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

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***INSIDE THIS ISSUE:***

- Residential Treatment Facility Designation
- Lead Testing in School Drinking Water
- Metropolitan Transportation Business Tax Surcharge

**Guidance Documents**

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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 February 19, 2017
- the 45-day period expires on February 4, 2017
- the 30-day period expires on January 20, 2017

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*The New York State Register* (ISSN 0197 2472) is published weekly. Subscriptions are \$80 per year for first class mailing and \$40 per year for periodical mailing. The *New York State Register* is published by the New York State Department of State, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001. Periodical postage is paid at Albany, New York and at additional mailing offices.

POSTMASTER: Send address changes to the Department of State, Division of Administrative Rules, One Commerce Plaza, 99 Washington Avenue, Albany, NY 12231-0001

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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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1 / Child Custody and Emergency Proceedings Involving Indian Children in Foster Care and Adoptive Placements (P)

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3 / Residential Treatment Facility Designation (EP)

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# RULE MAKING ACTIVITIES

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

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

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

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## Department of Agriculture and Markets

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### NOTICE OF ADOPTION

#### Sanitation in Retail Food Stores and Method of Sale, at Retail, of Certain Food

**I.D. No.** AAM-42-16-00006-A

**Filing No.** 1111

**Filing Date:** 2016-12-06

**Effective Date:** 2016-12-21

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

**Action taken:** Addition of Parts 271 and 272 to Title 1 NYCRR.

**Statutory authority:** Agriculture and Markets Law, sections 16, 18, 96-s and 214-b

**Subject:** Sanitation in retail food stores and method of sale, at retail, of certain food.

**Purpose:** To cause the republication of regulations governing retail food stores and the method of sale of certain foods at retail.

**Substance of final rule:** This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

271-2.1(b)	21 CFR Part 74
271-2.2(g)(2)	9 CFR Part 352 9 CFR Part 354
271-2.2(g)(5)	50 CFR Part 17
271-4.7(b)	21 CFR section 178.3570

271-5.3(j) 21 CFR section 178.1010

271-5.4(g)(6) 21 CFR section 178.1010

271-6.4 21 CFR section 173.310

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

**Text of rule and any required statements and analyses may be obtained from:** Stephen D. Stich, NYS Department of Agriculture and Markets, 10B Airline Drive, Albany, NY 12235, (518) 457-4492, email: Stephen.Stich@agriculture.ny.gov

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

The agency received no public comment.

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## Office of Children and Family Services

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

#### Child Custody and Emergency Proceedings Involving Indian Children in Foster Care and Adoptive Placements

**I.D. No.** CFS-51-16-00007-P

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

**Proposed Action:** Amendment of section 431.18 of Title 18 NYCRR.

**Statutory authority:** Social Services Law, sections 20(3)(d), 34(3)(f) and 436

**Subject:** Child custody and emergency proceedings involving Indian children in foster care and adoptive placements.

**Purpose:** To implement Federal standards involving Indian children in foster care and adoptive placements.

**Substance of proposed rule (Full text is posted at the following State website:<http://ocfs.ny.gov>):** The proposed regulations would amend the definition of an Indian child's tribe in 18 NYCRR 431.18(a)(3) to address the situation where the Indian child belongs to more than one tribe.

The proposed regulations would amend the definition of a child custody proceeding in 18 NYCRR 431.18(a)(4) to add pre-adoptive placements and to exclude emergency proceedings. The proposed regulations would amend the definition of a child custody proceeding in regard to a foster care placement to clarify that it involves a child placed in a foster care facility and not only a child placed in a foster care institution as defined in state law or regulation and that it applies to where a parent, whose parental rights have not been terminated, may not obtain the return of the child upon demand.

The proposed regulations would amend the definition of a qualified expert witness in 18 NYCRR 431.18(5) to provide that such person may be designated by the Indian child's tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's tribe.

The proposed regulations would add a definition of an Indian custodian in 18 NYCRR 431.18(a)(6) and an emergency proceeding in 18 NYCRR 431.18(a)(7).

The proposed regulations would amend the standards as set forth in 18 NYCRR 431.18(c) relating to the notification of the Indian child's tribe, the Indian child's parent or Indian custodian and the federal Bureau of

Indian Affairs in involuntary child custody proceedings, exclusive of juvenile delinquency proceedings. The proposed regulations would also amend the content of the notice to conform to federal regulations. The proposed regulations would address how such notice is to be provided to the federal Bureau of Indian Affairs and the Office of Children and Family Services, where it is to be sent where the location or the identity of the parent, Indian custody or Indian tribe cannot be determined.

The proposed regulations would amend the active efforts provisions set forth in 18 NYCRR 431.18(d) to provide that such efforts must be tailored to the facts and circumstances of the case.

The proposed regulations would amend the provisions set forth in 18 NYCRR 431.18(e) relating to the ongoing obligation of the local department of social services to inform the court that it has reason to know that a child in a child custody proceeding or an emergency proceeding is an Indian child.

The proposed regulations would amend the standards for foster care and adoptive placements set forth in 18 NYCRR 431.18(f) to require placements in the least restrictive setting taking into consideration sibling attachment, the Indian child's special needs and proximity to the Indian child's home, extended family and siblings. The proposed regulations would also amend 18 NYCRR 431.18(f) and (g) in regard to the placement preferences for foster care and adoptive placements and would address the conditions where good cause not to apply such preferences would exist. Finally, the proposed regulation would clarify that the preference provisions apply to both local departments of social services and voluntary authorized agencies.

**Text of proposed rule and any required statements and analyses may be obtained from:** Public Information Office, New York State Office of Children and Family Services, 52 Washington Street, Rensselaer, New York 12144, (518) 473-7793, email: info@ocfs.ny.gov

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

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

**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:

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

Section 34(3)(f) of the SSL requires the Commissioner of OCFS to establish regulations for the administration of public assistance and care within the State.

Chapter 436 of the Laws of 1997 authorizes OCFS to carry out the functions previously exercised by the former New York State Department of Social Services relating to Indian affairs.

##### 2. Legislative objectives:

The proposed regulations would implement federal regulations set forth in 25 CFR Part 23 that relate to the federal Indian Child Welfare Act of 1978 (25 U.S.C. 1901 et seq.). The federal regulations take effect on December 12, 2016.

##### 3. Needs and benefits:

The proposed regulations are necessary for New York to be compliant with applicable federal standards involving Indian children in child custody and emergency proceedings, exclusive of juvenile delinquent proceedings, and involved in foster care and adoptive placements.

The proposed regulations would amend the definition of a child custody proceeding to add pre-adoptive placements and to exclude emergency proceedings. In addition, the proposed regulations would amend the definition of a child custody proceeding in regard to a foster care placement to clarify that it involves a child placed in a child care facility and that it applies to where a parent, whose parental rights have not been terminated, may not obtain the return of his or her child upon demand.

The proposed regulations would amend the definition of an expert witness to provide that such a person may be designated by the Indian child's tribe as being qualified to testify to the prevailing social and cultural standards of the Indian child's tribe. The proposed regulations would also add definitions of an Indian custodian and an emergency proceeding.

In addition, the proposed regulations would amend the standards relating to the notification of the Indian child's tribe and the Indian child's parent or Indian custodian in each involuntary child custody proceedings, exclusive of juvenile delinquency proceedings. The proposed regulation would expand notification of the federal Bureau of Indian Affairs by social services officials to include all involuntary child custody proceedings. The proposed regulations would retain the current requirement in 18 NYCRR 431.18(c) that a social services official must notify the federal Bureau of Indian Affairs and OCFS when the social services official cannot determine the identity or location of the parent, Indian custodian or Indian tribe. The proposed regulations also address the content of the notice that must be sent by the social services official.

Also, the proposed regulation would amend provisions relating to active efforts to prevent removal of the Indian child from his or her parent to provide that such efforts must be tailored to the facts and circumstances of the case and must be recorded in the Indian child's case record.

The proposed regulations would address the ongoing obligation of a local department of social services (LDSS) to notify the court in a child custody proceeding or in an emergency proceeding that it has reason to know that the child involved in the case is an Indian child.

Finally, the proposed regulations would amend the standards in foster care and adoptive placements to require that such placements be in the least restrictive setting taking into consideration sibling attachment, the Indian child's special needs and proximity to the Indian child's home, extended family and siblings. The proposed regulations would also amend foster care and adoptive placement preferences, clarify that such preferences apply to placements made by a LDSS or by a voluntary authorized agency (VA) and the conditions where good cause exists not to apply such preferences.

The proposed regulations clarify that when a parent of an Indian child requests anonymity in the voluntary transfer of an Indian child such request does not relieve the social services official or voluntary authorized agency from complying with the requirements of the Indian Child Welfare Act of 1978 or 18 NYCRR 431.18.

##### 4. Costs:

The proposed regulations would have a negligible cost to the State. LDSSs or VAs.

##### 5. Local government mandates:

The proposed regulations would apply to LDSSs. The proposed regulations would only implement requirements otherwise imposed by federal statute or regulation. The new mandates would include notification by a social services official to the Bureau of Indian Affairs of all involuntary child custody proceedings where the social services official knows or has reason to know that an Indian child is involved. Current OCFS regulations only mandate such notice to the Bureau of Indian Affairs where the social services official is not able to determine the identity or location of the Indian child, the Indian child's parents or Indian custodian or the tribe. In addition, the proposed regulations would expand the content of such notice. Also, the proposed regulations would require the social services official to inform the court whenever the social services official has reason to know that a child is an Indian child in an involuntary child custody proceeding.

##### 6. Paperwork:

The requirements imposed by the proposed regulations will be supported and recorded in New York's existing statewide automated child welfare information system, CONNECTIONS.

##### 7. Duplication:

The proposed regulations do not duplicate other state or federal requirements.

##### 8. Alternatives:

Because of the federal mandates, no alternative approaches to implementing the changes to regulation were considered.

##### 9. Federal standards:

The proposed regulations comply with applicable federal standards relating to Indian children and child custody proceedings, emergency proceedings, foster care placements and adoptive placement, as set forth in the Indian Child Welfare Act of 1978 (25 U.S.C. 1901, et seq.) and 25 CFR Part 23.

##### 10. Compliance schedule:

The effective date of the proposed regulations would be December 12, 2016 to conform to the effective date of the federal Indian Child Welfare Act regulations.

#### Regulatory Flexibility Analysis

##### 1. Effect on Small Businesses and Local Governments:

The proposed regulations will have an effect on the 55 local departments of social services (LDSSs) and 83 voluntary authorized agencies (VAs) within New York State.

##### 2. Compliance Requirements:

The proposed regulations are required to implement federal regulations (25 CFR Part 23) filed by the Department of the Interior on June 14, 2016 that implement the federal Indian Child Welfare Act of 1978 (25 U.S.C. 1901, et seq.). The federal regulations take effect on December 12, 2016. The proposed regulations address the requirements imposed on LDSSs and VAs in regard to the standards that must be applied in regard to child custody and emergency proceedings and foster and adoptive placements involving Indian children, as that term is defined in federal and state statute. The proposed regulations would amend the definitions of an Indian child's tribe, a child custody proceeding, and a qualified expert witness and would add definitions of an Indian custodian and an emergency proceeding. In addition, the proposed regulations would amend standards and procedures for the notification of the Indian tribe and the Indian child's parent or Indian custodian in involuntary court proceedings. The proposed regula-



tion would amend the notification requirements to require notification of the federal Bureau of Indian Affairs of involuntary court proceedings involving an Indian child. Also, the proposed regulations would address the ongoing obligation of a LDSS to notify the court where the LDSS has reason to know that a child in a child welfare proceeding, exclusive of a juvenile delinquent proceeding, is an Indian child. The proposed regulation would clarify that when exercising active efforts to alleviate the need for removal of an Indian child from his or her home, such efforts must be tailored to the facts and circumstances of the case. Finally, the proposed regulations clarify the standards for placement preferences for both foster care and adoptive placements of Indian children, including the standards for good cause not to apply such preferences.

3. Professional Services:

The proposed regulations do not create the need for additional professional services.

4. Compliance Costs:

The proposed regulations would have a negligible cost to the State, LDSS or VAs.

5. Economic and Technological Feasibility:

The proposed regulations would not have an adverse economic impact on LDSSs or VAs and would not require the hiring of additional staff. Technologically, implementation of the proposed regulations would be supported by the existing statewide automated child welfare information system, CONNECTIONS.

6. Minimizing Adverse Impact:

It is not anticipated that the proposed regulations will have an adverse impact on local governments or small businesses. The proposed regulations would only implement standards required by federal statute and regulation.

7. Small Business and Local Government Participation:

LDSSs and VAs will be notified via policy directive about the changes to New York's implementation of the recently promulgated federal regulations applicable to the Indian Child Welfare Act.

8. For Rules That Either Establish or Modify a Violation or Penalties:

The proposed regulations do not establish or modify a violation or penalty.

**Rural Area Flexibility Analysis**

1. Types and estimated number of rural areas:

The proposed regulations will affect the 44 local departments of social services (LDSSs) and approximately 35 voluntary authorized agencies (VAs) that are in rural areas.

2. Reporting, recordkeeping and other compliance requirements:

The proposed regulations would implement federal regulations (25 CFR Part 23) filed by the Department of the Interior on June 14, 2016 that implement the federal Indian Child Welfare Act of 1978 (25 U.S.C. 1901, et seq.). The federal regulations take effect on December 12, 2016. The proposed regulations address the requirements imposed on LDSSs and VAs in regard to the standards that must be applied in regard to child custody and emergency proceedings and foster and adoptive placements involving Indian children, as that term is defined in federal and state statute. The proposed regulations would amend the definitions of an Indian child's tribe, a child custody proceeding, and a qualified expert witness and would add definitions of an Indian custodian and an emergency proceeding. In addition, the proposed regulations would amend standards and procedures for the notification of the Indian tribe and the Indian child's parent or Indian custodian in involuntary court proceedings. The proposed regulations would expand the notification requirements to include notification of the federal Bureau of Indian Affairs of all involuntary court proceedings involving an Indian child. Also, the proposed regulations would address the ongoing obligation of a LDSS to notify the court where the LDSS has reason to know that a child in a child welfare proceeding, exclusive of a juvenile delinquent proceeding, is an Indian child. The proposed regulation would clarify that when exercising active efforts to alleviate the need for removal of an Indian child from his or her home, such efforts must be tailored to the facts and circumstances of the case. Finally, the proposed regulations clarify the standards for placement preferences for both foster care and adoptive placements of Indian children, including the standards for good cause not to apply such preferences.

3. Costs:

The draft regulations would have a negligible cost to the State, LDSSs or VAs.

4. Minimizing adverse impact:

It is not anticipated that the proposed regulations will have an adverse impact on LDSSs or VAs that are in rural areas.

5. Rural area participation:

LDSSs and VAs will be notified via policy directive about the changes to New York's implementation of the recently promulgated federal regulations applicable to the Indian Child Welfare Act.

**Job Impact Statement**

The proposed amendment to regulations will not have a negative impact on jobs or employment opportunities in either public or private child

welfare agencies. A full job impact statement has not been prepared for the proposed regulations as it is assumed that the proposed regulations will not result in the loss of any jobs.

## Department of Corrections and Community Supervision

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

#### Residential Treatment Facility Designation

**I.D. No.** CCS-51-16-00005-EP

**Filing No.** 1107

**Filing Date:** 2016-12-05

**Effective Date:** 2016-12-05

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

**Proposed Action:** Amendment of sections 100.20(c), 100.100(d) and 100.109(c) of Title 7 NYCRR.

**Statutory authority:** Correction Law, sections 70 and 112

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

**Specific reasons underlying the finding of necessity:** Since March 31, 2011, the Department of Corrections and Community Supervision has been responsible for both the care and custody of individuals confined in State correctional facilities as a result of their felony convictions, but also their re-entry back into the community through the supervision provided by the Department's parole officers. See Chapter 62 of the Laws of 2011, Part C, subpart A. In this regard, the legislation that created the Department in 2011 provided:

"[a]s a result of the evolution of the sentencing structure and focus on reentry the historical separation of the department of correctional services and the division of parole is no longer warranted. In view of the commonality of purpose governing the fundamental missions of both agencies, a single new state agency should be created to oversee the combined responsibilities of both and, in effect, provide for a seamless network for the care, custody, treatment and supervision of a person, from the day a sentence of state imprisonment commences, until the day such person is discharged from supervision in the community. This not only will enhance public safety by achieving better outcomes for the greatest number of individuals being released from prison, but also will allow for greater efficiencies and the elimination of duplicative responsibilities, thus resulting in significant savings for the state."

Id. at section 1. As part of this responsibility, the Department seeks to determine proper means with which to manage inmates as they transition to community supervision, which includes post-release supervision ("PRS"). See Correction Law section 2(31).

Pursuant to New York's Sexual Assault Reform Act ("SARA"), certain felony sex offenders, as well as those who have been designated Level 3 sex offenders under the Sex Offender Registration Act, Correction Law Article 6-c, are subject to a mandatory condition of community supervision that prevents them from being within 1,000 feet of school grounds, as that term is defined by section 220.00 of the Penal Law, or in any facility primarily used for the care or treatment of persons under 18 years of age when such persons are present. See Executive Law section 259-c(14). To effectuate SARA, the Department must make certain that all offenders subject to its provisions while on community supervision, (see Correction Law section 201[2]; Penal Law section 70.45[5][a]), are neither released to nor reside in residences that are not SARA-compliant. See generally *People v. Diack*, 24 N.Y.3d 674 (2015); *Williams v. Department of Corrections and Community Supervision*, 136 A.D.3d 147 (1st Dept. 2016); *People ex rel. Johnson v. Superintendent, Fishkill Correctional Facility*, 47 Misc.3d 984 (Sup. Ct., Dutchess Co., 2015).

Because some offenders have experienced difficulty in identifying, developing and securing SARA-compliant residences within the communities to which they intend to return, both the Board of Parole and Department, either through the Board's imposition of a special condition pursuant to section 70.45(3) of the Penal Law or a Commissioner's designation pursuant to Correction Law section 73(10), have required that

they reside within one of the Department's residential treatment facilities ("RTF") until a SARA-compliant residence within the community can be developed. Section 73(3) of the Correction Law requires the establishment of programs directed toward the rehabilitation and reintegration of persons transitioning through RTF status. The Department is resolved to provide such services while at the same time affording assistance to offenders in their efforts to find more permanent residences that comply with the requirements of Executive Law section 259-c(14).

Toward these ends, the Department has a group of facilities to serve as RTFs. The RTFs are situated through the State to provide service areas for geographic regions. These tend to be larger-size facilities, with personnel and resources which the smaller facilities customarily do not have. Deciding which of the RTFs is best suited to serve as an offender's residence involves consideration of the RTF's proximity to an offender's self-described home area, available beds, available programming, adequate staffing for the RTF programs and work crews that only RTF residents can be a part of, and finally, the locations of the Parole Officers to whom the offender's community supervision, (e.g. PRS), is assigned.

With the use of RTFs to provide offenders with SARA-complaint residences while they attempt to secure more permanent SARA-compliant residences for the duration of their PRS, the Department has recognized that some offenders' have needs that cannot be addressed in the most appropriate manner at one of the existing RTFs. In this vein, it must be noted that not every person on community supervision for whom a RTF serves as a residence is subject to SARA. For example, there have been instances where for medical reasons an offender has not been released to the community or transferred to the programs of a RTF, but instead has remained within a correctional facility.

Recently, it has been made clear that when the constraints of SARA require the imposition of a special condition under Penal Law section 70.45(3) or a designation under Correction Law section 73(10), the offender must be transferred to the RTF. See *People ex rel. Green v. Superintendent, Sullivan Correctional Facility*, 137 A.D.3d 56 (3d Dept. 2016). Given the inability of some offenders to secure more permanent SARA-compliant residences in the community while serving their PRS, coupled with the broad spectrum of needs and placement concerns associated with these offenders, the Department's ability to comply with Executive Law section 259-c(14) necessitates additional correctional facilities being designated to serve as residential treatment facilities. Designating the facilities, or portion thereof, as residential treatment facilities is necessary to assure compliance with SARA, meeting offenders' needs while on PRS and public safety.

**Subject:** Residential treatment facility designation.

**Purpose:** To designate additional correctional facilities, or parts thereof, to serve as residential treatment facilities.

**Text of emergency/proposed rule:** Subdivision (c) of section 100.20 of Part 100 of this Chapter is hereby amended to read as follows:

(c) Green Haven Correctional Facility shall be classified as a maximum security correctional facility, to be used for the following functions:

(1) general confinement facility for males 21 years of age or older; provided, however, that males between the ages of 16 and 21 may be placed therein for general confinement purposes in accordance with Part 110 of this Chapter; [and]

(2) detention center for males 16 years of age or older[.]; and

(3) residential treatment facility.

Subdivision (d) of section 100.100 of Part 100 of this Chapter is hereby amended to read as follows:

(d) There shall be on the grounds of the institution a maximum security compound to enclose the Walsh Regional Medical Unit. *Such regional medical unit shall also function as a residential treatment facility.*

Subdivision (c) of section 100.109 of Part 100 of this Chapter is hereby amended to read as follows:

(c) Wende Correctional Facility shall be classified as a maximum security facility, to be used for the following functions:

(1) general confinement facility; [and]

(2) detention center[.]; and

(3) residential treatment facility in that portion of the facility functioning as the regional medical unit.

**This notice is intended:** to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire March 4, 2017.

**Text of rule and any required statements and analyses may be obtained from:** Kevin P. Bruen, Deputy Commissioner and Counsel, NYS Department of Corrections and Community Supervision, 1220 Washington Avenue, Harriman State Campus, Albany, N.Y. 12226-2050, (518) 457-4951, email: Rules@doccs.ny.gov

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

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

### Regulatory Impact Statement

**Statutory Authority:** Correction Law section 112 gives the Commissioner superintendence, management and control of the correctional facilities in the Department and all matters related to the government thereof, as well as the management and control of all persons released on community supervision and all matters related to such persons' effective reentry into the community. Pursuant to Correction Law section 112, the Commissioner is authorized to make rules and regulations to carry-out these statutory responsibilities. With respect to each of the Department's facilities, section 70 of the Correction Law requires that through rule making, the Commissioner designate the function of each facility.

**Legislative Objectives:** To designate three additional facilities, or units therein, to serve as residential treatment facilities so that the Department can address the medical and mental health needs of those offenders who may need to reside in a residential treatment facility setting for a period of time while on community supervision.

**Needs and Benefits:** The Department's need to adhere to the Sexual Assault Reform Act, "SARA", Executive Law section 259-c(14), when releasing offenders to and supervising them on community supervision, has necessitated its use of those facilities currently designated as residential treatment facilities to serve as SARA-compliant residences for certain offenders until a more permanent SARA-compliant residence in the community can be developed. In addition, some offenders not subject to SARA have been unable to develop suitable residences within the community that has occasioned their placement in a residential treatment facility. Both populations have presented needs, in particular medical and mental health needs, for which the current residential treatment facilities are not best suited. Through this rulemaking, the Department is expanding those facilities that can also function as residential treatment facilities so they can properly address the needs of the residents therein, as well as the management and control of all persons released on community supervision and all matters related to such persons' effective reentry into the community.

**Costs:** (a) There are no additional costs to the Department or State. This proposed rulemaking imposes no costs on any other State or local agency.

(b) As the proposed rulemaking does not apply to private parties, no costs are imposed on private parties.

(c) This cost analysis is based on Department's need to properly designate existing facilities to serve as residential treatment facilities so that the limited number of offenders who are already in residential treatment facility status, as well as those who may assume that status sometime in the future, can reside in a residential setting best suited to address their particular needs.

**Local Government Mandates:** This rulemaking imposes no program, service, duty or responsibility on any county, city, town, village, school district, or other special district. It applies only to correctional facilities and their designation as residential treatment facilities.

**Paperwork:** This rulemaking will not add any new reporting requirements, including forms or other paperwork. The forms and other paperwork associates with the Department's use of its residential treatment facilities already exists.

**Duplication:** There is no overlap or conflict with any other legal requirements of the State of federal government.

**Alternatives:** There are no alternatives. The facilities, or portions thereof, being designated to serve as residential treatment facilities through this rulemaking, have been identified by the Department as the facilities best suited to provide the appropriate level of medical and mental health services needed by those offenders for whom a residential treatment facility must serve as an interim residence.

**Federal Standards:** There are no federal standards that apply to the proposed rulemaking.

**Compliance Schedule:** Compliance with the proposed rulemaking is expected upon its emergency adoption.

### Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Business and Local Government is not being submitted with this notice, for the proposed rule changes will have no adverse impact upon small businesses and local governments, nor do the rule changes impose any reporting, record keeping or other compliance requirements upon small businesses and local governments. Small businesses and local governments have no role in the Parole Board's parole release decision-making function. The proposed rule making will only affect the Parole Board's decision-making practices for inmates confined in State correctional facilities.

### Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not being submitted with this notice, for the proposed rules will have no adverse impact upon rural areas, nor do the proposed rules impose any reporting, record keeping or other compliance requirements upon rural areas. The proposed rules only affect the designation of certain correctional facilities to serve as residential treatment facilities.

**Job Impact Statement**

A Job Impact Statement is not being submitted with this notice, for the proposed rules will have no adverse impact upon jobs or employment opportunities, nor do the proposed rules impose any reporting, record keeping or other compliance requirements upon employers. The proposed rules only affect the designation of certain correctional facilities to serve as residential treatment facilities.

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## Division of Criminal Justice Services

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

**Pre-Employment Corrections Training****I.D. No.** CJS-51-16-00011-P

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

**Proposed Action:** Addition of Part 6019 to Title 9 NYCRR.

**Statutory authority:** Executive Law, sections 837-a(9) and 840(2-a)

**Subject:** Pre-Employment Corrections Training.

**Purpose:** Allow employers to hire an individual who has already completed a large portion of the basic course, thereby saving resources.

**Substance of proposed rule (Full text is posted at the following State website: <http://www.criminaljustice.ny.gov>):** Introduction

Executive Law section 837-a(9) authorizes the Commissioner of the Division of Criminal Justice Services (Commissioner), in consultation with the State Commission of Correction (SCOC) and Municipal Police Training Council (Council), to establish and maintain training programs for correction officers. Executive Law section 840(2-a) empowers the Council, in consultation with SCOC, to promulgate regulations regarding the approval, or revocation thereof, of basic correctional training programs administered by municipalities; minimum courses of study, attendance requirements, and equipment and facilities to be required at approved correctional training programs; minimum qualifications for instructors at approved correctional training programs; and the requirements of a minimum basic correctional training program required by Executive Law section 837-a(9).

The Pre-Employment Corrections Training program is an alternative method of completing the Basic Course for Correction Officers. The program is conducted in two phases. Phase 1 is designed to be completed by a civilian; and phase 2 is completed after an individual successfully completes the initial or pre-employment phase and is appointed as a sworn corrections officer. In contrast, a conventional basic correctional course is completed in its entirety only by sworn corrections officers. However, the Pre-Employment Corrections Training program does not cover topics deemed appropriate only for sworn corrections officers, such as firearms training.

A new Part 6019 is added to 9 NYCRR to read as follows:

PART 6019

PRE-EMPLOYMENT CORRECTIONS TRAINING

6019.1. Definitions. The following definitions were added: commissioner, council, pre-employment corrections basic training course, pre-employment corrections training school, director, municipality, college, university and junior college or two-year college.

6019.2. Statement of purpose.

The purpose of this Part is to set forth minimum standards for a pre-employment corrections basic training course, including, but not limited to, subject matter and time allotments, requirements for administration of the course-by-course directors, and rules governing attendance and completion of such course.

The pre-employment corrections basic training course is an alternative method of corrections officer basic training set forth in Part 6018 and is designed to be completed by civilians. An individual who successfully completes a pre-employment corrections basic training course must complete additional training after appointment as a sworn corrections officer in order to fulfill requirements set forth in section 2.30 of the Criminal Procedure Law. Provided, however, nothing in this Part shall preclude a sworn corrections officer from attending a pre-employment corrections basic training course.

Use of a pre-employment corrections basic training course is not

required and the determination to utilize this alternative method of training shall be within the discretion of each employer. An employer may require an individual who has been appointed as a sworn corrections officer, and who previously successfully completed a pre-employment basic course, to complete the basic course for corrections officers.

6019.3. Minimum standards for approval of a pre-employment corrections basic training course and 6019.4. Requirements for approval of a pre-employment corrections training school.

As the headers state, sections 6019.3 and 6019.4 respectively provide the minimum standards for approval of a pre-employment corrections basic training course and the requirements for approval of a pre-employment corrections training school. For instance, the course and school must be pre-approved by the Commissioner.

6019.5. Revocation or suspension of approval of a pre-employment corrections training school.

This section provides that the Commissioner may suspend or revoke the approval granted to a pre-employment corrections training school for cause at any time. Reasons for such suspension or revocation may include, but not be limited to, violation of the program requirements.

6019.6. Term and renewal of pre-employment corrections training school approval.

This section provides that the pre-employment corrections training school approval shall be valid for a period of two years from the date of approval, provided that the Council has not made any changes to the minimum qualifications. Such approval may be renewed by a pre-employment corrections training school upon filing a copy of the current school qualifications and approval by the Commissioner.

6019.7. Requirements for conducting a pre-employment corrections basic training course and 6019.8. Requirements for completion of a pre-employment corrections basic training course.

As the headers state, sections 6019.7 and 6019.8 respectively provide the requirements for conducting a pre-employment corrections basic training course and the requirements for completion of a pre-employment corrections basic training course. For instance, within 10 days of the commencement of a pre-employment corrections basic training program, the course director must forward a course roster to the Commissioner listing the names, and other information required by the Council, for all attendees. In addition, within 10 days after the conclusion of a basic course, the director must forward the course roster to the Commissioner denoting the performance of the respective trainees.

