Regulation 10) to address amendments made to the Insurance Law by Chapter 546 of the Laws of 2013. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel – (212) 480-2125.

6. Summary description of proposal: Adoption of new Part 111 to 11 NYCRR (Insurance Regulation 207) to require an authorized property/casualty insurer to submit with its annual statement a statement of actuarial opinion (“SAO”) and to require a domestic property/casualty insurer that files an SAO to file with the Superintendent an annual actuarial opinion summary, electronically. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

7. Summary description of proposal: Adoption of new Sub-part 151-7 to 11 NYCRR 151 (Insurance Regulation 119) to establish requirements for health care facilities to obtain a workers’ compensation insurance premium credit for safe patient handling programs. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

8. Summary description of proposal: Amendment of 11 NYCRR 82 (Insurance Regulation 203) to require a holding company and certain domestic insurers to describe their enterprise risk managements functions in their enterprise risk reports and to clarify certain language. Agency contact: Joana Lucashuk, Associate Attorney, Office of General Counsel - (212) 480-2125.

9. Summary description of proposal: Amendment of 11 NYCRR 65 (Insurance Regulation 68) and Part 68 (Insurance Regulation 83) to implement an alternative dispute resolution process for disputes involving claims of independent livery drivers that are processed pursuant to pre-authorization procedures and medical treatment guidelines set forth in 12 NYCRR 324, and other applicable provisions of Article 2 of the Workers’ Compensation Law. Agency contact: Camielle A. Barclay, Senior Attorney, Office of General Counsel – (212) 480-5299.

10. Summary description of proposal: Adoption of a new part 35 to 11 NYCRR (Title Insurance Agents, Affiliated Relationships, and Required Disclosures) (Insurance Regulation 206) and amendments to certain other regulations, including 11 NYCRR 20 (Brokers and Agents - General) (Insurance Regulations 9, 18, and 29), 11 NYCRR 29 (Special Prohibitions) (Insurance Regulation 87), 11 NYCRR 30 (Producer Compensation Transparency) (Insurance Regulation 194), and 11 NYCRR 34 (Requirements Pertaining to the Location of an Insurance Agent or Broker at Each Place of Insurance Business: Reporting Requirements) (Insurance Regulation 125), to address amendments made to the Insurance Law by Part V of Chapter 57 of the Laws of 2014 regarding the licensing of title insurance agents and title insurance businesses. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General



Counsel - (212) 480-5286. (Rules on this subject were adopted on an emergency basis most recently on May 5, 2016.)

11. Summary description of proposal: Adoption of a new part to 11 NYCRR addressing exclusions of coverage under commercial crime insurance policies. Agency contact: Paul Zuckerman, Assistant Deputy Superintendent and Counsel for Insurance, Office of General Counsel - (212) 480-5286.

12. Summary description of proposal: Amendment of 11 NYCRR 60-2 (Supplementary Uninsured/Underinsured Motorists Insurance) (Insurance Regulation 35-D) to replace references in Sections 60-2.3 and 60-2.4 to "AAA/American Arbitration Association" with "designated organization"; amend rules related to the manner in which the organization designated by the Superintendent to administer the SUM arbitration program assesses the cost of the program to the insurance industry; and clarify the intent and application of the coverage via various editorial revisions to the regulation and to the prescribed policy endorsement form. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

13. Summary description of proposal: Amendment of 11 NYCRR 68 (Charges for Professional Health Services) (Insurance Regulation 83) to adopt specific rules for fees charged for health services rendered outside New York State. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

14. Summary description of proposal: Amendment of 11 NYCRR 65-4 (Regulation Implementing the Comprehensive Motor Vehicle Insurance Repairs Act) (Insurance Regulation 68-D) to amend rules related to both the manner in which the first party motor vehicle insurance arbitration programs are administered and the manner in which the costs of these programs are assessed to the insurance industry. Agency contact: Hoda Nairooz, Supervising Insurance Examiner, Property Bureau - (212) 480-5595.

15. Summary description of proposal: Amendment of 11 NYCRR 94 (Valuation of Individual and Group Accident and Health Insurance Reserves) (Insurance Regulation 56) to adopt a new individual disability income table for valuing active life and disabled life reserves in consideration of a proposed NAIC adoption of such table. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

16. Summary description of proposal: Amendment of 11 NYCRR 98 (Valuation of Life Insurance Reserves) (Insurance Regulation 147) to adopt the existing NAIC standards for waiver of premium reserves, to adopt the 2017 CSO mortality table for valuing life insurance reserves, and to revise the standards for varying premium term life insurance policies and universal life products with secondary guarantees for those policies where the 2017 CSO table will be the minimum standard. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

17. Summary description of proposal: Amendment of 11 NYCRR 83 (Financial Statement Filings and Accounting Practices and Procedures) (Insurance Regulation 172) to add an exception for proposed amendments expected to be adopted by the NAIC regarding policy reserves for life contracts, to revise lapse rates and economic volatility used in calculating the standard scenario reserve, to update the economic volatility assumption used in the stochastic modeling for variable annuities with guaranteed living benefits, and other revisions. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

18. Summary description of proposal: Amendment of 11 NYCRR 53 (Life and Annuity Cost Disclosure and Sales Illustrations) (Insurance Regulation 74) to revise and clarify the delivery, signature and certification form requirements for life insurance sales illustrations, including electronic delivery, for policies marketed with an illustration; to modify the basis used for illustrations for life insurance policies with non-guaranteed elements, including universal life; to add additional requirements on the disciplined current scale underlying the illustrations; and to require additional disclosures for such policies. Agency contact: Rebecca Bollom, Associate Insurance Attorney, Life Bureau - (518) 474-4552.

