
NEW YORK STATE
REGISTER

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Guidance Documents

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

For notices published in this issue:

- the 60-day period expires on August 15, 2021
- the 45-day period expires on July 31, 2021
- the 30-day period expires on July 16, 2021

**ANDREW M. CUOMO
GOVERNOR**

**ROSSANA ROSADO
SECRETARY OF STATE**

NEW YORK STATE DEPARTMENT OF STATE

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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 NY STATE REGISTER, 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

Be a part of the rule making process!

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

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

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

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

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

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99 Washington Avenue
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Albany, NY 12231-0001
Telephone: (518) 474-6957

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

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

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RULE MAKING ACTIVITIES

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

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

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

Office of Alcoholism and Substance Abuse Services

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Designated Services

I.D. No. ASA-28-20-00016-RP

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

Proposed Action: Amendment of Part 830 of Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 19.03(6), 19.07(c), (e), 19.09(b), 19.21(d), 32.01, 32.02, 32.05(b), 32.07(a), 32.09(b); Education Law, art. 160; Public Health Law, section 3351(5) and art. 29G; Executive Law, art. 15; 21 USC 829

Subject: Designated Services.

Purpose: To set-forth the minimum regulatory requirements for certified programs to seek an Office designation.

Substance of revised rule (Full text is posted at the following State website: oasas.ny.gov): The Revised Rule amends Part 830 (Designated Services):

§ 830.3 Definitions. Amended to use the term “telehealth” instead of “telepractice”; removal of definitions already contained in other OASAS regulations to streamline regulatory provisions; amend definition of designation to include references to appropriate standards and guidance issued by the Office and add definition of a program endorsement.

§ 830.4 Acupuncture. Clarify language to remove contradicting provisions.

§ 830.5 Telehealth. Update terminology to use telehealth in place of telepractice and reference practitioners included in the public health law and corresponding regulations.

§ 830.6 LGBTQ Program Endorsement. Amend to reference the appropriate documentation required for application for the endorsement including the program self-assessment tool.

Revised rule compared with proposed rule: Substantial revisions were made in sections 830.3, 830.5 and 830.6.

Text of revised proposed rule and any required statements and analyses may be obtained from: Kelly Grace, NYS OASAS, 1450 Western Avenue, Albany, NY 12203, (518) 485-2312, email: kelly.grace@oasas.ny.gov

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

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

Revised Regulatory Impact Statement

A revised regulatory impact statement is not required for this regulation because changes to the regulation do not necessitate a revised regulatory impact statement.

Revised Regulatory Flexibility Analysis

OASAS has determined that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments because services delivered via telehealth are already included in the regulation and services may already be authorized by submitting the designation to the Office. Additionally, all designation’s, including the new LGBTQ Program Endorsement, in the regulation are optional for providers that are already certified by the Office.

Revised Rural Area Flexibility Analysis

OASAS has determined that the revised rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas because services delivered via telehealth are already included in the regulation and services may already be authorized by submitting the designation to the Office. Additionally, all designation’s, including the new LGBTQ Program Endorsement, in the regulation are optional for providers that are already certified by the Office.

Revised Job Impact Statement

OASAS is not submitting a Job Impact Statement for this rulemaking. OASAS does not anticipate a substantial adverse impact on jobs and employment opportunities because services delivered via telepractice are already included in the regulation and services may already be authorized by submitting the designation to the Office. Additionally, all designation’s, including the new LGBTQ Program Endorsement, in the regulation are optional for providers that are already certified by the Office.

Assessment of Public Comment

Public comment included the following requests, recommendations and questions:

Comment: Amend the definition of telecommunications to include text messages and/or remove references to audio and/or visual.

Response: Provision of service delivery via telehealth does not include text messages. Currently, telehealth must be provided using an audio and visual telecommunication connection. Audio only services may only be permitted during the declared disaster emergency due to COVID-19.

Comment: Add a definition for program endorsement.

Response: OASAS has added a definition for program endorsement.

Comment: Identify skills and qualifications for the LGBT Liaison.

Response: OASAS will provide additional information in the updated LGBT Local Services Bulletin.

Comment: Are peers and unlicensed staff permitted to provide services via telehealth if such services are not reimbursable?

Response: These staff may deliver services during the disaster emergency due to COVID-19 or per additional statutory or regulatory action.

Comment: Will an updated Telehealth Standards documents be issued by OASAS?

Response: Yes.
 Comment: Where may providers obtain program endorsement standards?

Response: Standards will be posted on the OASAS website or may be obtained by emailing Legal@oasas.ny.gov.

Comment: Will program endorsements impact reimbursement rates?

Response: No. Plans are obligated to cover addiction services by certified, approved or otherwise authorized programs.

Comment: Will efforts of Diversity and Inclusion Committees be recognized as meeting the requirements for a program endorsement?

Response: No. All programs seeking the endorsement must meet the criteria outlined in the applicable standards document and submit the required application.

Comment: How shall programs actively recruit LGBTQ staff without violating applicable laws which restrict the information an employer may request from potential applicants?

Response: There are many opportunities to increase workplace diversity, programs should consult with their own counsel and Human Resources departments.

Comment: What is an identified space for purposes of distant and originating site definitions?

Response: Programs must incorporate into their policies and procedures appropriate patient and practitioner spaces, which may be utilized for delivery of telehealth services, in accordance with the regulatory definitions and Telehealth Standards.

Comment: Providers requested OASAS either remove provisions which would allow for an on-site visit when a certified program requests a designation or mandate such onsite visit.

Response: OASAS maintains the right to make an on-site visit, which may also be conducted virtually, when reviewing applications for any designation.

Board of Commissioner of Pilots

NOTICE OF ADOPTION

Updating Current Website Address, Changing Terminology Regarding Credentials and Changing Age Range for Acceptance

I.D. No. COP-12-21-00001-A

Filing No. 686

Filing Date: 2021-05-27

Effective Date: 2021-06-16

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

Action taken: Amendment of section 51.1 of Title 21 NYCRR.

Statutory authority: 21 NYCRR section 51.1

Subject: Updating current website address, changing terminology regarding credentials and changing age range for acceptance.

Purpose: To provide current information and allow for a more practical admission procedure.

Text or summary was published in the March 24, 2021 issue of the Register, I.D. No. COP-12-21-00001-P.

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

Text of rule and any required statements and analyses may be obtained from: Andrew J Garger, New York State Board of Commissioners of Pilots, 17 Battery Place, Suite 1230, New York, NY 10004, (212) 425-5027, email: ajgarger@nypilotcommission.org

Assessment of Public Comment

The agency received no public comment.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Rate Increases for Pilot Services

I.D. No. COP-24-21-00011-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 55.1 of Title 21 NYCRR.

Statutory authority: 21 NYCRR section 51.1; State Administrative Procedure Act, section 102(2)(b)(i)

Subject: Rate increases for pilot services.

Purpose: To offset costs being incurred by pilots by failure of users to properly assess assistance needed from pilots.

Text of proposed rule: (b) Charges for other services.

(1) In any case where no other fee shall have been established by the Navigation Law or these regulations, the fee for transporting a vessel within the Port of New York shall be \$700.

(2) Vessels returning from sea in consequence of head winds or stress of weather shall pay full pilotage.

(3) When a pilot, for the convenience of the vessel awaiting berth or tide, is detained or delayed, the fee shall be \$150 per half hour or part of thereof.

(4) When a pilot is dismissed without rendering service, the pilot shall be entitled to [\$1,000] \$1,500 or Base Pilotage Tariff, whichever is less.

(5) When a pilot, for the convenience of the vessel for any reason, is ordered to stand by, the fee shall be \$150 per half hour for the time on board but the minimum fee shall be \$600.

(6) When an additional pilot is requested by a vessel, the fee shall be one half of base pilotage tariff.

(7) Whenever, under permission granted by commissioners' regulations, a pilot shall assist in either the docking or the undocking of a vessel in the Port of New York, such pilot may collect fees as follows in addition to any fee otherwise established:

(i) without assistance of tugs or bow thruster, 33 percent of the base pilotage tariff;

(ii) without assistance of tugs but with assistance of a bow thruster, 26 percent of the base pilotage tariff;

(iii) with the assistance of a tug or tugs, 20 percent of the base pilotage tariff.

(8) When a pilot is called upon to swing a ship for the purpose of adjusting compasses or calibration of direction finders or both, there shall be a fee of \$150 in addition to the regular pilotage.

(9) The fee for anchoring in the vicinity of the pilot station, when a Sandy Hook pilot is employed for that purpose, shall be \$700.

(10) Vessels arriving at the pilot station requesting a pilot without at least 24 hours prior notice shall be charged an additional fee of 20 percent of base pilotage tariff but the minimum fee shall be [\$500] \$750.

(11) If the arrival of a vessel is cancelled less than six hours before its scheduled arrival time, there shall be a charge of 20 percent of base pilotage tariff but the minimum fee shall be [\$500] \$750.

(12) If a vessel arrives at the pilot station more than two hours later than its scheduled arrival time and the pilot vessel on station or the pilot office has not been notified of the delayed arrival at least six hours before the scheduled arrival time, there shall be a charge of \$150 per half hour or part thereof. The maximum charge shall not exceed 20 percent of base pilotage tariff.

(13) If an order to pilot a vessel outbound is received less than three hours prior to sailing time, there shall be a charge of \$300.

A new Section (14) is to be added as follows:

(14) *If an order to pilot a vessel is received with incorrect sailing or arrival draft resulting in replacement of the pilot, there shall be a charge of \$750.*

All charges covered by this subdivision shall be in addition to other fees prescribed by the Navigation Law and these regulations.

Text of proposed rule and any required statements and analyses may be obtained from: Andrew J. Garger, NYS Board of Commissioners of Pilots, 17 Battery Place, Suite 1230, New York, NY 10004, (212) 425-5027, email: ajgarger@nypilotcommission.org

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

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

Regulatory Impact Statement, 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.

Department of Environmental Conservation

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Petroleum Bulk Storage (PBS)

I.D. No. ENV-24-21-00008-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 613 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 3-0303, 17-0301, 17-0303, 17-0501, 17-1001—17-1017, 17-1743; Navigation Law, sections 173, 175, 176, 178, and 191

Subject: Petroleum Bulk Storage (PBS).

Purpose: To amend the Petroleum Bulk Storage regulations.

Public hearing(s) will be held at: 2:00 p.m. and 6:00 p.m., on August 17, 2021, via electronic webinar.

Instructions on how to “join” the hearing webinar and provide an oral statement will be published on the Department’s proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 by June 16, 2021. The proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 may be accessed at: <https://www.dec.ny.gov/regulations/propregulations.html>.

Persons who wish to receive the instructions by mail or telephone may call the Department at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Parts 597, 598, and 613 public comment hearing.

The Department will provide interpreter services for hearing impaired persons, and language interpreter services for individuals with difficulty understanding or reading English, at no charge upon written request submitted no later than July 27, 2021. The written request must be addressed to Chief ALJ James T. McClymonds, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to Chief ALJ McClymonds at ohms@dec.ny.gov.

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

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

Substance of proposed rule (Full text is posted at the following State website: <https://www.dec.ny.gov/regulations/propregulations.html>): The New York State Department of Environmental Conservation (DEC) is proposing to amend 6 NYCRR Part 613 (Part 613), Petroleum Bulk Storage (PBS), which regulates the handling and storage of petroleum in underground and aboveground storage tank systems.

These amendments will:

1. Adopt new initiatives that the United States Environmental Protection Agency (EPA) incorporated into 40 CFR Part 280, effective on October 13, 2015, including:

- Spill prevention equipment (i.e., fill port catch basin) testing;
- Overfill prevention equipment inspection;
- Containment sump testing for sumps used for piping interstitial monitoring;
- Release detection (i.e., leak detection) equipment testing;
- Walkthrough inspections; and
- Adding requirements for field-constructed tanks and airport hydrant systems;

2. Add requirements for financial responsibility for tank owners and operators for EPA regulated underground storage tanks (USTs); and

3. Incorporate needed clarifications to the PBS regulations based on experience developed since the promulgation of Part 613 in September 2015 (effective October 11, 2015). These changes will improve the consistency and clarity of language directing the administration of the PBS program.

The Express Terms are summarized below.

Subpart 613-1: General Provisions

Subpart 613-1 contains provisions covering the purpose of the rule, applicability, definitions, recordkeeping requirements, and standards incorporated by reference. This Subpart also contains provisions concerning access to records and facilities, preemption and approval of local laws

or ordinances, variances, registration, tank system maintenance and use of equivalent technology, enforcement and severability, future climate risk, and financial responsibility.