Further, pursuant to section 6019.8, the training completed pursuant to this Part shall remain valid for two years from the date of completion recorded on the transcript. An individual who has completed the pre-employment corrections basic training course has two years from the date of completion recorded on the transcript to obtain employment as a sworn corrections officer and, thereafter, complete the remaining training requirements prescribed by the Council in accordance with the requirements of Part 6018 for purposes of compliance with the provisions of section 2.30 of the Criminal Procedure Law. After 2 years from the date of completion recorded on the transcript, the training will no longer be valid for purposes of compliance with the provisions of section 2.30 of the Criminal Procedure Law.

6019.9. Limitations regarding pre-employment corrections basic training courses.

This section provides that the completion of a pre-employment corrections basic training course not approved by the Commissioner and pre-employment corrections training completed before the effective date of this regulation shall not be deemed to be successful completion of a pre-employment corrections basic training course and shall not be recognized by the Council or the Commissioner for purposes of compliance with the provisions of section 2.30 of the Criminal Procedure Law.

Also, the completion of a pre-employment corrections basic training course does not entitle or guarantee employment as a corrections officer, nor affect, in any way, the applicability of the Civil Service Law or other provisions of law regarding the hiring and retention of corrections officers.

**Text of proposed rule and any required statements and analyses may be obtained from:** Natasha M. Harvin-Locklear, Esq., NYS Division of Criminal Justice Services, Alfred E. Smith Building, 80 South Swan Street, Albany, New York 12210, (518) 457-8420, email: [dcjslegalrulemaking@dcjs.ny.gov](mailto:dcjslegalrulemaking@dcjs.ny.gov)

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

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

**Regulatory Impact Statement**

1. Statutory authority: Executive Law sections 837-a(9) and 840(2-a).

2. Legislative objectives: Executive Law section 837-a(9) authorizes the Commissioner of the Division of Criminal Justice Services (Commissioner), in consultation with the State Commission of Correction (SCOC) and Municipal Police Training Council (MPTC), to establish and maintain

training programs for corrections officers. Executive Law section 840(2-a) empowers the MPTC, in consultation with SCOC, to promulgate regulations regarding the approval, or revocation thereof, of basic correctional training programs administered by municipalities; minimum courses of study, attendance requirements, and equipment and facilities to be required at approved correctional training programs; minimum qualifications for instructors at approved correctional training programs; and the requirements of a minimum basic correctional training program required by Executive Law section 837-a(9).

3. Needs and benefits: The Pre-Employment Corrections Training program is an alternative method of completing the Basic Course for Correction Officers. The program is conducted in two phases. Phase 1 is designed to be completed by a civilian; and phase 2 is completed after an individual successfully completes the initial or pre-employment phase and is appointed as a sworn corrections officer. In contrast, a conventional basic correctional course is completed in its entirety only by sworn corrections officers. However, the Pre-Employment Corrections Training program does not cover topics deemed appropriate only for sworn corrections officers, such as firearms training.

The Pre-Employment Corrections Training program would allow employers to hire an individual who has already completed a large portion of the basic course, thereby saving the employer considerable time and expenses associated with training the individual.

4. Costs:

a. There are no expected costs to regulated parties for the implementation of and continuing compliance with the rule.

b. There are no expected costs to the agency or State and local governments for the implementation of and continuing compliance with the rule.

c. The cost analysis is based on the fact that there are no new mandates and there will be fiscal relief. Use of a pre-employment corrections basic training course is not required and the determination to utilize this alternative method of training shall be within the discretion of each employer. In addition, the program would allow employers to hire an individual who has already completed a large portion of the basic course, thereby saving the employer considerable time and expenses associated with training the individual.

5. Local government mandates: None.

6. Paperwork: A municipality would be required to complete an application to become an approved pre-employment school, and a curriculum content form for review and approval by the Commissioner. In addition, the course director would be required to submit an initial roster at the commencement of the pre-employment training and a final roster at the conclusion of the pre-employment phase.

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

8. Alternatives: SCOC was consulted on this matter and there are no alternatives.

9. Federal standards: There are no federal standards.

10. Compliance schedule: Regulated parties are expected to be able to achieve compliance with the proposed rule immediately.

#### **Regulatory Flexibility Analysis**

A RFASBLG is not being submitted because the proposed rule would not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments. The rule would allow employers to hire an individual who has already completed a large portion of the Basic Course for Correction Officers, thereby saving the employer considerable time and expenses associated with training the individual.

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

A RAFA is not being submitted because the proposed rule would not impose any adverse impact on rural areas; or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas. The rule would allow employers to hire an individual who has already completed a large portion of the Basic Course for Correction Officers, thereby saving the employer considerable time and expenses associated with training the individual.

#### **Job Impact Statement**

A JIS is not being submitted because it is apparent from the nature and purpose of the proposed rule that it would not have a substantial adverse impact on jobs and employment opportunities. The rule would allow employers to hire an individual who has already completed a large portion of the Basic Course for Correction Officers, thereby saving the employer considerable time and expenses associated with training the individual.

## Department of Economic Development

### EMERGENCY RULE MAKING

#### **Empire Zones Reform**

**I.D. No.** EDV-51-16-00001-E

**Filing No.** 1080

**Filing Date:** 2016-11-30

**Effective Date:** 2016-11-30

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

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

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

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

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

**Subject:** Empire Zones reform.

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

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

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

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

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

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

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

eligibility of agricultural cooperatives for Empire Zone tax credits and the QEZE Real Property Tax Credit.

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

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

7. The emergency rule provides a description of the elements to be included in a zone development plan and requires that the plan be resubmitted by the local zone administrative board as economic conditions change within the zone. Changes to the zone development plan must be approved by the Commissioner of Economic Development ("the Commissioner"). Also, the rule adds additional situations under which a business enterprise may be granted a shift resolution.

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

9. The emergency rule tracks the amended statute's deletion of the category of contributions to a qualified Empire Zone Capital Corporation from those businesses eligible for the Zone Capital Credit.

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

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

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

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

revoke the certification of a firm upon a finding of any one of the other criteria for revocation of certification set forth in the rule.

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

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

16. The emergency rule tracks the statutory requirements that zones reconfigure their existing acreage in up to three (for investment zones) or six (for development zones) distinct and separate contiguous areas, and that zones can allocate up to their total allotted acreage at the time of designation. These reconfigured zones must be presented to the Empire Zones Designation Board for unanimous approval. The emergency rule makes clear that zones may not necessarily designate all of their acreage into three or six areas or use all of their allotted acreage; the rule removes the requirement that any subsequent additions after their official redesignation by the Designation Board will still require unanimous approval by that Board.

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

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

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

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

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

*This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires February 27, 2017.*

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

#### **Regulatory Impact Statement**

STATUTORY AUTHORITY:

Section 959(a) of the General Municipal Law authorizes the Commis-

sioner of Economic Development to adopt on an emergency basis rules and regulations governing the criteria of eligibility for empire zone designation, the application process, the certification of a business enterprises as to eligibility of benefits under the program and the decertification of a business enterprise so as to revoke the certification of business enterprises for benefits under the program.

#### LEGISLATIVE OBJECTIVES:

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

#### NEEDS AND BENEFITS:

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

#### COSTS:

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

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

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

#### LOCAL GOVERNMENT MANDATES:

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

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

#### PAPERWORK:

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

#### DUPLICATION:

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

#### ALTERNATIVES:

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

#### FEDERAL STANDARDS:

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

#### COMPLIANCE SCHEDULE:

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

#### Regulatory Flexibility Analysis

##### 1. Effect of rule

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

##### 2. Compliance requirements

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

##### 3. Professional services

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

##### 4. Compliance costs

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

##### 5. Economic and technological feasibility

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

##### 6. Minimizing adverse impact

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

##### 7. Small business and local government participation

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

#### Rural Area Flexibility Analysis

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

#### Job Impact Statement

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

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## Department of Environmental Conservation

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### NOTICE OF ADOPTION

#### Procedures for Modifying or Extinguishing a Conservation Easement Held by the NYS Department of Environmental Conservation

**I.D. No.** ENV-52-15-00010-A

**Filing No.** 1108

**Filing Date:** 2016-12-05

**Effective Date:** 2016-12-21

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

**Action taken:** Addition of Part 592 to Title 6 NYCRR.

**Statutory authority:** Environmental Conservation Law, sections 3-0301(2)(m), (v), 49-0301, 49-0303(1), 49-0305(7), 49-0307(2), (2)(a), (3), (3)(a) and (d)

**Subject:** Procedures for modifying or extinguishing a conservation easement held by the NYS Department of Environmental Conservation.

**Purpose:** Establish standards for the Department of Environmental Conservation to follow when modifying or extinguishing a CE and provide for a formal public review process.

**Text of final rule:** A new 6 NYCRR Part 592 is added to Subchapter D (formerly Subchapter C) of Chapter V, Real Property and Land Acquisition, to read as follows:

**6 NYCRR Part 592**

*Procedure for the modification or extinguishment of a conservation easement held by the New York State Department of Environmental Conservation*

**Section 592.1 Purpose and applicability**

(a) *The purpose of this Part is to set forth in regulation a procedure to be followed by the department when modifying or extinguishing a DEC conservation easement, as that term is defined in section 592.2(c) below.*

(b) *This Part will not apply to conservation easements which are owned or held by not-for-profit organizations or public bodies other than the department.*

**Section 592.2 Definitions**

(a) *“Commissioner” means the Commissioner of the New York State Department of Environmental Conservation, or the Commissioner’s designated agent.*

(b) *“Department” or “DEC” means the New York State Department of Environmental Conservation.*

(c) *“Conservation easement” means an easement, covenant, restriction or other interest in real property, created under and subject to the provisions of Title 3 of article 49 of the Environmental Conservation Law which limits or restricts development, management or use of such real property for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the real property in a manner consistent with the public policy and purpose set forth in section 49-0301 of the Environmental Conservation Law, provided that no such easement shall be acquired or held by the state which is subject to the provisions of Article XIV of the State Constitution.*

(d) *“ECL” means the New York State Environmental Conservation Law.*

(e) *“Environmental Notice Bulletin” or “ENB” means the weekly publication of the department that is published pursuant to section 3-0306 of the Environmental Conservation Law, and accessible on the department’s website.*

(f) *“Grantee” means the department, as owner and holder of a DEC conservation easement.*

(g) *“Grantor” means the person or entity which is the owner of the underlying fee lands subject to the DEC conservation easement at the time of the grant of the DEC conservation easement or, as applicable, the grantor’s respective successors, heirs and assigns.*

(h) *“Modification” means a change, addition, deletion, correction or amendment to a DEC conservation easement.*

(i) *“Property” means the underlying fee lands subject to the DEC conservation easement.*

(j) *“Purpose(s)” means the conservation objectives and goals set forth in the express language of a DEC conservation easement, or in the absence of such express language, as provided in ECL section 49-0303(1).*

(k) *“Third party enforcement right” means a right which may be granted in a DEC conservation easement which empowers a public body or a not-for-profit conservation organization which is not a holder of the DEC conservation easement to enforce any of the terms of the DEC conservation easement.*

**Section 592.3 Standards.**

(a) *The standards for the modification of a DEC conservation easement include:*

1. *A modification of a DEC conservation easement, other than a modification to the stated purpose(s) as set forth in a DEC conservation easement, must not alter, and must be consistent with, the stated purpose(s) of the DEC conservation easement; and*

2. *A modification of a DEC conservation easement must not affect the perpetual nature of the DEC conservation easement; and*

3. *The modification must comply with all existing policies, laws or regulations, including the specific requirements of the provisions of ECL section 49-0307, in effect at the time of the modification; and*

4. *The proposed modification of a DEC conservation easement shall result in a net conservation benefit to the state, which must be calculated and considered within the spatial confines of the conservation easement in question or in the surrounding contiguous and adjoining lands, as determined by the department, after public comment, including consideration of any change in the level of public recreational opportunities or any change to the limitations or restrictions on the development, management or use of the property, or any other real property owned by or under the control of the grantor, for the purpose of preserving or maintaining the scenic, open, historic, archaeological, architectural, or natural condition, character, significance or amenities of the area where the property is located in a manner consistent with the public policy and purpose set forth in ECL section 49-0301.*

(b) *The standard for the modification of the purpose(s) or the extinguish-*

*ment of a DEC conservation easement shall require a finding by the department that: the proposed new or modified purpose(s) enhance the original purpose(s) of the DEC conservation easement; or the DEC conservation easement can no longer substantially accomplish its original purpose(s) or any of the purposes set forth in the ECL section 49-0301 which include conserving, preserving and protecting its environmental assets and natural and man-made resources, the preservation of open spaces, the preservation, development and improvement of agricultural and forest lands, the preservation of areas which are significant because of their scenic or natural beauty or wetland, shoreline, geological or ecological character, including old-growth forest, character, and the preservation of areas which are significant because of their historical archaeological, architectural or cultural amenities, and the maintenance, enhancement and improvement of recreational opportunities, tourism, community attractiveness, balanced economic growth and the quality of life in all areas of the state.*

**Section 592.4 Procedures**

*The department must comply with the following procedures for any modification or the extinguishment of a DEC conservation easement.*

(a) *Written notice to grantor and entities entitled to third party enforcement rights and the Office of the Attorney General. The department must provide written notice of the proposed modification or extinguishment of a DEC conservation easement to the grantor, entities designated in the DEC conservation easement as having third party enforcement rights, and the Office of the Attorney General by certified mail, return receipt requested to the addresses on file with the department for the respective entities; and*

(b) *Public notice, comment period, non-adjudicatory hearing.*

1. *Public Notice.*

i. *For modification only of a DEC conservation easement. The department must publish public notice in the ENB of the department’s intent to modify a DEC conservation easement including a general summary of the proposed modification(s) and the opportunity for the public to submit written public comments to the department. The public comment period shall begin on the date the notice of the public comment period appears in the ENB.*

ii. *For modification to the purpose(s) or extinguishment of a DEC conservation easement. The department must publish public notice of its intent to modify the purpose(s) or extinguish a DEC conservation easement in the State Register, the ENB and in a newspaper having a general circulation in the county where the property is located. The public notice shall include the facts supporting a finding that: the proposed new or modified purpose(s) enhance the original purpose(s) of the DEC conservation easement; or the DEC conservation easement can no longer substantially accomplish its original purpose(s) or any of the purposes set forth in the ECL section 49-0301.*

2. *Public comment period. The department must provide for a public comment period for thirty (30) calendar days to accept public comments related to the proposed modification to, or extinguishment of, a DEC conservation easement. The department may provide for the receipt of public comment through the use of meetings, exchanges of written material, or other means during the public comment period.*

3. *Non-adjudicatory public hearing. For proposals which include the modification of the purpose(s) or extinguishment of a DEC conservation easement, the department must conduct a non-adjudicatory public hearing to be held during the public comment period to provide the public with an opportunity to be heard on the modification of the purpose(s) or the extinguishment of a DEC conservation easement. Notice of the public hearing shall be included in the notice of the proposed modification of the purpose(s) or extinguishment of the conservation easement as set forth in subparagraph ii of paragraph 1 subdivision (b) of this section.*

(c) *Commissioner’s determination only for modification to the purpose(s) or extinguishment of DEC conservation easement.*

1. *For any proposed modification to the purpose(s) or the extinguishment of a DEC conservation easement, the Commissioner must make a written determination that the proposed new or modified purpose(s) enhances the original purpose(s) of the DEC conservation easement; or the DEC conservation easement can no longer substantially accomplish its original purposes. The proposed modification to the purpose(s) or extinguishment of a DEC conservation easement following closure of the public comment period, shall comply with the requirements of section 592.3 of this Part and be consistent with the policies and objectives set forth in ECL section 49-0301. If a DEC conservation easement is modified or extinguished pursuant to this Part, it shall be set forth in an instrument which complies with the requirements of ECL section 49-0305.*

2. *The Commissioner will publish a notice of determination in the ENB with a hyperlink to the determination document. The recording of a deed or other conveyance document in the county clerk’s office where the DEC conservation easement is located must be filed no earlier than one hundred twenty (120) calendar days after the notice of the Commissioner’s determination appears in the ENB.*

**Final rule as compared with last published rule:** Non-substantive changes were made in sections 592.1(b), 592.2(b), (c), 592.3(a)(3), (4), (b), 592.4 introductory paragraph, (a), (b)(1)(i), (ii), (3), (c)(1) and (2).

**Text of rule and any required statements and analyses may be obtained from:** James Sessions, NYS DEC, 625 Broadway, Albany, NY 12233, (518) 473-9518, email: jim.sessions@dec.ny.gov

**Additional matter required by statute:** A EAF/Negative Declaration was prepared in compliance with Article 8 of the Environmental Conservation Law.

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

Non-substantive changes were made to the regulation that did not necessitate revision to the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

**Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

**Assessment of Public Comment**

The Department of Environmental Conservation (DEC) proposed draft regulations, Part 592 of 6 NYCRR, establishing procedures for the modification and extinguishment of conservation easements held by DEC. The Notice of Proposed Rulemaking was published in the State Register on December 30, 2015. A total of 51 comments were received from both individuals and organizations during a 45 day comment period that ended on February 13, 2016. While DEC processed and responded to each unique comment in the Assessment of Public Comment, for purposes of this summary, the Department grouped together similar comments and responses. Non-substantive changes were made to the proposed regulation to address public comment and to further clarify the original meaning. A revised rule making is not required.

**PURPOSE AND APPLICABILITY**

Comment:

The regulations should be entitled "Regulations for Conservation Easements and Extinguishments".

Response: For consistency purposes, the title of the proposed regulations is taken directly from Environmental Conservation Law (ECL) § 49-0307.

Comment:

Clarification is needed as to whether the proposed regulations apply when a public body, other than DEC, modifies or extinguishes an easement.

Response: The proposed Part 592 regulations apply only to the modification or extinguishment of State-owned conservation easements under the jurisdiction of the DEC. Accordingly, subdivision 592.1(b) has been revised to clarify that modifications or extinguishments of conservation easements by other entities are not the subject of this rulemaking.

Comment:

The regulatory language should explicitly provide that modifications and extinguishments be accomplished in accordance with ECL § 49-0301.

Response: The proposed regulations provide that modifications to existing conservation easements will only be entertained if the modification furthers the purposes as set forth in ECL § 49-0301. Conservation easements that no longer serve their original purpose should be extinguished. The DEC will make every effort to enforce the original terms of the conservation easement.

**DEFINITIONS**

Comment:

The definition of "conservation easement" is confusing, unduly restrictive, and should mirror the definition and public policy set forth in ECL § 49-0303(1).

Response: The DEC recognizes the importance of defining key regulatory terms. Accordingly, the definition of conservation easement has been amended to mirror the statutory definition and policy contained in ECL § 49-0303(1).

Comment:

A distinction needs to be made in regards to "extinguishment" of conservation easements and "modification". "Extinguishment" should be defined as the removal of some or all of the land subject to a conservation easement.

Response: Subdivision 592.2(h) of the proposed regulations provide a definition for "modification" of a conservation easement. Since removal of some of the land subject to an easement does not always constitute an "extinguishment", a case specific analysis is necessary and DEC declines to define this term.

Comment:

Subdivision 592.2(k) of the proposed regulations should be amended so that a public body or a not-for-profit organization which is not a holder of the DEC conservation easement can enforce the terms of the easement.

Response: The regulatory definition of "third party enforcement right" is constrained by the statutory definition in ECL § 49-0303(4) and therefore, the DEC declines to make this change.

Comment:

The proposed regulations should include language providing that conservation values of working lands supersede conservation values of recreational lands and therefore are a priority for modification of a conservation easement.

Response: Pursuant to the Declaration of Policy and Statement of Purpose in ECL § 49-0301, no one purpose for acquiring conservation easement lands is paramount. Therefore, it is not appropriate for the regulations to provide that any of these values takes precedence.

Comment:

The proposed regulations should include explicit language stating that major modifications will follow the State Environmental Quality Review Act (SEQRA) and include a full list of alternatives.

Response: Since all DEC actions including modifications to conservation easements are subject to SEQRA, there is no need to explicitly include this language in the regulations.

**STANDARDS**

Comments:

The language in § 592.3 needs to reflect ECL 49-0301. Section 592.3 must reflect a positive net gain in the conservation values prescribed within the easement, rather than a vague "no net loss of benefits to the state". Conservation benefits must be considered within the spatial confines of the conservation easement. Additionally, the standard for modification should be more specific and the concept of "net benefit" should be clarified. The word "reasonable" should be added to the standards. Finally, the proposed regulation should permit modifications to improve and strengthen the original purpose of the conservation easement.

Response: The regulatory language has been amended to require that modifications result in a net conservation benefit to the purposes of the conservation easement and the other property has some degree of connection to the easement property. The net benefit concept includes a variety of factors including, but not limited to, whether the modification will increase public recreational opportunities or provide additional environmental and ecological protections. Additionally, language has been included in the proposed regulation to allow for modifications to enhance the original purpose of a DEC held conservation easement. A "reasonableness" concept is already encompassed in the "arbitrary and capricious" standard for judicial review of DEC actions.

**PROCEDURE & PUBLIC NOTICE**

Comment:

The public participation process for modifications and extinguishments of conservation easements is pro forma and lacks an appeals process. The proposed regulation should include consideration of a variety of factors - the purpose of the easement, the conservation outcome, and the need for a modification - in making a determination as to whether an amendment results in a positive or neutral conservation outcome.

Response: Implicit in the public process is the ability of the DEC to modify its proposals based on public comment and to take into account a variety of factors where appropriate. The DEC will not undertake a conservation easement modification which does not result in a net conservation benefit. The proposed regulations do not prevent appeals of DEC determinations as currently authorized by law.

Comment:

Consideration should be given to Standards and Practices of the Land Trust Alliance (LTA).

Response: The proposed regulation is consistent with the LTA's Standards and Practices, however the LTA is a non-profit conservation organization and the DEC is a State agency.

Comment:

The proposed regulations should provide an expedient process for de minimis changes to conservation easements.

Response: All modifications will follow the transparent process outlined in the proposed regulation. This process is not unduly burdensome and the creation of a subjective distinction between minor and major modifications would create unnecessary confusion and delay.

Comment:

The proposed regulations contain conflicting language as to when a non-adjudicatory hearing is to be held.

Response: The DEC has revised the regulatory language in subdivision 592.4(3) to require that non-adjudicatory hearings are "to be held during the public comment period".

Comment:

The proposed regulations should be amended to require notice to the Attorney General when DEC modifies or extinguishes a conservation easement.

Response: Subdivision 592.4(a) of the proposed regulations has been amended to require notice to the Attorney General when DEC modifies or extinguishes a conservation easement.



## Comment:

Clarification is requested as to whether determinations pursuant to subdivision 592.4(2)(b) to alter the stated purposes or to extinguish the conservation easement require publication of the "determination and summary of the determination" in the Environmental Notice Bulletin (ENB).

Response: Changes to the proposed regulatory language clarify that the DEC will publish a notice of determination in the ENB.

## MISCELLANEOUS

## Comment:

The proposed regulations do not adequately take into account funding sources and their associated limitations.

Response: The funding sources used to acquire a conservation easement will be reviewed prior to any modification or extinguishment in order to ensure consistency with the terms and conditions of funding. Prior to modification of an existing DEC conservation easement, an appraisal is required to determine the value of the modification. While these regulations do not alter DEC's historic practice of declining to extinguish conservation easements, ECL § 49-0307 does enumerate situations where extinguishments may occur. Most conservation easements have been purchased and paid for with public funds; thus any extinguishment would have to address repayment of the benefit received by the private grantor for the easement.

## Comment:

The draft regulations preclude landowners who donate conservation easements to the DEC from qualifying for federal tax benefits and allow the DEC to extinguish conservation easements without satisfying federal tax requirements.

Response: The draft regulations do not change the statutory process under which the DEC entertains modifications or extinguishments of conservation easements. Landowners who wish to qualify for any federal tax benefits associated with a conservation easement should consult a tax attorney before they seek modifications.

## Comment:

The proposed regulations appear to authorize land swaps and will potentially erode public access for the purpose of hunting, trapping and recreation.

Response: The proposed regulations do not propose wholesale land "swaps" nor do they alter the premise for acquisition of conservation easements - public recreation and natural resource protection. In recognition of these goals, the proposed regulations include a transparent public notice and participation component.

## Comment:

The requirements for conservation easements should be uniform and protective of the original purpose of the easement and changes or modifications to conservation easements should be undertaken "to the minimum extent necessary" and in accordance with ECL Article 49.

Response: While the DEC acknowledges that uniformity among conservation easements can be beneficial, it recognizes that the purpose and negotiation surrounding each individual easement will vary thereby requiring a case specific analysis. The proposed regulations protect the original purposes and policies of DEC conservation easements as enumerated in statute and a modification that does not further the purpose of the existing conservation easement, will not be approved. The ECL provisions providing that a conservation easement be amended only "to the minimum extent necessary" apply only to modifications caused by utility transmission lines. With respect to other modifications, no proposed modification may alter the original purposes of the original easement.

## Comment:

The proposed regulations should include an Adirondack Park State Conservation Easements Lands Master Plan.

Response: The 2010 Memorandum of Understanding between DEC and the Adirondack Park Agency (APA) Concerning State-Owned Conservation Easements on Private Lands within the Adirondack Park outlines how DEC and APA work together on conservation easements. The DEC does not seek wholesale changes. Each proposed modification will be examined on a case by case basis and the DEC and APA will continue to work together on conservation easement lands.

## Comment:

A Recreation Management Plan (RMP) must be completed before DEC conducts a net benefit analysis to ensure that some level of site investigation, data collection and planning analysis is done with the landowner and DEC.

Response: Requiring a RMP is unnecessary since the Attorney General requires the DEC to have an Interim Recreation Management Plan and an approved Baseline Report in place at the time of closing.

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## Department of Financial Services

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## NOTICE OF ADOPTION

**Inspecting, Securing and Maintaining Vacant and Abandoned Residential Real Property**

I.D. No. DFS-41-16-00006-A

Filing No. 1113

Filing Date: 2016-12-06

Effective Date: 2016-12-21

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

**Action taken:** Addition of Part 422 to Title 3 NYCRR.

**Statutory authority:** Real Property Actions and Proceedings Law, sections 1306, 1308 and 1310

**Subject:** Inspecting, Securing and Maintaining Vacant and Abandoned Residential Real Property.

**Purpose:** To implement the requirements imposed by the recent additions to the Real Property Actions and Proceedings Law.

**Substance of final rule:** Section 422.1 is the preamble, which explains the basis for the regulation, i.e., the implementation of amendments to the Real Property and Procedures Law (RPAPL) enacted in June 2016.

Section 422.2 provides definitions of certain terms used on the legislation and in the regulation, including: mortgage; mortgagee; assignee; mortgage maintenance; mortgage origination; mortgage servicing; public official; residential real property; state or federally chartered bank, savings bank, savings and loan association, and credit union; servicer or mortgage loan servicer; and vacant and abandoned.

Section 422.3 explains how entities that may be subject to RPAPL 1308 are to determine whether they qualify for two possible exemptions to the inspection and maintenance requirements under the statute, and how they are to report that information to the Superintendent of Financial Services.

Section 422.4 explains what information entities subject to the statute are to report to the Superintendent once they learn, or should have learned, that a property is vacant and abandoned. The section also provides guidance how entities are supposed to learn, or should learn, that the property is vacant and abandoned.

Section 422.5 identifies additional information that entities subject to the statute are to provide to the Superintendent on a quarterly basis, to supplement and update the information provided pursuant to Section 422.4.

Section 422.6 identifies the entities to whom the reporting requirements are applicable.

Section 422.7 explains how the requirements of the statute interact with federal law and federal guidelines.

Section 422.8 implements the confidentiality provisions of the statute, explaining how information about vacant and abandoned properties will be treated as confidential and the circumstances under which the information may be released.

Section 422.9 explains how the statute will be enforced.

Section 422.10 identifies the effective date of the regulation.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 422.2, 422.3, 422.4, 422.5, 422.7, 422.8 and 422.9.

**Text of rule and any required statements and analyses may be obtained from:** Celeste Koeleveld, NYS Department of Financial Services, One State Street, New York, NY 10004, (212) 709-1663, email: Celeste.Koeleveld@dfs.ny.gov

**Revised Regulatory Impact Statement**

## 1. Statutory Authority.

Part Q of Chapter 73 of the Laws of 2016 enacted two new sections to the Real Property Actions and Proceedings Law ("RPAPL"), 1308 and 1310, which impose requirements on certain persons to maintain vacant and abandoned residential real property in New York and to report vacant and abandoned properties to the New York State Department of Financial Services (the "Department"), and authorizes the Department to promulgate regulations to implement the new requirements.

In addition, RPAPL Section 1306 requires that lenders, assignees and mortgage loan servicers file a notice with the Department before commencing a foreclosure proceeding in New York.

## 2. Legislative Objectives.

The Legislature added Sections 1308 and 1310 to the RPAPL to address the vacant and abandoned property problems facing affecting New York.

These properties create health and safety concerns for the communities in which they are located, drag down property values in the neighborhood and may be subject to criminal activity. The new RPAPL sections address these issues by requiring that all vacant and abandoned properties to be reported to a database maintained by the Department and imposing requirements on certain persons to maintain vacant and abandoned properties.

#### 3. Needs and Benefits.

The regulation explains the process that will be used to identify state or federally chartered banks, savings banks, savings and loan associations, or credit unions subject to the requirements of Section 1308, how and when enforcement action, except by a municipality, will be taken and application of federal law and investor guidelines under Section 1308(10). In addition, the regulation explains the process to be followed by covered persons in reporting vacant and abandoned properties to the Department and the process to be followed by public officials in asking for information concerning vacant and abandoned properties to be released by the Department.

#### 4. Costs.

The regulation imposes no costs in addition to those already contemplated by RPAPL Sections 1308 and 1310.