19. Summary description of proposal: Amendment of 11 NYCRR 50 (Separate Accounts and Separate Account Annuities) (Insurance

Regulation 47) to establish revised standards for the operation of separate accounts, contract provisions, and actuarial requirements to reflect statutory changes, recent innovations in product design, and changes in contract administration of separate account and variable annuity products. Agency contact: Peter Dumar, Chief Insurance Attorney, Life Bureau - (518) 474-4552.

20. Summary description of proposal: Amendment of 11 NYCRR 100 (Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits) (Insurance Regulation 179) to revise the title and adopt the 2017 CSO mortality table for valuing life insurance reserves in consideration of a proposed NAIC adoption of such table. Agency contact: Amanda Fenwick, Assistant Chief Life Actuary, Life Bureau - (518) 474-7929.

21. Summary description of proposal: Adoption of new part to 11 NYCRR to establish minimum standards for non-guaranteed elements in life insurance policies and annuity contracts and to establish minimum standards for written board criteria for determining non-guaranteed elements. Agency contact: William Carmello, Chief Actuary, Life Bureau - (518) 474-7929.

22. Summary description of proposal: Amendment of 11 NYCRR 12 (Agent Training Allowance Subsidies for Certain Life Insurance and Annuity Business) (Insurance Regulation 50) adjusting, as required by Insurance Law section 4228(e)(3)(G), the cumulative maximum training allowance subsidy limits for agents set forth in Insurance Law section 4228(e)(3)(C) - (E) for agents with respect to the types of policies specified in Insurance Law section 4228(a). Agency contact: James V. Regalbuto, Deputy Superintendent for Life Insurance, Life Bureau - (212) 480-5027.

23. Summary description of proposal: Adoption of a new Part to 11 NYCRR to establish guidelines regarding the proper expensing of title insurance premiums and additional charges by both insurers and their agents. Agency contact: Ellen R. Buxbaum, Associate Counsel, Civil Investigations, Financial Frauds & Consumer Protection Division - (212) 480-5383.

24. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of accident and indemnity insurance. Agency contact: Jason St. James, Senior Insurance Attorney, Health Bureau - (518) 486-7815.

25. Summary description of proposal: Amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) regarding a blanket accident insurance policy that is issued in accordance with General Business Law section 1015.11. Agency contact: Tobias Len, Assistant Chief, Health Bureau - (518) 486-7815.

26. Summary description of proposal: Adoption of a new part to 11 NYCRR and/or amendment of 11 NYCRR 52 (Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure) (Insurance Regulation 62) establishing minimum standards for the form, content, and sale of policies and contracts of student accident and health insurance. Agency contact: Sarah L. Allen, Supervising Insurance Attorney, Health Bureau - (518) 486-7815.

27. Summary description of proposal: Amendment of 11 NYCRR 350 (Continuing Care Retirement Communities) (Insurance Regulation 140) to clarify and modify the actuarial reserve calculation, distribution allowances, allowable investments, and necessary filing requirements, in view of marketplace expansion in both the number and types of Continuing Care Retirement Communities. Agency contact: Christine Gralton, Assistant Chief, Health Bureau - (212) 480-5061.

28. Summary description of proposal: Amendment of 11 NYCRR 86 (Fraud Prevention Plans and Special Investigations Unit) (Insurance Regulation 95) to establish a requirement that a licensee required to submit a fraud prevention plan must revise its fraud prevention plan to reflect changes to the holding company, the lines of business that

affect the SIU, and changes to SIU personnel or the provider of SIU services. Agency contact: Kathleen Grogan, Principal Examiner, Criminal Investigations Unit – (212) 480-5683.

## II. Banking Regulations

For inquiries about the Banking Regulations included in this Regulatory Agenda, or to obtain copies of current Banking Regulations, please contact:

Christine M. Tomczak  
Assistant Counsel  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
Telephone Number: (212) 709-1642

1. Summary description of proposal: Adoption of new rules to implement the provisions of legislation addressing the mortgage foreclosure-related issues in the state, including:

(a) rules governing the registration and financial responsibility requirements for mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on May 9, 2016); and

(b) rules governing the business conduct of mortgage loan servicers (rules on this subject were adopted on an emergency basis most recently on May 22, 2016).