The applicability section has been updated to better define the responsibilities of the various entities related to the facility (i.e., facility owner, tank owner, operator, carrier, contractor in a contractual relationship with the facility owner/tank system owner/operator, and any other party and its contractors retained as part of a business transactions relating to the facility) and resolve any confusion that may arise during enforcement.

Some definitions that are central to the implementation of the PBS program are clarified or added in the proposed rule. The terms “containment sump”, “field-constructed tank”, and “hydrant system” have been defined to address newly integrated federal requirements that apply to these equipment/tank systems. The definitions of “accessible area”, “inaccessible area”, “ancillary equipment”, “piping”, “tank”, “tank system”, and “repair” have likewise been updated to better reflect their counterparts in 40 CFR Part 280 (and better match their contextual use in such federal regulations). Equipment previously known as spill prevention has been defined as “fill port catch basin” to differentiate it from the term ‘spill prevention’ as used in the regulations as a generic noun. “Primary containment” has also been defined not only to contrast with the previously defined “secondary containment”, but to also better frame the spill reporting/response requirements. The definition of “lining” has also been updated to reflect its purpose (i.e., to address compatibility issues between the tank wall and the stored type of petroleum) and better distinguish it from other layers of the tank wall.

While the definitions of “Category 1”, “Category 2”, and “Category 3” still differentiate between requirements for equipment of different ages based on installation date (relative to effective dates of previous PBS regulations), these have also been expanded to apply to individual tank system equipment (where these definitions previously applied to whole tank systems). The definition of “install” has also been updated to include self-structural tank retrofits (i.e., a new tank installed within an existing tank). This, together with newly listed technical standards, effectively allows the use of such tanks. The definition of “replaced” has been expanded to cover all tank system equipment (as opposed to just tank and piping). “Change-in-service” is a new defined term and a form of permanent closure.

Subpart 613-2: UST Systems Subject to Both Subtitle I and Title 10

Subpart 613-2 addresses UST systems that are subject to State regulation pursuant to Title 10 of Environmental Conservation Law Article 17, sections 17-1001 through 1017, entitled “Control of the Bulk Storage of Petroleum” (Title 10), and federal regulation pursuant to Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 USC sections 6991 through 6991m, entitled “Regulation of Underground Storage Tanks” (Subtitle I). This Subpart harmonizes the State’s UST system requirements with the federal requirements found in 40 Code of Federal Regulations (CFR) Part 280, entitled “Technical Standards and Corrective Action for Owners and Operators of Underground Storage Tanks.” This Subpart contains requirements concerning: design, construction, and equipment specifications; general installation, operation, and maintenance practices; leak detection; spill reporting, investigation, and confirmation; tank system closure; and Operator Training.

Subpart 613-3: UST Systems Subject Only to Title 10

Subpart 613-3 addresses UST systems that are only subject to Title 10. The structure of this Subpart reflects that of Subpart 613-2 and contains similar requirements. This Subpart amends UST system requirements from existing Part 613 to be consistent with amendments to 40 CFR Part 280, effective October 13, 2015. UST systems consisting of field-constructed tanks are no longer subject to Subpart 613-3 (these are subject to Subpart 613-2 in proposed Part 613). The only structural difference between Subparts 613-3 and 613-2 is that Subpart 613-3 does not contain requirements for Operator Training.

Subpart 613-4: AST Systems

Subpart 613-4 addresses aboveground storage tank (AST) systems. Like Subpart 613-3, it has a structure that reflects Subpart 613-2. The substantive provisions are markedly different from Subparts 613-2 and 613-3 because the technologies and practices applicable to AST systems are different from those applicable to UST systems. This Subpart contains requirements for: design, construction, and equipment specifications; general installation, operation, and maintenance practices; (ten-year) inspections and leak detection; spill reporting, investigation, and confirmation; and tank system closure.

Subpart 613-5: Hydrant Systems

New Subpart 613-5 (Hydrant Systems) has been created to help hydrant system owners/operators understand the requirements applicable to their tank systems, given the increased risk associated with such massive tank systems. Hydrant systems are tank systems that fuel aircraft, watercraft, or rail vehicles and characteristically operate under high pressure through large diameter piping, often terminating into one or more hydrants (or fill

stands). This Subpart is structured specifically as a regulatory waypoint that directs the reader to pertinent requirements in Subparts 613-2, 613-3 and 613-4, as hydrant systems are often made up of multiple types of tanks (where most tank systems only consist of one type). For example, smaller, underground tanks used as reserve jet fuel storage (located closer to fill stands) may be manifolded with field-constructed aboveground tanks situated away from the runway at an airport. Thus, Subpart 613-5 will point to Subparts 613-2 or 613-3 for the USTs, and to Subpart 613-4 for ASTs.

Subpart 613-6: Delivery Prohibition

Subpart 613-6 contains the requirements concerning delivery prohibition. The provisions of this Subpart establish the circumstances and process for imposing a delivery prohibition, required notifications, and the process for termination of a delivery prohibition.

Subpart 613-7: Release Response and Corrective Action

Subpart 613-7 contains requirements concerning the initial spill response, abatement measures and site checks, initial site characterization, free product removal, investigations for soil and groundwater cleanup, corrective action plans, and public participation.

Subpart 613-8: Financial Responsibility

As part of DEC's efforts to make Part 613 consistent with 40 CFR Part 280, Subpart 613-8 has been created to provide the Financial Responsibility requirements. These ensure that tank owners/operators have the necessary financial mechanisms to clean up spills that occur at their facilities and address resulting environmental and/or third-party damage caused by the spills.

Text of proposed rule and any required statements and analyses may be obtained from: Amiel Lagatic, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7020, (518) 402-9553, email: derweb@dec.ny.gov

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

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

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

Summary of Regulatory Impact Statement (Full text is posted at the following State website: <https://www.dec.ny.gov/regulations/propregulations.html>):

INTRODUCTION

1. STATUTORY AUTHORITY

The New York State (State) law authority that empowers the New York State Department of Environmental Conservation (DEC) to regulate the storage, handling, and cleanup of petroleum is found in Article 12 of the Navigation Law (NL), sections 170 through 197 (Article 12) and Title 10 of Environmental Conservation Law (ECL) Article 17, sections 17-1001 through 17-1017 (Title 10). DEC is authorized to adopt regulations to implement the provisions of the ECL and the NL under ECL sections 3-0301(2)(a) and (m) and NL section 191, respectively. ECL Articles 3 and 17 provide authority regarding access to facilities, premises, and records. DEC's existing rules with respect to petroleum bulk storage (PBS) are found at 6 NYCRR Part 613.

Under Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 USC sections 6991 through 6991m (Subtitle I), the U.S. Environmental Protection Agency (EPA) is authorized to regulate PBS underground storage tanks (USTs). EPA's implementing rule is found at 40 Code of Federal Regulations (CFR) Part 280.

2. LEGISLATIVE OBJECTIVES

The legislative objectives underlying the above-referenced statutory authority are directed toward establishing requirements for the safe storage and handling of liquids, including petroleum, that pose a threat to public health and the environment. The proposed amendments to Part 613 will continue to meet these legislative objectives and reflect the statutory changes that were made to Title 10 in 2008, which allow for consistency with new federal requirements enacted in the Energy Policy Act of 2005. Adoption of proposed amendments to Part 613 will also ensure that the environmental and public health protections afforded by the existing Part 613 and 40 CFR Part 280 are continued and enhanced.

3. NEEDS AND BENEFITS

This rule making is principally aimed at harmonizing the existing State requirements (currently established at 6 NYCRR Part 613) with the federal requirements (found at 40 CFR Parts 280 and 302) so that State and federal regulatory requirements are more consistent. This includes walkthrough inspection requirements, periodic inspection/testing requirements for various equipment, new UST system requirements for hydrant systems and field-constructed tanks, as well as financial responsibility requirements, which are from the 2015 amendments to 40 CFR Part 280. In addition, DEC is proposing to incorporate (by reference) current technology standards and standards of practice for newly installed tank systems and clarify

certain existing regulatory requirements. DEC does not intend to establish any new requirements concerning the bulk storage of petroleum that will change the manner in which the subject facilities operate under existing industry practices and applicable federal and State laws and regulations.

In addition to various clarifications or corrections to, and some reorganization of, the requirements embodied in the existing Part 613, the proposed amendments to Part 613 are intended to increase consistency with overlapping federal requirements.

4. COSTS

Costs to Regulated Parties

There will be continued costs incurred by facilities subject to the Operator Training requirements of proposed section 613-2.5. Before being designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. Operators of tank systems that are not regulated under 40 CFR Part 280 continue to be exempt from this requirement. Self-study can be conducted at no cost and training courses are optional. DEC has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 613-2. These include: partial requirements for certain newly regulated wastewater treatment tank systems; testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements; compatibility requirements for stored biofuel blends with either greater than ten percent ethanol (E10) or 20 percent biodiesel (B20); and financial responsibility requirements (among others). Note that these new federal requirements, which have been in effect since October 13, 2018, did not have counterparts in previous versions of Part 613, and the costs associated with these new requirements have already been incurred.

The proposed rule will eliminate or reduce costs that are incurred under the existing rules by certain facilities. These cost reductions are attributable to the following features of the proposed rule: (1) self-structural tank retrofits will be allowed, which negates the need for tank removal and reduces the cost of tank installation; (2) additional standards/codes of practices/leak detection methods will be available for specific types of tank systems (which may be easier/cheaper to comply with than the previously available options), particularly for tanks in inaccessible areas, or tank systems that are either hydrant systems or associated with field-constructed tanks greater than 50,000 gallons in design capacity; and (3) the proposed rule will allow DEC to approve any alternative code of practice or leak detection method that is at least as stringent as the ones listed in Part 613.

Costs to DEC, State and Local Governments

DEC will continue to incur costs for administration of the Operator Training requirements. DEC will also continue to partially cover its personal and non-personal costs through PBS registration application fees. This proposed rule will not impose any additional costs on State agencies or local governments that own or operate facilities.

5. LOCAL GOVERNMENT MANDATES

No additional recordkeeping, reporting, or other requirements not already created by statute will be imposed on local governments by the proposed rule.

6. PAPERWORK

The proposed amendments contain no substantive changes to existing reporting and recordkeeping requirements, apart from adding those that are already required by 40 CFR Part 280. Record retention limits are for three years, five years, until the next test/inspection, or for the life of the tank system. Facilities are also required to retain records on Operator Training. In most cases, paperwork may be submitted and maintained in electronic format.

7. DUPLICATION

The proposed rulemaking is not intended to duplicate, overlap, or conflict with any other State or federal requirements. The main goal of this rule making is to reduce duplication. The proposed rule represents a harmonization of existing State PBS and federal UST program requirements. The existing State PBS and federal UST programs regulate the same tank systems in somewhat different ways and are not completely

consistent with respect to the terminology used. Those differences will be reduced with the promulgation of amendments to Part 613. New requirements that are in 40 CFR Part 280 (effective October 13, 2015) have been incorporated, as appropriate, into Part 613.

8. ALTERNATIVES

DEC considered the following two alternatives in the development of the proposed amendments to Part 613: (1) no action; and (2) revision of all regulatory requirements that affect the PBS program.

DEC declines to take no action for the following reasons. First, adopting the more stringent requirements contained in the revisions to 40 CFR Part 280 makes the PBS regulations consistent with the EPA UST regulations. Second, clarifications are necessary based on experience developed since the promulgation of Part 613 in September 2015. Third, under the no-action alternative, DEC will lose crucial federal funding that supports implementation and enforcement of its PBS program. Further explanation of these reasons may be found in the Needs and Benefits section of this document.

DEC's second alternative will include the more stringent requirements contained in the revisions to 40 CFR Part 280 that were adopted by EPA and effective on October 13, 2015. These include, but are not limited to: testing/monitoring of fill port catch basins and containment sump (used for piping interstitial monitoring); overflow prevention equipment inspections; leak detection equipment inspections; walkthrough inspections; providing (alternative) requirements for field-constructed tanks and airport hydrant systems; and adding requirements pertaining to financial responsibility for tank owners and operators for EPA-regulated USTs. Lastly, needed clarifications will be made to improve the consistency and clarity of language which directs the administration of the PBS program.

9. FEDERAL STANDARDS

The proposed regulations will not exceed any minimum federal standards where applicable or where there is no comparable federal standard.

10. COMPLIANCE SCHEDULE

Currently authorized Operators of certain underground tanks will need to continue to complete operator training and testing requirements by retaking the exam within either two years after effective date of the proposed regulations or five years after the date of their last valid Operator certificate (whichever is later). Periodic retesting for Class A and B Operators will be required every five years so Operators remain current and the possibility of spills occurring can be significantly reduced.