#### 5. Local Government Mandates.

None.

#### 6. Paperwork.

The regulation imposes no paperwork in addition to that already contemplated by RPAPL Sections 1308 and 1310. In addition, any impact on existing paperwork requirements is expected to be minimal.

#### 7. Duplication.

The regulation does not duplicate, overlap or conflict with any other regulations.

#### 8. Alternatives.

The Department is not aware of any alternatives to the rule.

#### 9. Federal Standards.

Not applicable.

#### 10. Compliance Schedule.

The rule will become effective upon publication, but allows covered persons until January 20, 2017 to begin the inspections required by RPAPL 1308. Covered persons who previously reported vacant and abandoned properties to the Department will have until February 1, 2017 to update their information.

### **Revised Regulatory Flexibility Analysis**

#### 1. Effect of the Rule:

The regulation implements authority granted to the New York State Department of Financial Services (the "Department") in Sections 1308 and 1310 of the Real Property Actions and Proceedings Law ("RPAPL"), as enacted by Part Q of Chapter 73 of the Laws of 2016. The regulation explains the process that will be used to identify state or federally chartered banks, savings banks, savings and loan associations, or credit unions subject to the requirements of Section 1308, the reports that persons subject to the requirements of Section 1308 will have to submit to the Department regarding delinquent loans on residential real property and efforts to inspect, secure, maintain and foreclose on those properties, and application of federal law and investor guidelines under Section 1308(10). In addition, the regulation explains the process to be followed by covered persons in reporting vacant and abandoned properties to the Department and the procedures to be followed in the event that the Superintendent of Financial Services determines, in the exercise of her sole discretion, to release confidential for information concerning vacant and abandoned properties.

The proposed rule does not have any impact on local governments.

#### 2. Compliance Requirements:

The regulation does not change the compliance requirements imposed by Sections 1308 and 1310 of the RPAPL, but does clarify how covered persons are to comply with the requirements of the RPAPL.

#### 3. Professional Services:

None.

#### 4. Compliance Costs:

None beyond the existing costs to comply with the requirements of the RPAPL.

#### 5. Economic and Technological Feasibility:

Filing of vacant and abandoned property notifications involves common, everyday functions performed by covered persons.

#### 6. Minimizing Adverse Impacts:

The regulation does not impose a new regulatory requirement, but implements the requirements imposed by the addition of RPAPL Sections 1308 and 1310. It is not expected to impact small businesses.

#### 7. Small Business and Local Government Participation:

This regulation does not impact local governments.

The Department complied with SAPA 202-b(6) by providing small businesses and local governments with the opportunity to participate in the

rule making process. This occurred through posting notice of the proposed rulemaking on the Department's website and interacting with interested stakeholders. Furthermore, notice of the proposed rule was published in the State Register and the public was provided with an opportunity to comment on the proposed rule. The Department has reviewed the comments received and has completed an Assessment of Public Comments.

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

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

While the regulation is expected to apply to residential real property located in rural areas, it is not expected to increase costs or otherwise have an adverse impact on private or public interests rural areas.

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

The regulation imposes no paperwork in addition to that already contemplated by Real Property Actions and Proceedings Law Sections 1308 and 1310.

#### 3. Costs:

The regulation imposes no costs in addition to that already contemplated by Real Property Actions and Proceedings Law Sections ("RPAPL") 1308 and 1310.

#### 4. Minimizing adverse impact:

The regulation does not impose a new regulatory requirement, but implements the requirements imposed by the addition of RPAPL Sections 1308 and 1310.

#### 5. Rural area participation:

The Department complied with SAPA 202-bb(7) by providing public and private interests in rural areas with the opportunity to participate in the rule making process. This occurred through posting notice of the proposed rulemaking on the Department's website; and interacting with interested stakeholders. Furthermore, notice of the proposed rule was published in the State Register and the public was provided with an opportunity to comment on the proposed rule. The Department has reviewed the comments received and has completed an Assessment of Public Comments.

### **Revised Job Impact Statement**

The regulation is not expected to have an adverse effect on employment.

### **Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

### **Assessment of Public Comment**

The Department of Financial Services ("Department") received oral and written comments from a variety of interested stakeholders, including banking associations, advocacy and public interest groups, and local, state and federal government representatives.

#### 422.2 Definitions

(a) Mortgage – Several commenters observed that the definition of "mortgage" should not be limited to the first lien on residential real property, particularly because RPAPL 1310 is not limited to first lien mortgages. The word "first" has been removed from the definition. One commenter objected that the definition includes more than just "home purchase" loans, but the Department believes that the definition appropriately captures the types of mortgages covered by the underlying legislation. Other commenters questioned whether definitions of "mortgage" and certain other terms defined in the regulation are necessary, but the Department believes that all of the definitions are useful components of a comprehensive regulation.

(b) Mortgagee – Several commentators observed that "note holder" should be included in the definition, and that change has been made. One commenter also expressed concern that including trustees in the definition expands the scope of the definition beyond what was intended by the statute, but the Department respectfully disagrees with that assertion and has left the definition unchanged in this respect.

(c) Assignee – One commenter recommended clarifying that an assignee means a current mortgagee "who has been assigned the mortgage note from the original lender or an assignee pursuant to the laws of the state." The Department concluded that no change should be made.

(d) Mortgage maintenance – One commenter recommended clarifying the language to state that "mortgage maintenance means the continued holding and ownership of a mortgage and note by the person or entity that originated the mortgage or by the assignee." The Department concluded that no change was necessary.

(e) Mortgage origination – One commenter pointed out that "origination" should not include the mere commitment to lend money, short of actually making a loan. The Department agrees, and has modified the definition to make this clear.

(f) Mortgage servicing – One commenter recommended a modification to the reference to reverse mortgages, and a change has accordingly been made. Contrary to the objection of another commenter, however, the reference to reverse mortgages remains in the definition because the Department believes it is consistent with the statute.

(g) Public Official – Several commenters suggested additions to the scope of “public officials” who, under the statute, “shall” be entitled, upon request, to information from the vacant and abandoned property registry established pursuant to RPAPL 1310. The Department believes that the definition is consistent with the categories listed in the statute, which are limited to public officials who represent specific state districts, counties, cities, towns and villages. Some commenters believe that the list should be expanded to include other elected officials and also non-elected officials. The Department determined not to change the definition because it believes that the definition reflects the statutory language and purpose of the registry, including that distribution of information in the registry should be limited, to avoid duplicative requests and potentially conflicting enforcement efforts, and to ensure that information in the registry remains confidential to protect the public. The statute and the regulation allow the Department discretion to release the information to other persons if it determines that such release is in the best interests of the public and confidentiality will be protected.

(h) Residential Real Property – Several commenters expressed concern about the proposed definition’s reference to buildings or structures “used for both residential and commercial purposes where no more than twenty percent of the total appraised value is attributable to the commercial purpose.” Accordingly, that part of the definition has been removed.

(i) List of covered financial institutions – One commenter observed that the definition should include state and federally chartered branches or agencies of foreign banks; that addition has been made. Another commenter objected that the definition may broaden the scope of entities that are exempt, but the Department respectfully disagrees with this assertion and has left the definition otherwise unchanged.

(k) Vacant and Abandoned – One commenter asserted that the definition should be amended to include a requirement that the mortgage securing the property be delinquent for up to 90 days prior to the first inspection. It is true that under RPAPL 1308(1), the mortgage must be delinquent to trigger the first inspection requirement, but the Department does not believe that a change is necessary to make this clear. Other commenters expressed concern that the definition is incomplete or inaccurate, but the Department respectfully disagrees because the definition tracks the language of RPAPL 1309(2).

#### 422.3 Applicability and Exemption under 1308

A number of commenters objected that, to qualify for an exemption, an entity must engage in mortgage origination, mortgage ownership, mortgage servicing and mortgage maintenance in the given calendar year. The Department agrees that an entity should be able to qualify for an exemption if it originates and owns mortgages, even if it does not service or maintain them. The language of Section 422.3(b)(1)(B) and of Section 422.3(c)(1)(B) has been changed accordingly.

Commenters also objected that the numerator and the denominator for determining the exemption are not “apples to apples,” but the Department respectfully disagrees with that comment. Both the numerator and the denominator consist of mortgages that were issued or originated in New York during the given calendar year. The formula, as set forth in the regulation, accurately measures each institution’s market participation in the mortgage industry in New York.

One commenter expressed concern that, if it does not qualify for either exemption, the inspection and maintenance obligations will apply to it retroactively. Another commenter objected that it could be required to inspect and maintain properties retroactively if it fails to qualify for the exemption in a particular year despite having qualified for the exemption in the prior year. The Department believes that the exemption provisions in Section 422.3 accurately reflect the statutory rules and that other provisions address the inspection and maintenance requirements.

One commenter objected to placing the burden of proving entitlement to the exemption on the entity seeking the exemption, but the Department believes that allocation of burden is appropriate. Another commenter suggested that entities that miss the December 31 deadline for establishing entitlement to the exemption be given an opportunity to establish good cause for the error. It remains the Department’s position that entities seeking the exemption will have ample time to apply for it, but the Department has extended the deadline to February 28, 2017, for the 2017 calendar year, the first full year that the statute and regulation will be in effect.

Two commenters suggested that the Department add a provision making clear that entities that qualify for the exemption under the statute but that are also subject to the Best Practices Agreement with the Department will continue to be subject to the Best Practices Agreement. The Department has accepted this suggestion.

Two commenters observed that it is unclear whether local laws and ordinances regarding inspection and maintenance of vacant and abandoned properties are preempted by the statute. RPAPL 1308(13) provides that local laws and ordinances may not exceed the maintenance requirements imposed on state or federally chartered banks, savings banks, savings and loan associations and credit unions that are subject to RPAPL 1308, mean-

ing that entities that are not exempt must comply with such local laws and ordinances. The Department sees no need, however, to restate this provision of the statute in the regulation.

Finally, one commenter expressed concern that entities might structure their businesses in such a way as to avoid the obligations created by the statute. The Department believes that such concerns can best be addressed by the Department’s general investigative and enforcement authority.

#### 422.4, 422.5 Vacant and Abandoned Property Reporting and Quarterly Reporting

A number of commenters expressed concerns that the reporting requirements impose burdens. On the whole, the Department believes that the requirements in the regulation – including quarterly reporting – are consistent with the Department’s mandate to issue regulations necessary to implement and enforce the provisions of the statute. While the Department has eliminated the quarterly reporting requirement that reporters identify the persons, and their employers, who have conducted inspections and who have secured and maintained property, mortgagees will still be required to maintain such information in their books and records, subject to inspection by the Department. All other reporting requirements remain the same because they are, in the Department’s view, essential to making sure that the obligations imposed by the statute are met.

Some commenters also expressed concern about providing sensitive, private and confidential information to the Department. In some respects, these commenters further asserted, the reporting requirements may exceed reporting permitted under federal law. The Department believes that these concerns are adequately addressed by the fact that the information reported to the Department is deemed confidential under RPAPL 1310 and that the Department only intends to release limited information from the registry about a particular property – such as the address of the property and contact information for the servicer – to the extent that any information is released at all, subject to confidentiality agreements.

Several commenters objected to the “should have learned” language in Section 422.4(b), which is taken directly from the statute, and to the “due diligence” standard in Section 422(c). The Department believes that the “due diligence” standard captures how a mortgagee or mortgage loan servicer “should... learn” that a property is vacant and abandoned. The Department has adopted a definition of “due diligence” to clarify what the standard means. Taken together, Sections 422.4(b) and (c) appropriately convey that a mortgagee or mortgage loan servicer cannot avoid responsibility for inspection and maintenance by claiming that it was unaware that a property is vacant and abandoned, when that fact should have been plain from the ordinary exercise of due diligence.

One commenter recommended making it clear that the obligation to learn that a property is vacant and abandoned, and to report on that property, belongs to the mortgagee, which can delegate the responsibility to a mortgage servicer. The Department does not believe that this change is needed.

Some commenters recommended adding specific details to the reporting requirements. One believes that “status of the proceeding” is too vague, and recommends expanding the requirement to make clear that it includes the date of entry of final judgment and the scheduled sale of the property, but the Department believes that it is commonly understood that such information is what “status of the proceeding” calls for. Another suggested requiring the address of the subject property to be included; that reporting requirement has been made explicit in the regulation. Another commenter favored adding contact information for third-party vendors, but the Department disagrees. Finally, a commenter suggested clarifying that the contact number for the servicer responsible for maintaining the property should be the number of someone actually responsible for handling questions about a vacant and abandoned property, not just a customer service number. Again, the Department believes no change is necessary, although it expects that registrants will be providing adequate information to the Department consistently with the goals of the statute.

#### 422.6 Applicability of RPAPL 1310 Reporting Requirements

Some commentators expressed concern that it is unclear who bears the primary or initial burden for reporting, the mortgagee or the mortgage loan servicer. The Department believes that the regulation is consistent with the language of the statute, which places the reporting burden on the mortgagee or the mortgage loan servicer, meaning that either or both may be held responsible if the reporting requirements are not met.

#### 422.7 Federal Law and Federal Guidelines

It was argued that, under the language of the RPAPL 1308(10), compliance with federal guidelines should be deemed compliance with the maintenance obligations in the statute. As to the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association, the Department has accepted this proposition in the regulation, based upon the existing federal guidelines as of the statute’s effective date; to the extent those guidelines are weakened in the future, such weaker guidelines will not be deemed compliance with the maintenance obligations in the statute.

One commenter argued that compliance with the statute is not required

where the statute imposes an obligation that is greater than that imposed by federal law, court order or the investor or insurer guidelines. The Department believes, however, that more limited obligations do not necessarily obviate the need to comply with RPAPL 1308. Accordingly, Section 422.7 is otherwise unchanged.

#### 422.8 Disclosure of Information from Registry

Some commenters expressed concern that the regulation does not go far enough to protect information in the registry, while others believe that the regulation goes too far in declaring that information in the registry is not subject to disclosure under FOIL. The Department believes that it has struck the right balance in the regulation between confidentiality and disclosure and that it has faithfully interpreted the language of the statute. Accordingly, no change to the regulation has been made.

#### 422.9 Enforcement

Several commenters suggested adding references in this section to the Executive Law, the Civil Practice Law and Rules, and "any other applicable state or federal law." The commenters expressed concern that otherwise, the scope of enforcement under the statute may be unduly narrowed. The Department does not believe that this change to the regulation is warranted, given the statute's enforcement provisions, but did clarify that the enforcement contemplated under the RPAPL would be pursuant to RPAPL section 1308(8). The regulation appropriately reflects the fact that, under the statute, the Superintendent of Financial Services is to pursue, as appropriate and in his or her sole discretion, any alleged violation of the statute. The municipality in which the property is located may also bring an action under the statute, but that authority is "in addition" to the authority given to the Superintendent and must be on ten days' notice to the Superintendent, indicating that the Superintendent is primarily responsible for the efficient and non-duplicative enforcement of the statute. That primary exercise of authority under the statute will, as reflected in the regulation, be exercised under RPAPL section 1308(8), the Financial Services Law and the Banking Law. It is not necessary, in the Department's view, to refer to any other law or procedural rules that may apply in actions or proceedings to enforce the statute.

#### 422.10 Effective Date

Several commenters expressed concern about the need for a phase-in period for the obligations imposed by the statute, particularly for mortgages that are already delinquent and for properties that are already vacant and abandoned as of the December 20, 2016 effective date. In recognition of these concerns, the Department has added phase-in provisions for certain of the obligations. Specifically, under Section 422.3, first inspections of properties with delinquent mortgages must occur by February 1, 2017, and maintenance obligations on vacant and abandoned properties do not go into effect until February 1, 2017. In addition, under Section 422.4, information about vacant and abandoned properties previously reported to the Department must be provided by February 1, 2017.

## NOTICE OF ADOPTION

### Commercial Crime Coverage Exclusions

**I.D. No.** DFS-41-16-00012-A

**Filing No.** 1112

**Filing Date:** 2016-12-06

**Effective Date:** 2017-07-01

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

**Action taken:** Addition of Part 76 (Regulation 209) to Title 11 NYCRR.

**Statutory authority:** Financial Services Law, sections 202 and 302; Insurance Law, sections 301 and 2307; and arts. 23, 24 and 34

**Subject:** Commercial Crime Coverage Exclusions.

**Purpose:** To prohibit certain insurance exclusions for loss/damage caused by an employee previously convicted of criminal offense.

**Text of final rule:** I, Maria T. Vullo, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301 and 2307 and Articles 23, 24 and 34 of the Insurance Law, do hereby promulgate Part 76 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Insurance Regulation 209), to take effect on July 1, 2017, with respect to all policies issued, renewed or delivered in this State on or after that date, to read as follows:

#### PART 76

#### (INSURANCE REGULATION 209)

#### COMMERCIAL CRIME COVERAGE EXCLUSIONS

Section 76.0 Preamble and purpose.

(a) Correction Law section 753 states that the public policy of New

York, as expressed in Correction Law Article 23-A, is to encourage the licensure and employment of persons previously convicted of one or more criminal offenses. Correction Law section 752 forbids discrimination based upon a conviction for a previous criminal offense unless there is a direct relationship between one or more of the previous offenses and the specific employment sought or held by the individual; or the granting or continuation of employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. Correction Law section 753 specifies eight factors, including the public policy of the state, to be considered in making a determination pursuant to section 752.

(b) However, commercial crime insurance policies often have provisions that will exclude coverage for loss or damage caused by an employee who has been convicted of a criminal offense, where the employer knew about the conviction prior to the loss or damage. This puts employers in the untenable position of either not being able to obtain insurance or violating the Correction Law by not hiring the individual, even though a review of the Correction Law factors would weigh in favor of employment. Given the strong public policy of the State, the Superintendent has determined that it would be an unfair method of competition or an unfair or deceptive act and practice in the conduct of the business of insurance in this state for an insurer that writes commercial crime insurance policies in this state to exclude coverage where the employer has weighed the factors set out in Correction Law Article 23-A and made a determination favorable to the employee.

#### Section 76.1 Definitions.

For purposes of this Part:

(a) Commercial crime coverage means coverage under a policy of commercial risk insurance that provides burglary and theft insurance or fidelity insurance; and

(b) Commercial risk insurance has the meaning ascribed by Insurance Law section 107(a)(47).

#### Section 76.2 Prior convictions.

No policy issued, renewed or delivered in this state that provides commercial crime coverage may exclude or limit coverage for loss or damage caused by an employee on the basis that the employee was convicted of one or more criminal offenses in this state or any other jurisdiction prior to being employed by the employer, if, after learning about an employee's past criminal conviction or convictions, the employer made a determination to hire or retain the employee utilizing the factors set out in Correction Law Article 23-A.

#### Section 76.3 Determined violation.

A contravention of this Part shall be deemed to be an unfair method of competition or an unfair or deceptive act and practice in the conduct of the business of insurance in this state, and shall be deemed to be a trade practice constituting a determined violation, as defined in section 2402(c) of the Insurance Law, in violation of section 2403 of such law.

**Final rule as compared with last published rule:** Nonsubstantial changes were made in sections 76.0(a) and 76.2.

**Text of rule and any required statements and analyses may be obtained from:** Celeste Koeleveld, NYS Department of Financial Services, One State Street, New York, NY 10004, (212) 709-1640, email: Celeste.Koeleveld@dfs.ny.gov

#### Revised Regulatory Impact Statement

1. Statutory authority: Sections 202 and 302 of the Financial Services Law and Sections 301 and 2307 and Articles 23, 24 and 34 of the Insurance Law. Financial Services Law Sections 202 and 302 and Insurance Law Section 301 authorize the Superintendent of Financial Services (the "Superintendent") to prescribe regulations interpreting the provisions of the Insurance Law and to effectuate any power granted to the Superintendent under the Insurance Law.

Insurance Law Section 2307 sets forth the requirement that property/casualty insurance policies shall not be misleading or violative of public policy. Articles 23 (Property/Casualty Insurance Rates) and 34 (Insurance Contracts-Property/Casualty) are the general articles applicable to most property/casualty insurance policies. Article 24 prohibits any insurer from engaging in unfair methods of competition or unfair and deceptive acts or practices.

2. Legislative objectives: Correction Law section 753 states that the public policy of New York, as expressed in Correction Law Article 23 -A, is to encourage the licensure and employment of persons previously convicted of one or more criminal offenses. The law forbids discrimination based upon a conviction for a previous criminal offense unless there is a direct relationship between one or more of the previous offenses and the specific employment sought or held by the individual; or the granting or continuation of employment would involve an unreasonable risk to

property or to the safety or welfare of specific individuals or the general public. Section 753 of the Correction Law specifies eight factors, including the public policy of the state, to be considered in making a determination pursuant to section 752.

However, commercial crime insurance policies often have provisions that will exclude coverage for loss or damage caused by an employee who has been convicted of a criminal offense, where the employer knew about the conviction prior to the loss or damage. This puts employers in the untenable position of either not being able to obtain insurance or violating the Correction Law by not hiring the individual, even though a review of the Correction Law factors would weigh in favor of employment. Given the strong public policy of the State, the Superintendent has determined that it would be an unfair method of competition or an unfair or deceptive act and practice in the conduct of the business of insurance in this state for an insurer that writes commercial crime insurance policies in this state to exclude coverage where the employer has weighed the factors and made a determination favorable to the employee.

3. Needs and benefits: This rule will prohibit an insurer that writes a commercial crime insurance policy from excluding coverage for loss or damage caused by an employee on the basis that the employee was convicted of one or more criminal offenses in this state or any other jurisdiction prior to being employed by the employer, provided that, after learning about the employee's past criminal conviction or convictions, the employer made a determination to hire or retain the employee utilizing the factors set out in Correction Law Article 23-A. This requirement will further the public policy of New York as stated in Correction Law Article 23-A. Because the employer would have to make a determination utilizing the statutory factors, the risk to insurers should be mitigated. The Department is not aware of any data that would indicate that an employee with a criminal history who has undergone a background check consistent with Article 23-A is any more of an insurance risk than an employee without such a criminal history. These factors include the specific duties and responsibilities necessarily related to the employment sought; the bearing, if any, the offense or offenses will have on the person's ability to perform these duties; the time that has elapsed since the time of the offense; the age of the person at the time of the offense, the seriousness of the offense, information about the person's rehabilitation and good conduct; and the legitimate interest of the employer in protecting property and safety.

4. Costs: Insurers that write commercial crime insurance will incur some one-time costs to revise their policy forms and, where the forms have to be filed with the Superintendent, to refile those forms with the Superintendent.

This rule does not impose compliance costs on state or local governments. The Department of Financial Services does not anticipate that it will incur additional costs, although there will be an increased number of filings.

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

6. Paperwork: Insurance companies will have to submit appropriate filings.

7. Duplication: This rule will not duplicate any existing state or federal rule.

8. Alternatives: One alternative would be to continue to allow insurers to exclude the coverage. However, it is unacceptable not to protect employers against losses when they are complying with the strong public policy of the State in hiring individuals who have been convicted of criminal offenses. Another alternative would be simply to prohibit insurers from excluding coverage, regardless of whether the employer considered the Article 23-A factors. However, that would impose a greater risk on insurers than would be necessary to implement the State's public policy mandate.

9. Federal standards: There are no federal standards.

10. Compliance schedule: The rule would be effective 90 days after publication in the State Register with respect to all policies issued, renewed or delivered in this State on or after that date. This should give insurers sufficient time to revise their policy forms and to make appropriate policy form filings with the Superintendent.

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

The non-substantive changes made to the proposed rule have no bearing on the last published Regulatory Flexibility Analysis for small businesses and local governments. Therefore, no changes have been made to the RFA.

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

The non-substantive changes made to the proposed rule have no bearing on the last published Rural Area Flexibility Analysis. Therefore, no changes have been made to the RAFA.

#### **Revised Job Impact Statement**

The Department of Financial Services finds that this rule should not have any negative impact on jobs and employment opportunities. The rule

simply requires property/casualty insurers that write commercial crime insurance policies to provide coverage for loss or damage caused by an employee on the basis that the employee has been convicted of one or more criminal offenses in this state or any other jurisdiction (prior to being employed by the employer), provided that, after learning about the employee's past criminal conviction or convictions, the employer made a determination to hire or retain the employee utilizing the factors set out in Correction Law Article 23-A. If anything, the rule may make the policies more desirable to insureds and may increase the likelihood that they would purchase the coverage.

#### **Initial Review of Rule**

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2019, which is no later than the 3rd year after the year in which this rule is being adopted.

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

The Department of Financial Services ("Department") received written and oral comments from several associations that represent property/casualty insurers and an organization that describes itself as a "coalition of advocates who work to change laws and policies to ensure that people who have had contact with the criminal justice system have a fair chance to succeed as full community members" ("Coalition").

##### **Comment**

Several insurance association commenters expressed concern that, by prohibiting an exclusion that is typical in the vast majority of commercial crime policies, the proposed regulation would undermine how risk is addressed under a commercial crime policy, and could make commercial crime policies less available or more expensive.

##### **Department's Response**

The Department recognizes these concerns, but no data has been provided to the Department supporting increased risk or increased rates. No documentation has been provided to indicate that convicted persons present a greater risk of loss than those who have not been convicted where a Correction Law Article 23-A analysis has been performed and a determination to hire is made taking the Article 23-A factors into account. If there is any such data, it would appropriately be addressed as part of a rate filing.

##### **Comment**

Some insurance association commenters noted that the proposed regulation addresses only the employer's knowledge of prior convictions, and not fraudulent or dishonest acts that have not led to a criminal conviction.

##### **Department's Response**

The regulation only addresses convictions, in furtherance of the New York public policy set forth in Correction Law Article 23-A. The regulation does not change any current practices where fraudulent or dishonest acts have not led to a criminal conviction.

##### **Comment**

Some commenters questioned how an insurer would be able to determine whether the employer has properly engaged in an Article 23-A analysis, and recommended that the insurer be able to review the reasonableness of the employment decision, particularly because it is the insurer who will be bearing the risk of an incorrect determination.

##### **Department's Response**

It would defeat the purpose of the Article 23-A analysis to allow the insurer to second-guess the hiring decision and the insurer may have an incentive to do so in hindsight once a claim has been submitted. Insurers may properly audit employers, however, and require them to maintain adequate records to demonstrate that the employer in fact conducted the full Article 23-A analysis.

##### **Comment**

Several insurance association commenters noted that the prohibition should only be applied prospectively.

##### **Department's Response**

As is generally the case for the Department's regulations regarding policy form requirements, the regulation is prospective and applies only to policies issued, renewed or delivered in New York on and after July 1, 2017. Although the proposal utilized an effective date of 90 days after publication in the State Register, the effective date provision has been extended in order to afford insurers time to make any filings that will be necessitated by this regulation and for the Department to issue any necessary approvals, such as for policy forms.

##### **Comment**

One insurance association commenter suggested clarifying the regulation to make clear that the commercial crime exclusion would still apply if the employer was aware of the prior conviction and hired the employee without due consideration of the Article 23-A factors. The coalition suggested language that would clarify that the regulation applies only where the insurer excludes or limits coverage for loss or damage caused by an employee on the basis that the employee was convicted of one or more criminal offenses in this state or any other jurisdiction prior to being employed by the employer.

## Department's Response

The regulation expressly states that the insurer must provide coverage only if the employer made a determination to hire or retain the employee utilizing the factors in Article 23-A. Hence no clarification is necessary. As noted, the insurer will be able to audit the insured to ensure that the determination has in fact been made. The Department has clarified that the regulation applies only where the insurer excluded or limited coverage for loss or damage caused by an employee on the basis that the employee was convicted of one or more criminal offenses in this state or any other jurisdiction prior to being employed by the employer.

## Comment

A number of insurance association commenters suggested as an alternative to the regulation the Federal Bonding Program established by the Department of Labor.

## Department's Response

While the federal program is laudable and employers should not be discouraged from using it where appropriate, it is an inadequate alternative to address the Correction Law 23-A situation because it provides only six months of free bonding coverage. Although the employer does have the option of purchasing coverage through the program, there would be an additional cost for obtaining a separate policy.

## Comment

One insurance association commenter suggested that the concern this proposed regulation seeks to address can be resolved under current commercial crime insurance policy endorsements that are already available in the marketplace, including riders to the effect that certain prior convictions will not exclude a person from coverage, or that prior dishonesty or fraud will not preclude coverage if the offense amounted to less than a certain dollar threshold or was committed prior to a certain time period. Additional questions can be raised at the time of underwriting with new endorsements tailored to the needs of the employer, and other adjustments like a lower limit or higher deductible.

## Comment

While such alternative policy provisions may work in some circumstances and should remain available, the Department does not believe that they are available on a scale sufficient to meet the policy concerns addressed by the regulation.

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## Department of Health

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### EMERGENCY RULE MAKING

#### Lead Testing in School Drinking Water

**I.D. No.** HLT-51-16-00004-E

**Filing No.** 1106

**Filing Date:** 2016-12-05

**Effective Date:** 2016-12-05

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

**Action taken:** Addition of Subpart 67-4 to Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 1370-a and 1110

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

**Specific reasons underlying the finding of necessity:** Lead exposure is associated with impaired cognitive development in children. The known adverse health effects for children from lead exposure include reduced IQ and attention span, learning disabilities, poor classroom performance, hyperactivity, behavioral problems, and impaired growth. Although measures can be taken to help children overcome any potential impairments on cognition, the effects are considered irreversible.

Lead can enter drinking water from the corrosion of plumbing materials. Facilities such as schools, which have intermittent water use patterns, may have elevated lead concentration due to prolonged water contact with plumbing material. This source is increasingly being recognized as an important relative contribution to a child's overall lead exposure. Recent voluntary testing by school districts in New York State and other jurisdictions demonstrate the need to provide clear direction to schools on the requirements and procedures to sample drinking water for lead.