2. Summary description of proposal: Amendments of Part 38 of the General Regulations of the Superintendent to enhance advertising, disclosure, and conduct rules for mortgage bankers and brokers and to incorporate applicable changes under federal laws and regulations.

3. Summary description of proposal: Amendment of the Superintendent's Regulations regarding the Banking Development District ("BDD") program.

4. Summary description of proposal: Various amendments of the Superintendent's Regulations regarding check cashers, licensed lenders, money transmitters, sales finance companies, premium finance agencies, and budget planners.

5. Summary description of proposal: Amendment of Part 41 of the General Regulations of the Superintendent to address threshold limits, the impact of lender paid fees, and otherwise to conform to the requirements of Section 6-I of the Banking Law.

6. Summary description of proposal: Amendment of Part 79 of the General Regulations of the Superintendent to incorporate advertising requirements for reverse mortgage loans and clarify the applicability of disclosure and filing requirements for HUD's Home Equity Conversion Mortgage program.

7. Summary description of proposal: Amendment of Parts 410 and 413 of the Superintendent's Regulations and Supervisory Procedures 101, 102, 103 and 104 to eliminate certain outdated regulatory requirements and to clarify language relating to the minimum licensing standards, and other requirements in connection with mortgage banker and mortgage broker applications.

8. Summary description of proposal: Adoption of new rules clarifying that when financial statements submitted to the Department are required by law or regulation to be audited, the external auditors who provide the audit opinion on the statements may not also perform bookkeeping services for the audited entity.

9. Summary description of proposal: Amendment of Supervisory Procedure CB 117 in connection with the Department's consideration of adopting the interagency change of control application used by the federal financial institutions regulatory agencies.

10. Summary description of proposal: Adoption of a new regulation formalizing the assessment process for persons regulated under the Banking Law. (Rules on this subject were adopted on an emergency basis most recently on June 9, 2016).

## III. Financial Services Regulations

For specific inquiries about the Financial Services Regulations included in this Regulatory Agenda, please contact the person identified in the item. For general inquiries about the item, or to obtain copies of current Financial Services Regulations, please contact the following:

Christine M. Tomczak, Assistant Counsel  
New York State Department of Financial Services  
One State Street  
New York, NY 10004  
Telephone Number: (212) 709-1642

1. Summary description of proposal: Adoption of a new regulation implementing Banking Law Section 9-w, creating a standard student loan shopping sheet for all New York schools of higher education. Agency contact: Max Dubin, Assistant Counsel, Financial Frauds and Consumer Protection Division – (212) 480-7232.

2. Summary description of proposal: Adoption of a new part to 23 NYCRR, 11 NYCRR, and 3 NYCRR, establishing standards for cyber security for persons and entities regulated by the Department of Financial Services. Agency contact: Alexander Sand, Counsel, Capital Markets Division – (212) 709-3825.



# 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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3 East 3rd Street LLC  
45 Main St., Suite 708, Brooklyn, NY 11201  
*State or country in which incorporated* — New York

Altair Commercial Real Estate Lending Fund II (Prime), LLC  
c/o First Republic Investment Management, Inc., 1888 Century Park  
E, Los Angeles, CA 90067-1702

Altair - Pacific Coast Capital Partners Equity VII, LLC  
c/o First Republic Investment Management, Inc., 1888 Century Park  
E, Los Angeles, CA 90067-1702

Altair Senior Housing Fund II (AEW), LLC  
c/o First Republic Investment Management, Inc., 1888 Century Park  
E, Los Angeles, CA 90067-1702

Back to the Roots, Inc.  
424 2nd St., Oakland, CA 94607  
*State or country in which incorporated* — Delaware

BCP Energy Services Executive Fund, LP  
400 Convention St., Baton Rouge, LA 70802  
*Partnership* — BCP Energy Services Fund GP, LP

Berkshire SPE LLC  
520 S.W. Sixth Ave., Suite 610, Portland, OR 97204  
*State or country in which incorporated* — Delaware limited liability  
company

Black Dinah Chocolatiers LLC  
869 Main St., Westbrook, ME 04092  
*State or country in which incorporated* — Maine

Calton & Associates Inc.  
2701 N. Rocky Point Dr., Suite 1000, Tampa, FL 33607  
*State or country in which incorporated* — Florida

Cornelius Capital General Fund II, LP  
c/o Briar Hall LLC, 200 W. Madison St., Suite 3400, Chicago, IL  
60606  
*Partnership* — Briar Hall LLC

Cornelius Capital General Fund IIb, LP  
c/o Briar Hall LLC, 200 W. Madison St., Suite 3400, Chicago, IL  
60606  
*Partnership* — Briar Hall LLC

Cornelius Capital Real Estate Fund II, LP  
c/o Briar Hall LLC, 200 W. Madison St., Suite 3400, Chicago, IL  
60606  
*Partnership* — Briar Hall LLC