The regulated community will be required to comply with all other requirements upon the effective date of the rule.

11. INITIAL REVIEW OF RULE

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

Regulatory Flexibility Analysis

1. EFFECT OF RULE

Amendments to 6 NYCRR Part 613 (Part 613) will apply statewide in all 62 counties of New York State (State). The proposed amendments represent a consolidation of existing State and federal requirements, in addition to clarifications. Thus, none of the revisions include any substantive changes to existing requirements pertaining to the Petroleum Bulk Storage (PBS) program.

The New York State Department of Environmental Conservation (DEC) does not collect data with respect to the number of the persons employed by the owner or operator of any subject facility. DEC does not presently collect data on the industrial classification of a registered facility. DEC does not have data on the corporate structures that may exist for a facility owner or operator which may have a bearing on determining how many persons are employed by the owner or operator. DEC only collects information regarding the name, address, and contact information for the owner and operator of each registered facility. Due to this lack of data, DEC is unable to make an estimate of how many small businesses comply with the existing PBS rules at 6 NYCRR Part 613.

The most common types of subject facilities are apartment/office buildings, retail gasoline sales, vehicle repair shops, schools, trucking or fleet operations, and municipalities. There are approximately 35,900 registered PBS facilities in DEC's database. DEC believes that the great majority of the owners and operators of these facilities will likely be properly categorized as small businesses.

DEC does collect data on whether registered facilities are owned by local governments. There are approximately 4,250 PBS facilities identified as registered by local governments. DEC believes that the types of facilities registered by local governments tend to be vehicle fleet fueling locations for municipal vehicle pools and school district transportation departments.

2. COMPLIANCE REQUIREMENTS

Amendments to Part 613 do not contain substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities.

3. PROFESSIONAL SERVICES

No new or additional professional services are likely to be needed by facilities owned by small businesses or local governments to comply with the amendments to Part 613.

4. COMPLIANCE COSTS

There will be new costs incurred by facilities subject to the Operator Training requirements of proposed section 613-2.5. Before being designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. (Operators of tank systems that are not regulated under 40 CFR Part 280 continue to be exempt from this requirement.) Self-study can be conducted at no cost and training courses are optional. DEC has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 613-2. These include: partial requirements for certain newly regulated wastewater treatment tank systems; testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements; compatibility requirements for stored biofuel blends with either greater than ten percent ethanol (E10) or 20 percent biodiesel (B20); and financial responsibility requirements (among others). Note that these new federal requirements, which have been in effect since October 13, 2018, did not have counterparts in previous versions of Part 613 and the costs associated with these new requirements have already been incurred.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

Amendments to Part 613 do not contain substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities, and implementation will be economically and technologically feasible for small businesses and local governments.

6. MINIMIZING ADVERSE IMPACT

Since proposed amendments to Part 613 represent a harmonization of existing State and federal requirements involving PBS, along with clarifications, DEC does not believe that the proposed rule will have an adverse economic impact on small businesses or local governments.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

DEC continues to provide statewide outreach to regulated parties and interested persons, including small businesses and local governments. DEC posts relevant information on its website to assist the owners and operators of subject facilities with understanding and implementing the requirements of the PBS program. DEC also maintains listservs to which persons may subscribe so that they can receive information about new developments regarding the PBS program.

Pursuant to ECL section 17-1013, a State Petroleum Bulk Storage Advisory Council (Council) was created within DEC to advise DEC about the proposal, preparation, and revision of the regulations written to implement necessary requirements for PBS facilities. Included in the Council's membership are small business owners and local governments. Council members have professional training or experience to analyze and interpret content of the PBS regulations. As drafts of proposed Part 613 were prepared, DEC shared the drafts with the Council and convened conference calls to discuss the Council's comments, answer any questions, and incorporate suggestions as appropriate.

DEC will ensure public notice and input on proposed amendments to Part 613 by issuing public notices in the State Register and DEC's Environmental Notice Bulletin; holding a comment period of at least 60 days; conducting public hearings; and most likely scheduling webinars and public meetings during the comment period. Interested parties, including small businesses and local governments, will have the opportunity to submit written comments and participate in the public hearings, as well as any webinars and public meetings that are held. DEC will also post relevant rule making documents on their website for public access.

8. CURE PERIOD OR OTHER OPPORTUNITY FOR AMELIORATIVE ACTION

State Administrative Procedure Act (SAPA) section 202-b(1-a) provides as follows:

In developing a rule for which a regulatory flexibility analysis is required and which involves the establishment or modification of a viola-

tion or of penalties associated with a violation, the agency shall: (a) include a cure period or other opportunity for ameliorative action, the successful completion of which will prevent the imposition of penalties on the party or parties subject to enforcement; or (b) include in the regulatory flexibility analysis an explanation of why no such cure period was included in the rule.

No cure period or other opportunity for ameliorative action is needed because the rule making will not impose additional penalties on the regulated community, including small businesses and local governments.

9. INITIAL REVIEW OF THE RULE

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

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS

For purposes of this Rural Area Flexibility Analysis (RAFA), "rural area" means those portions of the state so defined by Executive Law section 481(7), SAPA section 102(10). Under Executive Law section 481(7), rural areas are defined as "counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, programs and such other entities or resources as are found therein. In counties of two hundred thousand or greater population, 'rural areas' means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein." There are 44 counties in New York State that have populations of less than 200,000 people and 71 towns in non-rural counties where the population densities are less than 150 people per square mile. The proposed amendments to 6 NYCRR Part 613 will apply statewide; therefore, they apply to all rural areas of the State.

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

The rulemaking will not directly impose any significant service, duty, or responsibility upon any county, city, town, village, school district, or fire district in a rural area. This rulemaking does not directly mandate the expenditure of funds by any sector of local government.

The proposed rule contains no substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities. The proposed rule will not impose requirements on facilities located in rural areas in a manner different from those imposed on facilities in non-rural areas. No different or additional professional services will likely be needed by facilities in rural areas by virtue of their rural location. These changes will be imposed statewide, including in rural areas, and will affect local governments and private entities.

3. COSTS

There will be new costs incurred by facilities subject to the Operator Training requirements of proposed section 613-2.5. Before being designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. (Operators of tank systems that are not regulated under 40 CFR Part 280 continue to be exempt from this requirement.) Self-study can be conducted at no cost and training courses are optional. The New York State (State) Department of Environmental Conservation (DEC) has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 613-2. These include: partial requirements for certain newly regulated wastewater treatment tank systems; testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements; compatibility requirements for stored biofuel blends with either greater than ten percent ethanol (E10) or 20 percent biodiesel (B20); and financial responsibility requirements (among others). Note that these new federal requirements, which have been in effect since October 13, 2018, did not have counterparts in previous versions of Part 613 and the costs associated with these new requirements have already been incurred.

The proposed rules will not impose costs on facilities in rural areas that are different or additional to those incurred by facilities in non-rural areas. There will be no likely variation in costs incurred by public and private entities in rural areas.

4. MINIMIZING ADVERSE IMPACT

Since this rule making is a harmonization of existing State and federal requirements, along with clarifications, DEC believes that the proposed amendments will not cause an adverse impact on any rural area.

5. RURAL AREA PARTICIPATION

DEC continues to provide statewide outreach to regulated communities and interested parties, including those in rural areas of the State. DEC posts relevant information on its website to assist the owners and operators of subject facilities, including those located in rural areas, with understanding and implementing the requirements of the Petroleum Bulk Storage (PBS) program. DEC also maintains listservs to which persons may subscribe so that they can receive information about new developments regarding the PBS program.

Pursuant to ECL section 17-1013, a State Petroleum Bulk Storage Advisory Council (Council) was created by DEC to advise DEC on the proposal, preparation, and revision of the regulations written to implement necessary requirements for PBS facilities. Council members have professional training or experience to analyze and interpret content of the PBS regulations. As drafts of proposed Part 613 were prepared, DEC shared the drafts with the Council and convened conference calls to discuss the Council's comments, answer any questions, and incorporate suggestions as appropriate.

DEC will ensure public notice and input on proposed amendments to Part 613 by issuing public notices in the State Register and DEC's Environmental Notice Bulletin; holding a comment period of at least 60 days; conducting public hearings; and most likely scheduling webinars and public meetings during the comment period. Interested parties, including those in rural areas, will have the opportunity to submit written comments and participate in the public hearings, as well as any webinars and public meetings that are held. DEC will also post relevant rule making documents on their website for public access.

6. INITIAL REVIEW OF THE RULE

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

Job Impact Statement

In accordance with Section 201-a(2)(a) of the State Administrative Procedure Act, a Job Impact Statement has not been prepared for this rule making as it not expected to create a substantial adverse impact on jobs and employment opportunities in New York State (State). This rule making is principally aimed at harmonizing the existing State requirements (currently found at 6 NYCRR Part 613) with the federal requirements (found at 40 Code of Federal Regulations Part 280 and amendments to Subtitle I of the Resource Conservation and Recovery Act, 42 United States Code sections 6991 through 6991m). Many regulated entities with underground storage tank systems should find it easier and less expensive to comply with State regulatory requirements because they will be more consistent with federal regulatory requirements. The New York State Department of Environmental Conservation (DEC) anticipates that this will result in increased compliance. Since this rule making is a harmonization of existing requirements and an incorporation of clarifications based on experience developed since the promulgation of Part 613 in September 2015 (effective October 11, 2015), there will be no change to existing job opportunities.

DEC concludes that these regulatory proposals for existing and new petroleum bulk storage facilities will not have a substantial adverse impact on jobs within the State.

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Chemical Bulk Storage (CBS)

I.D. No. ENV-24-21-00009-P

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

Proposed Action: Repeal of Parts 596, 598, 599; addition of new Part 598; amendment of Part 597 of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 1-0101, 3-0301, 3-0303, 17-0301, 17-0303, 17-0501, 17-1743, 37-0101 through 37-0107 and 40-0101 through 40-0121

Subject: Chemical Bulk Storage (CBS).

Purpose: To repeal existing 6 NYCRR Parts 596, 598, 599 and replace with new Part 598; and amend existing Part 597; for the CBS program.

Public hearing(s) will be held at: 2:00 p.m. and 6:00 p.m., on Tuesday, August 17, 2021, via electronic webinar.

Instructions on how to "join" the hearing webinar and provide an oral statement will be published on the Department's proposed regulations

webpage for 6 NYCRR Parts 597, 598, and 613 by June 16, 2021. The proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 may be accessed at: <https://www.dec.ny.gov/regulations/propregulations.html>.

Persons who wish to receive the instructions by mail or telephone may call the Department at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Parts 597, 598, and 613 public comment hearing.

The Department will provide interpreter services for hearing impaired persons, and language interpreter services for individuals with difficulty understanding or reading English, at no charge upon written request submitted no later than July 27, 2021. The written request must be addressed to Chief ALJ James T. McClymonds, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to Chief ALJ McClymonds at ohms@dec.ny.gov.

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

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

Substance of proposed rule (Full text is posted at the following State website: <https://www.dec.ny.gov/regulations/propregulations.html>): Repeal of:

6 NYCRR Part 596, Hazardous Substance Bulk Storage Facility Registration

6 NYCRR Part 598, Handling and Storage of Hazardous Substances
6 NYCRR Part 599, Standards for New Hazardous Substance Tank Systems

Addition of:

6 NYCRR Part 598, Hazardous Substance Bulk Storage
(formerly Handling and Storage of Hazardous Substances)

Amendments to:

6 NYCRR Part 597, Hazardous Substances Identification, Release Prohibition, and Release Reporting
Chemical Bulk Storage

The New York State Department of Environmental Conservation (DEC) is proposing to amend 6 NYCRR Part 597 (which includes the "List of Hazardous Substances" under section 597.3) and repeal 6 NYCRR Parts 596, 598 and 599 to adopt a new 6 NYCRR Part 598, collectively known as the Chemical Bulk Storage (CBS) regulations. The proposed amendments will:

1. Adopt new initiatives that the United States Environmental Protection Agency (EPA) incorporated into 40 CFR Part 280, effective on October 13, 2015, including:

- Spill prevention equipment (i.e., fill port catch basin and transfer station secondary containment) testing;
- Overfill prevention equipment inspection;
- Containment sump testing for sumps used for piping interstitial monitoring;
- Release detection (i.e., leak detection) equipment testing; and
- Walkthrough inspections;

1. Restructure the CBS regulations so that they are similar in structure to 6 NYCRR Part 613 (Part 613), Petroleum Bulk Storage (PBS) regulations;

2. Incorporate needed clarifications to the regulations based on experience developed since the promulgation of Parts 596 through 599 in September 2015 (effective October 11, 2015). These changes will improve the consistency and clarity of language directing the administration of the CBS program; and

3. Correct errors in the list of hazardous substances in Part 597.

Restructuring

6 NYCRR Parts 596, 598, and 599 are consolidated into a new single Part 598 such that all hazardous substance bulk storage requirements are within the same Part. This allows for all hazardous substance facility requirements to be in one place (i.e., registration, operational requirements, and technical standards). 6 NYCRR Part 597, Hazardous Substances Identification, Release Prohibition, and Release Reporting, remains its own standalone Part because it is referenced by many programs outside of the bulk storage programs.