Every school should supply drinking water to students that meets or exceeds federal and state standards and guidelines. Although the federal Environmental Protection Agency ("EPA") has established a voluntary

testing program—known as the "3Ts for Reducing Lead in Drinking Water in Schools"—there is no federal law that requires schools to test their drinking water for lead or that requires an appropriate response, if lead is determined to be present in school drinking water.

To help ensure that children are protected from lead exposure while in school, the Commissioner of Health has determined it necessary to file these regulations on an emergency basis. State Administrative Procedure Act § 202(6) empowers the Commissioner to adopt emergency regulations when necessary for the preservation of the public health, safety or general welfare and that compliance with routine administrative procedures would be contrary to the public interest.

**Subject:** Lead Testing in School Drinking Water.

**Purpose:** Requires lead testing and remediation of potable drinking water in schools.

**Text of emergency rule:** Pursuant to the authority vested in the Commissioner of Health by Public Health Law sections 1370-a and 1110, Subpart 67-4 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York is added, to be effective upon filing with the Secretary of State, to read as follows:

*SUBPART 67-4: Lead Testing in School Drinking Water*

*Section 67-4.1 Purpose.*

*This Subpart requires all school districts and boards of cooperative educational services, including those already classified as a public water system under 10 NYCRR Subpart 5-1, to test potable water for lead contamination and to develop and implement a lead remediation plan, where applicable.*

*Section 67-4.2 Definitions.*

*As used in this Subpart, the following terms shall have the stated meanings:*

*(a) Action level means 15 micrograms per liter (µg/L) or parts per billion (ppb). Exceedance of the action level requires a response, as set forth in this Subpart.*

*(b) Building means any structure, facility, addition, or wing of a school that may be occupied by children or students. The terms shall not include any structure, facility, addition, or wing of a school that is lead-free, as defined in section 1417 of the Federal Safe Drinking Water Act.*

*(c) Commissioner means the State Commissioner of Health.*

*(d) Department means the New York State Department of Health.*

*(e) Outlet means a potable water fixture currently or potentially used for drinking or cooking purposes, including but not limited to a bubbler, drinking fountain, or faucets.*

*(f) Potable water means water that meets the requirements of 10 NYCRR Subpart 5-1.*

*(g) School means any school district or board of cooperative educational services (BOCES).*

*Section 67-4.3 Monitoring.*

*(a) All schools shall test potable water for lead contamination as required in this Subpart.*

*(b) First-draw samples shall be collected from all outlets, as defined in this Subpart. A first-draw sample volume shall be 250 milliliters (mL), collected from a cold water outlet before any water is used. The water shall be motionless in the pipes for a minimum of 8 hours, but not more than 18 hours, before sample collection. First-draw samples shall be collected pursuant to such other specifications as the Department may determine appropriate.*

*(c) Initial first-draw samples.*

*(1) For existing buildings in service as of the effective date of this regulation, schools shall complete collection of initial first-draw samples according to the following schedule:*

*(i) for any school serving children in any of the levels prekindergarten through grade five, collection of samples is to be completed by September 30, 2016;*

*(ii) for any school serving children in any of the levels grades six through twelve that are not also serving students in any of the levels pre-kindergarten through grade five, and all other applicable buildings, collection of samples is to be completed by October 31, 2016.*

*(2) For buildings put into service after the effective date of this regulation, initial first-draw samples shall be performed prior to occupancy; provided that if the building is put into service between the effective date of this regulation but before October 31, 2016, the school shall have 30 days to perform first-draw sampling.*

*(3) Any first-draw sampling conducted consistent with this Subpart that occurred after January 1, 2015 shall satisfy the initial first-draw sampling requirement.*

*(d) Continued monitoring. Schools shall collect first-draw samples in accordance with subdivision (b) of this section again in 2020 or at an earlier time as determined by the commissioner. Schools shall continue to collect first-draw samples at least every 5 years thereafter or at an earlier time as determined by the commissioner.*

(e) All first-draw samples shall be analyzed by a laboratory approved to perform such analyses by the Department's Environmental Laboratory Approval Program (ELAP).

**Section 67-4.4 Response.**

If the lead concentration of water at an outlet exceeds the action level, the school shall:

(a) prohibit use of the outlet until:

(1) a lead remediation plan is implemented to mitigate the lead level of such outlet; and

(2) test results indicate that the lead levels are at or below the action level;

(b) provide building occupants with an adequate supply of potable water for drinking and cooking until remediation is performed;

(c) report the test results to the local health department as soon as practicable, but no more than 1 business day after the school received the laboratory report; and

(d) notify all staff and all persons in parental relation to students of the test results, in writing, as soon as practicable but no more than 10 business days after the school received the laboratory report; and, for results of tests performed prior to the effective date of this Subpart, within 10 business days of this regulation's effective date, unless such written notification has already occurred.

**Section 67-4.5 Public Notification.**

(a) List of lead-free buildings. By October 31, 2016, the school shall make available on its website a list of all buildings that are determined to be lead-free, as defined in section 1417 of the Federal Safe Drinking Water Act.

(b) Public notification of testing results and remediation plans.

(1) The school shall make available, on the school's website, the results of all lead testing performed and lead remediation plans implemented pursuant to this Subpart, as soon as practicable, but no more than 6 weeks after the school received the laboratory reports.

(2) For schools that received lead testing results and implemented lead remediation plans in a manner consistent with this Subpart, but prior to the effective date of this Subpart, the school shall make available such information, on the school's website, as soon as practicable, but no more than 6 weeks after the effective date of this Subpart.

**Section 67-4.6 Reporting.**

(a) As soon as practicable but no later than November 11, 2016, the school shall report to the Department, local health department, and State Education Department, through the Department's designated statewide electronic reporting system:

(1) completion of all required first-draw sampling;

(2) for any outlets that were tested prior to the effective date of this regulation, and for which the school wishes to assert that such testing was in substantial compliance with this Subpart, an attestation that:

(i) the school conducted testing that substantially complied with the testing requirements of this Subpart, consistent with guidance issued by the Department;

(ii) any needed remediation, including re-testing, has been performed;

(iii) the lead level in the potable water of the applicable building(s) is currently below the action level; and

(iv) the school has submitted a waiver request to the local health department, in accordance with Section 67-4.8 of this Subpart; and

(3) a list of all buildings that are determined to be lead-free, as defined in section 1417 of the Federal Safe Drinking Water Act.

(b) As soon as practicable, but no more than 10 business days after the school received the laboratory reports, the school shall report data relating to test results to the Department, local health department, and State Education Department, through the Department's designated statewide electronic reporting system.

**Section 67-4.7 Recordkeeping.**

The school shall retain all records of test results, lead remediation plans, determinations that a building is lead-free, and waiver requests, for ten years following the creation of such documentation. Copies of such documentation shall be immediately provided to the Department, local health department, or State Education Department, upon request.

**Section 67-4.8 Waivers.**

(a) A school may apply to the local health department for a waiver from the testing requirements of this Subpart, for a specific school, building, or buildings, by demonstrating in a manner and pursuant to standards determined by the Department, that:

(1) prior to the publication date of these regulations, the school conducted testing that substantially complied with the testing requirements of this Subpart;

(2) any needed remediation, including re-testing, has been performed; and

(3) the lead level in the potable water of the applicable building(s) is currently below the action level.

(b) Local health departments shall review applications for waivers for compliance with the standards determined by the Department. If the local health department recommends approval of the waiver, the local health department shall send its recommendation to the Department, and the Department shall determine whether the waiver shall be issued.

**Section 67-4.9 Enforcement.**

(a) Upon reasonable notice to the school, an officer or employee of the Department or local health department may enter any building for the purposes of determining compliance with this Subpart.

(b) Where a school does not comply with the requirements of this Subpart, the Department or local health department may take any action authorized by law, including but not limited to assessment of civil penalties as provided by law.

**This notice is intended** to serve only as a notice of emergency adoption. This agency intends to adopt this emergency rule as a permanent rule and will publish a notice of proposed rule making in the *State Register* at some future date. The emergency rule will expire March 4, 2017.

**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: regsna@health.ny.gov

**Regulatory Impact Statement**

**Statutory Authority:**

The statutory authorities for the proposed regulation are set forth in Public Health Law (PHL) §§ 1110 and 1370-a. Section 1110 of the PHL directs the Department of Health (Department) to promulgate regulations regarding the testing of potable water provided by school districts and boards of cooperative education services (BOCES) (collectively, "schools") for lead contamination. Section 1370-a of the PHL authorizes the Department to establish programs and coordinate activities to prevent lead poisoning and to minimize the risk of exposure to lead.

**Legislative Objective:**

The legislative objective of PHL § 1110 is to protect children by requiring schools to test their potable water systems for lead contamination. Similarly, PHL § 1370-a authorizes the Department to establish programs and coordinate activities to prevent lead poisoning and to minimize the risk of exposure to lead. Consistent with these objectives, this regulation adds a new Subpart 67-4 to Title 10 of the New York Codes, Rules, and Regulations, establishing requirements for schools to test their potable water outlets for lead contamination.

**Needs and Benefits:**

Lead is a toxic material that is harmful to human health if ingested or inhaled.

Children and pregnant women are at the greatest risk from lead exposure. Scientists have linked lead exposure with lowered IQ and behavior problems in children. It is also possible for lead to be stored in bones and it can be released into the bloodstream later in life, including during pregnancy. Further, during pregnancy, lead in the mother's bloodstream can cross the placenta, which can result in premature birth and low birth weight, as well as problems with brain, kidney, or nervous system development, and learning and behavior problems. Studies have also shown that low levels of lead can negatively affect adults, leading to heart and kidney problems, as well as high blood pressure and nervous system disorders.

Lead is a common metal found in the environment. The primary source of lead exposure for most children is lead-based paint. However, drinking water is another source of lead exposure due to the lead content of certain plumbing materials and source water.

Laws now limit the amount of lead in new plumbing materials. However, plumbing materials installed prior to 1986 may contain significant amounts of lead. In 1986, the federal government required that only "lead-free" materials be used in new plumbing and plumbing fixtures. Although this was a vast improvement, the law still allowed certain fixtures with up to 8 percent lead to be labeled as "lead free." In 2011, amendments to the Safe Drinking Water Act appropriately re-defined the definition of "lead-free." Although federal law now appropriately defines "lead-free," some older fixtures can still leach lead into drinking water.

Elevated lead levels are commonly found in the drinking water of school buildings, due to older plumbing and fixtures and intermittent water use patterns. Currently, only schools that have their own public water systems are required to test for lead contamination in drinking water.

In the absence of federal regulations governing all schools, the Department's regulations require all schools to monitor their potable drinking water for lead. The new regulations: establish an action level of 15 micrograms per liter (equivalent to parts per billion, or ppb) for lead in the drinking water of school buildings; establish initial and future monitoring requirements; require schools to develop remedial action plans if the action level is exceeded at any potable water outlet; conduct public notification of results to the school community; and report results to the

Department. The Environmental Protection Agency's "3Ts for Reducing Lead in Drinking Water in Schools, Revised Technical Guidance" will be used as a technical reference for implementation of the regulation.

**Costs:**

**Costs to Private Regulated Parties:**

These regulations only applies to public schools. No private schools are affected.

**Costs to State Government and Local Government**

These regulations applies to schools, which are a form of local government. There are approximately 733 school districts and 37 BOCES in New York State, which include over 5,000 school buildings that will be subject to this regulation.

The regulations require schools to test each potable water outlet for lead, in each school building occupied by children, unless the building is determined to be lead-free pursuant to federal standards. The cost for a single lead analysis ranges from \$20 - \$75 per sample. Initial monitoring requires one sample per outlet. The number of outlets will vary from building to building.

If lead is detected above 15 ppb at any potable water outlet, the outlet must be taken out of service and a remedial action plan must be developed to mitigate the lead contamination, at the school's initial expense. Remediation costs can vary significantly depending on the plumbing configuration and source of lead. The school will also incur minor costs for notification of the school community and local health department, posting the information on their website, and reporting electronically to the Department. Recently enacted legislation authorizes schools to receive State Aid through the State Education Department ("SED") to defray these costs.

Local health departments will also incur some administrative costs related to tracking local implementation, reviewing waiver applications, and compliance oversight. These activities will be eligible for State Aid through the Department's General Public Health Work program.

**Local Government Mandates:**

Schools, as a form of local government, are required to comply with the regulations, as detailed above.

**Paperwork:**

The regulation imposes recordkeeping requirements related to: monitoring of potable water outlets; notifications to the public and local health department; and electronic reporting to the Department.

**Duplication:**

There will be no duplication of existing State or Federal regulations.

**Alternatives:**

There are no significant alternatives to these regulations, which are being promulgated pursuant to recent legislation.

**Federal Standards:**

There are no federal statutes or regulations pertaining to this matter. However, the Department's regulations are consistent with the United States Environmental Protection Agency's guidance document titled 3Ts for Reducing Lead in Drinking Water in Schools, Revised Technical Guidance (available at: [www.epa.gov/sites/production/files/2015-09/documents/toolkit\\_leadschools\\_guide\\_3ts\\_leadschools.pdf](http://www.epa.gov/sites/production/files/2015-09/documents/toolkit_leadschools_guide_3ts_leadschools.pdf)). EPA's document will serve as guidance to schools for implementing the program.

**Compliance Schedule:**

For existing buildings put into service as of the effective date of this regulation, all sampling shall be performed according to the following schedule:

(i) for any school serving children in any of the levels prekindergarten through grade five, collection of samples is to be completed by September 30, 2016;

(ii) for any school serving children in any of the levels grades six through twelve that are not also serving students in any of the levels pre-kindergarten through grade five, and all other applicable buildings, collection of samples is to be completed by October 31, 2016.

For buildings put into service after the effective date of this regulation, sampling shall be performed prior to occupancy.

**Regulatory Flexibility Analysis**

**Effect on Small Business and Local Governments:**

This regulation applies to schools, which are a form of local government. As explained in the Regulatory Impact Statement, the new regulations: establish an action level of 15 micrograms per liter (equivalent to parts per billion, or ppb) for lead in the drinking water of school buildings; establish initial and future monitoring requirements; require schools to develop remedial action plans if the action level is exceeded at any potable water outlet; conduct public notification of results to the school community; and report results to the Department. The Environmental Protection Agency's 3Ts for Reducing Lead in Drinking Water in Schools, Revised Technical Guidance will be used as a technical reference for implementation of the regulation. Local health departments will also incur some administrative costs related to tracking local implementation and oversight of the regulation.

Additionally, the regulations require the services of a laboratory certified by the Department under its Environmental Laboratory Approval Program (ELAP). Some schools may also wish to hire environmental consultants to assist with compliance. Some labs and environmental consultants qualify as small businesses and, at least initially, their services will be in greater demand due to the new regulation.

**Compliance Requirements:**

As noted above, the new regulations: establish an action level of 15 micrograms per liter (equivalent to parts per billion, or ppb) for lead in the drinking water in school buildings; establish initial and future monitoring requirements; require schools to develop remedial action plans if the action level is exceeded at any potable water outlet; conduct public notification of results to the school community; and requiring reporting of results to the Department.

**Reporting and Recordkeeping:**

The regulation will impose new monitoring, reporting, and public notification requirements for schools.

**Professional Services:**

As noted above, the regulations require the services of a laboratory certified by the Department under its Environmental Laboratory Approval Program (ELAP). Some schools may also wish to hire environmental consultants to assist with compliance.

**Compliance Costs:**

The regulation will require schools to test each potable water outlet for lead, in each school building occupied by children. The cost for a single lead analysis ranges from \$20 - \$75 per sample. Initial monitoring requires one sample per outlet. The number of outlets will vary from building to building.

If lead is detected above 15 ppb at any potable water outlet, the outlet must be taken out of service and a remedial action plan must be developed to mitigate the lead contamination, at the school's expense. Remediation costs can vary significantly depending on the plumbing configuration and source of lead. The school will also incur minor costs for notification of the school community and local health department, posting the information on their website, and reporting electronically to the Department. Recently enacted legislation authorizes schools to receive State Aid through the State Education Department ("SED") to defray these costs.

Local health departments will also incur some administrative costs related to tracking local implementation, reviewing waiver applications, and compliance oversight. These activities will be eligible for State Aid through the Department's General Public Health Work program.

**Cost to Private Parties:**

There are no costs to private parties.

**Economic and Technological Feasibility:**

The technology for lead testing of drinking water is well-established. With respect to schools' costs of compliance, State Aid will be available through the State Education Department to ensure that compliance is feasible. Local health department activities will be eligible for State Aid through the Department's General Public Health Work program.

**Minimizing Adverse Impact:**

Any school that has already performed testing in compliance with these regulations, as far back as January 1, 2015, does not need to perform sampling again. Further, consistent with the requirements of PHL § 1110, if a school has performed testing that substantially complies with the regulations, the school may apply to the Department for a waiver, so that additional testing is not required. In either case, the requirement to report sample results, and other requirements, remain in place.

School buildings that are determined to be "lead-free," as defined in section 1417 of the Federal Safe Drinking Water Act, do not need to test their outlets. School will be required to make available on their website a list of all buildings that are determined to be lead-free.

**Small Business and Local Government Participation:**

Although small businesses were not consulted on these specific regulations, the dangers of lead in school drinking water has garnered significant local, state, and national attention. The New York State School Board Association (NYSSBA) requested a meeting with the Department to discuss the impacts of the enabling legislation. NYSSBA provided feedback on testing, prior monitoring, and other matters. The Department took this feedback into consideration when drafting the regulation. The Department will also conduct public outreach, and there will be an opportunity to comment on the proposed permanent regulations. The Department will review all public comments received.

**Rural Area Flexibility Analysis**

Pursuant to Section 202-bb of the State Administrative Procedure Act (SAPA), a rural area flexibility analysis is not required. These provisions apply uniformly throughout New York State, including all rural areas. The proposed rule will not impose an adverse economic impact on rural areas, nor will it impose any disproportionate reporting, recordkeeping or other compliance requirements on the regulated entities in rural areas.



**Job Impact Statement****Nature of Impact:**

The Department expects there to be a positive impact on jobs or employment opportunities. Some school districts will likely hire firms or individuals to assist with regulatory compliance. Schools impacted by this amendment will require the professional services of a certified laboratory to perform the analyses for lead, which will create a need for additional laboratory capacity.

**Categories and Numbers Affected:**

The Department anticipates no negative impact on jobs or employment opportunities as a result of the proposed regulations.

**Regions of Adverse Impact:**

The Department anticipates no negative impact on jobs or employment opportunities in any particular region of the state.

**Minimizing Adverse Impact:**

Not applicable.

**Assessment of Public Comment**

Public comments were submitted to the New York State Department of Health (Department) on the Emergency Regulation, Subpart 67-4 of Title 10 of the New York State Codes, Rules and Regulations (NYCRR), which requires public schools and boards of cooperative educational services (BOCES) to test all potable water outlets for lead contamination and to take responsive actions to remediate outlets that exceed the lead action level. The Department received comments from two school organizations, one private citizen, and one advocacy organization. These comments and the Department's responses are summarized below.

COMMENT: One commenter requested that the permanent regulation clarify whether the regulation applies only to public schools and BOCES or if charter schools are included in the regulation.

RESPONSE: Consistent with the Department's statutory authority and published guidance, these regulations only apply to public schools districts and BOCES. Charter schools are not required to comply with this regulation, although voluntary compliance with the standards is encouraged. This will be clarified in the permanent regulations.

COMMENT: One commenter requested that the regulation include the US Environmental Protection Agency's sampling procedures for follow-up testing to confirm high lead levels.

RESPONSE: Public Health Law § 1110 directs schools to perform periodic first-draw sampling. First-draw sampling yields meaningful lead test results that are representative of water that is being consumed under normal use conditions, and it establishes a baseline for lead concentrations at all consumptive outlets. Although the regulation does not require second-draw or flush samples, schools may choose to conduct such additional sampling to help identify the source of the elevated lead levels.

COMMENT: One commenter questioned why private schools, day-cares, and facilities that house after school programs are not required to comply with this regulation. The commenter also asked why buildings that were once used as school buildings but have since been used for alternative purposes are not included in this regulation.

RESPONSE: Public Health Law § 1110 only applies to public school districts and BOCES. However, the Department encourages voluntary compliance with this regulation for all organizations and facilities that house children, whenever possible.

COMMENT: One commenter suggested that the Department should monitor schools' ability to meet testing deadlines and offer technical assistance if necessary.

RESPONSE: The Department and local health departments conduct regular monitoring of school progress relating to completion of sampling and reporting requirements through compliance check reports. During the initial round of testing completed October 31, the Department published Frequently Asked Questions and other guidance documents, performed outreach to school districts with the help of local health departments to offer assistance, and conducted multiple webinars to assist school districts in understanding sampling and reporting requirements. The Department's district offices and staff from the local health departments continue follow up directly with those schools, within their jurisdiction, who have not yet completed the compliance requirements. The Department continues to perform outreach activities to facilitate compliance.

COMMENT: One commenter requested that the Department revise the lead action levels, based on information provided by the commenter.

RESPONSE: The Department continues to evaluate risk assessment information on lead in drinking water as more information and research becomes available. However, Public Health Law § 1110 specifies that the lead level must be consistent with the standard under federal regulations issued pursuant to the Safe Drinking Water Act, which is also 15 ppb.

COMMENT: One commenter requested that the regulations refrain from using the label of "lead-free" with respect to schools.

RESPONSE: Public Health Law § 1110 establishes use of the term "lead free" and provides that this term will have the same meaning as in section 1417 of the federal safe drinking water act. The Department's use

of this term and its meaning are governed by state and federal law, respectively.

COMMENT: One commenter suggested that the Department establish clear standards for testing protocols.

RESPONSE: The Department has published on its website several reference documents to assist the schools with implementation of this regulation. The reference materials include: a video illustrating proper sampling protocols; a quick reference guide for the regulation; a Frequently Asked Questions document; example result notification letter to parents and the school community; example signs to be used during remediation activities; instructions for finding a certified laboratory for testing. These reference materials can be found at [http://www.health.ny.gov/environmental/water/drinking/lead/lead\\_testing\\_of\\_school\\_drinking\\_water.htm](http://www.health.ny.gov/environmental/water/drinking/lead/lead_testing_of_school_drinking_water.htm).

COMMENT: One commenter suggested that the Department clarify the type of reporting required in this regulation, by providing information on a searchable database and by interpreting the test results posted on the Department's website.

RESPONSE: The Department is currently verifying the integrity of data in the statewide electronic reporting system. In the near future, the Department intends to provide all reported data to the public via its Health Data NY website. This will allow all stakeholders access to information on lead in school drinking water in real time.

COMMENT: One commenter suggested that the Department should reevaluate the requirement that schools retest every 5 years, and suggested the requirement of systematic spot testing.

RESPONSE: While the regulations establish a minimum testing interval of once every five years, the Commissioner retains authority to order additional testing of one or all schools at any time. The Department will consider whether targeted or random testing requirements should be included in the permanent regulation.

## PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

**Federal Conditions of Participation**

**I.D. No.** HLT-51-16-00003-P

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

**Proposed Action:** Amendment of Part 405 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, section 2803

**Subject:** Federal Conditions of Participation.

**Purpose:** To reflect amendments consistent with updated Federal Conditions of Participation.

**Text of proposed rule:** Paragraph (4) of subdivision (f) of section 405.2 is amended to read as follows:

(4) a physician, or a [registered physician's] *licensed physician* assistant under the general supervision of a physician, or a nurse practitioner in collaboration with a physician, is on duty at all times in the hospital except that the commissioner may approve substitute coverage, for all or part of each day, by each patient's attending physician when these physicians are immediately available to the hospital by telephone, and available in person or by *telemedicine* within [20] 30 minutes as needed, upon a hospital demonstrating to the commissioner that:

(i) all patients are medically stable and patients who become medically unstable are promptly transferred to an appropriate receiving hospital in accordance with section 400.9 of this Title;

(ii) the hospital does not operate an emergency service; and

(iii) the entire hospital has less than 25 approved beds[.].

Paragraph (10) of subdivision (b) of section 405.3 is amended to read as follows:

(10) the provision for a physical examination and recorded medical history for all personnel including all employees, members of the medical staff, contract staff, students and volunteers, whose activities are such that a health impairment would pose a potential risk to patients. The examination shall be of sufficient scope to ensure that no person shall assume his/her duties unless he/she is free from a health impairment which is of potential risk to the patient or which might interfere with the performance of his/her duties, including the habituation or addiction to depressants, stimulants, narcotics, alcohol or other drugs or substances which may alter the individual's behavior. The hospital is required to provide such examination without cost for all employees who are required to have such examination. For personnel whose activities are such that a health impairment would neither pose a risk to patients nor interfere with the performance of his/her duties, the hospital shall conduct a health status assessment in order to determine that the health and well-being of patients are

not jeopardized by the condition of such individuals. The hospital shall require the following of all personnel, with the exception of those physicians who are practicing medicine [form] from a remote location [outside of New York State], as a condition of employment or affiliation:

Paragraph (3) of subdivision (b) of section 405.5 is amended to read as follows:

(3) Written nursing care plans shall be kept current. Such plans shall indicate what nursing care is needed, how it is to be provided, and the methods, approaches and mechanisms for ongoing modifications necessary to ensure the most effective and beneficial results for the patient. Patient education and patient/family knowledge of care requirements shall be included in the nursing plan. *The nursing care plan may be integrated into the overall interdisciplinary plan of care.*

Subdivision (c) of section 405.5 is amended to read as follows:

(c) Administration of drugs. All drugs and biologicals shall be administered in accordance with the orders of the practitioner or practitioners responsible for the patient's care as specified under section 405.2 of this Part, and generally accepted standards of practice. They shall be administered by a licensed physician or registered professional nurse, or other personnel in accordance with applicable licensing requirements of title 8 of the New York State Education Law, *except for the self-administration of medications as set forth in paragraphs (4) and (5) of this subdivision, and in accordance with [approved] hospital policies and procedures. For purposes of this subdivision, "self-administration" means administration by the patient or the patient's caregiver, including but not limited to a caregiver pursuant to section 2994-ii(3) of the Public Health Law, or a designated caregiver pursuant to section 3360(5) of the Public Health Law.*

(4) Hospitals, in accordance with hospital policies and procedures, may authorize hospital-issued prescription and non-prescription medications to be self-administered, provided that:

- (i) a practitioner responsible for the care of the patient in the hospital has issued an order permitting self-administration;
- (ii) the capacity of the patient or the patient's caregiver to administer the medication has been assessed;
- (iii) the patient or the patient's caregiver has been given instructions for the safe and accurate administration of the medication;
- (iv) the security of the medication is addressed; and
- (v) documentation is made of the administration of each medication in the patient's record, as reported by the patient or the patient's caregiver.

(5) Hospitals, in accordance with hospital policies and procedures, may authorize a patient to bring in his or her own medications, including prescription medications, non-prescription medications and medical marijuana as defined in section 3360(8) of the Public Health Law, and self-administer such medications, provided that:

- (i) a practitioner responsible for the care of the patient in the hospital has issued an order permitting self-administration of the medication the patient brought into the hospital, and in the case of medical marijuana, upon presentation of the patient or designated caregiver's registry identification card issued pursuant to section 3363 of the Public Health Law;
- (ii) the capacity of the patient or the patient's caregiver to administer the medication has been assessed;
- (iii) a determination is made concerning whether the patient or the patient's caregiver needs instruction on the safe and accurate administration of the medication;
- (iv) the medication is identified and visually evaluated for integrity;
- (v) the security of the medication is addressed;
- (vi) documentation is made of the administration of each medication in the patient's record, as reported by the patient or the patient's caregiver; and

(vii) if a patient dies in the hospital, any unused prescription medication shall be destroyed or disposed of in accordance with all applicable state and federal laws and regulations. Such prescription medications may not be turned over to the patient's caregiver. In the case of medical marijuana, it may be turned over to the deceased patient's designated caregiver or to appropriate law enforcement for destruction or disposal.

Paragraph (8) of subdivision (c) of section 405.10 is amended to read as follows:

(8) The hospital shall implement policies and procedures regarding the use and authentication of verbal orders, including telephone orders. [Such orders shall be used sparingly, shall be accepted, recorded and authenticated only in accordance with applicable scope of practice provisions for licensed, certified or registered practitioners, consistent with Federal and State law, and with hospital policies and procedures and shall be authenticated by the prescribing practitioner or, until January 26, 2012, by another practitioner responsible for the care of the patient and authorized to write such an order, within 48 hours, also in accordance with such

policies and procedures and Federal and State law.] *Such policies and procedures must:*

- (i) Specify the process for accepting and documenting such orders;
- (ii) Ensure that such orders will be issued only in accordance with applicable scope of practice provisions for licensed, certified or registered practitioners, consistent with Federal and State law; and
- (iii) Specify that such orders must be authenticated by the prescribing practitioner, or by another practitioner responsible for the care of the patient and authorized to write such orders and the time frame for such authentication.

Subparagraph (ii) of paragraph (1) of subdivision (d) of section 405.19 is amended to read as follows:

405.19 Emergency services.

(ii) There shall be at least one emergency service attending physician on duty 24 hours a day, seven days a week. For hospitals that exceed 15,000 unscheduled visits annually, the attending physician shall be present and available to provide patient care and supervision in the emergency service. As necessitated by patient care needs, additional attending physicians shall be present and available to provide patient care and supervision. Appropriate subspecialty availability as demanded by the case mix shall be provided promptly in accordance with patient needs. For hospitals with less than 15,000 unscheduled emergency visits per year, the supervising or attending physician need not be present but shall be available within 30 minutes of patient presentation, *in person or by telemedicine*, provided that at least one physician, nurse practitioner, or licensed physician assistant shall be on duty in the emergency service 24 hours a day, seven days a week. The hospital shall develop and implement protocols specifying when physicians must be present.