Cornelius Capital Resources Fund II, LP  
c/o Briar Hall LLC, 200 W. Madison St., Suite 3400, Chicago, IL  
60606  
*Partnership* — Briar Hall LLC

Cornelius Capital Venture Fund II, LP  
c/o Briar Hall LLC, 200 W. Madison St., Suite 3400, Chicago, IL  
60606  
*Partnership* — Briar Hall LLC

Crispin Inferential Partners, LP  
515 Madison Ave., 22nd Fl., New York, NY 10022  
*Partnership* — Inferential Partners GP, LLC

D-Vasive, Inc.  
126 Howard Ave., Hope, RI, 02831  
*State or country in which incorporated* — Wyoming

Encounter Broadway Limited Liability Company, The  
c/o FVBR Theatrical Holdings, LLC, 254 W. 54th St., 10th Fl., New  
York, NY 10019

Evolution Special Opportunities Ltd. II SPC, Segregated Portfolio A  
c/o Evolution Capital Management LLC, 2425 Olympic Blvd., Suite  
125E, Santa Monica, CA 90404  
*State or country in which incorporated* — Cayman Islands

Evolution Special Opportunities Ltd. II SPC, Segregated Portfolio D  
c/o Evolution Capital Management LLC, 2425 Olympic Blvd., Suite  
125E, Santa Monica, CA 90404  
*State or country in which incorporated* — Cayman Islands

First Greenwich Financial, Inc.  
444 E. Putnam Ave., Cos Cob, CT 06807  
*State or country in which incorporated* — Connecticut

FiveW Merit LLC  
70 E. 55th St., 12th Fl., New York, NY 10022

Fort Contrarian Master Fund LLC - Class A  
209 W. Jackson Blvd., #804, Chicago, IL 60606  
*State or country in which incorporated* — Delaware

FOSSIL-S.E. Texas Multi-Well Joint Venture - I  
2500 Wilcrest Dr., Suite 405, Houston, TX 77042  
*State or country in which incorporated* — Texas

FTV V, L.P.  
555 California St., Suite 2900, San Francisco, CA 94104  
*Partnership* — FTV Management V, L.L.C.

HCS Family Fund II, LP  
c/o Briar Hall LLC, 200 W. Madison St., Suite 3400, Chicago, IL 60606  
*Partnership* — Briar Hall LLC

Hubbub Coffee Holdings LLC  
1717 Arch St., Philadelphia, PA 19103  
*State or country in which incorporated* — Delaware limited liability company

Hummingbird Equity Fund, LP  
159-21 83rd St., Howard Beach, NY 11414  
*Partnership* — Blacklab Capital, LLC

Investment Managers Series Trust  
235 W. Galena St., Milwaukee, WI 53212  
*State or country in which incorporated* — Delaware

I(X) Investments LLC  
142 W. 57th St., 12th Fl., New York, NY 10019

Pacific Vista Fund, LP  
P.O. Box 234028, Encinitas, CA 92023  
*Partnership* — Pacific Vista Capital, LLC

Payfully Corporation  
33 Nassau Ave., Suite 21, Brooklyn, NY 11222  
*State or country in which incorporated* — Delaware

Princeton Private Investment Fund  
8000 Norman Center Dr., Suite 630, Minneapolis, MN 55437

ProductionBeast, Inc.  
604 Arizona Ave., Santa Monica, CA 90401  
*State or country in which incorporated* — Delaware

Rama Fund, LLC, The  
26901 Agoura Rd., #250, Calabasas, CA 91301  
*State or country in which incorporated* — California limited liability company

Right Lane I, LP  
500 W. Superior St., 6th Fl., Chicago, IL 60654  
*Partnership* — Right Lane I GP, LLC

Sigma Financial Corporation  
300 Parkland Plaza, Ann Arbor, MI 48103-9508  
*State or country in which incorporated* — Michigan

SSP Southeast Land Investors, LLC  
c/o South Street Partners NC, LLC, 2820 Selwyn Ave., Suite 420, Charlotte, NC 28209  
*State or country in which incorporated* — Delaware limited liability company

Sustainable Innovations, Inc.  
111 Roberts St., Suite J, East Hartford, CT 06108  
*State or country in which incorporated* — Connecticut

Thornburg Partners Fund, L.P.  
2300 N. Ridgetop Rd., Santa Fe, NM 87506  
*Partnership* — Thornburg Investment Management, Inc.

Tilson Technology Management, Inc.  
245 Commercial St., #203, Portland, ME 04101  
*State or country in which incorporated* — Maine

TradeWind Markets, Inc.  
Four World Trade Center, 44th Fl., New York, NY 10007  
*State or country in which incorporated* — Delaware

Trilogy Lacrosse, LLC  
20 Jay St., Suite 314, Brooklyn, NY 11201

Viggi Kids Corp.  
30 Loud Rd., Fairport, NY 14450  
*State or country in which incorporated* — Delaware

VPC Partners XI LLC  
c/o VestaPoint Capital LLC, 941 W. Morse Blvd., Suite 130, Winter Park, FL 32789

Woodgreen Compass Point LLC  
6515 Main St., Suite 12, Trumbull, CT 06611



# ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

## SEALED BIDS

REPLACE  
VCV MIXING BOXES  
Dulles State Office Building  
Watertown, Jefferson County

Sealed bids for Project No. 44156-H, for HVAC Work, Replace VCV Mixing Boxes with VAV Mixing Boxes, Dulles State Office Building, 317 Washington Street, Watertown (Jefferson County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of General Services, until 2:00 p.m. on Wednesday, July 13, 2016, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of \$66,200 for H.