The newly consolidated Part 598 is organized into Subparts that more closely reflect the structure of Part 613, and structure is as follows:

Subpart 598-1 – General Provisions

Subpart 598-2 – Underground Storage Tank Systems

Subpart 598-3 – Aboveground Storage Tank Systems

Subpart 598-4 – Storage of Hazardous Substances in Containers

Subpart 598-5 – Delivery Prohibition

Subpart 598-6 – Release Response and Corrective Action

The Express Terms are summarized below.

Subpart 598-1: General Provisions

Subpart 598-1 consolidates the non-technical provisions of CBS and is primarily sourced from the existing Part 596. These provisions include the purpose of the rule, applicability, definitions, recordkeeping requirements, standards incorporated by reference, access to records and facilities, preemption and approval of local laws or ordinances, variances, registration, use of equivalent technology, enforcement, future climate risk, and financial responsibility.

The applicability of the CBS program remains unchanged. Facilities and tanks which are currently regulated will remain regulated and facilities and tanks which were not previously regulated will not enter the program as a result of this rulemaking.

Some definitions that are central to the implementation of the CBS program are clarified or added in the proposed rule. The definitions of "accessible area", "inaccessible area", "ancillary equipment", "piping", "tank", "tank system", and "repair" have been updated to better reflect their counterparts in 40 CFR Part 280 (and better match their contextual use in such federal regulations). Equipment previously known as spill prevention has been defined as "fill port catch basin" to differentiate it from the term 'spill prevention' as used in the regulations as a generic noun. The definition of "lining" has also been updated to reflect its purpose (i.e., to address compatibility issues between the tank wall and the stored type of petroleum) and better distinguish it from other layers of the tank wall.

The terms "existing tank system" and "new tank system" have been replaced, respectively, with "Category 1" and "Category 2". The terms "Category 1" and "Category 2" can also be used to describe a tank system component (e.g., overfill prevention equipment) to clarify the requirement that tank system components must comply based upon the date they were installed rather than the date the associated tank was installed.

The terms "on-ground piping", "on-ground tank", and "underground piping" have been removed and replaced with the term "in contact with the ground". This term consolidates the three existing terms into a single term and helps to clarify when certain provisions are applicable.

Registration language from existing Part 596 has been included in 598-1.14 and has been updated to clarify the requirements and be more consistent with the procedures found in Part 613. Application procedures for the permanent closure of tank systems has been updated to require facilities to notify DEC at least 30 days prior to tank closure (previously notification was only required when a tank was closed). This reflects Part 613 and 40 CFR 280 requirements for tank closure. Application procedures for the installation of a tank system has been updated to require facilities to notify DEC at least 30 days prior to tank installation (previously notification was only required within 3 days of installation). This again reflects Part 613 and 40 CFR 280 requirements for tank closure.

Subpart 598-2: Underground Storage Tank Systems

Subpart 598-2 is a consolidation of the underground tank system requirements within existing Parts 596 through 599. It addresses underground storage tank (UST) systems that are subject to State regulation pursuant to Article 40 of the Environmental Conservation Law and federal regulation pursuant to Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 USC sections 6991 through 6991m, entitled "Regulation of Underground Storage Tanks" (Subtitle I). This Subpart harmonizes the State's UST system requirements with the federal requirements found in 40 Code of Federal Regulations (CFR) Part 280, entitled "Technical Standards and Corrective Action for Owners and Operators of Underground Storage Tanks." This Subpart contains the following requirements: design, construction, and equipment specifications; general installation, operation, and maintenance practices; leak detection; spill reporting, investigation, and confirmation; tank system closure; and Operator Training.

Subpart 598-3: Aboveground Storage Tank Systems

Subpart 598-3 is a consolidation of the aboveground tank system requirements within existing Parts 596 through 599. It addresses aboveground tank systems that are only subject to State regulation pursuant to Article 40 of the Environmental Conservation Law. This Subpart contains the following requirements: design, construction, and equipment specifications; general installation, operation, and maintenance practices; leak detection; spill reporting, investigation, and confirmation; and tank system closure.

Subpart 598-4: Storage of Hazardous Substances in Containers

Subpart 598-4 is a consolidation of the container requirements within existing Parts 596 through 599. It addresses containers that are only subject to State regulation pursuant to Article 40 of the Environmental Conservation Law. This Subpart contains the following requirements: design; storage; operation; spill reporting, investigation, and confirmation; and inventory records.

Subpart 598-5: Delivery Prohibition

Subpart 598-5 contains the requirements concerning delivery prohibition which are within existing 598.13. The provisions of this Subpart es-

establish the circumstances and process for imposing a delivery prohibition, required notifications, and the process for termination of a delivery prohibition. Delivery prohibition language has been clarified and reorganized so it more closely resembles the format of Part 613. This includes clarifying which violations trigger Tier 1 conditions (grounds for immediate delivery prohibition) and which violations trigger Tier 2 conditions (grounds for delivery prohibition if violation is not remedied within 30 days).

Subpart 598-6: Release Response and Corrective Action

Subpart 598-6 are the release response and corrective action requirements which are within existing 598.14. This Subpart contains the following requirements: initial spill response; abatement measures and site checks; initial site characterization; free product removal; investigations for soil and groundwater cleanup; corrective action plans; and public participation. The language has been reorganized and updated so it is consistent with Part 613 and the 40 CFR 280. Additionally, this Subpart clarifies that release response and corrective action also applies to spills and releases from containers.

Text of proposed rule and any required statements and analyses may be obtained from: Frank Bondi, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233-7020, (518) 402-9553, email: derweb@dec.ny.gov

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

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

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

Summary of Regulatory Impact Statement (Full text is posted at the following State website: <https://www.dec.ny.gov/regulations/proregulations.html>):

1. STATUTORY AUTHORITY

The New York State (State) law authority that empowers the New York State Department of Environmental Conservation (DEC) to regulate the storage and handling of hazardous substances is found in Title 1 of Article 37 of the Environmental Conservation law (ECL), sections 37-0101 through 37-0111, entitled "Substances Hazardous to the Environment" (Article 37), and ECL Article 40, sections 40-0101 through 40-0121, entitled "Hazardous Substances Bulk Storage Act" (Article 40). DEC is authorized to adopt regulations to implement the provisions of the ECL under ECL sections 3-0301(2)(a) and (m). ECL Articles 3 and 17 provide authority regarding access to facilities, premises, and records. DEC's existing rules with respect to chemical bulk storage (CBS) are found at 6 NYCRR Parts 596 through 599.

Under Subtitle I of the Resource Conservation and Recovery Act (RCRA), 42 USC sections 6991 through 6991m (Subtitle I), the U.S. Environmental Protection Agency (EPA) is authorized to regulate CBS underground storage tanks (USTs). The EPA implementing rule is found at 40 Code of Federal Regulations (CFR) Part 280.

2. LEGISLATIVE OBJECTIVES

The legislative objectives underlying the above-referenced statutory authority are directed toward establishing requirements for the safe storage and handling of liquids, including hazardous substances, which pose a threat to public health and the environment. The proposed amendments to Parts 596 through 599 will continue to meet these legislative objectives and reflect the statutory changes that were made to Articles 37 and 40 in 2008, which allow for consistency with new federal requirements enacted in the Energy Policy Act of 2005. Adoption of the proposed amendments to existing Part 597 and addition of new Part 598 will also ensure that the environmental and public health protections afforded by the existing Parts 596 through 599 and 40 CFR Part 280 are continued and enhanced.

3. NEEDS AND BENEFITS

This rule making is principally aimed at harmonizing the existing State requirements (currently established at 6 NYCRR Parts 596 through 599) with the federal requirements (40 CFR Parts 280 and 302) so that State and federal regulatory requirements are more consistent. In addition, DEC is proposing to consolidate the existing State requirements into two Parts: 6 NYCRR Part 597, which will retain its current form with minimal changes, and 6 NYCRR Part 598, which will incorporate the existing requirements of 6 NYCRR Parts 596, 598, and 599.

The changes aimed at harmonizing the State and federal requirements will primarily affect underground storage tank systems. This includes the addition of the periodic inspection and testing requirements, added in the 2015 amendments to 40 CFR 280 (effective October 13, 2015), for overfill prevention equipment, spill prevention equipment (including transfer station secondary containment), containment sumps used for interstitial monitoring, and leak detection equipment as well as the addition of the periodic walkthrough inspection requirements.

The consolidation of the existing State requirements into two Parts includes a reorganization of the proposed 6 NYCRR Part 598 into Subparts that reflect the layout of existing Petroleum Bulk Storage (PBS) regulations, 6 NYCRR Part 613. The consolidation and reorganization aim to clarify requirements and better harmonize the PBS and CBS programs, which share many of the same requirements.

In addition, DEC is proposing to clarify certain existing regulatory requirements. DEC does not intend to establish any new requirements concerning the CBS program that would change the manner in which regulated entities operate under existing industry practices and applicable federal and State laws and regulations.

4. COSTS

Costs to Regulated Parties

There will be continued costs incurred by facilities subject to the Operator Training requirements of proposed section 598-2.5. Before being designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. Operators of aboveground tank (AST) systems continue to be exempt from this requirement. Self-study can be conducted at no cost and training courses are optional. DEC has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will now be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 598-2. These include testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overfill prevention equipment, and leak detection equipment; walkthrough inspection requirements. Note that these new federal requirements, which have been in effect since October 13, 2015, did not have counterparts in previous versions of Parts 596 through 599, and the costs associated with these new requirements have already been incurred.

The proposed rule will eliminate or reduce costs that are incurred under the existing rules by certain facilities. These cost reductions attributable to the proposed rule will allow for DEC to approve any alternative code of practice or leak detection method that is at least as stringent as the ones listed in new proposed Part 598.

Costs to DEC, State and Local Governments

DEC will continue to incur costs for administration of the Operator Training requirements. DEC will also continue to partially cover its personal and non-personal costs through CBS registration application fees. This proposed rule will not impose any additional costs on state agencies or local governments that own or operate facilities.

5. LOCAL GOVERNMENT MANDATES

No additional recordkeeping, reporting, or other requirements not already created by statute would be imposed on local governments by the proposed rule.

6. PAPERWORK

The proposed rule contains no substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities. Facilities are also required to retain records on Operator Training. In most cases, paperwork may be submitted and maintained in electronic format.

7. DUPLICATION

The proposed rulemaking is not intended to duplicate, overlap, or conflict with any other State or federal requirements. The main goal of this rule making is to reduce duplication. The proposed rule represents a harmonization of the CBS program with State PBS and federal UST program requirements. The existing State and federal CBS programs regulate the same tank systems in somewhat different ways and are not completely consistent with respect to the terminology used. Those differences will be reduced with the promulgation of amendments to Part 597 and the new Part 598, as the new requirements that are in 40 CFR Part 280 (effective October 13, 2015) have been incorporated, as appropriate, into Parts 597 and 598.

8. ALTERNATIVES

DEC considered the following two alternatives in the development of the proposed new Part 598 and amendments to Part 597: (1) no action; and (2) new structure for the rules to incorporate regulatory requirements that affect CBS.

DEC declines to take no action for the following reasons. First, the

tables in Part 597 that list hazardous substances must be updated to be consistent with the federal lists specified in ECL Article 40; and information concerning hazardous substances listed in Part 597 need to be corrected so they are consistent between its two tables. Second, the CBS regulations should be restructured so they are consistent with 40 CFR Part 280 and the New York State Petroleum Bulk Storage (PBS) regulations. Third, clarifications are necessary based on experience developed since the promulgation of Parts 596 through 599 in September 2015 (effective October 11, 2015). Fourth, under the no-action alternative, DEC would lose crucial federal funding that supports implementation and enforcement of its CBS program. Further explanation of these reasons may be found in the Needs and Benefits section above.