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

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

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

#### Regulatory Impact Statement

Statutory Authority:

The statutory authority for the promulgation of this regulation is contained in Public Health Law (PHL) section 2803. Section 2803 authorizes the Public Health and Health Planning Council (PHHPC) to adopt and amend rules and regulations, subject to the approval of the Commissioner, to implement the purposes and provisions of PHL Article 28, and to establish minimum standards governing the operation of health care facilities.

Legislative Objectives:

The legislative objective of PHL Article 28 includes the protection and promotion of the health of the residents of New York State by requiring the efficient provision and proper utilization of health services, of the highest quality at a reasonable cost.

Needs and Benefits:

This regulation amends Sections 405.2 (Governing Body), 405.3 (Administration), 405.5 (Nursing Services), 405.10 (Medical Records), and 405.19 (Emergency Services).

The Centers for Medicare and Medicaid Services (CMS) requires hospitals to meet specified Conditions of Participation (CoPs) in order to participate in the federal Medicare and Medicaid programs. The CoPs outline the basic requirements related to a hospital's structure, operations and delivery of patient care. The intent is to protect the health and safety of patients. CMS reviewed the existing CoPs and made numerous changes effective on July 16, 2012. 77 Fed. Reg. 29034 (May 16, 2012). As a result, New York State general hospital regulations are being revised to reflect the federal changes.

Sections 405.2(f)(4) and 405.19(d)(1)(ii) are being amended to create a consistent 30 minute timeframe for a physician to be available to patients, and to clarify that such availability may be provided in person or by telemedicine. Current regulations require this to occur in 20 minutes and do not mention telemedicine. Section 405.3(b)(10) is amended to provide that the existing exemption for immunization requirements applies to remote locations within New York State.

Section 405.5(b)(3) permits a nursing care plan to be integrated into the overall interdisciplinary plan of care.

Consistent with changes to the federal CoPs, section 405.5(c) allows patients to self-administer certain medications. Federal regulations at 42 CFR § 482.23(c)(6) allow hospitals the flexibility to develop and implement policies and procedures for a patient and his or her caregivers/support persons to self-administer specific medications (such as non-controlled drugs and biologicals). See 77 Fed. Reg. 29048 (May 16, 2012). In addition, section 405.10(c)(8) changes the requirements for verbal orders by removing the requirement that verbal orders be authenticated within 48

hours. In addition, these regulations permit self-administration of medical marijuana, subject to appropriate conditions and restrictions.

**Costs:**

Allowing the supervising or attending physician to be available by telemedicine rather than in person, and within 30 minutes instead of 20 minutes, should not cause hospitals to incur additional costs. No additional costs should be incurred from the provision clarifying that the existing exemption for immunization requirements applies to remote locations within New York State. The provision to permit the nursing care plan to be integrated into the overall interdisciplinary plan of care should incur no additional costs. Authorization for the use and authentication of verbal orders including telephone orders may require updating policies and procedures. The provision authorizing hospitals to develop policies and procedures regarding self-administration is permissive rather than mandatory.

**Local Government Mandates:**

This provision does not impose any additional mandates on local governments.

**Paperwork:**

As noted above, policies and procedures will need to be developed and/or updated for authorization for the use and authentication of verbal orders, including telephone orders. Hospitals that authorize medications to be self-administered will need to document the administration of each medication in the patient's record.

**Duplication:**

This regulation does not duplicate any other State or federal regulation.

**Alternatives:**

The Department reviewed the federal Conditions of Participation (CoPs) against what is currently in the Part 405 regulations. The related amendments to Part 405 are needed to make State regulation consistent with federal regulation. An alternative of not including medical marijuana as a medication that can be self-administered was considered; however, the Department determined that its inclusion would help facilitate the administration of medical marijuana products in healthcare facilities and ensure continued access for patients.

**Federal Standards:**

This proposal does not conflict or duplicate federal provisions. These amendments amend the general hospital provisions to reflect the federal CoP.

**Compliance Schedule:**

This proposed amendment will become effective upon publication of a Notice of Adoption in the New York State Register.

**Regulatory Flexibility Analysis**

**Effect of Rule:**

The proposed regulation amends Part 405 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York, to reflect changes made by the Centers for Medicare and Medicaid Services' (CMS) Conditions of Participation (CoPs) in order to participate in the federal Medicare and Medicaid programs. The proposed regulatory amendments will impact small businesses and local governments that operate hospitals pursuant to Part 405.

**Compliance Requirements:**

Sections 405.2(f)(4) and 405.19(d)(1)(ii) are being amended to create a consistent 30 minute timeframe for a physician to be available to patients, and to clarify that such availability may be provided in person or by telemedicine. Current regulations require this to occur in 20 minutes and do not mention telemedicine. Section 405.3(b)(10) is amended to provide that the existing exemption for immunization requirements applies to remote locations within New York State.

Section 405.5(b)(3) permits a nursing care plan to be integrated into the overall interdisciplinary plan of care.

Consistent with changes to the federal CoPs, section 405.5(c) allows patients to self-administer certain medications. Federal regulations at 42 CFR § 482.23(c)(6) allow hospitals the flexibility to develop and implement policies and procedures for a patient and his or her caregivers/support persons to self-administer specific medications (such as non-controlled drugs and biologicals). See 77 Fed. Reg. 29048 (May 16, 2012). In addition, section 405.10(c)(8) changes the requirements for verbal orders by removing the requirement that verbal orders be authenticated within 48 hours. In addition, these regulations permit self-administration of medical marijuana, subject to appropriate conditions and restrictions.

**Professional Services:**

Practitioners who are responsible for the care of patients and the nursing staff will need to adhere to the policies and procedures regarding the use and authentication of verbal orders, including telephone orders, in accordance with applicable scope of practice provisions for licensed, certified or registered practitioners consistent with Federal and State law. To the extent a hospital adopts policies and procedures allowing for medications to be self-administered, practitioners and nursing staff will also need to adhere to such policies and procedures.

**Compliance Costs:**

Allowing the supervising or attending physician to be available by telemedicine rather than in person, and within 30 minutes instead of 20 minutes, should not cause hospitals to incur additional costs. No additional costs should be incurred from the provision clarifying that the existing exemption for immunization requirements applies to remote locations within New York State. The provision to permit the nursing care plan to be integrated into the overall interdisciplinary plan of care should incur no additional costs. Authorization for the use and authentication of verbal orders including telephone orders may require updating policies and procedures. The provision authorizing hospitals to develop policies and procedures regarding self-administration is permissive rather than mandatory.

**Economic and Technological Feasibility:**

This proposal is economically and technologically feasible. The amendments provide greater flexibility or require only modest updating to policies and procedures. The provisions regarding self-administration are permissive, rather than mandatory.

**Minimizing Adverse Impact:**

For the reasons stated above, there is no adverse impact.

**Small Business and Local Government Participation:**

Outreach to the affected parties is being conducted. Organizations who represent the affected parties and the public can also obtain the agenda of the Codes, Regulations and Legislation Committee of the Public Health and Health Planning Council (PHHPC) and the proposed regulation on the Department's website. The public, including any affected party, is invited to comment during the Codes, Regulations and Legislation Committee meeting.

Dear Chief Executive Officer (CEO) letters will be sent to affected parties explaining the changes proposed as a result of the federal CoPs.

**Rural Area Flexibility Analysis**

No Rural Area Flexibility Analysis is required pursuant to section 202-bb(4)(a) of the State Administration Procedure Act (SAPA). It is apparent from the nature of the proposed amendment that it will not impose any adverse impact on rural areas, and the rule does not impose any new reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

**Job Impact Statement**

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administration Procedure Act (SAPA). It is apparent, from the nature of the proposed amendment, that it will have no impact on jobs and employment opportunities.

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

**Medical Use of Marijuana - Chronic Pain**

**I.D. No.** HLT-51-16-00006-P

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

**Proposed Action:** Amendment of sections 1004.1 and 1004.2 of Title 10 NYCRR.

**Statutory authority:** Public Health Law, sections 3360 and 3369-a

**Subject:** Medical Use of Marijuana - Chronic Pain.

**Purpose:** To add any severe debilitating or life-threatening condition causing chronic pain.

**Text of proposed rule:** Pursuant to the authority vested in the Commissioner of Health by sections 3360 and 3369-a of the Public Health Law (PHL), sections 1004.1 and 1004.2 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York are hereby amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

§ 1004.1 Practitioner registration.

(a) No practitioner shall be authorized to issue a patient certification as set forth in section 1004.2 unless the practitioner:

(1) is qualified to treat patients with one or more of the serious conditions set forth in [subdivision 7 of section 3360 of the Public Health Law or as added by the commissioner] *subdivision 1004.2(a)(8) of this Part;*

\* \* \*

§ 1004.2 Practitioner issuance of certification.

(a) Requirements for Patient Certification. A practitioner who is registered pursuant to 1004.1 of this Part may issue a certification for the use of an approved medical marijuana product by a qualifying patient. Such certification shall contain:

\* \* \*

(8) the patient's diagnosis, limited solely to the specific severe debilitating or life-threatening condition(s)[, as defined in subdivision seven of section thirty-three hundred sixty of the public health law and] listed below [as the following];

\* \* \*

(x) Huntington's disease; [or]

(xi) [any other condition added by the commissioner.] *any severe debilitating pain that the practitioner determines degrades health and functional capability; where the patient has contraindications, has experienced intolerable side effects, or has experienced failure of one or more previously tried therapeutic options; and where there is documented medical evidence of such pain having lasted three months or more beyond onset, or the practitioner reasonably anticipates such pain to last three months or more beyond onset; or*

(xii) *any other condition added by the commissioner.*

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

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

**Public comment will be received until:** 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

##### Statutory Authority:

The Commissioner of Health is authorized pursuant to Section 3369-a of the Public Health Law (PHL) to promulgate regulations necessary to effectuate the provisions of Title V-A of Article 33 of the PHL. The Commissioner of Health is also authorized pursuant to Section 3360(7) of the PHL to add serious conditions under which patients may qualify for the use of medical marihuana.

##### Legislative Objectives:

The legislative objective of Title V-A is to comprehensively regulate the manufacture, sale and use of medical marihuana, by striking a balance between relieving the pain and suffering of those individuals with serious conditions, as defined in Section 3360(7) of the Public Health Law, and protecting the health and safety of the public.

##### Needs and Benefits:

The regulatory amendments are necessary to allow registered practitioners to issue certifications for the medical use of marihuana to those patients suffering from severe debilitating pain. This amendment benefits patients with severe debilitating pain which degrades health and functional capability; where the patient has contraindications, has experienced intolerable side effects or has experienced failure of one or more previously tried therapeutic options; and where there is documented medical evidence of such pain extending three months or more beyond onset, or the practitioner reasonably anticipates that the pain will last three months or more beyond onset. Permitting the medical use of marihuana for patients suffering from chronic pain will offer an additional treatment option for those patients.

##### Costs:

##### Costs to the Regulated Entity:

Patients certified by their practitioner for the medical use of marihuana will have to pay a \$50 non-refundable application fee to register with the Medical Marijuana Program and obtain a registry identification card. However, the Department may waive or reduce this fee in cases of financial hardship. Patients will also have a cost associated with the purchase of approved medical marihuana products from registered organizations.

##### Costs to Local Government:

This amendment to the regulation does not require local governments to perform any additional tasks; therefore, it is not anticipated to have an adverse fiscal impact.

##### Costs to the Department of Health:

With the inclusion of this new serious condition, additional patient registrations will need to be processed by the Department. In addition, there may be an increase in the number of practitioners who register with the program to certify patients. This regulatory amendment may result in an increased cost to the Department for additional staffing to provide registration support for patients and practitioners, as well as certification support for registered practitioners. It is anticipated that these additional activities can be accommodated within the existing resources of the Department.

##### Local Government Mandates:

This amendment does not impose any new programs, services, duties or responsibilities on local government.

#### Paperwork:

Registered practitioners who certify patients for the program will be required to maintain a copy of the patient's certification in the patient's medical record.

#### Duplication:

No relevant rules or legal requirements of the Federal and State governments duplicate, overlap or conflict with this rule.

#### Alternatives:

The alternative would be to continue to limit serious conditions solely to those enumerated in Section 3360(7) of the Public Health Law.

#### Federal Standards:

Federal requirements do not include provisions for a medical marihuana program.

#### Compliance Schedule:

There is no compliance schedule imposed by these amendments, which shall be effective upon publication of a notice of adoption.

#### Regulatory Flexibility Analysis

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

#### Cure Period:

Chapter 524 of the Laws of 2011 requires agencies to include a "cure period" or other opportunity for ameliorative action to prevent the imposition of penalties on the party or parties subject to enforcement under the proposed regulation. The regulatory amendment authorizing the addition of this serious condition does not mandate that a practitioner register with the program. This amendment does not mandate that a registered practitioner issue a certification to a patient who qualifies for this new serious condition. Hence, no cure period is necessary.

#### Rural Area Flexibility Analysis

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

#### Job Impact Statement

No job impact statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have an adverse impact on jobs and employment opportunities.

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## New York State Joint Commission on Public Ethics

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### EMERGENCY RULE MAKING

#### Adjudatory Proceedings and Appeals Procedures for Matters Under the Commission's Jurisdiction

**I.D. No.** JPE-37-16-00003-E

**Filing No.** 1110

**Filing Date:** 2016-12-05

**Effective Date:** 2016-12-05

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

**Action taken:** Amendment of Part 941 of Title 19 NYCRR.

**Statutory authority:** Executive Law, section 94(14)

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

**Specific reasons underlying the finding of necessity:** Part J of Chapter 286, Laws of 2016, established new adjudicatory procedures for matters falling under the jurisdiction of the Joint Commission on Public Ethics ("Commission"), and provided that these changes shall take effect immediately. This regulation implements those changes to the Commission's procedures. This Emergency Re-Adoption is necessary to ensure that the Commission's new rules remain in effect pending final adoption with the next publication of the State Register, in order to provide proper

notice of the Commission's adjudicatory proceedings to all persons and entities subject to the Commission's jurisdiction. Accordingly, this emergency rule is necessary for the general welfare.

**Subject:** Adjudicatory proceedings and appeals procedures for matters under the Commission's jurisdiction.

**Purpose:** To implement legislative changes made to the Commission's adjudicatory proceedings.

**Substance of emergency rule:** Part J of Chapter 286, Laws of 2016, effected changes to the adjudicatory proceedings conducted by the Joint Commission on Public Ethics ("Commission"). In particular, Part J, Chapter 286, Laws of 2016 provides persons or entities under investigation by the Commission the right to be heard prior to a final determination by the Commission, and the right to be informed of the alleged violations of law and supporting evidence. This rule implements these changes and provides due process notice to persons and entities subject to the Commission's jurisdiction of the Commission's applicable adjudicatory proceedings.

**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. JPE-37-16-00003-EP, Issue of September 14, 2016. The emergency rule will expire December 21, 2016.

**Text of rule and any required statements and analyses may be obtained from:** Michael E. Sande, NYS Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: michael.sande@jcope.ny.gov

#### Regulatory Impact Statement

1. Statutory authority: Executive Law section 94(14) directs the Joint Commission on Public Ethics (the "Commission") to adopt rules and regulations relating to adjudicatory proceedings and appeals for matters arising under the Commission's jurisdiction.

2. Legislative objectives: To provide guidance and procedures regarding the conduct of adjudicatory proceedings and appeals for matters arising under the Commission's jurisdiction.

3. Needs and benefits: In 2012, the Commission amended its regulations regarding adjudicatory proceedings and appeals procedures in Part 941. Part J, Chapter 286, Laws of 2016, which took effect on August 24, 2016, implemented changes to the Commission's adjudicatory proceedings via amendments to the Commission's governing statute. The amended regulation will bring the Commission's regulatory procedures into accordance with its governing statute by effecting substantive changes as follows:

##### A. Notice to the Respondent and Exchange of Information

In accordance with the statute, as amended, this regulation will impose new disclosure obligations and time restrictions upon the Commission and the Respondent. Upon receipt of a sworn complaint or other information reflecting a possible or alleged violation of law, the Commission will be required to provide initial notice to the Respondent including a description of the allegations, the sections of law alleged to have been violated, and the evidence supporting such allegations. The Commission will be further required to provide to the Respondent, prior to the hearing, any additional evidence supporting the allegations that was not previously provided. The Respondent will be required to provide to the Commission, prior to the hearing, a list of possible witnesses, notice of any defenses to be presented, and supporting evidence.

##### B. Substantial Investigation Basis Report

In accordance with the statute, as amended, this regulation changes the timing of the Commission's issuance of a Substantial Basis Investigation Report ("SBIR"). Under the statute, and this amended regulation, the Commission shall issue an SBIR if it has found a substantial basis to conclude that the Respondent committed a violation of law after a hearing has been conducted. Currently an SBIR is issued after an investigation but prior to a hearing.

##### C. Summary of Amended Sections

Part 941.1 provides the purpose of the regulations.

Part 941.2 defines key terms in the regulations. The definitions are not meant to alter the scope of the existing regulations, but are instead designed to clarify those regulations.

Part 941.3 sets forth procedures, in accordance with the statute, as amended, for providing a Respondent notice of the Commission's decision to commence and investigation and conduct a hearing to determine whether a substantial basis exists to conclude a violation of law has occurred. The notice shall contain (1) the alleged violations of law and the factual basis for those allegations; (2) the time and place of the hearing; (3) the identity of the hearing officer and instructions for the submission of filings; (4) a statement concerning the provision of deaf interpretation without charge; and any other information deemed necessary or appropriate.

Part 941.4 addresses the scheduling and adjournment of hearings and the service of filings by a Respondent.

Part 941.5 provides that any person who voluntarily appears in a hearing shall be accorded the right to representation, who need not be an attorney. Any counsel or attorney for a Respondent must file a Notice of Appearance.

Part 941.6 outlines the procedure for selecting a hearing officer.

Part 941.7 outlines the powers and duties of the hearing officer. These shall include the authority to direct the parties to appear for a pre-hearing conference, and to issue findings of fact, conclusions of law, and make recommendations, where appropriate.

Part 941.8 sets forth procedures for an adjournment of a hearing.

Part 941.9 sets forth time limits, in accordance with the statute, for specific filings and submissions prior to a hearing, and for the conduct of the hearing. At least seven (7) days prior to the hearing, the Commission shall provide to the Respondent any additional evidence that was not previously described in the notice discussed in Part 941.3. At least seven (7) days before the hearing, the Respondent shall provide the Commission and hearing officer a list of possible witnesses and notice of any defenses to be presented, and supporting evidence. Any other papers, statements, proofs, and evidence shall be provided to the other party and the hearing officer, in the hearing officer's discretion and at a time to be designated by the hearing officer. The hearing officer, Executive Director or the Commission may grant an extension of time for filing such matters only upon formal request. Generally, except by consent of the parties, every hearing conducted pursuant to these rules shall be concluded within 180 days of the notice discussed in Part 941.3.

Part 941.10 sets forth specific rules for the conduct of hearings. In accordance with the statute, as amended, all hearings and procedures before the hearing officer are to be confidential. A hearing may continue if a Respondent, having been duly served with notice, fails to appear for the hearing. The hearing officer shall conduct all hearings pursuant to these rules, and shall exercise the power and authority of hearing officers as defined in the State Administrative Procedures Act and any other pertinent statute.

Part 941.11 addresses the administration of oaths at hearings.

Part 941.12 provides rules of evidence and proof. The formal rules of evidence shall not apply in hearings under the Commission's jurisdiction, but objections to evidentiary offers may be made and shall be reflected in the record. All evidence appearing in the record shall be deemed to have been validly introduced. Each party shall have the right to give sworn testimony, produce witnesses, present documentary evidence, and to examine opposing witnesses and evidence. The parties may stipulate to facts, and official notice may be taken of facts of which judicial notice could be taken.

Part 941.13 provides rules, in accordance with the statute, as amended, for the preparation and adoption of proposed findings of fact and recommendation, substantial basis investigation report, and notice of civil assessment. The hearing officer shall, within sixty (60) days of the conclusion of the hearing, make findings of fact and a recommendation as to the appropriate penalty. The Respondent shall have the opportunity to respond in writing in the form of a brief addressed to the Commission. The Commission's staff, also, shall have the right to respond in the form of a brief addressed to the Commission, and to submit a proposed Substantial Basis Investigation Report to the Commission. The Commission shall have sixty (60) days thereafter in which to vote on whether to issue a Substantial Basis Investigation Report.

Part 941.14 provides rules for the assessment of penalties and the referral of violations of law to a prosecutor for criminal prosecution.

Part 941.15 provides rules for the record of hearings.

Part 941.16 addresses the privacy and confidentiality of records and documents.

Part 941.17 provides rules for appeals from the Commission's Executive Director's denials of application to delete or exempt certain information from financial disclosure statements.

Part 941.18 provides rules for appeals from a denial of an application for an exemption under Article 1-A of the Legislative Law §§ 1-h, 1-j and 19 NYCRR Part 938.6 (Source of Funding disclosures).

Part 941.19 sets forth rules of general applicability.

Part 941.20 provides that all matters where the Commission has issued a Substantial Basis Investigation Report will be governed by the laws and adjudicatory rules in effect when such Substantial Basis Investigation Report was issued. All other matters and investigations will be governed by the provisions of this Part.

Part 941.21 provides that this Part shall take effect upon the effective date of Part J, S.8160/A.10742 (2016).

#### 4. Costs:

a. costs to regulated parties for implementation and compliance: Minimal.

b. costs to the agency, state and local government: Minimal costs to state and local governments.

c. cost information is based on the fact that there will be minimal costs

to regulated parties and state and local government for training staff on changes to the requirements. The cost to the agency is based on the estimated slight increase in staff resources to implement the regulations.

5. Local government mandate: The proposed regulation imposes no new programs, services, duties or responsibilities upon any county, city, town, village, school district, fire district, or other special district.

6. Paperwork: This regulation may require the preparation of additional forms or paperwork. Such additional paperwork is expected to be minimal.

7. Duplication: This regulation does not duplicate any existing federal, state, or local regulations.

8. Alternatives: Part J, Chapter 286, Laws of 2016, imposes an affirmative duty on the Commission to implement changes to its adjudicatory proceedings. Therefore there is no alternative to amending the Commission's existing regulation.

9. Federal standards: These regulations do not exceed any federal minimum standard with regard to a similar subject area.

10. Compliance schedule: Compliance will take effect upon adoption.

#### **Regulatory Flexibility Analysis**

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not submitted with this Notice of Emergency Re-Adoption because the proposed rule will not impose any adverse economic impact on small businesses or local governments, nor will it require or impose any reporting, record-keeping, or other affirmative acts on the part of these entities for compliance purposes. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold.

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

A Rural Area Flexibility Analysis is not submitted with this Notice of Emergency Re-Adoption because the proposed rule will not impose any adverse economic impact on rural areas, nor will compliance require or impose any reporting, record-keeping, or other affirmative acts on the part of rural areas. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold. Rural areas are not affected in any way.

#### **Job Impact Statement**

A Job Impact Statement is not submitted with this Notice of Emergency Re-Adoption because the rule will have a limited impact on jobs or employment opportunities. The Joint Commission on Public Ethics makes this finding based on the fact that the rule bears potential application only to Statewide elected officials, State officers and employee, members of the legislature and legislative employees, candidates for legislative and statewide offices, political party chairs, and lobbyists and clients engaged in lobbying activity that exceeds a certain monetary threshold. This regulation does not apply, nor relate to small businesses, economic development or employment opportunities.

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

One entity submitted five comments. The first comment suggested the addition of language to clarify that the Joint Commission on Public Ethics ("Commission") is not responsible for providing or paying the cost of legal representation for respondents in proceedings before the Commission. The Commission omitted this language because there is no question or ambiguity that the Commission bears no legal duty to provide respondents with legal representation. The second comment suggested a small change to the language of Part 941.6(d) for clarification. The Commission considers the proposed language of Part 941.6(d) to be sufficiently clear. The third comment proposed making the use of deposition transcripts at the Commission's hearings to be "subject to the Rules of Evidence." Pursuant to the proposed Part 941, the Rules of Evidence do not apply with respect to any hearings under the Commission's jurisdiction, and therefore this comment was rejected. The fourth comment suggested language regarding requests for the adjournment of a hearing, to clarify that such requests must be made at least five business days before the scheduled hearing date except "for good cause shown." The Commission adopted this suggestion in the proposed Part 941. The fifth comment suggested the provision of a specific effective date. The Commission adopted this suggestion in the proposed Part 941.

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

#### **Source of Funding Reporting**

**I.D. No.** JPE-37-16-00002-ERP

**Filing No.** 1105

**Filing Date:** 2016-12-02

**Effective Date:** 2016-12-02

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

**Action Taken:** Amendment of Part 938 of Title 19 NYCRR.

**Statutory authority:** Executive Law, section 94(9)(c); Legislative Law, sections 1-h(c)(4) and 1-j(c)(4)

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

**Specific reasons underlying the finding of necessity:** Part D of Chapter 286 of the Laws of 2016, which became effective September 23, 2016, changed the monetary threshold amounts related to requirements to disclose sources of funding with respect to lobbying activities. The formal rulemaking process would have resulted in a period of time during which the Source of Funding regulation of the Joint Commission of Public Ethics ("Commission") would not be in accordance with statutory law. Since due process entitles all persons and entities subject to the Commission's jurisdiction to proper notice of their disclosure requirements under the law this emergency rule is necessary for the public welfare.

**Subject:** Source of funding reporting.

**Purpose:** To implement legislative changes made to the source of funding disclosure requirements.

**Substance of emergency/revised rule:** Part D of Chapter 286 of the Laws of 2016, which was signed into law by the Governor on August 24, 2016, made changes to the source of funding disclosure requirements relating to lobbyists and clients. Specifically, it decreased the filing threshold for total lobbying expenditures to \$15,000, from \$50,000, and the minimum contribution amount for disclosing a source to \$2,500, from \$5,000. Further, it excluded funds received for membership dues, fees, and assessments from the contributions that must be disclosed, while continuing to require the donor to be identified as a source. Such changes became effective on September 23, 2016. This rule implements these changes and provides due process notice to persons and entities subject to the Commission's jurisdiction.

**This notice is intended** to serve as both a notice of emergency adoption and a notice of revised rule making. The notice of proposed rule making was published in the *State Register* on September 14, 2016, I.D. No. JPE-37-16-00002-EP. The emergency rule will expire January 30, 2017.

**Emergency rule compared with proposed rule:** Substantial revisions were made in section 938.11(a)(1), (2), (b)(1) and (2).

**Text of rule and any required statements and analyses may be obtained from:** Martin Levine, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3975, email: martin.levine@jcope.ny.gov

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

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

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

A Revised Regulatory Impact Statement is not required because the revisions to the proposed regulation do not change the substance or conclusions set forth in the previously published Regulatory Impact Statement.

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

A Revised Regulatory Flexibility Analysis for Small Businesses and Local Governments is not required because the revisions to the proposed regulation do not change the substance or conclusions set forth in the previously published Regulatory Flexibility Analysis for Small Businesses and Local Governments.

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

A Rural Area Flexibility Analysis is not required because the revisions to the proposed regulation do not change the substance or conclusions set forth in the previously published Rural Area Flexibility Analysis.

#### **Revised Job Impact Statement**

A Job Impact Statement is not required because the revisions to the proposed regulation do not change the substance or conclusions set forth in the previously published Job Impact Statement.

**Assessment of Public Comment**

The Public Integrity Reform Act of 2011 (“PIRA”) amended the Legislative Law to require source of funding disclosure for certain lobbyists and clients who devote substantial resources to lobbying in New York State. PIRA also mandated that the Commission promulgate regulations to implement this new disclosure requirement. Effective September 23, 2016, Part D of Chapter 286 of the Laws of 2016 decreased the source of funding filing threshold for total lobbying expenditures to \$15,000, from \$50,000, and the minimum contribution amount for disclosing a source to \$2,500, from \$5,000. Further, it excluded funds received for membership dues, fees and assessments from the contributions that must be disclosed, while continuing to require the donor to be identified as a source.

A Notice of Proposed Rule Making and Emergency Adoption was published in the State Register on September 14, 2016. The Commission received three sets of comments during the public comment period. The comments were from organizations, including membership and non-profit organizations. The comments generally relay four areas of concern with respect to: (1) the potential retroactive effect of Part D’s lowered thresholds; (2) the Commission’s interpretation of Part D’s exclusion of membership dues, fees and assessments from certain disclosure requirements; (3) the definition of “Reportable Amount of Contribution” that carries forward existing language requiring disclosure of all contributions, even those that are not specifically earmarked for lobbying purposes; and (4) the disclosure of in-kind contributions from a 501(c)(3) to a 501(c)(4) organization.

**Potential Retroactive Effect of the Lowered Threshold Amounts**

The comments expressed two concerns that the proposed regulations purport to regulate prior activity without proper notice; namely, that (1) contributions made prior to September 23, 2016, when the statutory changes to the threshold amounts became effective, could now be disclosed even though the donor, at the time, had no reason to believe the donation would be disclosed; and (2) when reporting is triggered based on either the filer or a source exceeding either of the revised thresholds during the second half of the year, contributions from a source donated during the first half of the year may be disclosed, even though the donor, at the time, had no reason to believe the donation would be disclosed.

The Commission sees the validity of both concerns. As the legislation became effective on September 23, 2016, the Revised Rulemaking amends Sections 938.11(a) and (b) such that the record date for applying the new source of funding reporting thresholds has been reconciled with the effective date of the statutory change, i.e., September 23, 2016.

**Membership Dues, Fees and Assessments**

Part D established a new exemption from disclosure for membership dues, fees and assessments providing that “the amounts received from each identified source of funding shall not be required to be disclosed if such amounts constitute membership dues, fees, or assessments charged by the reporting entity to enable an individual or entity to be a member of the reporting entity.” (Emphasis supplied). Commenters argued that the text of Part D should be interpreted to protect a donating member’s identity and personal information, not just the amount they contributed. The Commission disagrees. A plain reading of the statute provides for an exemption of the “amounts received,” not the donor’s identity.