All successful bidders on a multiple trade project or the successful bidder with a bid over \$200,000 on a single trade project, will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$1,000,000 and \$2,000,000 for H. The requirement for Labor and Material and Performance Bonds may be waived on a bid under \$200,000 on a single trade project.

Pursuant to State Finance Law § 139-j and § 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by OGS D&C and Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Frank Peris and Carl Ruppert in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the new Legislative and State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://ogs.ny.gov/aboutogs/regulations/defaultAdvisoryCouncil.asp>.

The substantial completion date for this project is 540 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on June 30, 2016 at Dulles State Office Building, Room 213, 317 Washington Street, Watertown, NY. Prospective bidders are urged to visit the site at this time. Prospective

bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

For assistance pertaining to the site visit only, please phone Megan Miller (315) 785-6447.

It is the policy of the State and the Office of General Services to encourage meaningful minority- and women-owned business enterprise participation in this project by contractors, subcontractors and suppliers under the Contract, and all bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 20% for MWBE participation, 6% for Minority-Owned Business Enterprises (“MBE”) participation and 14% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Contractors and other interested parties can order CD’s on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <http://www.ogs.ny.gov/bu/dc/esb/acquirebid.asp>.

For questions about purchase of bid documents, please send an e-mail to [D&C.Plans@ogs.ny.gov](mailto:D&C.Plans@ogs.ny.gov), or call 1-877-647-7526.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>.

By *John D. Lewyckyj*, Deputy Director  
OGS - Design & Construction Group

REPLACE  
ROOF  
Kingsboro Psychiatric Center  
Brooklyn, Kings County

Sealed bids for Project No. 45099-C, for Construction Work, Roof Replacement & Stormwater Repairs, Building 2, Kingsboro Psychiatric Center, 681 Clarkson Avenue, Brooklyn (Kings County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, July 20, 2016, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a certified check, bank check, or bid bond in the amount of \$68,600 for C.

Further, Wicks Exempt Projects require a completed BDC 59 be filled out and submitted (included in a separate, sealed envelope) in accordance with Document 002220, Supplemental Instructions to Bidders – Wicks Exempt. Failure to submit this form correctly will result in a disqualification of the bid.

All successful bidders on a multiple trade project or the successful bidder with a bid over \$200,000 on a single trade project, will be required to furnish a Performance Bond and a Labor and Material Bond in the statutory form of public bonds required by Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$2,000,000 and \$3,000,000 for C. The requirement for Labor and Material and Performance Bonds may be waived on a bid under \$200,000 on a single trade project.

Pursuant to State Finance Law § 139-j and § 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest notice of intent to solicit offers through final award and approval of the Procurement Contract by OGS D&C and Office of the State Comptroller (“restricted period”) to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are Frank Peris and Carl Ruppert in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862 and John Lewyckyj, Deputy Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a 4 year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the new Legislative and State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://ogs.ny.gov/aboutogs/regulations/defaultAdvisoryCouncil.asp>.

The substantial completion date for this project is 224 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 10:00 a.m. on July 7, 2016 at Kingsboro Psychiatric Center, Building 19 Parking Lot, 681 Clarkson Avenue, Brooklyn, NY. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

For assistance pertaining to the site visit only, please phone Ida Colon (631) 951-0248 Ext. 102.

It is the policy of the State and the Office of General Services to encourage meaningful minority- and women-owned business enterprise participation in this project by contractors, subcontractors and suppliers under the Contract, and all bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises (“MBE”) participation and 15% for Women-Owned Business Enterprises (“WBE”) participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only, and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Contractors and other interested parties can order CD’s on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link for ordering and payment instructions: <http://www.ogs.ny.gov/bu/dc/esb/acquirebid.asp>.

For questions about purchase of bid documents, please send an e-mail to [D&C.Plans@ogs.ny.gov](mailto:D&C.Plans@ogs.ny.gov), or call 1-877-647-7526.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>.

By *John D. Lewyckyj, Deputy Director*  
OGS - Design & Construction Group

# 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

Department of Civil Service

PURSUANT to the Open Meetings Law, the New York State Civil Service Commission hereby gives public notice of the following:

Please take notice that the regular monthly meeting of the State Civil Service Commission for July 2016 will be conducted on July 19 and July 20 commencing at 10:00 a.m. This meeting will be conducted at NYS Media Services Center, Suite 146, South Concourse, Empire State Plaza, Albany, NY.