DEC's second alternative will adopt the structure of 40 CFR Part 280 and include the more stringent requirements contained in the revisions to 40 CFR Part 280 that were adopted by EPA and effective on October 13, 2015. These include, but are not limited to, spill prevention and release detection equipment testing; overfill prevention equipment inspection; containment sump testing for sumps used for piping interstitial monitoring; and walkthrough inspections. The proposed amendments will also be consistent with the PBS regulations that were promulgated in September 2015 (effective October 11, 2015). Lastly, needed clarifications will be made to improve the consistency and clarity of language which directs the administration of the CBS program.

9. FEDERAL STANDARDS

The proposed regulations will not exceed any minimum federal standards where applicable or where there is no comparable federal standard.

10. COMPLIANCE SCHEDULE

Currently authorized Operators of certain underground tanks will need to continue to complete operator training and testing requirements by retaking the exam within either two years after effective date of the proposed regulations or five years after the date of their last valid Operator certificate (whichever is later). Periodic retesting for Class A and B Operators will be required every five years so Operators remain current and the possibility of spills occurring can be significantly reduced.

The regulated community will be required to comply with all other requirements upon the effective date of the rule.

11. INITIAL REVIEW OF RULE

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

Regulatory Flexibility Analysis

1. EFFECT OF RULE

The addition of new 6 NYCRR Part 598 and amendments to existing 6 NYCRR Part 597 will apply statewide in all 62 counties of New York State (State). The proposed rule represents a consolidation of existing State and federal requirements, in addition to clarifications. Thus, there are no substantive changes to existing requirements pertaining to the Chemical Bulk Storage (CBS) program, which includes the identification of hazardous substances.

The New York State Department of Environmental Conservation (DEC) does not collect data with respect to the number of the persons employed by the owner or operator of any subject facility or on the industrial classification of a registered facility. DEC does not have data on the corporate structures that may exist for a facility owner or operator which may have a bearing on determining how many persons are employed by the owner or operator. DEC only collects information regarding the name, address, and contact information for the owner and operator of each registered facility. Due to this lack of data, DEC is unable to make an estimate of how many small businesses comply with the existing CBS rules (6 NYCRR Parts 596 through 599).

The most common types of subject facilities are municipal facilities, manufacturing facilities and utilities. There are approximately 1,300 registered CBS facilities in DEC's database. DEC believes that the great majority of the owners and operators of these facilities will likely be properly categorized as small businesses.

DEC does collect data on whether registered facilities are owned by local governments. There are approximately 550 facilities identified as registered by local governments. DEC believes that the types of facilities registered by local governments tend to be water and wastewater treatment facilities.

2. COMPLIANCE REQUIREMENTS

The proposed rule contains no substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities.

3. PROFESSIONAL SERVICES

No new or additional professional services will likely be needed by facilities owned by small businesses or local governments to comply with the proposed rule.

4. COMPLIANCE COSTS

There will be continued costs incurred by facilities subject to the Operator Training requirements of proposed section 598-2.5. Before being

designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. Operators of aboveground tank (AST) systems continue to be exempt from this requirement. Self-study can be conducted at no cost and training courses are optional. DEC has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will now be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 598-2. These include testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overfill prevention equipment, and leak detection equipment; walkthrough inspection requirements. Note that these new federal requirements, which have been in effect since October 13, 2015, did not have counterparts in previous versions of Parts 596 through 599, and the costs associated with these new requirements have already been incurred.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY

The proposed rule contains no substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities, and implementation will be economically and technologically feasible for small businesses and local governments.

6. MINIMIZING ADVERSE IMPACT

Since the proposed rule represents a consolidation of existing State and federal requirements involving CBS and hazardous substance identification, along with clarifications, DEC does not believe that the proposed rule will have an adverse economic impact on small businesses or local governments.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION

DEC continues to provide statewide outreach to regulated parties and interested persons, including small businesses and local governments. DEC posts relevant information on its website to assist the owners and operators of subject facilities with understanding and implementing the requirements of the CBS program. DEC also maintains listservs to which persons may subscribe so that they can receive information about new developments regarding the CBS program.

DEC will ensure public notice and input on the proposed rule by issuing public notices in the State Register and DEC's Environmental Notice Bulletin; holding a comment period of at least 60 days; conducting public hearings; and most likely scheduling webinars and public meetings during the comment period. Interested parties, including small businesses and local governments, will have the opportunity to submit written comments and participate in the public hearings, as well as any webinars and public meetings that are held. DEC will also post relevant rule making documents on its website for public access.

8. CURE PERIOD OR OTHER OPPORTUNITY FOR AMELIORATIVE ACTION

State Administrative Procedure Act (SAPA) section 202-b(1-a) provides as follows:

In developing a rule for which a regulatory flexibility analysis is required and which involves the establishment or modification of a violation or of penalties associated with a violation, the agency shall: "(a) include a cure period or other opportunity for ameliorative action, the successful completion of which will prevent the imposition of penalties on the party or parties subject to enforcement; or (b) include in the regulatory flexibility analysis an explanation of why no such cure period was included in the rule.

No cure period or other opportunity for ameliorative action is needed because the rule making will not impose additional penalties on the regulated community, including small businesses and local governments.

9. INITIAL REVIEW OF THE RULE

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

Rural Area Flexibility Analysis

1. TYPES AND ESTIMATED NUMBERS OF RURAL AREAS

For purposes of this Rural Area Flexibility Analysis (RAFA), "rural area" means those portions of the state so defined by Executive Law section 481(7), SAPA section 102(10). Under Executive Law section 481(7), rural areas are defined as "counties within the state having less than two hundred thousand population, and the municipalities, individuals, institu-

tions, communities, programs and such other entities or resources as are found therein. In counties of two hundred thousand or greater population, "rural areas" means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein." There are 44 counties in the State that have populations of less than 200,000 people and 71 towns in non-rural counties where the population densities are less than 150 people per square mile. The proposed repeal of Parts 596, 598, 599, addition of the new Part 598, and amendments to Part 597 will apply statewide; therefore, they apply to all rural areas of New York State (State).

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

The rulemaking will not directly impose any significant service, duty, or responsibility upon any county, city, town, village, school district, or fire district in a rural area. This rulemaking does not directly mandate the expenditure of funds by any sector of local government.

The proposed rule contains no substantive changes to requirements that are imposed on subject facilities under existing statutory and regulatory authorities. The proposed rule will not impose requirements on facilities located in rural areas in a manner different from those imposed on facilities in non-rural areas. No different or additional professional services will likely be needed by facilities in rural areas by virtue of their rural location. These changes will be imposed statewide, including in rural areas and will affect local governments and private entities.

3. COSTS

There will be continued costs incurred by facilities subject to the Operator Training requirements of proposed section 598-2.5. Before being designated, every Class A and B Operator must adequately perform an assessment of knowledge of regulatory requirements applicable to the relevant Operator class, and every Class C Operator must be trained and tested by the Class A or B Operator. Operators of aboveground tank (AST) systems continue to be exempt from this requirement. Self-study can be conducted at no cost and training courses are optional. DEC has previously developed tests for Class A and B operators, in addition to training materials which are publicly available on the DEC website. As in the past, there will be no charge for the training materials or for an Operator to take the test. Costs for Class A and B Operators are limited to costs associated with the time to prepare and take the test. Retesting or new operator designation is required within 30 days of a DEC determination that the underground tank system is significantly out of compliance. However, periodic retesting for Class A and B Operators will now be required every five years so Operators remain trained/informed of their responsibilities and relevant regulations, and the possibility of spills occurring can be significantly reduced.

Costs will be incurred by facilities subject to new federal requirements (2015 amendments to 40 CFR Part 280) pertaining to tank systems subject to Subpart 598-2. These include testing/inspection/monitoring and repair requirements associated with fill port catch basins, containment sumps, overflow prevention equipment, and leak detection equipment; walkthrough inspection requirements. Note that these new federal requirements, which have been in effect since October 13, 2015, did not have counterparts in previous versions of Parts 596 through 599, and the costs associated with these new requirements have already been incurred.

The proposed rule will not impose costs on facilities in rural areas that are different or additional to those incurred by facilities in non-rural areas. There will be no likely variation in costs incurred by public and private entities in rural areas.

4. MINIMIZING ADVERSE IMPACT

Since this rule making is a harmonization of existing State and federal requirements, DEC believes that the proposed rule will not cause an adverse impact on any rural area.

5. RURAL AREA PARTICIPATION

DEC continues to provide statewide outreach to regulated communities and interested parties, including those in rural areas of the State. DEC posts relevant information on its website to assist the owners and operators of subject facilities, including those located in rural areas, with understanding and implementing the requirements of the Chemical Bulk Storage (CBS) program. DEC also maintains listservs to which persons may subscribe so that they can receive information about new developments regarding the CBS program.

DEC will ensure public notice and input on proposed amendments to Part 613 by issuing public notices in the State Register and DEC's Environmental Notice Bulletin; holding a comment period of at least 60 days; conducting public hearings; and most likely scheduling webinars and public meetings during the comment period. Interested parties, including those in rural areas, will have the opportunity to submit written comments and participate in the public hearings, as well as any webinars and public meetings that are held. DEC will also post relevant rule making documents on their website for public access.

6. INITIAL REVIEW OF THE RULE

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

Job Impact Statement

In accordance with Section 201-a(2)(a) of the State Administrative Procedure Act, a Job Impact Statement has not been prepared for this rule making as it is not expected to create a substantial adverse impact on jobs and employment opportunities in New York State (State). By restructuring Parts 596, 598 and 599 into a new Part 598, this rule making is principally aimed at harmonizing the existing State requirements (currently established at 6 NYCRR Parts 596 through 599) with the federal requirements (found at 40 Code of Federal Regulations Parts 280 and 302, and amendments to Subtitle I of the Resource Conservation and Recovery Act, 42 United States Code sections 6991 through 6991m). Many regulated entities with underground tank systems should find it easier and less expensive to comply with State regulatory requirements because they would be more consistent with federal regulatory requirements. The New York State Department of Environmental Conservation (DEC) anticipates that this would result in increased compliance. DEC is also updating the list of hazardous substances subject to regulation to be consistent with the mandate of Environmental Conservation Law section 37-0103(2)(c). Since this rule making consists of restructuring the regulations, harmonizing current requirements and incorporating clarifications based on experience developed since the promulgation of Parts 596 through 599 in September 2015 (effective October 11, 2015), there would be no change to existing job opportunities.

DEC concludes that this regulatory proposal would not have a substantial adverse impact on jobs within the State.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Amendments to Permit Requirements for Trapping Fisher and Marten in New York State

I.D. No. ENV-24-21-00007-P

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

Proposed Action: Repeal of sections 6.2(c), 6.3(b) and (c) of Title 6 NYCRR.

Statutory authority: Environmental Conservation Law, sections 11-0301, 11-0303, 11-1101 and 11-1103

Subject: Amendments to permit requirements for trapping fisher and marten in New York State.

Purpose: To remove the requirement for a special fisher trapping permit, and to simplify marten trapping requirements.

Text of proposed rule: Part 182.18 Endangered and Threatened Species Mitigation Bank Fund

(a) Purpose

1. The department may utilize funds in the endangered and threatened species mitigation bank fund for the purposes of facilitating the achievement of a net conservation benefit to an endangered or threatened species which may be taken by the construction or operation of a major renewable energy facility that requires approval by the department, by the department of public service, by the department of state's office of renewable energy siting, or by any state commission, agency, board or regulatory body granted oversight over major renewable energy projects.

(b) Definitions

1. Endangered and threatened species mitigation bank fund is an account consisting of contributions, in an amount determined by the department or other entity authorized by law, deposited by permittees for whom such contributions are deemed necessary to achieve a net conservation benefit to state listed species likely to be taken by the permittee's major renewable energy project.

2. Major renewable energy facility is an alternative energy system with a nameplate capacity of 25 megawatts or greater or any alternative facility granted a siting permit by the department of state office of renewable energy siting.

(c) Use of endangered and threatened species mitigation bank fund

1. The department may, at the commissioner's discretion, enter into contracts pursuant to State Finance procurement laws to implement, in part or in whole, the actions necessary to facilitate the achievement of a net conservation benefit to endangered or threatened species likely to be taken by a major renewable energy facility.

2. The department may disburse funds from the mitigation bank fund to implement conservation actions identified in approved conservation plans, recovery plans, endangered or threatened species mitigation plans

and net conservation benefit plans required to facilitate the achievement of a net conservation benefit to endangered or threatened species likely to be taken by a major renewable energy facility.

3. The department may disburse funds from the endangered species mitigation bank fund to the operators of a department-approved mitigation bank to implement conservation actions for state listed species.