**Reportable Amount of Contribution**

The comments expressed a concern that the definition of “Reportable Amount of Contribution” carries forward a substantive error from the current regulations in that it fails to require a reasonable nexus between the donation reported and the filer’s lobbying activity. It was suggested that contributions should only be disclosed if they are specifically earmarked for lobbying activities. The Commission continues to reject this proposal. Money is fungible. As the Commission has stated in previous rulemakings, the purpose of the source of funding provisions in PIRA is to provide the public with meaningful information concerning the individuals and entities that provide substantial support to organizations that are engaged in significant lobbying activities in New York. Tying disclosure to the express intent of the donor thwarts this purpose, and has no basis in the statutory language. Rather, the statute focuses on the use of funds by the Client Filer.

**501(c)(3) In-kind Contributions to 501(c)(4) Organizations**

One set of comments addressed the provisions that relate to in-kind donation of staff, staff time, personnel, offices, office supplies, financial support of any kind or any other resources from a 501(c)(3) organization to a 501(c)(4) organization. It was suggested that the scope of any disclosure of such in-kind donations be limited only to donations made for lobbying purposes. The Commission notes that: (1) the proposed regulation, at 938.10, is taken verbatim from the statute; and (2) the rationale articulated in the paragraph above (“Reportable Amount of Contribution”) also applies to this provision. As a result, the Commission will not be making any changes to this section. Any resulting required disclosure by 501(c)(3) organizations of its sources will be administered by the Department of Law.

**NOTICE OF ADOPTION****Adjudicatory Proceedings and Appeals Procedures for Matters Under the Commission’s Jurisdiction****I.D. No.** JPE-37-16-00003-A**Filing No.** 1109**Filing Date:** 2016-12-05**Effective Date:** 2016-12-21

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

**Action taken:** Amendment of Part 941 of Title 19 NYCRR.**Statutory authority:** Executive Law, section 94(14)**Subject:** Adjudicatory proceedings and appeals procedures for matters under the Commission’s jurisdiction.**Purpose:** To implement legislative changes made to the Commission’s adjudicatory proceedings.

**Substance of final rule:** Part J of Chapter 286, Laws of 2016, effected changes to the adjudicatory proceedings conducted by the Joint Commission on Public Ethics (“Commission”). In particular, Part J, Chapter 286, Laws of 2016 provides persons or entities under investigation by the Commission the right to be heard prior to a final determination by the Commission, and the right to be informed of the alleged violations of law and supporting evidence. This rule implements these changes and provides due process notice to persons and entities subject to the Commission’s jurisdiction of the Commission’s applicable adjudicatory proceedings.

**Final rule as compared with last published rule:** Nonsubstantive changes were made in sections 941.1, 941.4(b) and 941.8(b).

**Text of rule and any required statements and analyses may be obtained from:** Michael E. Sande, Joint Commission on Public Ethics, 540 Broadway, Albany, NY 12207, (518) 408-3976, email: michael.sande@jcope.ny.gov

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

A Revised Regulatory Impact Statement is not submitted with this Notice of Adoption because the revisions made to the proposed rule were not substantive and do not necessitate revision of the previously published Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement.

**Initial Review of Rule**

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

**Assessment of Public Comment**

One entity submitted five comments. The first comment suggested the addition of language to clarify that the Joint Commission on Public Ethics (“Commission”) is not responsible for providing or paying the cost of legal representation for respondents in proceedings before the Commission. The Commission omitted this language because there is no question or ambiguity that the Commission bears no legal duty to provide respondents with legal representation. The second comment suggested a small change to the language of Part 941.6(d) for clarification. The Commission considers the proposed language of Part 941.6(d) to be sufficiently clear. The third comment proposed making the use of deposition transcripts at the Commission’s hearings to be “subject to the Rules of Evidence.” Pursuant to the proposed Part 941, the Rules of Evidence do not apply with respect to any hearings under the Commission’s jurisdiction, and therefore this comment was rejected. The fourth comment suggested language regarding requests for the adjournment of a hearing, to clarify that such requests must be made at least five business days before the scheduled hearing date except “for good cause shown.” The Commission adopted this suggestion in the proposed Part 941. The fifth comment suggested the provision of a specific effective date. The Commission adopted this suggestion in the proposed Part 941.

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## Public Service Commission

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

#### Petition to Submeter Electricity

**I.D. No.** PSC-51-16-00008-P

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

**Proposed Action:** The Public Service Commission is considering the petition, filed by 172 Madison Condominium, to submeter electricity at 172 Madison Avenue, New York, New York.

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

**Subject:** Petition to submeter electricity.

**Purpose:** To consider the petition of 172 Madison Condominium to submeter electricity at 172 Madison Avenue, New York, New York.

**Substance of proposed rule:** The Commission is considering the petition, filed by 172 Madison Condominium, on October 17, 2016, to submeter electricity at 172 Madison Avenue, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. 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-E-0576SP1)

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

#### Notice of Intent to Submeter Electricity

**I.D. No.** PSC-51-16-00009-P

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

**Proposed Action:** The Public Service Commission is considering the Notice of Intent, filed by 111 Murray Street Condominium, to submeter electricity at 111 Murray 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:** Notice of Intent to submeter electricity.

**Purpose:** To consider the Notice of Intent of 111 Murray Street Condominium, to submeter electricity at 111 Murray Street, New York, NY.

**Substance of proposed rule:** The Commission is considering the Notice of Intent, filed by 111 Murray Street Condominium, on October 24, 2016, to submeter electricity at 111 Murray Street, New York, New York, located in the service territory of Consolidated Edison Company of New York, Inc. 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-E-0613SP1)

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

#### Use of the Aclara KV2c EPS Meter with Silver Spring Network Interface Card 510 in Electric Metering Applications

**I.D. No.** PSC-51-16-00010-P

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

**Proposed Action:** The Public Service Commission is considering a petition filed on June 14, 2016, by Aclara Technologies LLC to use the Aclara kV2c EPS meter with the Silver Spring Network Interface Card 510 in electric metering applications.

**Statutory authority:** Public Service Law, section 67(1)

**Subject:** Use of the Aclara kV2c EPS meter with Silver Spring Network Interface Card 510 in electric metering applications.

**Purpose:** To consider use of the Aclara kV2c EPS meter with Silver Spring Network Interface Card 510 in electric metering applications.

**Substance of proposed rule:** The Public Service Commission is considering a petition filed on June 14, 2016, by Aclara Technologies, LLC to use the Aclara kV2c EPS meter with the Silver Spring Networks Network Interface Card 510, in electric metering applications. 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-E-0366SP1)

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## Department of Taxation and Finance

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

#### Metropolitan Transportation Business Tax Surcharge

**I.D. No.** TAF-51-16-00002-EP

**Filing No.** 1082

**Filing Date:** 2016-12-02

**Effective Date:** 2016-12-02

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



**Proposed Action:** Amendment of section 9-1.2 of Title 20 NYCRR.

**Statutory authority:** Tax Law, section 171, subdivision First; section 209-B, subdivision First; and L. 2014, ch. 59, part A, section 7

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

**Specific reasons underlying the finding of necessity:** The Commissioner is required, pursuant to section 209-B(1)(f) of the Tax Law, to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

This rule is being adopted on an emergency basis in order to have the rates for Tax Year 2017 in place by January 1, 2017, to enable taxpayers to properly estimate the taxes due for Tax Year 2017 and reflect these estimated taxes in their financial statements.

**Subject:** Metropolitan Transportation Business Tax Surcharge.

**Purpose:** To provide metropolitan transportation business tax rate for tax year 2017.

**Text of emergency/proposed rule:** Section 1. Subchapter A of Title 20 of the Codes, Rules and Regulations of the State of New York is amended to add a new subdivision (c) of section 9-1.2 of Part 9 read as follows:

(c) *The metropolitan transportation business tax surcharge will be computed at the rate of 28.3 percent of the tax imposed under section 209 of the Tax Law for taxable years beginning on or after January 1, 2017 and before January 1, 2018. The rate used to compute the metropolitan transportation business tax surcharge, as determined by the Commissioner, will remain the same in any succeeding taxable year, unless the Commissioner, pursuant to the authority in paragraph (f) of subdivision (1) of section 209-B of the Tax Law, determines a new rate.*

**This notice is intended:** to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire March 1, 2017.

**Text of rule and any required statements and analyses may be obtained from:** Kathleen D. O'Connell, Tax Regulations Specialist 1, Department of Taxation and Finance, Office of Counsel, Building 9, W.A. Harriman Campus, Albany, NY 12227, (518) 530-4153, email: Kathleen.OConnell@tax.ny.gov

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

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

#### Regulatory Impact Statement

1. Statutory authority: Tax Law, section 171, subdivision First, generally authorizes the Commissioner of Taxation and Finance to promulgate regulations; section 209-B of the Tax Law generally imposes a tax surcharge on every corporation subject to section 209 of the Tax Law, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year. Tax Law section 209-B(1)(f) requires the Commissioner to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

2. Legislative objectives: New subdivision (c) of section 9-1.2 of Part 9 of 20 NYCRR complies with the mandate of section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2017 and before January 1, 2018, and follows subdivision (b), which set the rate for taxable years beginning on or after January 1, 2016 and before January 1, 2017. As required by section 209-B(1)(f), the First Deputy Commissioner of Taxation and Finance, being duly authorized to act due to the vacancy in the office of the Commissioner, has computed the metropolitan transportation business tax surcharge, using the state fiscal year 2017-2018 fiscal projections, at the rate of 28.3 percent of the tax imposed under section 209 of the Tax Law for taxable years beginning on or after January 1, 2017 and before January 1, 2018.

3. Needs and benefits: This rule sets forth amendments to the Business Corporation Franchise Tax regulations required by Tax Law section 209-B(1)(f). This rule benefits taxpayers by putting in place the metropolitan transportation business tax surcharge effective January 1, 2017 for Tax Year 2017.

4. Costs: (a) Costs to regulated parties for the implementation and continuing compliance with this rule: There is no additional cost or burden to comply with this amendment. There is no additional time period needed for compliance. (b) Costs to this agency, the State and local governments

for the implementation and continuation of this rule: Since the need to make amendments to the New York State Business Corporation Franchise Tax regulations under Article 9-A of the Tax Law arises due to a statutory mandate that the Commissioner adjust the metropolitan transportation business tax surcharge, there are no costs to this agency or the State and local governments that are due to the promulgation of this rule. (c) Information and methodology: This analysis is based on a review of the statutory requirements and on discussions among personnel from the Department's Taxpayer Guidance Division, Office of Counsel, Office of Tax Policy Analysis, Bureau of Tax and Fiscal Studies, Office of Budget and Management Analysis, Management Analysis and Project Services Bureau, and the Division of Budget.

5. Local government mandates: There are no costs or burdens imposed on local governments to comply with this amendment.

6. Paperwork: This rule will not require any new forms.

7. Duplication: This rule does not duplicate any other requirements.

8. Alternatives: Since section 209-B(1)(f) requires the Commissioner to adjust, under certain circumstances, the metropolitan transportation business tax surcharge, there are no viable alternatives to providing such rate using the methodology prescribed in Tax Law section 209-B.

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

10. Compliance schedule: The required rate information is being made available to regulated parties, by means of the emergency adoption of new subdivision (c) of section 9-1.2 of Part 9 of the Business Corporation Franchise Tax regulations on December 2, 2016, in sufficient time to implement the rate effective January 1, 2017. This rule establishes the rate for the 2017 tax year as an emergency measure and proposes it as a permanent rule.

#### Regulatory Flexibility Analysis

A Regulatory Flexibility Analysis for Small Businesses and Local Governments is not being submitted with this rule because the rule will not impose any adverse economic impact or any additional reporting, recordkeeping, or other compliance requirement on small businesses or local governments.

The purpose of the rule is to add a new subdivision (c) to section 9-1.2 of Part 9 of 20 NYCRR, to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2017 and before January 1, 2018, as required by section 209-B(1)(f) of the Tax Law.

Section 209-B of the Tax Law generally imposes a tax surcharge on every corporation subject to section 209 of the Tax Law, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year.

The Commissioner is required, pursuant to section 209-B(1)(f) of the Tax Law, to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

Subdivision (c) of section 9-1.2 of Part 9 complies with the mandate of Tax Law section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2017 and before January 1, 2018, and follows subdivision (b), which set the rate for taxable years beginning on or after January 1, 2016 and before January 1, 2017. As required by Tax Law section 209-B(1)(f), the First Deputy Commissioner of Taxation and Finance, being duly authorized to act due to the vacancy in the office of the Commissioner, has computed the metropolitan transportation business tax surcharge, using the state fiscal year 2017-2018 fiscal projections, at the rate of 28.3 percent of the tax imposed under section 209 of the Tax Law for taxable years beginning on or after January 1, 2017 and before January 1, 2018.

#### Rural Area Flexibility Analysis

A Rural Area Flexibility Analysis is not being submitted with this rule because the rule will not impose any adverse impact on any rural areas. The purpose of the rule is to add a new subdivision (c) to section 9-1.2 of Part 9 of 20 NYCRR, to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2017 and before January 1, 2018, pursuant to section 209-B(1)(f) of the Tax Law.

Section 209-B of the Tax Law generally imposes a tax surcharge on every corporation subject to section 209 of the Tax Law, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of

owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year.

The Commissioner is required, pursuant to section 209-B(1)(f) of the Tax Law, to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

Subdivision (c) of section 9-1.2 of Part 9 complies with the mandate of Tax Law section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2017 and before January 1, 2018, and follows subdivision (b), which set the rate for taxable years beginning on or after January 1, 2016 and before January 1, 2017. As required by Tax Law section 209-B(1)(f), the First Deputy Commissioner of Taxation and Finance, being duly authorized to act due to the vacancy in the office of the Commissioner, has computed the metropolitan transportation business tax surcharge, using the state fiscal year 2017-2018 fiscal projections, at the rate of 28.3 percent of the tax imposed under section 209 of the Tax Law for taxable years beginning on or after January 1, 2017 and before January 1, 2018.

#### ***Job Impact Statement***

A Job Impact Statement is not being submitted with this rule because it is evident from the subject matter of the rule that the rule will have no adverse impact on jobs and employment opportunities. The purpose of the rule is to add a new subdivision (c) to section 9-1.2 of Part 9 of 20 NYCRR, to adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2017 and before January 1, 2018, pursuant to section 209-B(1)(f) of the Tax Law.

Section 209-B of the Tax Law generally imposes a tax surcharge on every corporation subject to section 209 of the Tax Law, other than a New York S corporation, for the privilege of exercising the corporation's corporate franchise, or of doing business, or of employing capital, or of owning or leasing property in a corporate or organized capacity, or of maintaining an office, or of deriving receipts from activity in the metropolitan commuter transportation district, for all or any part of the corporation's taxable year.

The Commissioner is required, pursuant to section 209-B(1)(f) of the Tax Law, to annually adjust the rate of the metropolitan transportation business tax surcharge for taxable years beginning on or after January 1, 2016. The rate is to be adjusted as necessary to ensure that the receipts attributable to the surcharge will meet and not exceed the financial projections for each state fiscal year, as reflected in the enacted budget for that fiscal year.

Subdivision (c) of section 9-1.2 of Part 9 complies with the mandate of Tax Law section 209-B(1)(f), setting forth the rate for taxable years beginning on or after January 1, 2017 and before January 1, 2018, and follows subdivision (b), which set the rate for taxable years beginning on or after January 1, 2016 and before January 1, 2017. As required by Tax Law section 209-B(1)(f), the First Deputy Commissioner of Taxation and Finance, being duly authorized to act due to the vacancy in the office of the Commissioner, has computed the metropolitan transportation business tax surcharge, using the state fiscal year 2017-2018 fiscal projections, at the rate of 28.3 percent of the tax imposed under section 209 of the Tax Law for taxable years beginning on or after January 1, 2017 and before January 1, 2018.

This rule merely complies with the mandates of section 209-B of the Tax Law, as amended, by adding a new subdivision (c) to section 9-1.2 of Part 9 of 20 NYCRR, setting forth the rate for the metropolitan business transportation tax surcharge for Tax Year 2017.

**HEARINGS SCHEDULED  
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
<b>State, Department of</b>		
DOS-46-16-00007-P .....	Sugarhouse alternative activity provisions	Department of State, 99 Washington Ave., Rm. 505, Albany, NY—Jan. 3, 2017, 10:00 a.m.



**ACTION PENDING INDEX**

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

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

For additional information concerning any of the proposals

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

Agency code	Issue number	Year published	Serial number	Action Code
<b>AAM</b>	<b>01</b>	<b>12</b>	<b>00001</b>	<b>P</b>

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
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**ADIRONDACK PARK AGENCY**

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
APA-39-16-00030-P	11/15/17	Access to Agency Records	To conform Adirondack Park Agency rules to the Public Officers Law and rules promulgated by the Committee on Open Government

**AGRICULTURE AND MARKETS, DEPARTMENT OF**

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-47-16-00005-EP	11/23/17	Growth, cultivation, sale, distribution, transportation, and processing of industrial hemp	To allow industrial hemp to be sold, distributed, transported and processed

**AUDIT AND CONTROL, DEPARTMENT OF**

AAC-46-16-00019-P	11/16/17	Contract Award Protest Procedure for Contract Awards Subject to The Comptroller's Approval	Sets forth the procedure to be used when an interested party challenges certain contract awards by a public contracting entity
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**CHILDREN AND FAMILY SERVICES, OFFICE OF**

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-45-16-00001-P	11/09/17	Criminal history checks of prospective foster and adoptive parents and adult household members	To implement changes to the Social Services Law regarding criminal history checks
CFS-51-16-00007-P	12/21/17	Child custody and emergency proceedings involving Indian children in foster care and adoptive placements	To implement federal standards involving Indian children in foster care and adoptive placements

**Action Pending Index****NYS Register/December 21, 2016**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-07-16-00006-P	02/16/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-07-16-00009-P	02/16/17	Jurisdictional Classification	To classify a position in the exempt 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
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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-26-16-00011-P	06/29/17	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-29-16-00001-P	07/20/17	Jurisdictional Classification	To classify positions in the exempt class
CVS-29-16-00002-P	07/20/17	Jurisdictional Classification	To delete subheading & positions from; to add heading, subheading & positions in exempt and non-competitive classes
CVS-29-16-00003-P	07/20/17	Jurisdictional Classification	To delete positions from the exempt and non-competitive classes
CVS-29-16-00004-P	07/20/17	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-29-16-00005-P	07/20/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-29-16-00006-P	07/20/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-29-16-00007-P	07/20/17	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-16-00008-P	07/20/17	Jurisdictional Classification	To classify a position in the exempt class and to delete a position from the non-competitive class
CVS-29-16-00009-P	07/20/17	Jurisdictional Classification	To classify positions in the exempt class
CVS-29-16-00010-P	07/20/17	Jurisdictional Classification	To classify positions in the exempt class
CVS-29-16-00011-P	07/20/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-29-16-00012-P	07/20/17	Jurisdictional Classification	To classify positions in the exempt class
CVS-29-16-00013-P	07/20/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-29-16-00014-P	07/20/17	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-29-16-00015-P	07/20/17	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-29-16-00016-P	07/20/17	Jurisdictional Classification	To delete positions from the exempt and non-competitive classes
CVS-29-16-00017-P	07/20/17	Jurisdictional Classification	To classify a position in the exempt class and to delete a position from the non-competitive class
CVS-29-16-00018-P	07/20/17	Jurisdictional Classification	To delete subheading & positions from; to add heading, subheading & positions in exempt and non-competitive classes
CVS-35-16-00004-P	08/31/17	Jurisdictional Classification	To classify positions in the exempt class
CVS-35-16-00005-P	08/31/17	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class.
CVS-35-16-00006-P	08/31/17	Jurisdictional Classification	To classify a position in the exempt class

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<b>CIVIL SERVICE, DEPARTMENT OF</b>			
CVS-35-16-00007-P	08/31/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-35-16-00008-P	08/31/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-35-16-00009-P	08/31/17	Jurisdictional Classification	To classify positions in the exempt class
CVS-35-16-00010-P	08/31/17	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-35-16-00011-P	08/31/17	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-35-16-00012-P	08/31/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-16-00001-P	11/02/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-16-00002-P	11/02/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-16-00003-P	11/02/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-16-00004-P	11/02/17	Jurisdictional Classification	To classify a position in the exempt class and to delete a position from the non-competitive class
CVS-44-16-00005-P	11/02/17	Jurisdictional Classification	To delete a position from and classify a position in the non-competitive class
CVS-44-16-00006-P	11/02/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-16-00007-P	11/02/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-44-16-00008-P	11/02/17	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-44-16-00009-P	11/02/17	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-46-16-00001-P	11/16/17	Jurisdictional Classification	To classify a position in the exempt class
CVS-46-16-00002-P	11/16/17	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-46-16-00003-P	11/16/17	Jurisdictional Classification	To classify positions in the exempt class
CVS-46-16-00004-P	11/16/17	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
<b>CORRECTION, STATE COMMISSION OF</b>			
CMC-44-16-00022-P	11/02/17	Annual report of pregnant inmate restraint	To prescribe a form and manner for local correctional facilities to submit a statutorily required annual report
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-39-16-00004-P	09/28/17	Parole Board decision making	To clearly establish what the Board must consider when conducting an interview and rendering a decision



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF</b>			
CCS-51-16-00005-EP	12/21/17	Residential treatment facility designation	To designate additional correctional facilities, or parts thereof, to serve as residential treatment facilities
<b>CRIMINAL JUSTICE SERVICES, DIVISION OF</b>			
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.
CJS-51-16-00011-P	12/21/17	Pre-Employment Corrections Training	Allow employers to hire an individual who has already completed a large portion of the basic course, thereby saving resources
<b>EDUCATION DEPARTMENT</b>			
EDU-06-16-00004-RP	05/10/17	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-RP	03/09/17	Dental Anesthesia Certification Requirements for Licensed Dentists	To conform regulations to the current practice of dental anesthesia administration
EDU-22-16-00006-EP	06/01/17	Teacher certification in career and technical education	Establishes a new pathway for Transitional A certificate
EDU-26-16-00016-ERP	06/29/17	Teacher certification in career and technical education	Establishes new pathways for Transitional A certificate
EDU-27-16-00002-ERP	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-39-16-00009-P	09/28/17	Substitute Teachers	To provide a sunset date for the amendments made to 80-5.4 at the July Regents meeting
EDU-39-16-00033-EP	09/28/17	Assessments for the New York State Career Development and Occupational Studies (CDOS) Commencement Credential	Establish conditions and procedures for approval of work-readiness assessments for the CDOS credential
EDU-39-16-00034-P	09/28/17	Uniform Violent or Disruptive Incident Reporting System (VADIR)	To revise the categories of violent and disruptive incidents for VADIR reporting
EDU-42-16-00001-EP	10/19/17	Establishment of tuition rates	To clarify that the Education Department maintains discretion in establishing tuition rates based on a financial audit
EDU-44-16-00012-P	11/02/17	Education requirements for Occupational Therapists and Occupational Therapy Assistants	Provides that licenses may be granted to applicants who have completed education exceeding current requirements for licensure
EDU-44-16-00013-EP	11/02/17	Teacher certification examination requirements	To establish additional safety nets for the content specialty examinations
EDU-44-16-00023-P	11/02/17	Posting of Child Abuse Hotline Number and Instructions to Use Office of Children and Family Services Website	To implement the requirements of Chapter 105 of the Laws of 2016

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<b>EDUCATION DEPARTMENT</b>			
EDU-45-16-00005-EP	11/09/17	Annual Professional Performance Reviews (APPR) of classroom teachers and building principals	To provide New York City with flexibility in the student performance category for teacher and principal evaluations.
EDU-45-16-00006-P	11/09/17	Eligibility for Participation in Interscholastic Sports and Duration of Competition	Clarifies when a student's eligibility for athletic competition may be extended and the use of the athletic placement process
EDU-48-16-00007-P	11/30/17	Extension of time validity of certificates	To automatically provide for a three year time extension, instead of initial two-year extension for certain candidates
<b>ENVIRONMENTAL CONSERVATION, DEPARTMENT OF</b>			
*ENV-45-15-00028-RP	02/07/17	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-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-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-19-16-00006-EP	06/30/17	Chemical Bulk Storage (CBS)	To amend Part 597 of the CBS regulations
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-31-16-00003-P	09/30/17	Waste Fuels	Update permit references, rule citations, monitoring, record keeping, reporting requirements, and incorporate federal standards
ENV-36-16-00002-P	11/02/17	Lake Champlain drainage basin	To reclassify certain surface waters in Lake Champlain Drainage Basin, in Clinton, Essex, Franklin, Warren, Washington counties
ENV-39-16-00011-P	09/28/17	Sportfishing (freshwater) and associated activities	To revise sportfishing regulations and associated activities
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
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-39-16-00007-P	09/28/17	Charges for Professional Health Services	Limit reimbursement of no-fault health care services provided outside NYS to highest fees in fee schedule for services in NYS
DFS-39-16-00008-P	09/28/17	CYBERSECURITY REQUIREMENTS FOR FINANCIAL SERVICES COMPANIES	To require effective cybersecurity to protect consumers and ensure the safe and sound operation of Department-regulated entities
DFS-45-16-00003-P	11/09/17	Agent Training Allowance Subsidies	To update the limits of training allowance subsidies contained in 11 NYCRR 12 (Regulation 50)

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>FINANCIAL SERVICES, DEPARTMENT OF</b>			
DFS-47-16-00006-P	11/23/17	Regs Implementing Comprehensive Motor Veh Ins Reparations Act; Unfair Claims Settlement Practices & Claim Cost Control Measures	To update references to the address of the Department's Long Island office
DFS-48-16-00006-P	11/30/17	Life Insurance and Annuity Non-guaranteed Elements	To establish standards for the determination and readjustment of non-guaranteed elements for life insurance and annuities
<b>GAMING COMMISSION, NEW YORK STATE</b>			
SGC-37-16-00007-P	09/14/17	Require thoroughbred horse trainers to complete four hours of continuing education each year	To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government
SGC-38-16-00004-P	09/21/17	Definition of the "wire" at the finish of a harness race	To preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of government
SGC-42-16-00002-P	10/19/17	Casino alcoholic beverage licenses	To regulate the presence and sale of alcoholic beverages on the premises of gaming facilities
SGC-42-16-00003-P	10/19/17	Prescribing methods of notice to applicants, registrants, and licensees and restrictions on employee wagering	To set forth the methods of notice and restrict employee wagering
SGC-42-16-00004-P	10/19/17	To set forth the standards for electronic table game systems	To prescribe the technical standards for the testing and certification of electronic table game systems
SGC-45-16-00002-P	11/09/17	Permit jockeys to wear trade logos and own name on jockey clothing	To preserve the safety and integrity of pari-mutuel racing while generating reasonable revenue for the support of government
SGC-45-16-00004-P	11/09/17	Anti-stacking of NSAIDs and diclofenac made a 48 hour NSAID	To enable the Commission to preserve the integrity of pari-mutuel racing while generating reasonable revenue for the support of
SGC-47-16-00002-P	11/23/17	Bonding of video lottery agents to prevent potential loss of State revenue earned from video lottery gaming ("VLG")	To revise the manner in which the bond amount required from each VLG agent is determined, reflecting current vendor fees
SGC-47-16-00017-P	11/23/17	Expands the conflict of interest restrictions on racing secretaries and their assistants and substitutes	To ensure the integrity of harness racing
<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-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-35-16-00018-P	08/31/17	All Payer Database (APD)	To define the parameters for operating the APD regarding mandatory data submission by healthcare payers as well as data release
HLT-37-16-00024-P	09/14/17	Medical Use of Marihuana	To comprehensively regulate the manufacture, sale and use of medical marihuana

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>HEALTH, DEPARTMENT OF</b>			
HLT-39-16-00031-P	09/28/17	Non-prescription Emergency Contraceptives Drugs	Allow pharmacies to dispense non-prescription emerg. contraceptive drugs for Medicaid female recipients without a written order
HLT-39-16-00032-P	09/28/17	Expanded Syringe Access Program	To eliminate the word "demonstration"
HLT-41-16-00002-EP	10/12/17	Residential Health Care Facility Quality Pool	To reward NYS facilities with the highest quality outcomes as determined by methodology developed by regulation
HLT-41-16-00005-P	10/12/17	Compounded Trend to Cost of Living Adjustments (COLAs) for Direct Care Workers	To update the methodology to reflect a compounded cost of living adjustment and to remove a superfluous component
HLT-47-16-00007-P	11/23/17	Direct Clinical Services-Supervised Individual Residential Alternatives (IRAs), Community Residences (CRs) & Day Habilitation	To exclude direct clinical services from the reimbursement for Supervised IRAs, CRs and Day Habilitation
HLT-48-16-00008-P	11/30/17	Medical Use of Marihuana - Physician Assistants	To authorize physician assistants to register with DOH in order to issue certifications to patients with qualifying conditions
HLT-50-16-00008-P	12/14/17	HIV/AIDS Testing, Reporting and Confidentiality of HIV-Related Information	To simplify HIV testing consent and improve linkage to care
HLT-50-16-00009-P	12/14/17	Expansion of Minor Consent for HIV Treatment Access and Prevention	To allow qualified clinicians to provide antiretrovirals for treatment and prophylaxis
HLT-51-16-00003-P	12/21/17	Federal Conditions of Participation	To reflect amendments consistent with updated Federal Conditions of Participation
HLT-51-16-00006-P	12/21/17	Medical Use of Marihuana - Chronic Pain	To add any severe debilitating or life-threatening condition causing chronic pain
<b>JOINT COMMISSION ON PUBLIC ETHICS, NEW YORK STATE</b>			
JPE-37-16-00002-ERP	09/14/17	Source of funding reporting	To implement legislative changes made to the source of funding disclosure requirements
<b>LABOR, DEPARTMENT OF</b>			
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
LAB-42-16-00015-P	10/19/17	Minimum Wage	To comply with chapter 54 of the Laws of 2016 that increased the minimum wage
LAB-42-16-00016-P	12/05/17	Farm Worker Minimum Wage	To comply with chapter 54 of the Laws of 2016 that increased the minimum wage
<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
<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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>LONG ISLAND POWER AUTHORITY</b>			
*LPA-41-02-00005-P	..... exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	..... exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	..... exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
LPA-41-16-00007-P	..... exempt	PSEG Long Island's balanced billing program	To implement improvements to the balanced billing program
LPA-41-16-00008-P	..... exempt	The Authority's Power Supply Charge	To move certain capacity related power supply costs from base rates to the Authority's Power Supply Charge
LPA-41-16-00009-P	..... exempt	The Authority's Smart Grid Small Generator Interconnection Procedures	To update the Authority's Smart Grid Small Generator Interconnection Procedures
LPA-41-16-00010-P	..... exempt	The Authority's Revenue Decoupling Mechanism	To change the RDM from a semi-annual to an annual rate resetting process
LPA-41-16-00011-P	..... exempt	The Authority's Visual Benefits Assessment	To effectuate a settlement between the Authority and the Town of Southampton regarding collection of arrears
<b>MOTOR VEHICLES, DEPARTMENT OF</b>			
MTV-46-16-00020-P	..... 11/16/17	Hearings for persons who persistently evade the payment of tolls	To hold hearings for persons subject to a registration suspension due to persistently evading the payment of tolls
<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-49-16-00001-P	..... 12/07/17	Agency Name Change Terminology Update	To update the agency name in Title 14 NYCRR Part 622 regulations
<b>POWER AUTHORITY OF THE STATE OF NEW YORK</b>			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PAS-41-16-00013-P	..... exempt	Rates for the Sale of Power and Energy	To recover the Authority's Fixed Costs
PAS-41-16-00014-P	..... exempt	Rates for the Sale of Power and Energy	To align rates and costs