*For further information, contact:* Office of Commission Operations, Department of Civil Service, Empire State Plaza, Agency Bldg. 1, Albany, NY 12239, (518) 473-6598

## PUBLIC NOTICE

Department of Environmental Conservation

Pursuant to State Administrative Procedure Act (SAPA), the New York State Department of Environmental Conservation gives notice of the following:

The New York State Department of Environmental Conservation is extending the comment period on the proposed Part 360 Solid Waste Management Facilities regulations and associated Draft Generic Environmental Impact Statement (DGEIS) until September 13, 2016. This is a 60 day extension from the original comment period deadline of July 15, 2016. The extension of the comment period has been granted based on numerous stakeholder requests. The express terms, DGEIS and supporting documents for this proposed rulemaking can be found at [www.dec.ny.gov/regulations/81768.html](http://www.dec.ny.gov/regulations/81768.html).

Written comments on these draft regulations and DGEIS will be accepted until 5:00 p.m. on September 13, 2016. Comments must be submitted to:

[SolidWasteRegulations@dec.ny.gov](mailto:SolidWasteRegulations@dec.ny.gov)  
or  
Melissa Treers, P.E.

Department of Environmental Conservation  
Division of Materials Management  
625 Broadway  
Albany, NY 12233-7260  
(518) 402-8678

*For further information, contact:* Melissa Treers, P.E., Department of Environmental Conservation, Division of Materials Management, 625 Broadway, Albany, NY 12233-7260, (518) 402-8678, [SolidWasteRegulations@dec.ny.gov](mailto:SolidWasteRegulations@dec.ny.gov)

## PUBLIC NOTICE

Oneida-Herkimer Solid Waste Authority

Request for Proposals (RFP)

Transportation of Solid Waste to the Oneida-Herkimer  
Landfill for Oneida-Herkimer Solid Waste Management  
Authority

Pursuant to New York State General Municipal Law, Section 120-w, the Oneida-Herkimer Solid Waste Authority hereby gives notice of the following:

The Oneida-Herkimer Solid Waste Authority (Authority) desires to procure an agreement for 5 years beginning 10/24/16 for transportation of non-recyclable waste from 2 transfer stations to the Oneida-Herkimer Landfill, Ava, NY. Responses to the RFP must be received by 1:00 p.m. on 7/20/2016.

The Authority does not discriminate because of race, creed, color, national origin, sex, age, disability or marital status. All qualified respondents will be afforded equal opportunities without discrimination. Furthermore, the Authority invites certified Minority and Women-Owned Business Enterprises (M/WBE) participation in this RFP. Firms that are not M/WBE's responding to this RFP are strongly encouraged to consider partnering, or creating other similar joint venture arrangements with certified M/WBE's and to give M/WBE's the opportunity to participate in responding to this RFP. The directory of New York State M/WBE's can be viewed at [www.esd.ny.gov/mwbe.html](http://www.esd.ny.gov/mwbe.html).

Copies of the RFP may be obtained at [www.ohswa.org](http://www.ohswa.org) or through the contact below:

James V. Biamonte, Contracting Officer  
1600 Genesee St.  
Utica, NY 13502

## PUBLIC NOTICE

Department of State

F-2016-0307

Date of Issuance – July 6, 2016

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consis-



tency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2016-0307, Wild Goose Island, LLC, is proposing to expand an existing dock structure and build a boathouse over the existing dock. The additional dock will be a 40' x 6' steel pipe dock connected to the existing dock structure. Over the entire facility a new 43'-6" x 36'-9" boathouse with a post supported boat port to the South and a cantilevering boat port to the North is proposed. The proposed is located on Goose Island, Town of Orleans, Jefferson County.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, July 21, 2016.

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning and Development, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231. (518) 474-6000; Fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2016-0436 (DA)

Date of Issuance – July 6, 2016

The New York State Department of State (DOS) is required by Federal law to provide timely public notice for the activity described below, which is subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The United States Army Corps of Engineers has determined that the proposed activity generally complies with and will be conducted in a manner consistent to the maximum extent practicable with the approved New York State Coastal Management Program pursuant to 15 C.F.R. § 930.31(d) and has asked that DOS identify and include conditions, where applicable, in its consistency decision. The consistency determination and accompanying public information and data is available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue in Albany, New York.

In F-2016-0436 (DA), The U.S. Army Corps of Engineers (Corps) has submitted a consistency determination for the proposed reissuance and modification of the Nationwide Permits (NWP), general conditions and definitions. The Corps also announced the issuance of two proposed NWPs and one new general condition. These NWPs are issued on a national basis to streamline the authorization of activities that result in minimal individual and cumulative adverse effects on the aquatic environment. More information on the 2017 Nationwide Permits can be found on the U.S. Army Corps of Engineers-Headquarters website at: [www.usace.army.mil/Portals/2/docs/civilworks/nwp/2017/nwp2017\\_\\_proposed\\_\\_fedreg\\_\\_01june2016.PDF?ver=2016-06-02-113806-960](http://www.usace.army.mil/Portals/2/docs/civilworks/nwp/2017/nwp2017__proposed__fedreg__01june2016.PDF?ver=2016-06-02-113806-960).