4. Appropriate contributions to the department's endangered species mitigation bank fund may satisfy all or part of the net conservation benefit requirement as specified in an approved endangered or threatened species mitigation plan or net conservation benefit plan submitted as part of an application for a major renewable energy project consistent with this Part.

(d) Determination of endangered and threatened species mitigate bank fund payments

1. The methodology for determining payments necessary to achieve a net conservation benefit will be determined by the department based on the extent of impacts and anticipated costs needed to provide a net conservation benefit to the impacted species. The process will be based on the following:

i. The take or taking to be quantified may be based on any or all the following: loss of occupied habitat, loss of productivity, loss of individual animals, the anticipated duration of such taking

ii. Costs shall be related to the take or taking to the extent practicable, with:

1. Habitat impacts addressed by habitat protection and enhancement, creation or restoration of suitable habitat

2. Loss of productivity addressed by mechanisms to boost productivity such as predator control, reduction in human disturbance or creation of buffer habitat

3. Loss of individual animals addressed by mechanisms that increase productivity or survival through reduction of existing threats such as predation, human disturbance or collisions with vehicles or structures or research identified by the department that will lead to such an outcome

2. Cost calculations shall include all costs associated with successful implementation of mechanisms needed to generate a net conservation benefit including:

i. Cost to acquire necessary real property (rental, easement or fee title cost);

ii. Labor required to implement the mitigation actions;

iii. Equipment, supplies and materials necessary to implement the mitigation actions;

iv. Administrative overhead necessary to accomplish the above, and

v. Reasonably foreseeable increases in any of the above anticipated over the time period necessary to generate a net conservation benefit

3. Cost determinations are anticipated to increase at a rate commensurate with the rate of inflation.

Part 182.19 Mitigation Banks

(a) Purpose

1. The department may approve mitigation banks to aid in the management of state threatened and endangered species likely to be taken by major renewable energy projects.

(b) Definitions

1. Eligible entities are federal, state and local governments and not-for-profit organizations.

2. Mitigation bank is an area of real property within New York State that is administered in accordance with best management practices for a state threatened or endangered species and is operating under a department approved mitigation instrument in order to achieve a net conservation benefit for threatened or endangered species likely to be taken by major renewable energy projects.

3. Mitigation bank instrument is a document that describes the business model of the mitigation bank that sets out how the mitigation bank will be managed, including all aspects outlined in section (f) of this subpart.

4. Suitable habitat is the physical and landcover characteristics required by a species to successfully engage in an essential behavior

(c) Creation of a mitigation bank

1. Eligible entities may establish a mitigation bank by applying to the department.

2. Applications to establish a mitigation bank must include a complete mitigation instrument as per section (f) of this subpart.

3. The department will post completed applications on its website for public review and comment for 30 days.

4. After an assessment of public comment, the department will either deny the application if the mitigation instrument is not likely to be successful in improving the habitat, productivity or survival of state threatened and endangered species to an appropriate degree or approve the application.

(d) Ownership, Operation, and management of mitigation banks

1. Mitigation banks may be owned or operated by the department,

other federal, state or local government entities, not-for-profit organizations, or any other legal entity.

2. Management of mitigation banks will follow the management practices outlined in the mitigation bank instrument for providing the habitat needs of identified and listed state threatened and endangered species.

3. A mitigation bank owned by the department may be managed under contractual agreements with third parties.

4. The acres of habitat produced or maintained may only be counted once per year for use as mitigation.

5. The protection of an individual of a listed species may only be counted once for use as mitigation.

6. The department shall be allowed access to the mitigation banks during the time of the year the target species and/or habitat is expected to be present.

(e) The department may disburse funds from the endangered species and threatened species mitigation bank fund to the operators of a department-approved mitigation bank to implement conservation actions for state listed species.

(f) The mitigation bank instrument shall include the following:

1. List of the target species for which the mitigation bank is intended.

2. Maps of the real property within the State of New York under the management or control of the applicant.

3. Proof of management control of the real property including copies of deeds, easements or contractual relationships with landowners that include full descriptions of the metes and bounds of the locations to be managed.

4. Description of the existing habitat and use of the property by the target species including:

i. A baseline assessment of current conditions on the real properties including:

1. Acres of existing suitable habitat

2. Existing use of property by target species

5. Description of the management goals for habitat and use of the property by target species and specify the units to be used in evaluation of the benefit of the bank such as:

i. Target acres of suitable habitat

ii. Target use of the property by target species (e.g. number of animals foraging or roosting per unit time)

iii. Target number of breeding pairs

iv. Target number of wintering/roosting animals

6. Description of the proposed management plan for the real property to maintain the habitat and target species on the real properties covered by the mitigation bank instrument.

i. Management plans must, to the maximum extent practicable, be consistent with department guidance published in species conservation plans, habitat management plans, or other department approved guidance documents relevant to the target species of the mitigation bank.

7. Description of the monitoring plan for the target species and habitat(s).

8. Start and end dates for the mitigation bank.

9. The department must be granted an easement that allows for the appropriate maintenance, management and monitoring for the target species of the mitigation bank.

10. Mitigation banks must be established within the known range and habitat of the target species unless the operator has obtained an experimental population designation for the target species and the geographic area encompassing the proposed mitigation bank.

11. The methodology for determining the costs for the production of additional individuals of the target species, acres or acre-years of habitat produced by the bank must be provided.

i. Costs should be tied to a publicly accessible economic indicator to allow for changes in operating costs over time.

ii. Costs may include all aspects of generating additional acres of habitat or individuals of listed species, including but not limited to:

1. Cost of real property interest;

2. Labor for oversight and management of the mitigation bank;

and

3. Equipment, supplies and materials necessary for management of the mitigation bank.

4. Administrative overhead necessary to accomplish the above.

12. A methodology for tracking the use of individual species and/or habitat produced for mitigation projects.

i. Mitigation bank managers must be able to demonstrate which parcels of real property are under management as mitigation for particular projects.

13. The operator of the mitigation bank must enter into a binding agreement with the department ensuring that the mitigation bank will be maintained for the duration necessary to meet the net conservation benefit standard for all funds received from the endangered species mitigation bank fund.

14. An individual mitigation bank may be established for multiple target species with similar habitat requirements, where each individual animal may be counted separately, but acres cannot be double counted.

(g) Use of mitigation banks

1. The cost methodology established in the approved mitigation bank instrument may be used to determine the appropriate contribution from eligible applicants to offset all or a portion of the project's likely take or taking of an endangered or threatened species. The department, in consultation with the project applicant, will determine the appropriate units of take that need to be mitigated (e.g. acre years of habitat, number of individuals). This will be based on the best available information and the department may require the applicant to undertake surveys or other research needed to estimate the number of individuals of the species the project is likely to take.

2. The department will assess the anticipated level of take of listed species prior to determination of which mitigation bank may be used, and how many mitigation units in a mitigation bank will be required to achieve a Net Conservation Benefit.

3. The use of an approved mitigation bank must be detailed in the endangered or threatened species mitigation plan as per 182.11(d)(1) or within a net conservation benefit plan as required for major renewable energy projects.

4. The implementation agreement must include an affirmative signed statement from the manager of the mitigation bank asserting that, upon payment of the agreed upon mitigation cost, the mitigation bank has the resources needed to produce the habitat or individuals specified in the application within the time specified.

5. An applicant utilizing a mitigation bank to meet permit requirement must pay the appropriate fee based on the units of impact and the costs approved in the mitigation banking instrument utilized by the mitigation bank. The fee may either be paid directly from the applicant to the appropriate mitigation bank or to the department's Endangered and Threatened Species Mitigation Bank Fund if eligible.

6. If mitigation banks receive payment directly from the applicant, the mitigation bank operator must notify the department within 2 business days after receipt of payment.

(h) Applicability of mitigation banks

1. Approved mitigation banks established for appropriate species and/or habitat may be utilized by major renewable energy projects to offset the likely take or taking of a state listed species or its habitat and to provide a net conservation benefit to such species.

2. At the department's discretion, all projects other than alternative energy projects may utilize mitigation banks to satisfy permit requirements under this Part.

3. Use of mitigation banks does not alleviate the applicant's requirement to avoid and minimize on-site impacts to listed species to the extent practicable.

Text of proposed rule and any required statements and analyses may be obtained from: Amanda Bailey, Division of Fish and Wildlife, Department of Environmental Conservation, 625 Broadway, Albany, NY 12233, (518) 402-8859, email: Amanda.Bailey@dec.ny.gov

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

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

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

Regulatory Impact Statement

1. Statutory authority:

Section 3-0301 of the Environmental Conservation Law (ECL) directs the Department of Environmental Conservation (DEC or department) to provide for the propagation, protection, and management wildlife.

Section 11-0535 of the ECL directs DEC to protect endangered, threatened and special concern animals and prohibits the public from taking these animals without a permit from the department.

Section 94-c of Article 6 of the Executive Law enables the Office of Renewable Energy Siting (ORES) to require payments to the endangered and threatened species mitigation bank fund when offsite mitigation is required to provide a net conservation benefit to species adversely impacted by major renewable energy projects issued siting permits by the ORES office.

Section 99-hh of the State Finance Law creates the endangered and threatened species mitigation bank fund and directs the Department to utilize the fund to facilitate a net conservation benefit to endangered and threatened species impacted by major renewable energy facilities.

Section 11-0535c of the ECL directs DEC to manage the endangered and threatened species mitigation fund and promulgate any regulations necessary to do so.

2. Legislative objectives:

The legislative objectives behind the statutory provisions listed above are to authorize the department to establish, by regulation, the rules deemed necessary to implement the endangered and threatened species mitigation bank fund to provide a net conservation benefit as described in endangered and threatened species mitigation plans approved by the department. In addition, contributions may be made by applicants for siting permits issued by the Office of Renewable Energy Siting and these funds in turn may be used to facilitate a net conservation benefit to endangered and threatened species potentially impacted by the permitted major renewable energy facility through offsite mitigation.

3. Needs and benefits:

This proposed regulatory amendment to the Endangered Species regulations would establish how the endangered and threatened species mitigation bank fund (Fund) would operate and how the department would approve mitigation banks. The need for this Fund was made clear in the laws enacted to create it. The Fund is an alternative mechanism for large scale renewable energy projects to meet required mitigation for impacts to state listed animal species. Payments into this fund can potentially replace the need for project proponents to develop a unique strategy to mitigate adverse impacts while reducing the time necessary to develop site-specific mitigation packages. This can result in faster approval of project applications and potentially reduce the overall cost to the applicant. This can translate into reduced costs for the energy produced, and consequently lower electricity rates from the completed project. In addition, provided the payments to the fund are commensurate with the extent of adverse impacts and the costs necessary to provide a conservation benefit to the affected species, administration of the fund may result in more effective and consistent implementation of mitigation strategies. The approval of mitigation banks would also provide the regulated community with additional options for meeting mitigation requirements.

4. Costs:

All costs associated with this program are only necessary when a project will have an unavoidable take of an endangered or threatened animal species (hereafter referred to as listed species). The endangered and threatened species mitigation bank fund (Fund) is an optional method for projects permitted by ORES to use payments to the Fund to meet mitigation obligations for the take of listed species. The costs described below apply to those entities that choose to utilize this method to accomplish required mitigation needs. Under regulations already in place, project sponsors can develop and implement their own mitigation strategies that have been approved and determined by the department to provide a net conservation benefit to offset their take of listed species. This will not be altered by this rule making. Because the Fund is administered by the Department, mitigation projects implemented through this method will be subject to the procurement rules for State Agencies. Therefore, the overhead associated with mitigation projects administered through the Fund is likely to be higher than what many companies would charge for similar services. The process for the Department to approve mitigation banks may help provide options to applicants that may be cheaper than the costs required to utilize the Fund. However, for those entities that opt to use the Fund to meet their mitigation needs, they are saving the time and costs necessary to develop and implement their own mitigation strategy.

The estimated payments to the Fund are based on the cost to implement actions necessary to provide a net conservation benefit to the species adversely affected (i.e., taken) by the applicant. The law (Executive Law Article 6, 94-c; Environmental Conservation Law 11-0535c) provides that mitigation actions should achieve a net conservation benefit through the protection and enhancement of habitat important for the essential behaviors of species taken by a project. Costs associated with establishing and administering the Fund include the following components, where applicable: Land (e.g., rental, fee title acquisition of location where mitigation will occur), management costs (e.g., development of site management plans, fees necessary to acquire labor, rent or purchase supplies, materials and equipment, monitoring necessary to demonstrate success of mitigation efforts), and overhead costs required by the entity administering the management activities.