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-28-97-00032-P	..... exempt	General service by Central Hudson Gas & Electric Corporation	To limit certain special provisions
*PSC-04-98-00015-P	..... exempt	Interconnection service overcharges by Niagara Mohawk Power Corporation	To consider a complaint by Azure Mountain Power Co.
*PSC-19-98-00008-P	..... exempt	Call forwarding by CPU Industries Inc./MKL Net, et al.	To rehear the petition
*PSC-02-99-00006-EP	..... exempt	Intralata freeze plan by New York Telephone Company	To approve the plan
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-50-99-00009-P	..... exempt	Retail access uniform business practices by The Brooklyn Union Gas Company and KeySpan Gas East Corporation d/b/a Brooklyn Union of Long Island	To approve a joint petition requesting a waiver extension of a requirement set forth in the commission's order
*PSC-52-99-00006-P	..... exempt	Wide area rate center calling	To implement number conservation measures
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-14-00-00004-EP	..... exempt	NXX code in the 716 NPA by Broadview Networks	To assign an NXX code in Buffalo
*PSC-14-00-00026-P	..... exempt	Interconnection agreement between New York Telephone Company d/b/a Bell Atlantic-New York and Media Log, Inc.	To review the terms and conditions of the negotiated agreement
*PSC-14-00-00027-P	..... exempt	Interconnection agreement between New York Telephone Company d/b/a Bell Atlantic-New York and Pilgrim Telephone, Inc.	To review the terms and conditions of the negotiated agreement
*PSC-14-00-00029-P	..... exempt	Interconnection agreement between New York Telephone Company d/b/a Bell Atlantic-New York and CoreComm New York, Inc.	To review the terms and conditions of the negotiated agreement
*PSC-16-00-00012-P	..... exempt	Termination of local telecommunications traffic by Hyperion Communications of New York, Inc.	To determine appropriate compensation levels
*PSC-21-00-00007-P	..... exempt	Initial tariff schedule by Drew Road Association	To set forth the rates, charges, rules and regulations
*PSC-31-00-00026-P	..... exempt	Water service by Windover Water Works	To abandon the water system
*PSC-33-00-00010-P	..... exempt	Electric rate and restructuring plan by Rochester Gas and Electric Corporation	To evaluate possible modifications
*PSC-36-00-00039-P	..... exempt	Steam increase by Consolidated Edison Company of New York, Inc.	To provide for an annual increase in the first year of a proposed four-year rate plan
*PSC-37-00-00001-EP	..... exempt	Interruptible gas customers	To ensure customers have an adequate supply of alternative fuel available

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-39-00-00004-P	..... exempt	Blockable central office codes by PaeTec Communications, Inc.	To review the commission's requirements for assignment of numbering resources
*PSC-44-00-00014-P	..... exempt	Recovery of costs through adjustment mechanisms by Consolidated Edison Company of New York, Inc.	To permit the recovery of certain costs
*PSC-49-00-00007-P	..... exempt	Gas sales and purchases by Corning Natural Gas Corporation	To determine whether certain gas sales and purchases were in the public interest and whether customers should bear the resulting costs
*PSC-01-01-00023-P	..... exempt	Installation, maintenance and ownership of service laterals by Rochester Gas and Electric Corporation	To update and clarify the provisions
*PSC-06-01-00009-P	..... exempt	Uniform system of accounts by Rochester Gas and Electric Corporation	To defer an item of expense beyond the end of the year in which it was incurred
*PSC-13-01-00001-P	..... exempt	Request for accounting authorization by Rochester Gas and Electric Corporation	To defer an item of expense beyond the end of the year in which it was incurred
*PSC-13-01-00002-P	..... exempt	Request for accounting authorization by Rochester Gas and Electric Corporation	To defer an item of expense beyond the end of the year in which it was incurred
*PSC-13-01-00003-P	..... exempt	Request for accounting authorization by Rochester Gas and Electric Corporation	To defer an item of expense beyond the end of the year in which it was incurred
*PSC-15-01-00012-P	..... exempt	Transfer of a controlling leasehold interest by Huntley Power LLC	To approve the transfer
*PSC-22-01-00006-P	..... exempt	Con Edison's phase 4 plan for retail access by AES Energy, Inc.	To review the request for rehearing
*PSC-26-01-00012-P	..... exempt	Interconnection of networks between Sprint PCS and Verizon New York Inc.	To review the terms and conditions of the negotiated agreement
*PSC-36-01-00010-P	..... exempt	Competitive metering by eBidenergy.com	To clarify meter ownership rules and requirements
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-01-02-00007-P	..... exempt	Accounting and rate treatment of proceeds by Consolidated Edison Company of New York, Inc.	To consider proceeds from sale of nuclear generating facilities
*PSC-05-02-00005-P	..... exempt	Uniform system of accounts by Consolidated Edison Company of New York, Inc.	To defer expenditures incurred in connection with emergency response services affected by the World Trade Center disaster
*PSC-06-02-00015-P	..... exempt	Network reliability performance mechanism by Consolidated Edison Company of New York, Inc.	To earn rewards for meeting the targets of the network reliability performance mechanism
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-29-02-00014-P	..... exempt	Financing by Valley Energy, Inc.	To issue a note and allocate costs
*PSC-49-02-00021-P	..... exempt	Requests for lightened regulation by PSEG Power Bellport, LLC	To consider the company's request

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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-32-03-00020-P	..... exempt	Issuance of debt and approval of surcharge by Rainbow Water Company	To approve necessary financing
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-39-03-00013-P	..... exempt	Complaint by State University of New York (SUNY) regarding a NYSEG operating agreement	To consider the complaint
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00008-P	..... exempt	Lightened regulation by Sterling Power Partners, L.P.	To consider granting lightened regulation
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-42-03-00005-P	..... exempt	Interest rate by the Bath Electric, Gas, and Water Systems	To use an alternate interest rate
*PSC-43-03-00036-P	..... exempt	Merchant function backout credit and transition balancing account by KeySpan Gas East Corporation	To continue the credit and account until May 31, 2005
*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



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<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*PSC-27-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-27-04-00009-P	..... exempt	Interconnection agreement between Verizon New York Inc. and various Verizon wireless affiliates	To amend the agreement
*PSC-28-04-00006-P	..... exempt	Approval of loans by Dunkirk & Fredonia Telephone Company and Cassadaga Telephone Corporation	To authorize participation in the parent corporation's line of credit
*PSC-31-04-00023-P	..... exempt	Distributed generation service by Consolidated Edison Company of New York, Inc.	To provide an application form
*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 recievable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts recievable
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-39-06-00018-P	..... exempt	Order establishing rate plan by Central Hudson Gas & Electric Corporation and the Consumer Protection Board	To consider the petitions for rehearing
*PSC-39-06-00019-P	..... exempt	Investigation of Richard M. Osborne by Corning Natural Gas Corporation	To determine the interests, plans and commitments that will be in place if he is successful in blocking the merger of Corning Gas and C&T Enterprises
*PSC-39-06-00022-P	..... exempt	Uniform business practices and related matters by U.S. Energy Savings Corporation	To establish a contest period
*PSC-40-06-00005-P	..... exempt	Orion Integral automatic meter reading transmitter by New York State Electric and Gas Corporation	To permit gas utilities in NYS to use the Badger Meter Incorporated Orion Integral transmitters
*PSC-42-06-00011-P	..... exempt	Submetering of electricity by 225 5th LLC	To submeter electricity at 255 Fifth Ave., New York, NY
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-06-07-00020-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for gas service
*PSC-11-07-00010-P	..... exempt	Investigation of the electric power outages by the Consolidated Edison Company of New York, Inc.	To implement the recommendations in the staff's investigation
*PSC-11-07-00011-P	..... exempt	Storm-related power outages by Consolidated Edison Company of New York, Inc.	To modify the company's response to power outages, the timing for any such changes and other related matters
*PSC-17-07-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and BridgeCom International, Inc.	To amend the agreement
*PSC-18-07-00010-P	..... exempt	Existing electric generating stations by Independent Power Producers of New York, Inc.	To repower and upgrade existing electric generating stations owned by Rochester Gas and Electric Corporation
*PSC-20-07-00016-P	..... exempt	Tariff revisions and making rates permanent by New York State Electric & Gas Corporation	To seek rehearing
*PSC-21-07-00007-P	..... exempt	Natural Gas Supply and Acquisition Plan by Corning Natural Gas Corporation	To revise the rates, charges, rules and regulations for gas service
*PSC-22-07-00015-P	..... exempt	Demand Side Management Program by Consolidated Edison Company of New York, Inc.	To recover incremental program costs and lost revenue
*PSC-23-07-00022-P	..... exempt	Supplier, transportation, balancing and aggregation service by National Fuel Gas Distribution Corporation	To explicitly state in the company's tariff that the threshold level of elective upstream transmission capacity is a maximum of 112,600 Dth/day of marketer-provided upstream capacity
*PSC-24-07-00012-P	..... exempt	Gas Efficiency Program by the City of New York	To consider rehearing a decision establishing a Gas Efficiency Program
*PSC-39-07-00017-P	..... exempt	Gas bill issuance charge by New York State Electric & Gas Corporation	To create a gas bill issuance charge unbundled from delivery rates
*PSC-41-07-00009-P	..... exempt	Submetering of electricity rehearing	To seek reversal
*PSC-42-07-00012-P	..... exempt	Energy efficiency program by Orange and Rockland Utilities, Inc.	To consider any energy efficiency program for Orange and Rockland Utilities, Inc.'s electric service
*PSC-42-07-00013-P	..... exempt	Revenue decoupling by Orange and Rockland Utilities, Inc.	To consider a revenue decoupling mechanism for Orange and Rockland Utilities, Inc.
*PSC-45-07-00005-P	..... exempt	Customer incentive programs by Orange and Rockland Utilities, Inc.	To establish a tariff provision
*PSC-02-08-00006-P	..... exempt	Additional central office codes in the 315 area code region	To consider options for making additional codes
*PSC-03-08-00006-P	..... exempt	Rehearing of the accounting determinations	To grant or deny a petition for rehearing of the accounting determinations
*PSC-04-08-00010-P	..... exempt	Granting of easement rights on utility property by Central Hudson Gas & Electric Corporation	To grant easement rights to Millennium Pipeline Company, L.L.C.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-04-08-00012-P	..... exempt	Marketing practices of energy service companies by the Consumer Protection Board and New York City Department of Consumer Affairs	To consider modifying the commission's regulation over marketing practices of energy service companies
*PSC-08-08-00016-P	..... exempt	Transfer of ownership by Entergy Nuclear Fitzpatrick LLC, et al.	To consider the transfer
*PSC-12-08-00019-P	..... exempt	Extend the provisions of the existing electric rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-12-08-00021-P	..... exempt	Extend the provisions of the existing gas rate plan by Rochester Gas and Electric Corporation	To consider the request
*PSC-13-08-00011-P	..... exempt	Waiver of commission policy and NYSEG tariff by Turner Engineering, PC	To grant or deny Turner's petition
*PSC-13-08-00012-P	..... exempt	Voltage drops by New York State Electric & Gas Corporation	To grant or deny the petition
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-23-08-00009-P	..... exempt	The transfer of certain real property with an original cost under \$100,000 in the Town of Throop	To consider the filing for the transfer of certain real property in the Town of Throop
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*PSC-41-08-00009-P	..... exempt	Transfer of control of cable TV franchise	To determine if the transfer of control of Margaretville's cable TV subsidiary should be approved
*PSC-43-08-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries	The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries
*PSC-46-08-00008-P	..... exempt	Property transfer in the Village of Avon, New York	To consider a petition for the transfer of street lighting and attached equipment to the Village of Avon, New York
*PSC-46-08-00010-P	..... exempt	A transfer of indirect ownership interests in nuclear generation facilities	Consideration of approval of a transfer of indirect ownership interests in nuclear generation facilities
*PSC-46-08-00014-P	..... exempt	The attachment of cellular antennae to an electric transmission tower	To approve, reject or modify the request for permission to attach cellular antennae to an electric transmission tower
*PSC-48-08-00005-P	..... exempt	A National Grid high efficiency gas heating equipment rebate program	To expand eligibility to customers converting from oil to natural gas
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*PSC-05-09-00008-P	..... exempt	Revenue allocation, rate design, performance metrics, and other non-revenue requirement issues	To consider any remaining non-revenue requirement issues related to the Company's May 9, 2008 tariff filing
*PSC-05-09-00009-P	..... exempt	Numerous decisions involving the steam system including cost allocation, energy efficiency and capital projects	To consider the long term impacts on steam rates and on public policy of various options concerning the steam system
*PSC-06-09-00007-P	..... exempt	Interconnection of the networks between Frontier Comm. and WVT Communications for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Frontier Comm. and WVT Comm.
*PSC-07-09-00015-P	..... exempt	Transfer certain utility assets located in the Town of Montgomery from plant held for future use to non-utility property	To consider the request to transfer certain utility assets located in the Town of Montgomery to non-utility assets
*PSC-07-09-00017-P	..... exempt	Request for authorization to defer the incremental costs incurred in the restoration work resulting from the ice storm	To allow the company to defer the incremental costs incurred in the restoration work resulting from the ice storm
*PSC-07-09-00018-P	..... exempt	Whether to permit the submetering of natural gas service to an industrial and commercial customer at Cooper Union, New York, NY	To consider the request of Cooper Union, to submeter natural gas at 41 Cooper Square, New York, New York
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*PSC-17-09-00015-P	..... exempt	The construction of a tower for wireless antennas on land owned by National Grid	To approve, reject or modify the petition to build a tower for wireless antennas in the Town of Onondaga
*PSC-18-09-00012-P	..... exempt	Petition for rehearing of Order approving the submetering of electricity	To consider the request of Frank Signore to rehear petition to submeter electricity at One City Place in White Plains, New York
*PSC-18-09-00013-P	..... exempt	Petition for the submetering of electricity	To consider the request of Living Opportunities of DePaul to submeter electricity at E. Main St. located in Batavia, New York
*PSC-18-09-00017-P	..... exempt	Approval of an arrangement for attachment of wireless antennas to the utility's transmission facilities in the City of Yonkers	To approve, reject or modify the petition for the existing wireless antenna attachment to the utility's transmission tower
*PSC-20-09-00016-P	..... exempt	The recovery of, and accounting for, costs associated with the Companies' advanced metering infrastructure (AMI) pilots etc	To consider a filing of the Companies as to the recovery of, and accounting for, costs associated with it's AMI pilots etc
*PSC-20-09-00017-P	..... exempt	The recovery of, and accounting for, costs associated with CHG&E's AMI pilot program	To consider a filing of CHG&E as to the recovery of, and accounting for, costs associated with it's AMI pilot program
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*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



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

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<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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"

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<b>PUBLIC SERVICE COMMISSION</b>			
*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
*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

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

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

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

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<b>PUBLIC SERVICE COMMISSION</b>			
*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-17-13-00008-P	..... exempt	Provision of historical utility pricing information for comparison purposes for residential ESCO customers	Provision of historical utility pricing information for comparison purposes for residential ESCO customers
*PSC-17-13-00010-P	..... exempt	Provision of historical pricing information for comparison purposes for residential ESCO customers	Provision of historical pricing information for comparison purposes for residential ESCO customers
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-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

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



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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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-03-14-00009-P	..... exempt	disposition of tax refunds and other related matters	to determine the disposition of tax refunds and other related matters
*PSC-04-14-00005-P	..... exempt	National Fuel Gas Corporation's Conservation Incentive Programs.	To modify National Fuel Gas Corporation's Non-Residential Conservation Incentive Program.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes HDFC, Inc. to submeter electricity at 102, 103 and 106 W 5th Street, et al.
*PSC-07-14-00012-P	..... exempt	Water rates and charges	Implementation of Long-Term Water Supply Surcharge to recover costs associated with the Haverstraw Water Supply Project
*PSC-08-14-00015-P	..... exempt	Verizon New York Inc.'s service quality and Customer Trouble Report Rate (CTRR) levels at certain central office entities	To improve Verizon New York Inc.'s service quality and the Customer Trouble Report Rate levels at certain central office entities
*PSC-10-14-00006-P	..... exempt	Actions to facilitate the availability of ESCO value-added offerings, ESCO eligibility and ESCO compliance	To facilitate ESCO value-added offerings and to make changes to ESCO eligibility and to ensure ESCO compliance
*PSC-11-14-00003-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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 tarified definition of emergency generator.	To consider waiver of RG&E's tarified 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.
*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.

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

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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-04-15-00012-P	..... exempt	Disposition of tax refunds and other related matters.	To determine the disposition of tax refunds and other related matters.
*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
*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-18-15-00005-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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
*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-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-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-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-32-15-00012-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-35-15-00011-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-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-41-15-00009-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-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
*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-50-15-00009-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-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-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



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-01-16-00003-P	..... exempt	Deferral of expenses	To consider a petition for the deferral of expenses
PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
PSC-04-16-00011-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-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-06-16-00010-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-06-16-00012-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.
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-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-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-11-16-00016-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%

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<b>PUBLIC SERVICE COMMISSION</b>			
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-12-16-00007-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-13-16-00008-P	..... exempt	Standby rate exemption for Offset Tariff customers	Consideration of the standby rate exemption for Offset Tariff customers
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-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-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%
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-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
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-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).
PSC-20-16-00009-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-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-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-22-16-00013-P	..... exempt	Disposition of tax refunds and other related matters.	To consider the disposition of tax refunds and other related matters.
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

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<b>PUBLIC SERVICE COMMISSION</b>			
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-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-25-16-00014-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.
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-25-16-00021-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
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-26-16-00021-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.
PSC-28-16-00013-P	..... exempt	Initial Tariff Schedule which includes rates, charges, rules and regulations for water service.	To consider the proposed Initial Tariff Schedule and initial rate for water service.
PSC-28-16-00015-P	..... exempt	Major water rate filing.	To consider a proposal to increase revenues by approximately \$8.49 million or 8.3% and consolidate tariffs and rates.
PSC-28-16-00016-P	..... exempt	A petition for reconsideration of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
PSC-29-16-00022-P	..... exempt	Petitions for Rehearing of the Commission's Order Adopting Low Income Program Modifications and Directing Utility Filings.	To establish rates, terms, and conditions for low income utility programs.
PSC-29-16-00023-P	..... exempt	Use of the Silver Spring Network Residential Gas Interface Management Unit - IMU 300 and IMU 300A.	To consider the use of the Silver Spring Network Residential Gas Interface Management Unit - IMU 300 and IMU 300A.
PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
PSC-29-16-00025-P	..... exempt	Proposed modifications to gas safety violations metric adopted in Case 12-G-0202.	To consider NMPC's petition to modify gas safety violations metric.
PSC-30-16-00005-P	..... exempt	Notice of Intent to submeter electricity	To consider the Notice of Intent of 616 First Avenue LLC to submeter electricity at 626 First Avenue, New York, New York

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-30-16-00006-P	..... exempt	The application of NYSEG's tariff to a remote net metering host account owned by Cornell University	To determine the appropriate tariff treatment for the Cornell account
PSC-30-16-00007-P	..... exempt	The Municipal Electric and Gas Alliance's Community Choice Aggregation Implementation Plan	To ensure appropriate consumer protections
PSC-31-16-00004-P	..... exempt	Proposed acquisition of 100% of the assets of WBA by NYAW and to address other matters related to the acquisition.	To consider the proposed acquisition of all assets of WBA by NYAW and other matters related to the acquisition.
PSC-32-16-00003-P	..... exempt	Performance Assurance Plan waiver for certain wholesale service quality metrics.	To consider Verizon's waiver petition concerning certain wholesale service quality results.
PSC-32-16-00005-P	..... exempt	Major gas rate filing.	To consider an increase in National Fuel's gas delivery revenues of approximately \$41.7 million or 15.27%.
PSC-32-16-00007-P	..... exempt	Utility DSIPs to achieve the Commission's Reforming the Energy Vision (REV) initiative.	Development of utility DSIPs for improving utility planning and operations functions under REV.
PSC-32-16-00009-P	..... exempt	Proposed acquisition of 100% of the assets of New Vernon and Whitlock Farms by NYAW.	To consider the proposed acquisition of assets of New Vernon and Whitlock Farms by NYAW.
PSC-32-16-00010-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 30 Park Place, New York, New York.
PSC-32-16-00011-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 138-35 39th Avenue, Flushing, New York.
PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
PSC-33-16-00001-EP	..... 08/17/17	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
PSC-33-16-00003-P	..... exempt	Use of the Silver Spring Network communication device in utility metering applications.	To consider the use of the Silver Spring Network communication device.
PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
PSC-33-16-00006-P	..... exempt	Lightened regulatory regime applicable to Indeck Corinth Limited Partnership.	To determine the extent to which Indeck Corinth Limited Partnership will be regulated under the Public Service Law.
PSC-34-16-00004-P	..... exempt	Proposed revisions to the General Information Section III.8(W) - AMR/AMI Meter Opt-out.	To consider revisions to AMR/AMI meter opt-out and manual meter reading charge provisions.
PSC-34-16-00005-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-34-16-00006-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.
PSC-34-16-00007-P	..... exempt	Proposed revisions to the General Rule 6.10 - AMR/AMI Meter Opt-out.	To consider revisions to AMR/AMI meter opt-out and manual meter reading charge provisions.
PSC-34-16-00008-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.
PSC-34-16-00009-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.
PSC-34-16-00010-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.
PSC-34-16-00011-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.
PSC-34-16-00012-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.
PSC-34-16-00013-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.
PSC-34-16-00014-P	..... exempt	Petition to submeter electricity.	To consider the petition of Elmo Homes, Inc. to submeter electricity at 728 41st Street, Brooklyn, New York.
PSC-34-16-00015-P	..... exempt	Community Choice Aggregation (CCA) Data Services.	To consider the implementation of fees for CCA Data Services requested by CCA Administrators.
PSC-34-16-00016-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of Snowplow LH LLC to submeter electricity at 252 East 57th Street, New York, NY.
PSC-34-16-00017-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of 212 Fifth Avenue Venture LLC to submeter electricity at 212 Fifth Avenue, New York, NY.
PSC-34-16-00018-P	..... exempt	Standby Service.	To consider the implementation of a standby reliability credit and an offset tariff provision.
PSC-34-16-00019-P	..... exempt	Standby Service.	To consider the implementation of a standby reliability credit and an offset tariff provision.
PSC-34-16-00020-P	..... exempt	Standby Service.	To consider the implementation of a standby reliability credit and an offset tariff provision.
PSC-34-16-00021-P	..... exempt	Standby Service.	To consider the implementation of a standby reliability credit and an offset tariff provision.
PSC-34-16-00022-P	..... exempt	Standby Service.	To consider the implementation of a standby reliability credit and an offset tariff provision.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-35-16-00014-P	..... exempt	Proposed acquisition of 100% of the assets of Hoey-DeGraw by NYAW and to address other matters related to the acquisition	To consider the proposed acquisition of 100% of assets of Hoey-DeGraw by NYAW and other matters related to the acquisition
PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
PSC-36-16-00003-P	..... exempt	Petition regarding the Commission's July 14, 2016 Order Denying Petition.	To consider the terms and conditions of utility service received by Fastrac Markets, LLC.
PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
PSC-36-16-00005-P	..... exempt	Disposition of tax refunds received by New York American Water Company, Inc.	To determine the disposition of tax refunds and other related matters.
PSC-37-16-00010-P	..... exempt	Zero Emission Credit requirement of the Clean Energy Standard.	To avoid adverse air emissions from fossil-fueled generation that would replace nuclear generation.
PSC-37-16-00014-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 301 East 61st Street, New York, New York.
PSC-37-16-00015-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of 10 Sullivan Condominium to submeter electricity at 10 Sullivan Street, New York, New York.
PSC-38-16-00006-P	..... exempt	Request for waiver of the individual metering requirements of Opinion 76-17 and 16 NYCRR Part 96	To consider the request for waiver of the individual metering requirements of Opinion 76-17 and 16 NYCRR Part 96
PSC-39-16-00012-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00013-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00014-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00015-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00016-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00017-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00018-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00019-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00020-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00021-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.



Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-39-16-00022-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00023-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00024-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00025-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00026-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00027-P	..... exempt	The Clean Energy Standard.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-39-16-00028-P	..... exempt	Consolidated Edison Company of New York, Inc.'s replevin acts and practices.	To review Consolidated Edison Company of New York, Inc.'s replevin acts and practices.
PSC-39-16-00029-P	..... exempt	Minor rate filing.	To consider an increase in annual revenues of about \$158,709 or 20%.
PSC-40-16-00001-EP	..... exempt	Prohibition on enrollments, and de-enrollment requirements, on energy service companies (ESCOs) regarding low-income customers.	To protect low-income residential customers from unnecessary costs and to conserve low-income assistance program funds.
PSC-40-16-00003-P	..... exempt	Low income program implementation plan filed by New York State Electric and Gas Corp. and Rochester Gas & Electric Corp.	To establish rates, terms, and conditions for the Companies' low income utility programs.
PSC-40-16-00004-P	..... exempt	Low income program implementation plan filed by KeySpan Gas East Corp. d/b/a National Grid.	To establish rates, terms, and conditions for the Company's low income utility programs.
PSC-40-16-00005-P	..... exempt	Cost recovery for Non-Wire Alternative (NWA) Project.	To consider Central Hudson's proposed revisions regarding the recovery of costs and incentives associated with NWA Project.
PSC-40-16-00006-P	..... exempt	Petition to waive the ECAM proration billing method for SC No. 5 customers.	To consider the request of Central Hudson to waive the ECAM proration billing method for SC No. 5 customers.
PSC-40-16-00007-P	..... exempt	Low income program implementation plan filed by National Fuel Gas Distribution Corporation.	To establish rates, terms, and conditions for the Company's low income utility programs.
PSC-40-16-00008-P	..... exempt	Low income program implementation plan filed by Consolidated Edison Company of New York, Inc.	To establish rates, terms, and conditions for the Company's low income utility programs.
PSC-40-16-00009-P	..... exempt	Low income program implementation plan filed by Niagara Mohawk Power Corporation.	To establish rates, terms, and conditions for the Company's low income utility programs.
PSC-40-16-00010-P	..... exempt	Low income program implementation plan filed by Orange and Rockland Utilities, Inc..	To establish rates, terms, and conditions for the Company's low income utility programs.
PSC-40-16-00011-P	..... exempt	Low income program implementation plan filed by the Brooklyn Union Gas Company d/b/a National Grid NY.	To establish rates, terms, and conditions for the Company's low income utility programs.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-40-16-00012-P	..... exempt	Low income program implementation plan filed by Central Hudson Gas & Electric Corporation.	To establish rates, terms, and conditions for the Company's low income utility programs.
PSC-40-16-00013-P	..... exempt	Surcharge to recover costs of Dynamic Load Management Programs.	To consider a surcharge to recover costs of the Dynamic Load Management Programs.
PSC-40-16-00014-P	..... exempt	Surcharge to recover costs of Dynamic Load Management Programs.	To consider a surcharge to recover costs of the Dynamic Load Management Programs.
PSC-40-16-00015-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 175 Huguenot Street, New Rochelle, New York.
PSC-40-16-00016-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 301 East 50th Street, New York, New York.
PSC-40-16-00017-P	..... exempt	Request for waiver of 16 NYCRR sections 96.5(a) and 96.6(b)	To consider the request for waiver of 16 NYCRR sections 96.5(a) and 96.6(b)
PSC-40-16-00018-P	..... exempt	Petition for commercial electric meter.	To consider the petition to use the Itron OpenWay Riva commercial meter in electric metering applications.
PSC-40-16-00019-P	..... exempt	Surcharge to recover costs of Dynamic Load Management Programs.	To consider a surcharge to recover costs of the Dynamic Load Management Programs.
PSC-40-16-00020-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of 501 Broadway Troy, LLC to submeter electricity at 501 Broadway, Troy, New York.
PSC-40-16-00021-P	..... exempt	Surcharge to recover costs of Dynamic Load Management Programs.	To consider a surcharge to recover costs of the Dynamic Load Management Programs.
PSC-40-16-00022-P	..... exempt	The addition of LED lighting options to SC No. 4 - Off-Street Lighting and SC No. 5 - Municipal Street Lighting Service.	To consider the addition of LED lighting options for Jamestown's street and off-street lighting service classifications.
PSC-40-16-00023-P	..... exempt	Major gas rate filing.	To consider an increase in Conring's gas delivery revenues of approximately \$5.9 million or 44.7%.
PSC-40-16-00024-P	..... exempt	Tariff revisions regarding National Grid's LED lighting option wattages.	To consider National Grid's proposed revisions updating its LED lighting option wattages in its street lighting tariff.
PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.
PSC-40-16-00026-P	..... exempt	Compliance filing establishing an interruptible gas service sales rate.	To consider RG&E's proposed revisions to establish an interruptible gas service sales rate.
PSC-40-16-00027-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Marathon for its apparent non-compliance with Commission requirements.
PSC-40-16-00028-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on ABC for its apparent non-compliance with Commission requirements.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-41-16-00015-P	..... exempt	To consider proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify the Transition Plan in response to new and unanticipated conditions
PSC-41-16-00016-P	..... exempt	Proposed revision to Rule 25.5 - Meter Reading (Rule 25.5)	To consider a revision to Rule 25.5 regarding the costs for telephone circuits for distributed generation projects
PSC-41-16-00017-P	..... exempt	Utility tariffs to implement the Clean Energy Standard	To promote and maintain renewable and zero-emission electric energy resources
PSC-41-16-00018-P	..... exempt	Rider T - Commercial Demand Response Programs (Rider T)	To consider modifications to Rider T regarding its Commercial System Relief Program and Distribution Load Relief Program
PSC-42-16-00005-EP	..... exempt	Appointment of a temporary operator for Whitlock Farms Water Company and New Vernon Water Company	To ensure the provision of safe and adequate water service to customers by appointment of a temporary operator
PSC-42-16-00007-P	..... exempt	New communications protocols for interruptible customers.	To establish new communications protocols to ensure that interruptible customers have sufficient back-up fuel.
PSC-42-16-00008-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.
PSC-42-16-00009-P	..... exempt	Petition to submeter electricity.	To consider the petition to submeter electricity at 549-561 41st Street, Brooklyn, New York.
PSC-42-16-00010-P	..... exempt	Request for a limited waiver of certain tariff provisions.	To consider a request for a limited waiver of the tariff's unauthorized gas usage and non-compliance penalty provisions.
PSC-42-16-00011-P	..... exempt	Petition for modifications to the New York State Standardized Interconnection Requirements and Application Process.	To update the SIR to clear the backlog, implement cost sharing, and streamline interconnection.
PSC-42-16-00012-P	..... exempt	Transfer of certain streetlights located in the Town of Orangetown.	To consider the transfer of certain streetlights from Orange and Rockland to the Town of Orangetown.
PSC-42-16-00013-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider a request for a waiver of certain tariff provisions and 16 NYCRR Section 720-6.5(g).
PSC-42-16-00014-P	..... exempt	Proposed Public Policy Transmission Needs/ Public Policy Requirements, as defined under the NYISO tariff.	To identify any proposed Public Policy Transmission Needs/Public Policy Requirements for referral to the NYISO.
PSC-43-16-00003-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of Haus LLC to submeter electricity at 152 Freeman Street, Brooklyn, New York.
PSC-43-16-00004-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of 50 West Street Condominium to submeter electricity at 50 West Street, New York, New York.
PSC-43-16-00005-P	..... exempt	NYSRC's revisions to its rules and measurements.	To consider revisions to various rules and measurements of the NYSRC.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-44-16-00010-EP	..... exempt	Use of escrow funds for repairs.	To condition the use of escrow account funds for repairs.
PSC-44-16-00015-P	..... exempt	Surcharge to recover costs of Dynamic Load Management Programs	To consider a surcharge to recover costs of the Dynamic Load Management Programs
PSC-44-16-00016-P	..... exempt	Consideration of comments made by NFG regarding the audit process and the use of guidance documents in regulation	To consider NFG's arguments and if the Commission should modify its practices
PSC-44-16-00017-P	..... exempt	Valuation of and compensation for electricity generated by distributed resources	To implement framework that will benefit ratepayers and customer-generators and further State policy
PSC-44-16-00018-P	..... exempt	Notice of Intent to submeter electricity	To consider the Notice of Intent to submeter electricity at 325 Kent Avenue, Brooklyn, New York
PSC-44-16-00019-P	..... exempt	Transfer of certain streetlights located in the City of Kingston	To consider the transfer of certain streetlights from Central Hudson to the City of Kingston
PSC-44-16-00020-P	..... exempt	Transfer of a parcel of property located in the Town of North Castle	To consider the transfer of a parcel of property from Con Edison to the Town of North Castle
PSC-44-16-00021-P	..... exempt	Minor rate filing of Municipal Commission of Boonville	To consider an increase in annual revenues of about \$161,477 or 4.2%
PSC-45-16-00007-P	..... exempt	Proposed debt financing for CCI Rensselaer LLC.	To consider proposed debt financing for CCI Rensselaer LLC.
PSC-45-16-00008-P	..... exempt	Petition to use a commercial electric meter.	To consider the petition to use the Landis+Gyr S4X Commercial Meter with Gridstream Series 5 RF Mesh IP AMI.
PSC-45-16-00009-P	..... exempt	Petition to use a residential gas meter.	To consider the petition to use the Elster/American AT210TC gas meter in residential applications.
PSC-45-16-00010-P	..... exempt	Petition to use a residential gas meter.	To consider the petition to use the Sensus RT230TC temperature compensated gas meter in residential applications.
PSC-45-16-00011-P	..... exempt	Petition to use a residential electric meter.	To consider the petition to use the Landis+Gyr Focus AXe Meter with Gridstream Series 5 RF Mesh IP AMI.
PSC-45-16-00012-P	..... exempt	Disposition of property tax benefits.	To consider the disposition of property tax benefits.
PSC-45-16-00013-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives.	To consider the Interconnection Survey Process and Proposed Earnings Adjustment Mechanism.
PSC-45-16-00014-P	..... exempt	Disposition of property tax benefits.	To consider the disposition of property tax benefits.
PSC-45-16-00015-P	..... exempt	Arbor Hills Water Works Inc.'s rates for the provision of water.	To consider an increase in Arbor Hills Water Works Inc.'s annual water revenues by approximately \$36,500 or 45%.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-45-16-00016-P	..... exempt	Bonville Water Company Inc.'s rates for the provision of water.	To consider an increase in Bonville Water Company Inc.'s annual water revenues by approximately \$25,000 or 45%.
PSC-45-16-00017-P	..... exempt	Knolls Water Co., Inc.'s rates for the provision of water.	To consider an increase in Knolls Water Co., Inc.'s annual water revenues by approximately \$26,600 or 45%.
PSC-45-16-00018-P	..... exempt	Proposed water supply agreement between NYAW and Glen Cove.	To consider the proposed water supply agreement between NYAW and Glen Cove.
PSC-46-16-00008-P	..... exempt	Consideration of the NYISO's AC Transmission Public Policy Transmission Need (PPTN) Viability and Sufficiency Assessment.	To consider whether NYISO should proceed to further evaluate solutions to a AC Transmission PPTN.
PSC-46-16-00009-P	..... exempt	Waiver of the ten-member minimum for CDG projects in appropriate circumstances.	Consideration of appropriate treatment of small CDG projects on multi-resident properties.
PSC-46-16-00010-P	..... exempt	Proposed modifications to the Phase III Storm Hardening Order.	To consider modifications to the Phase III Storm Hardening Order.
PSC-46-16-00011-P	..... exempt	Excess generation credits held by CDG project sponsors at the end of an annual billing period.	Consideration of appropriate treatment of excess generation credits.
PSC-46-16-00012-P	..... exempt	Implementation program rules for the Renewable Energy Standard (RES) and Zero-Emission Credit (ZEC) requirement.	To promote and maintain renewable and zero-emission electric energy resources.
PSC-46-16-00013-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of Hudson Cornell Tech LLC, to submeter electricity at 1 East Loop Road, New York, New York.
PSC-46-16-00014-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of 846 6th Avenue Venture, to submeter electricity at 50 West 30th Street, New York, New York.
PSC-46-16-00015-P	..... exempt	The eligibility of street lighting and area lighting accounts for remote net metering.	Consideration of eligibility for remote net metering.
PSC-46-16-00016-P	..... exempt	Tariff revisions regarding Central Hudson's LED lighting options under its service classifications, SC No. 5 and SC No. 8.	To consider revisions to Central Hudson's LED lighting options in area lighting and street lighting service classifications.
PSC-46-16-00017-P	..... exempt	Tariff revisions regarding Central Hudson's traffic signal service classification, SC No. 9.	To consider revisions to Central Hudson's traffic signal service classification.
PSC-46-16-00018-P	..... exempt	Con Edison's proposed pilot shared solar program for low-income customers.	Consideration of the authorization and appropriate design of a utility-owned low-income shared solar program.
PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
PSC-47-16-00011-P	..... exempt	Petition to use residential electric meters	To consider the petition of Itron, Inc. to use the Itron C2SRD and CN2SRD in residential electric meter applications

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-47-16-00012-P	..... exempt	Lease of real property	To consider NYSEG's request to lease a portion of certain real property to Allied Dog Training, LLC
PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
PSC-47-16-00015-P	..... exempt	Joint Utilities' SDSIP to achieve the Commission's Reforming the Energy Vision (REV) initiative	Development of utilities' joint SDSIP for improving utility planning and operations functions under REV
PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
PSC-48-16-00004-P	..... exempt	Extension of the air conditioning incentive programs application date.	To consider extending the application date for its air conditioning incentive programs.
PSC-48-16-00005-P	..... exempt	Clarification of an Order Approving Tariff Amendments with Modifications, issued October 14, 2016 in Cases 15-E-0745, et al.	To consider the petition for clarification filed in Cases 15-E-0745, et al.
PSC-49-16-00002-P	..... exempt	Transfer of certain street lighting facilities located in the Town of Ramapo.	To consider the transfer of certain street lighting facilities from Orange and Rockland Utilities, Inc. to the Town of Ramapo.
PSC-49-16-00003-P	..... exempt	Stock Acquisition.	To consider the transfer of all S&S Rhinebeck Water-Works Corporation stock to RIC Rhinebeck and MHMG-KM Rhinebeck.
PSC-49-16-00004-P	..... exempt	Waiver of certain rules and requirements pertaining to cable television franchise.	To determine whether to waive any regulations.
PSC-49-16-00005-P	..... exempt	Waiver of certain rules and requirements pertaining to cable television franchise.	To determine whether to waive any regulations.
PSC-49-16-00006-P	..... exempt	Waiver of certain rules and requirements pertaining to cable television franchise.	To determine whether to waive any regulations.
PSC-49-16-00007-P	..... exempt	Waiver of certain rules and requirements pertaining to cable television franchise.	To determine whether to waive any regulations.
PSC-50-16-00003-P	..... exempt	Proposed corporate reorganization and transfer of ownership interests in Empire Generating Co, LLC	To consider corporate reorganization and transfer of ownership interests in Empire Generating Co, LLC
PSC-50-16-00004-P	..... exempt	Notice of Intent to submeter electricity	To consider the Notice of Intent to submeter electricity at 27-19 44th Drive, Long Island City, New York, and waiver request
PSC-50-16-00005-P	..... exempt	Notice of Intent to submeter electricity	To consider the Notice of Intent of 2 North 6th Place Owner, LLC, to submeter electricity at 2 North 6th Place, Brooklyn, NY
PSC-50-16-00006-P	..... exempt	Proposed electric tariff and CDG Operating Agreement amendments that update NYSEG's Community Distribution Generation program	To consider proposed tariff and Operating Agreement amendments that update NYSEG's Community Distribution Generation program

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>PUBLIC SERVICE COMMISSION</b>			
PSC-50-16-00007-P	..... exempt	Utility obligation to provide three phase service within residential subdivisions free of charge for first 100 feet	To consider Niagara Mohawk's obligations to provide 100 feet of free three phase service pursuant to PSL Section 31(4)
PSC-51-16-00008-P	..... exempt	Petition to submeter electricity.	To consider the petition of 172 Madison Condominium to submeter electricity at 172 Madison Avenue, New York, New York.
PSC-51-16-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent of 111 Murray Street Condominium, to submeter electricity at 111 Murray Street, New York, NY.
PSC-51-16-00010-P	..... exempt	Use of the Aclara kV2c EPS meter with Silver Spring Network Interface Card 510 in electric metering applications.	To consider use of the Aclara kV2c EPS meter with Silver Spring Network Interface Card 510 in electric metering applications.
<b>STATE, DEPARTMENT OF</b>			
DOS-39-16-00005-P	..... 09/28/17	Requirements regarding brokers receiving funds, course subjects and hours, and business cards	To provide clarity regarding brokers obligations when receiving compensation, instruction requirements, and business cards
DOS-40-16-00029-EP	..... 11/21/17	Signs on buildings utilizing truss type, pre-engineered wood or timber construction	To update references
DOS-45-16-00019-P	..... 11/09/17	Rules relating to political consultants	To prescribe the statutorily mandated form for political consultants and related regulations relating to political consultants
DOS-46-16-00007-P	..... 01/03/18	Sugarhouse Alternative Activity Provisions	To allow sugarhouses to conduct alternative activities that will support the maple product industry
<b>TAXATION AND FINANCE, DEPARTMENT OF</b>			
TAF-48-16-00002-P	..... exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2017 through March 31, 2017
TAF-48-16-00003-P	..... 11/30/17	Division of Taxation and Finance Powers of Attorney	To simplify and expedite the process for filing Powers of Attorney with the Division of Taxation and Finance
TAF-51-16-00002-EP	..... 12/21/17	Metropolitan Transportation Business Tax Surcharge	To provide metropolitan transportation business tax rate for tax year 2017
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
*TDA-46-15-00005-RP	..... 02/15/17	Storage of furniture and personal belongings	Provide clarification regarding allowances for the storage of furniture and personal belongings
TDA-36-16-00006-P	..... 09/07/17	Supplemental Nutrition Assistance Program (SNAP)	Update State regulations to reflect federal requirements regarding the trafficking of SNAP benefits

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
<b>TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF</b>			
TDA-37-16-00001-P	..... 09/14/17	Child Support	To help ensure the State's compliance with federal rules for safeguarding confidential information, disclosing said information, where appropriate, to authorized persons and entities; and report delinquent child support payors to credit reporting agencies
TDA-37-16-00004-P	..... 09/14/17	Public Assistance (PA) Use of Resources - General Policy	To update current PA resource exemptions related to automobiles
TDA-39-16-00006-P	..... 09/28/17	Operational Plans for Uncertified Shelters for the Homeless	See attached
<b>THRUWAY AUTHORITY, NEW YORK STATE</b>			
THR-46-16-00022-P	..... 11/16/17	Amend the Authority's toll rules to enhance violation enforcement on the Thruway System	To deter toll evasion
<b>TRANSPORTATION, DEPARTMENT OF</b>			
TRN-41-16-00001-P	..... 10/12/17	Provisions applicable to administrative hearings in Office of Proceedings	Update of rules applicable to administrative hearings and repeal of obsolete provisions in Part 558
<b>TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY</b>			
TBA-46-16-00021-P	..... 11/16/17	Proposal to strengthen toll violation enforcement at TBTA bridges and tunnels	To deter toll evasion
TBA-49-16-00008-P	..... exempt	Proposal to establish a new crossing charge schedule for use of bridges and tunnels operated by TBTA	Proposal to raise additional revenue
<b>WORKERS' COMPENSATION BOARD</b>			
WCB-44-16-00011-P	..... 11/02/17	Administrative Appeals	Update the process for requesting administrative review of decisions by a law judge



# GUIDANCE DOCUMENTS

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Not less than once each year, every agency shall submit to the Secretary of State for publication in the *State Register* a list of all Guidance Documents on which the agency currently relies [SAPA, section 202-e(1)]. However, an agency may be exempted from compliance with the requirements of SAPA section 202-e(1) if the agency has published on its website the full text of all Guidance Documents on which it currently relies [SAPA, section 202-e(2)].

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## Higher Education Services Corporation

The Higher Education Services Corporation has published the full text of all guidance documents on which said agency currently relies on at the following website: [www.HESC.ny.gov](http://www.HESC.ny.gov)



# SECURITIES OFFERINGS

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## STATE NOTICES

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

## DEALERS; BROKERS

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640 Associates, LLC  
1528 6th St., Suite 100, Santa Monica, CA 90401

Able Multi-Fund Ltd.  
2F Landmark Sq., 64 Earth Close, SMB, Grand Cayman, Cayman  
Islands KY1-1002  
*State or country in which incorporated* — Cayman Islands

AFFL Associates, LLC  
50 E. 79th St., Apt. 2A, New York, NY 10075  
*State or country in which incorporated* — Delaware

Agents Reinsurance Company  
3030 N. Third St., Suite 790, Phoenix, AZ 85012  
*State or country in which incorporated* — Arizona

Albany Road-Maryland Farms Investor LLC  
10 High St., Suite 700, Boston, MA 02110  
*Partnership* — Albany Road-Maryland Farms Property Manager, LLC

Appraisal Lane, LLC, The  
5000 Plaza on the Lake, Suite 305, Austin, TX 78746  
*State or country in which incorporated* — Florida limited liability  
company

Berens Capital Asia (Ex-Japan) LLC  
Berens Capital Management, LLC, 717 Fifth Ave., Fl. 12A, New York,  
NY 10022

Berens Capital Asia (Ex-Japan) Offshore Ltd.  
Berens Capital Management, LLC, 717 Fifth Ave., Fl. 12A, New York,  
NY 10022

Berens Capital Greater China LLC  
Berens Capital Management, LLC, 717 Fifth Ave., Fl. 12A, New York,  
NY 10022

BM Tigers, LP  
6701 Center Dr. W, 14th Fl., Los Angeles, CA 90045  
*Partnership* — TPCP Investments XXXV, LLC

BSP Bailey LLC  
276 Fifth Ave., Suite 402, New York, NY 10001

BSP Hoffman LLC  
276 Fifth Ave., Suite 402, New York, NY 10001

BWIP Core JV I, LLC  
30195 Chagrin Blvd., Suite 320, Pepper Pike, OH 44124  
*State or country in which incorporated* — Delaware

Carlton Properties, LP  
422 Vecchio Lane, Morgantown, WV 26508  
*Partnership* — Carlton Properties GP, LLC

Crawford Lake Enhanced Onshore Fund, LP  
15 America Ave., Suite 210, Lakewood, NJ 08701  
*Partnership* — Crawford Lake GP, LLC

Crawford Onshore Partners, LP  
15 America Ave., Suite 210, Lakewood, NJ 08701  
*Partnership* — Cambridge Asset Partners, LLC

CV1 P, LLC  
11911 Freedom Dr., Suite 1080, Reston, VA 20190

First Liberties Securities, Inc.  
369 Lexington Ave., Suite 311, New York, NY 10017  
*State or country in which incorporated* — New York

GMI-AF, LP  
251 O'Connor Ridge Blvd., Suite 100, Irving, TX 75038  
*Partnership* — GMI-AF GP, LLC

GRE 50 Hurt Investor LP  
101 Park Ave., Suite 2602, New York, NY 10178  
*Partnership* — GRE 50 Hurt Investor GP LLC

Herbert J. Sims & Co. Inc.  
2150 Post Rd., Suite 301, Fairfield, CT 06824  
*State or country in which incorporated* — Delaware

Hills Bancorporation  
131 Main St., Hills, IA 52235  
*State or country in which incorporated* — Iowa

iAnthus Capital Holdings, Inc.  
420 Lexington Ave., Suite 300, New York, NY 10170  
*State or country in which incorporated* — Canada

InFocus Capital Partners - Trefoil, LLC  
4401 Harlem Ave., Stickney, IL 60402  
*State or country in which incorporated* — Delaware

KABR 66 Summer, LLC  
100 Challenger Rd., Suite 401, Ridgefield Park, NJ 07660

Lingerfelt Commonwealth Income Fund, LLC  
4198 Cox Rd., Suite 201, Glen Allen, VA 23060  
*State or country in which incorporated* — Delaware

Mahout Worldwide Sustainability Fund (DST)  
Finsbury Circus House, 15 Finsbury Circus, London, United Kingdom  
EC2M 7EB  
*State or country in which incorporated* — Delaware

Metaurus LLC  
510 Madison Ave., 11th Fl., New York, NY 10022

Mishki, Inc.  
137 Varick St., 2nd Fl., New York, NY 10009  
*State or country in which incorporated* — Delaware

MLG/PF WGBTL Co-Investor LLC  
Attn: Timothy J. Wallen, 13400 Bishops Ln., Suite 270, Brookfield,  
WI 53005  
*State or country in which incorporated* — Wisconsin

Passco Capital, Inc.  
2050 Main St., Suite 650, Irvine, CA 92614  
*State or country in which incorporated* — California

Replika Software LLC  
11 Northwood Court, Woodbury, NY 11797  
*State or country in which incorporated* — Delaware limited liability  
company

Roar Athletic Performance Corp.  
Two Hollyhock Rd., Wilton, CT 06897  
*State or country in which incorporated* — Delaware

ShiftPixy, Inc.  
One Venture, Suite 150, Irvine, CA 92618  
*State or country in which incorporated* — Wyoming

Shorebird Ibis Fund, LP  
777 E. Sonterra Blvd., Suite 330, San Antonio, TX 78258  
*Partnership* — Shorebird Capital GP, LLC

Southern Tier Region Rural Broadband Company, Inc.  
c/o David Karre, V.P., 4153 Marietta Dr., Vestal, NY 13850  
*State or country in which incorporated* — New York

SPiN Philadelphia LLC  
1340 Walnut St., Philadelphia, PA 19107  
*State or country in which incorporated* — Delaware

TS Asset WVDS LLC  
303 Lovegrass Ln., Southlake, TX 76092  
*State or country in which incorporated* — Texas

Wells Fargo Investment Institute, Inc.  
401 S. Tryon St., Charlotte, NC 28202  
*State or country in which incorporated* — North Carolina

# 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 Health

Pursuant to 42 CFR Section 447.205, the Department of Health hereby gives public notice of the following:

The Department of Health proposes to amend the Title XIX (Medicaid) State Plan for institutional care related to temporary rate adjustments to providers that are undergoing closure, merger, consolidation, acquisition or restructuring themselves or other health care providers involved in or impacted by such restructuring actions. These payments are authorized by Public Health Law Section 2826.

The purpose of these payments is to explore potential partnership arrangements with one or more of the hospitals in central and northeastern Brooklyn and develop specific actions that could enhance continued access to healthcare in these communities, as well as identify specific operational projects, mergers or rightsizing initiatives that could create a high quality and financially sustainable system of care.

The temporary rate adjustments have been reviewed and approved for Long Island Jewish Medical Center, with aggregate payment amounts totaling up to \$500,000 for the period January 1, 2017 through March 31st, 2017.

The estimated net aggregate increase in gross Medicaid expenditures attributable to this initiative contained in the budget for State Fiscal Year 16/17 by provider category, is as follows: Institutional \$500,000.

The public is invited to review and comment on this proposed State Plan Amendment, a copy of which will be available for public review on the Department's website at [http://www.health.ny.gov/regulations/state\\_plans/status](http://www.health.ny.gov/regulations/state_plans/status).

Copies of the proposed State Plan Amendments will be on file in each local (county) social services district and available for public review.

For the New York City district, copies will be available at the following places:

New York County  
250 Church Street  
New York, New York 10018

Queens County, Queens Center  
3220 Northern Boulevard  
Long Island City, New York 11101

Kings County, Fulton Center  
114 Willoughby Street  
Brooklyn, New York 11201

Bronx County, Tremont Center  
1916 Monterey Avenue  
Bronx, New York 10457

Richmond County, Richmond Center  
95 Central Avenue, St. George  
Staten Island, New York 10301

*For further information and to review and comment, please contact:*  
Department of Health, Division of Finance and Rate Setting, 99 Washington Ave., One Commerce Plaza, Suite 1460, Albany, NY 12210, [spa\\_inquiries@health.ny.gov](mailto:spa_inquiries@health.ny.gov)

## PUBLIC NOTICE Department of State

Notice of Review of Request for  
Brownfield Opportunity Area  
Conformance Determination

Project: 600 River Road Apartments  
Location: North Tonawanda Brownfield Opportunity  
Area in City of North Tonawanda

In accordance with General Municipal Law, Article 18-C, Section 970-r, the Secretary of State designated the North Tonawanda Brownfield Opportunity Area, in the City of North Tonawanda, on April 10, 2015. The designation of the North Tonawanda Brownfield Opportunity Area was supported by a Nomination or a comprehensive planning tool that identifies strategies to revitalize the area which is affected by one or more known or suspected brownfield sites.

Pursuant to New York State Tax Law, Article 1, Section 21, the eligible taxpayer(s) of a project site located in a designated Brownfield Opportunity Area may apply for an increase in the allowable tangible property tax credit component of the brownfield redevelopment tax credit if the Secretary of State determines that the project conforms to the goals and priorities established in the Nomination for a designated Brownfield Opportunity Area.

On November 21, 2016, Rock One Development submitted a request for the Secretary of State to determine whether the 600 River Road Apartments project, which will be located within the designated North Tonawanda Brownfield Opportunity Area, conforms to the goals

and priorities identified in the Nomination that was prepared for the designated North Tonawanda Brownfield Opportunity Area.

The public is permitted and encouraged to review and provide comments on the request for conformance. For this purpose, the full application for a conformance determination is available online at: [www.dos.ny.gov/opd/programs/pdfs/BOA/600RiverRd](http://www.dos.ny.gov/opd/programs/pdfs/BOA/600RiverRd)

*Comments must be submitted no later than January 4, 2017, either by mail to:* Christopher Bauer, Department of State, Office of Planning and Development, 65 Court St., Suite 208, Buffalo, NY 14202, or by email to: [chris.bauer@dos.ny.gov](mailto:chris.bauer@dos.ny.gov)

## PUBLIC NOTICE

Department of State  
F-2016-0732, -0733 and -0738  
Date of Issuance – December 21, 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 applicants 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-2016-0732, -0733 and -0738, Michael and Shelly Imburgia, Eileen and Kathleen Dillon, and Stephen Wantola, respectively, are seeking authorization from the US Army Corps of Engineers for a shoreline stabilization project along Lake Ontario off of Ontario Shores Dr., Sterling, Cayuga County. The proposed structure is a stacked stone block revetment approximately 8 feet high by 200' long and will be sited landward of the ordinary low water mark. Additionally, the applicants are seeking federal funds through the Great Lakes Commission, ultimately from the USDA – Natural Resources Conservation Service, as a sediment and phosphorus reduction practice.

The stated purpose of the proposed action is "to stabilize the shoreline preventing erosion and sedimentation of Lake Ontario."

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, January 5, 2017.

Comments should be addressed to the 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](mailto: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-2016-0805  
Date of Issuance – December 21, 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 applicants 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-2016-0805, the Albany Port District Commission is seeking authorization from the US Army Corps of Engineers for wharf

reconstruction project along the Hudson River at the Port of Albany's Cargill lease site. The proposed project consists of the reconstruction of 840 linear feet of existing wharf and the addition of associated infrastructure to support port operations.

The stated purpose of the proposed action is "to allow for current and additional deep-water port activities to continue in a safe manner, including vessel docking and loading/unloading, including container-on-barge and heavy lift project cargo handling operations."

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, January 5, 2017.

Comments should be addressed to the 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](mailto: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-2016-1061 (DA)  
Date of Issuance – December 21, 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 Naval Facilities Engineering Command – NAVFAC MID-ATLANTIC and the Navy Operational Support Center (NOSC) Buffalo has determined that the proposed activity will be undertaken in a manner consistent to the maximum extent practicable with the enforceable policies of the New York State Coastal Management Program. The applicant's consistency determination and accompanying supporting 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-2016-1061 (DA), the Navy Operational Support Center (NOSC) is proposing the Waterfront Security Improvement Project located along and in the Black Rock Canal at 3 Porter Avenue in the City of Buffalo, Erie County, New York. The purpose of the proposal is to install security measures to deter unauthorized persons from entering the waterfront along the NOSC property and accessing the NOSC pier, floating dock, and property. The proposed activities include 5 items. The installation of two floating lines of demarcation, one crossing the water at the south end of the floating dock and wharf, one at the north end. Lines consist of a 2-foot diameter polyethylene float and cable line and are anchored at the surface to existing structures. These lines will cover approximately 234 SF of the water surface. The installation of three floating buoy signs located approximately 75 feet from the existing quay wall and approximately 85 feet on center utilizing a 4' elastomeric rod design and concrete anchor. The buoys will cover approximately 12.5 SF of the water's surface. The concrete anchors total approximately 96 CF (cubic feet) of fill. The installation of a chain link fence leaf extension to an existing 7-foot tall chain link fence at the northern most end of the quay. The leaf extension will project less than 6 inches over the water beyond the quay wall. The installation of a security fence and gate with leaf extension at the south end of the Government-controlled portion of the wharf. The fence will project less than 6 inches over the water beyond the quay wall and existing timber. The installation of a security fence at the south end of the floating dock.

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., 15 days from the date of publication of this notice, or, January 5, 2017.

Comments should be addressed to the Consistency Review Unit, Department of State, Office of Planning and Development, One Com-

merce Plaza, 99 Washington Ave., Suite 1010, Albany, NY 12231, (518) 474-6000, Fax (518) 473-2464. Electronic submissions can be made at: CR@dos.ny.gov.

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