A Division may elect to add regional conditions specific to the needs of a particular region. The New York District Corps is the lead agency for 2017 NWP consistency compliance with the New York Coastal Management Program and have provided regional conditions on behalf of the New York and Buffalo Districts. A joint public notice was issued on June 16, 2016 for the proposed regional conditions and can be found on the U.S. Army Corps of Engineers-New York District website at: [www.nan.usace.army.mil/Portals/37/docs/regulatory/publicnotices/Regional%20Gen%20Permit/Proposed%202017%20Nationwide%20Permits.pdf?ver=2016-06-16-093716-783](http://www.nan.usace.army.mil/Portals/37/docs/regulatory/publicnotices/Regional%20Gen%20Permit/Proposed%202017%20Nationwide%20Permits.pdf?ver=2016-06-16-093716-783).

Any interested parties and/or agencies desiring to express their views concerning the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 30 days from the date of publication of this notice, or, August 5, 2016.

*Comments should be addressed to:* Department of State, Office of Planning and Development, Attn: Consistency Review Unit, One Commerce Plaza, 99 Washington Ave., Suite 1010, Albany, NY 12231. (518) 474-6000; Fax (518) 473-2464. Comments can also be submitted electronically via e-mail at: CR@dos.state.ny.us.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2016-0505

Date of Issuance – July 6, 2016

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York.

In F-2016-0505, Frank Vigliarolo, is proposing to construct a dock facility at 10 Preston Lane, Strongs Neck, Town of Brookhaven, Suffolk County. The facility consists of a 204' x 4' fixed dock, 24' x 3' ramp and two 20' x 8' floating docks. A concrete wall would be removed and stone rip rap (up to one ton) wall and walkway installed.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, July 21, 2016.

The stated purpose is "For recreational use".

*Comments should be addressed to:* Consistency Review Unit, Department of State, Office of Planning and Development, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231. (518) 474-6000; Fax (518) 474-6572. Comments can also be submitted electronically via e-mail at: CR@dos.ny.gov.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

## PUBLIC NOTICE

Department of State  
F-2016-0510 (DA)

Date of Issuance – July 6, 2016

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

A federal agency has determined that the proposed activity complies with and will be conducted in a manner consistent to the maximum extent practicable with the approved New York State Coastal Management Program. The agency's consistency determination and accompanying public information and data are available for inspection at the New York State Department of State offices located at One Commerce Plaza, 99 Washington Avenue, in Albany, New York and at [www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2016-0510\(DA\)\\_\\_Public\\_\\_Notice\\_\\_Material.pdf](http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2016-0510(DA)__Public__Notice__Material.pdf).

In F-2016-0510, The Bureau of Ocean Energy Management, is proposing to lease an area offshore of New York in the Atlantic Ocean for use as a commercial wind energy generating facility. The agency's consistency determination includes lease issuance and site assessment activities, including reasonably foreseeable consequences associated with the installation and operation of a meteorological tower and or meteorological buoys, as indicated in the Commercial Wind Lease Issuance and Site Assessment Activities on the Atlantic Outer Continental Shelf Offshore New York Environmental Assessment.

Any interested parties and/or agencies desiring to express their views concerning any of the above proposed activities may do so by filing their comments, in writing, no later than 4:30 p.m., 15 days from the date of publication of this notice, or, July 21, 2016.

Comments should be addressed to: Department of State, Office of Planning and Development, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231. (518) 474-6000; Fax (518) 473-2464; Email cr@dos.ny.gov.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

**PUBLIC NOTICE**

Department of State

Notice of Routine Program Change Approval

New York State Coastal Management Program

New York City Local Waterfront Revitalization Program

STATEWIDE — Pursuant to 15 CFR 923.84(b)(4), the New York State Department of State (DOS) hereby gives notice that the National Oceanic and Atmospheric Administration’s Office for Coastal Management (OCM) concurred on June 9, 2016 on the incorporation of the New York City Waterfront Revitalization Program (LWRP), as amended, into the State’s Coastal Management Program as a Routine Program Change. DOS requested OCM’s concurrence on this action on February 24, 2016, in a previous notice in the New York State Register, which further described the content of the action.

The amendment to the New York City LWRP was prepared in partnership with DOS and in accordance with the New York State Waterfront Revitalization of Coastal Areas and Inland Waterways Act and the New York State Coastal Management Program. The LWRP is a long-term land and water uses management program for the City’s waterfront resources along the New York Harbor; the Hudson, Bronx, Harlem and East Rivers; the Arthur Kill and Kill Van Kull and all their many tributaries; and, the Atlantic Ocean. This amendment serves to update the New York City LWRP approved in 2002 which now is withdrawn, to reflect current conditions including climate change and sea level rise, and address new land and water uses. The LWRP, as amended, incorporates and advances the goals and strategies of Vision 2020: New York City Comprehensive Waterfront Plan to encourage the development of maritime industry while ensuring the protection of the environment; promote recreation at the shoreline and in the water; provide design principles that consider the effects of climate change and sea level rise; and, foster the preservation and restoration of ecologically significant sites.