Some mitigation actions, however, are not based on creation, protection and enhancement of habitat. The goal of these other actions is to reduce known risks to species. Examples include the successful implementation of specific actions such as the retrofitting of electric poles to reduce the threat of electrocution to eagles, the gating of hibernacula to prevent disturbance to listed bats, or research that identifies important new habitats occupied by the listed species that can be protected under regulation. For these actions, the cost includes the following components: Labor to implement the action, travel costs, supplies, materials and equipment needed to complete the action and overhead costs required by the entity administering the management activities. The table below provides examples of estimates for the cost for several types of mitigation and are based on the funding necessary to result in a net conservation benefit to the affected

species, and therefore do not necessarily represent a direct replacement of habitat or animals taken.

Type of Impact	Unit of Mitigation	Cost per Unit of Mitigation	Basis of Cost
Acres of occupied habitat of listed grassland birds taken	Acre of suitable habitat created or enhanced and maintained for 30 years	\$6450/acre	Actual average cost of creation and management for suitable acreage of grassland habitat for 30 years*
Individual Bald Eagle Taken	29 power pole retrofits per Individual Bald Eagle taken at \$7500 per pole.	\$217,500/individual Bald Eagle taken	2020 approved rate of exchange for Bald Eagles taken in north-east US, with estimated dollar value per retrofit from Appendix G of the Eagle Conservation Guidance (USFWS, 2013).
Northern Long-eared Bat Taken	Roost Tree Found or Protected = mitigation for 5 bats	\$37,500 per roost tree, or \$7,500 per bat taken.	Actual average cost for contractors finding new roost trees on Long Island*

* Methodology for arriving at costs discussed below in Cost Determination sections under the species heading

Grassland Birds:

Listed grassland birds (Short-eared owl, Northern harrier, Sedge wren, Upland sandpiper, Henslow’s sparrow) generally breed and nest in large, contiguous grassland fields greater than 25 acres in area, while foraging within similar habitat within a half mile radius of the nesting location. Winter roosts of Short-eared owl and Northern harrier are generally associated with similar habitats, and New York telemetry data has confirmed that, on average, individual animals forage within a half mile of their roost location. Both wintering and breeding grassland birds generally return and utilize the same general location between years, but due to the dynamic nature of the early successional habitats they prefer, they rarely nest or roost in the exact same location in successive seasons. They generally move their nesting, foraging and roosting activity to the locations most suitable within a given season. Therefore, for grassland listed birds, occupied habitat is defined as the field within which an essential behavior has been documented and all open fields that are greater than 25 acres in size that occur within one half mile of that site. For the purposes of determining adverse impacts to these species, open field habitats that are larger than 25 acres of contiguous grassland and within a ½ mile of a nest or roost of a listed grassland bird are evaluated for impacts. If expected impacts of a proposed project cannot be minimized such that there is no anticipated loss of a single nest, winter roost, and no more than 25 acres of suitable, occupied habitat, would be lost, then impacts above this threshold must be mitigated by the project sponsor such that, on the whole, the project is able to provide a net conservation benefit to the taken species. In addition, certain activities may directly harm individual listed animals. Direct loss of animals or active nests is frequently avoidable through timing of project activities. For grassland birds, clearing of occupied habitat should occur outside of the breeding season or wintering season when the animals are not present within the habitat. If these steps cannot be taken, additional minimization and mitigation actions that result in a net conservation benefit to the affected species may be required in addition to mitigation to replace taken occupied habitat.

The Department will measure the extent of the impact to grassland birds in terms of acreage of occupied habitat impacted. For changes in land use, this calculation is generally equal to the acreage of occupied habitat removed by the project with the following caveats. The first caveat is in relation to the loss of viability for grassland habitats if they are reduced below 25 acres in size. If a project is impacting an occupied field that is greater than 25 acres in size, the entire field will be considered taken for the purposes of calculating take unless a minimum of 25 acres of suitable habitat will remain. For example, a project that takes 35 acres within a

50-acre occupied grassland would be considered to have taken all 50 acres, while a project that takes 20 acres within a 50-acre field of occupied grassland habitat would only be considered to have taken 20 acres as more than 25 acres of suitable grassland habitat remains after the project is constructed. The second caveat is for projects that have elements that are known to cause impacts beyond the footprint of clearing and ground disturbance. In the case of tall structures such as telecommunications and electric transmission towers and wind turbines, there are documented changes to the bird communities as far as 250m from those structures. The Department will use the most relevant science to assess the extent of these indirect effects, which may increase the acreage of calculated impact beyond the actual footprint of the land use change. The direct loss of grassland birds will be calculated based on the number of birds expected to be taken, with the take of nests being translated into an estimated number of individual animals based on the best available information on the average productivity of the species.

Mitigation to achieve a net conservation benefit for the take of occupied breeding grassland bird habitat requires the creation, management, or improvement of substantially more quality breeding habitat than the occupied habitat taken. The habitat used as mitigation must also be protected from adverse impacts for a length of time at least as long as the projected suitability of the habitat taken. The need for more habitat than that taken is necessary to account for the uncertainty inherent in habitat restoration or creation and the additional uncertainty that the target species will find and utilize the habitat. For example, through years of grassland bird surveys across many fields of varying sizes and management regimes, the Department has documented listed grassland birds breeding in fewer than 20% of those fields, with the rarest species (Henslow’s sparrow and Upland sandpiper) found in fewer than one in ten fields greater than 25 acres in size. For this reason, areas utilized for mitigation purposes must include at least 25 acres of contiguous grassland habitat. There are several factors that can reduce the uncertainty that mitigation for the target species will provide a net conservation benefit. In decreasing order of importance:

- a. The area contains known occupied habitat for a species taken by the project.
 - b. The parcel is ≥ 100 contiguous acres in size and of a suitable shape (not linear, and closer to a square or circle in shape).
 - c. The area is adjacent to existing occupied grassland habitat for a target species that is at least 25 acres in size and is already under conservation easement or otherwise protected.
 - d. The area is within a NYSDEC-designated Wintering Raptor Concentration Area (if affected species is a wintering raptor), a NYSDEC Grassland Focus Area (if affected species is a breeding grassland bird in New York) or an Audubon-designated Important Bird Area (IBA) that includes recent records of the target species.
 - e. The area can be protected and managed for a period that extends beyond the life of the project (e.g., 40 years, 50 years, or in perpetuity).
- To achieve a net conservation benefit for wintering grassland bird habitat with at least the same amount of suitable wintering habitat needs to be created, managed or improved as the amount of occupied wintering habitat. The habitat used as mitigation must also be protected from adverse impacts for a length of time at least as long as the projected suitability of the habitat taken. The amount of habitat required to mitigate for wintering impacts is lower in part due to the ability of wintering raptors to cover large distances quickly to find suitable habitats on the landscape. The net conservation benefit is obtained through the best management practices that improve the suitability of the acreage specifically for wintering raptors (e.g. managed to provide roosting habitat for the target species and small mammal habitat to support their prey base).

Grassland Bird Cost Determination:

Cost determination for grassland birds is based in part on the experience the Department has in managing grassland bird habitat. The Department has been able to implement grassland bird management at an average cost of \$105 per acre per year. However, this work has been implemented either on existing state land or with volunteer partners that donated the rent of their fields as match for funding to cover the costs of management. While this approach was successful in expanding nesting opportunities for grassland birds in general, listed species were only recorded in less than 1 in 5 of the fields under this management initiative. To have the best opportunity for successful use by listed species, the conditions delineated above need to be applied in the development of appropriate mitigation projects. Permanent conservation easements or purchase in fee title and transfer to a conservation organization is the best way to maintain consistency in management. The estimated average value per acre of rural land is \$3250 in New York based on the USDA Land Values 2019 Summary, released August 6, 2019, by the National Agricultural Statistics Service (NASS), Agricultural Statistics Board, United States Department of Agriculture (USDA)). Prorated over 30 years (the typical life of a largescale renewable energy project), this cost comes out to roughly \$110 per year. For these reasons, the estimate of \$105 per acre needs to be adjusted to account for

both improvement of management actions to successfully attract listed species and to account for land rental. The estimate in the table above is based on adding the cost of renting or purchasing the land (\$110) and the estimated yearly cost of management (\$105), for an average yearly management cost of \$215 per acre per year, which comes out to \$6450 per acre under a 30 year management regime.

Northern long-eared bats:

Occupied habitat for Northern long-eared bats (NLEB) recognized by the Department is limited to those areas within 1.5 miles of maternity roosts documented after the widespread distribution of White Nose Syndrome (WNS) in New York in 2008, and areas within 5 miles of hibernacula. However, since this species is listed due to the ongoing impacts of WNS and is not considered limited by its summer habitat, the primary concern is protection of active maternity roosts and preventing disturbance hibernacula. Impacts to maternity roosts can be avoided by implementing land clearing activities outside of the active season for NLEB. Throughout most of New York, the species hibernates from November 1 through March 31 (Dec 1-Feb 28 in Suffolk County). As long as clearing of trees within occupied habitat occurs during the hibernation period and no trees are removed within 150 feet of a maternity roost no adverse impacts are anticipated. However, if tree clearing within occupied habitat occurs outside of the hibernation period or if a known roost tree is removed at any time of year, mitigation may be required. In addition to habitat impacts, NLEB may be directly taken through the operation of wind turbines. If expected impacts of a proposed project cannot be minimized below the threshold of one bat lost per ten years (considered to be statistically equivalent to zero for the purpose of this Policy), then remaining impacts above this threshold must be mitigated by the project sponsor such that, on the whole, the project is able to provide a net conservation benefit to the impacted species.

NLEB at wind facilities:

For the purposes of estimating take of NLEB by wind facilities, post-construction monitoring studies with reported species composition data in the post-WNS era (i.e., after 2008) from sites in New York and Wolfe Island, Ontario were examined to determine the percentage of bats that were identified as NLEB. A total of 1,744 carcasses were reported, of which 7 individuals (0.40% of the total) were identified as NLEB.

Those studies that reported overall bat fatality estimates as bats per Megawatt (MW), corrected for searcher efficiency and scavenging rates, were then examined to determine a statewide average estimate of expected bat fatalities. These estimates were calculated using various analytical methods and sampling schemes that were designed in consultation with state, federal and provincial environmental resource agencies, and deemed sufficiently similar for the purpose of developing an aggregate estimate. The collected fatality rates for each project were expressed as a combined total number of bats of all species per MW of nameplate capacity per year (yr). A simple arithmetic mean of these estimates was calculated without the application of any weighting scheme, resulting in an estimated statewide average of 6.7 bats/MW/yr. Finally, an estimate of the expected fatality rate of NLEB per MW of nameplate capacity per year was generated as a simple product of the two calculated rates, reflected in the equation below:

$$6.7 \text{ bats/MW/yr} \times 0.0040 \text{ NLEB/bat} = .027 \text{ NLEB/MW/yr}$$

This yields an estimate of 2.7 NLEB/100MW/yr. The Department will apply this estimate of NLEB take to each wind turbine proposal in New York subject to any updates on a site-specific basis. A higher take estimate will likely be warranted for wind energy facilities sited inside recognized occupied habitat. Relevant new studies or additional data may be taken into consideration and the Department may identify a need to modify a site-specific take estimate or this policy accordingly. This calculation assumes no operational curtailment of the turbines under consideration.

Minimization of direct impacts to bats can best be accomplished by incorporating turbine curtailment at low wind speeds (beginning at ≥ 5.5 m/s) at the appropriate time of year when bats are most active on the landscape (April 1 to October 1, but at least July 1 to September 30), time of day ($\frac{1}{2}$ hour before sunset to $\frac{1}{2}$ hour after sunrise), and temperature (≥ 50 degrees Fahrenheit). The Department estimates that NLEB mortality would be reduced by as much as 85% if blades were not free to spin until windspeeds are 5.5 m/s or greater.

The number of NLEB bats for which mitigation will be required by using the methodology above and reducing that number as a function of the likely effectiveness of the minimization actions taken to reduce impacts. For the purposes of this assessment, an expected take of greater than 1 bat per 10 years of operation would require mitigation.

NLEB mitigation:

To protect NLEB from other threats such as WNS, predation, development and human disturbance, it is fundamental for the Department to know where the species is located. Studies that are successful in identifying previously unknown maternity roosts and hibernacula would be viewed as conferring conservation benefit to the species and thus would be acceptable

as mitigation. A new maternity roost is defined as any previously undocumented maternity roost that is located greater than 150 feet from any already identified roost, i.e., roosts must be more than 150 feet apart to be considered separate locations. For the purposes of determining the degree of benefit conferred by identifying a new maternity roost, the Department considers roosts to be typically viable for 10 years. Given an average productivity of 0.5 pups per year, the identification of a new roost will allow the Department to protect the site from disturbance and can be used to offset the loss of up to 5 NLEB (over a 10-year period). For the purposes of determining the degree of benefit conferred by identifying a new hibernaculum, the Department will base the benefit provided on the number of NLEB determined to use the hibernaculum. The Department will consider the identification of new hibernaculum to offset the loss of up to 50% of the NLEB utilizing the hibernaculum at the time it is accepted as a mitigation measure.