Pursuant to the New York State Coastal Management Program and Article 42 of the New York State Executive Law, the New York City LWRP amendment was adopted by resolution by the Council of the City of New York on October 30, 2013, and approved by the New York State Secretary of State on February 3, 2016. Federal Consistency with the New York City LWRP applies as of the date of this Notice.

OCM’s concurrence includes the following changes to the New York City LWRP:

| Name/Description of State or Local Law Regulation/Policy/Program Authority         | State/Local Legal Citation  | Date Adopted by State | Date Effective in State |
|--|-----------------------------|-----------------------|-------------------------|
| ADDED:   |                             |                       |                         |
| New York City Waterfront Revitalization Program (LWRP) as amended October 30, 2013 | *Part I. Appendices B and D | 02/03/2016            | 02/03/2016              |

|  |            |            |
|--|------------|------------|
| Section II, Policies and sub-policies 1-10 (note: the explanatory text included in Part II is not applicable as enforceable policies for CZMA federal consistency review purposes) | 02/03/2016 | 02/03/2016 |
|--|------------|------------|

MODIFIED:

|  |  |            |            |
|--|--|------------|------------|
| New York State coastal zone boundary to incorporate new and revised SAMP boundaries and 2013 flood insurance rate maps | *Part III of New York City Local Waterfront Revitalization Program as amended October 30, 2013 | 02/03/2016 | 02/03/2016 |
|--|--|------------|------------|

DELETED:

|  |  |
|--|--|
| New York City Local Waterfront Revitalization Program (2002) | New York City Waterfront Local Revitalization Program (2002) |
|--|--|

Changes marked with an asterisk (\*) are incorporated into the NEW YORK COASTAL MANAGEMENT PROGRAM, but do not contain enforceable policies that can be used for Federal Consistency.

The New York City Local Waterfront Revitalization Program and letters of local adoption, State approval and Federal concurrence, are available at: [www.dos.ny.gov/opd/programs/WFRevitalization/LWRP\\_status.html](http://www.dos.ny.gov/opd/programs/WFRevitalization/LWRP_status.html), the website of the Department of State. If you have any questions, please contact Renee Parsons, Office of Planning and Development, Department of State, One Commerce Plaza, Suite 1010, Albany, NY 12231, (518) 473-2461.

**PUBLIC NOTICE**

Department of Taxation and Finance

Tax Law Section 1111 Annual Adjustment

Calculation on the Base Retail Price on Cigarettes

Pursuant to the provisions of section 1111(j)(2) of the Tax Law, the Commissioner of Taxation and Finance is required to give public notice of the base retail price adjustment calculation and the resulting base retail price of cigarettes for purposes of establishing the prepaid sales tax on cigarettes imposed by section 1103 of the Tax Law. Section 1111(j) of the Tax Law provides that the base retail price of cigarettes shall be adjusted each year by a factor based upon the manufacturers’ list price for a carton of standard brand cigarettes. The base retail price adjustment factor for the period September 1, 2016, through August 31, 2017, is 1.018. The base retail price adjustment calculation results in a base retail price of cigarettes effective September 1, 2016, as follows:

Package of twenty (20) cigarettes: \$10.219 x 1.018 = \$10.403

For each additional five (5) cigarettes: \$ 2.552 x 1.018 = \$2.598

The base retail price is adjusted annually, to take effect the first day of September.

For further information, including rates for previous periods, contact: Ann V. Fiorello, Taxpayer Guidance Division, Department of Taxation and Finance, W.A. Harriman Campus, Albany, NY 12227, (518) 530-4157

**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 Tollisen, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2016-0142 Matter of Julie Freisinger, 2948 Blakely Road, Genoa, NY 13071 for an appeal related to Violations of the NYS Property Maintenance Code at 2948 Blakely Road, Town of Genoa, County of Tompkins in accordance with the New York State Uniform Fire Prevention and Building Code.

Involved is the appeal of the Property Maintenance Code at one family residence located in an agricultural district with conflicting Agricultural and Market Laws. The subject property is located at 2948 Blakely Road, Town of Genoa, and Tompkins County, State of New York.

2016-0192 Matter of MEGAN K COLLINS, ONE WEST CHURCH STREET, ELMIRA, NY 14901, for a appeal of a decision of a code official regarding a building located at 205-207 N. Franklin Street, Village of Watkins Glen, County of Schuyler, State of New York.

2016-0221 Matter of MONITAG, INC., JAMES RHODES, P.O. BOX 15, BIG FLATS, NY 14814, for a variance concerning safety requirements, including a required sprinkler system in a building located at 3037 State Route 352, Town of Big Flats, County of Chemung, State of New York.