NLEB mitigation costs:

The fee payable to the endangered and threatened species mitigation bank fund for applicants to mitigate the take of NLEB is based on the estimated costs to hire a consultant to find and capture a female NLEB, affix a radio tag, and confirm a new roost location. As of the summer of 2020, the average cost to complete such a project was \$37,500. Since finding a new maternity roost is considered to provide for the production of 5 NLEB, the cost per bat comes out to \$7500 per bat.

Bald Eagles:

Bald eagle take is estimated based on two factors. The first factor is proximity of active nesting to project elements. If an eagle nest is located within 2 miles of a proposed wind turbine location or within 660 of any construction, tree removal or ground clearing activity, the potential for nest failure is increased. Wind turbines that are positioned within 2 miles of a nest and are geographically placed between the nesting area and prime foraging locations (usually open water) are more likely to impact nesting eagles. Project construction activities that result in the loss of trees within 660 feet of nesting areas during the breeding season, within 330 feet during any time of year, or result in increased disturbance within the line of site of birds on the nest can also result in nest failure. If nest failure is likely, the Department utilizes the average productivity of breeding bald eagle pairs (1.3 eagles fledged per nest) to estimate take. The expected number of years of disturbance are multiplied by the average productivity per nest to derive an estimate of eagle take over the life of a project.

An additional source of take for wind projects is the direct take of birds that fly into the turbines. The Department has documented 5 such events since 2015 and recommends a standard condition on all wind projects to require them to provide a net conservation benefit for any eagles documented taken in this fashion.

Bald Eagle Costs:

While there are several potential ways to mitigate for take of bald eagles (e.g. enhanced protection of nesting areas, actions that directly reduce or remove known threats at nesting and wintering locations), the US Fish and Wildlife Service (USFWS) currently only accepts one method for mitigating the take of Bald eagles. They require the retrofitting of electric poles in areas with elevated risk of electrocution of eagles as the mitigation action, with the number of poles necessary to offset the loss of an eagle determined in relation to the size of the eagle population and the frequency of electrocutions in that population. New York is part of the Northeast USFWS administrative region. The Federal Eagle Coordinator for the region provided an analysis that, as of Summer, 2020, the current estimated number of poles necessary would be 29 per eagle. The National Eagle Conservation Guidance estimates the cost to retrofit a candidate pole is \$7500. Therefore, the cost estimate per eagle take would be \$217,000. To prevent the potential for applicants having to implement multiple mitigation strategies to satisfy State and Federal Laws, we default to the federal method to avoid confusion.

5. Local government mandates:

These amendments do not impose any program, service, duty or responsibility upon any county, city, town village, school district or fire district.

6. Paperwork:

There is no additional paperwork required as a result of these changes.

7. Duplication:

There are no other regulations similar to this proposal.

8. Alternatives:

The first and preferred alternative would adopt this proposal in its entirety. This alternative would provide the framework necessary for the DEC to develop and implement an in-lieu fee and mitigation banking program, meet the statutory guidelines for the DEC to administer the Endangered and Threatened Species Mitigation Bank Fund, provide more and quicker options for applicants to meet mitigation requirements for adverse impacts to listed species and would improve the ability of DEC to implement successful species restoration programs.

A second alternative is to take no action. This would leave significant uncertainty for applicants and the public as to how the DEC would admin-

ister the Fund. There would be no published basis for determining what the costs should be for applicants that would make use of this option, compromising the effectiveness of the Accelerated Renewable Energy Growth and Community Benefit Act.

A third option would be to include very specific language in the regulations that establishes exact values for payments into the Fund by projects that make use of the option to meet a Net Conservation Benefit. While this could provide more specificity to applicants, this would remove flexibility to develop new mitigation strategies that may be cheaper or more effective, forcing DEC to propose and adopt rule changes before making new options available. This would compromise the ability of applicants for large scale renewable energy projects to get approval for their projects within the time frames outlined by the Accelerated Renewable Energy Growth and Community Benefit Act. In addition, the costs of mitigation actions are likely to change through time as the costs of land, services and commodities fluctuate. Again, if costs were fixed in the regulation, it would be time consuming and labor intensive to amend them.

A fourth option would be to estimate the costs based on the total anticipated impact of projects on listed species and then allocate those costs to each project based on the actual footprint of the project. While this could potentially provide the certainty for project applicants as to what costs they would be incurring and allocate costs across projects in a fair manner, this approach would be dependent upon the Department being able to accurately predict the extent of impacts from projects that have not yet been proposed. In addition, such a mitigation approach would not provide any incentive to avoid listed species habitat and would treat projects similarly whether they were taking listed species or not.

The preferred alternative offers the greatest flexibility to meet the applicants need for certainty in process and still provide flexibility to allow for timely, innovative solutions.

9. Federal standards:

The Federal Endangered Species Act is similar in intent, but does not apply to most state listed species. Where there is overlap between the jurisdiction of the two species, the Department has a Cooperative Agreement in place with the United States Fish and Wildlife Service that requires the agencies to cooperate in the protection of those federally listed species. These proposed regulatory changes are compatible with that agreement and, through Department cooperation with the Federal government, allow for a permit issued by the Department to satisfy Federal standards in most cases. These regulations are also consistent with protection afforded to Bald and Golden Eagles under the Federal Bald and Golden Eagle Protection Act and the protection of migratory birds under the authority of the Federal Migratory Bird Treaty Act.

10. Compliance schedule:

The new regulations would be in force immediately upon adoption. As these proposed regulatory changes do not expand the scope of regulation, there would be no new compliance requirements incurred by the public or local governments as a result.

Regulatory Flexibility Analysis

1. Effect of rule:

Local governments and small businesses may potentially be affected by this proposed rule. However, the effect of this rule making does not expand the reach of the regulatory authority. Instead, it will provide businesses and local governments potential alternatives for mitigating projects that fall under the jurisdiction of Article 11-0535.

2. Compliance requirements:

Compliance requirements are not altered by this proposed rule making. As already required under SEQR and Article 11-0535, listed species impacts must already be addressed. Compliance with this requirement would be made easier through the provision of mitigation options through the use of mitigation banks and payments into the endangered and threatened species mitigation bank fund to meet mitigation requirements that may be required to be in compliance with existing regulatory requirements.

3. Professional services:

No new services would be required by local governments or small businesses to comply with this proposed rule making. As is the case under the existing regulations, environmental consultant services may be useful for projects that fall under jurisdiction of this proposed rule making.

4. Compliance costs:

This proposed regulation does not impose any additional burden on affected local governments and small businesses. These changes only effect entities that require incidental take permits pursuant to the existing regulations. The proposal creates mitigation options for certain projects by allowing for the creation of mitigation banks and, for large scale renewable energy projects, payment into the endangered and threatened species mitigation bank fund to meet their net conservation benefit requirements.

5. Economic and technological feasibility:

Since this proposal does not require local governments or small businesses to do anything they have not already had to do in the past, the

implementation of this rule making is both economically and technologically feasible. In addition, the new options for mitigation will help make compliance with regulatory requirements easier than ever.

6. Minimizing adverse impact:

This proposal creates new options for certain project types to meet mitigation requirements necessary to obtain a permit in compliance with the existing regulations. As such, this proposed rule making is not anticipated to create any new or additional impacts on local government or small business, as the existing rule already established the prohibitions and permit needs that are clarified in this rule making.

7. Small business and local government participation:

The State Administrative Procedures Act requires agencies to provide public and private interests the opportunity to participate in the rule making process through public comment periods. In addition, in the past ten years, the Department has met with the Association of Towns and New York State Association of Counties on several occasions to discuss the topic of Endangered species regulation. The Department will continue to meet with any concerned entity to hear their concerns. Listed species issues will also still primarily be addressed through the SEQR process, with local governments continuing to frequently take on the role of lead agency.

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

The proposed revisions to Part 182 do not require the imposition of a cure period because there are no changes to any existing violations or penalties, and no new violations or penalties are established.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas:

Part 182 applies statewide and this proposed rule making will not alter that. However, these rules govern mitigation projects for development. Since mitigation projects largely focus on larger tracts of suitable wildlife habitat, these are more likely to occur in rural areas.

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

The rules that the department is proposing will help provide a predictable and transparent process for large scale energy project to mitigate impacts regulated under the State's Endangered Species Law. Existing law and regulation requires permits for activities that result in harm to listed species and require an endangered species mitigation plan that provides a net conservation benefit to the affected species. This rule would allow the Department to utilize the State Endangered and Threatened Species Mitigation Bank Fund (Fund) to provide a net conservation benefit to species impacted by the projects that contribute to the Fund. Since the primary target of mitigation actions will be areas already occupied by listed species, these rules will be implemented without creating new regulatory burdens for landowners. Consequently, this proposed rule making does not pose any new compliance requirements or any increase in compliance requirements.

3. Costs:

The proposed rule does not create any new requirement for landowners or municipalities. The impact of this rule making on rural communities may reduce any costs associated with this rule as the Fund will be used in part to compensate willing landowners to continue to maintain listed species on their property.

4. Minimizing adverse impact:

The proposed changes clarify existing law and regulations by providing an alternative for certain projects to satisfy their mitigation requirements. As such, this rule making is not anticipated to create any new or additional impacts on rural communities.

5. Rural area participation:

The State Administrative Procedures Act requires agencies to provide public and private interests in rural areas the opportunity to participate in the rule making process via the mandated 60 day public comment period. In addition, the Department will continue to meet with any concerned entity to hear their concerns.

Job Impact Statement

1. Nature of impact:

This proposed rule making will modify the existing regulations to clarify how endangered species mitigation banks and the endangered and threatened endangered species mitigation bank fund can be utilized. As a result of this rule making, there will be predictable options for certain projects that are required to provide mitigation for affected listed species under these regulations. Since this rule making will not place new requirements on any entities, the impact on jobs is estimated to be neutral.

2. Categories and numbers affected:

As with the existing regulation, projects may not take listed species without a permit. Consequently, this proposed regulation does not reduce the protections for listed species, rather this proposed rule making provides guidance on how mitigation banks and payments into the endangered and threatened species mitigation bank fund can be used as options when miti-

gation is required. The result will be an increase in the efficiency in which listed species mitigation can be addressed, potentially resulting in more rapid project approvals. No net impact to jobs is expected.

3. Regions of adverse impact:

This proposed rule making makes no modification of the regions impacted by the existing regulation.

4. Minimizing adverse impact:

This proposed rule making makes no change to types of activities that would fall under regulatory jurisdiction. Therefore, there are no adverse impacts anticipated through this proposed rule making.

Department of Financial Services

EMERGENCY RULE MAKING

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

I.D. No. DFS-24-21-00003-E

Filing No. 634

Filing Date: 2021-05-27

Effective Date: 2021-05-27

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

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

Statutory authority: Executive Law, section 29-A; Financial Services Law, sections 202, 302; Insurance Law, sections 301, 3216, 3217, 3221, 4303; Executive Orders 202.82 and 202.105; L. 2020, ch. 71

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

Specific reasons underlying the finding of necessity:

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

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

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

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

(2) The coverage required under paragraph (1) of this subdivision shall not be limited to COVID-19 immunizations, and the administration thereof, administered by participating providers and shall apply to such immunizations, and the administration thereof, administered by non-participating providers until the expiration of the federally declared public health emergency and the disaster emergency declared by the governor of this State pursuant to Executive Order 202, as extended, unless first rescinded by a concurrent resolution passed by the Legislature pursuant to Ch. 171 of L. 2021.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires June 24, 2021.

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

Regulatory Impact Statement

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

Executive Law Section 29-a grants the Governor of New York the authority to temporarily suspend or modify any statute, local law, ordinance, order, rule, or regulation, or parts thereof, of any agency during a State disaster emergency, if compliance with such statute, local law, ordinance, order, rule, or regulation would prevent, hinder, or delay action necessary to cope with the disaster emergency or if necessary to assist with or aid in coping with such disaster.

Executive Order ("EO") 202.82 issued on December 13, 2020 and subsequently extended, among other things, temporarily modifies IL Sections 3216(i)(17)(E), 3221(l)(8)(E) and (F), and 4303(j)(3) to apply to grandfathered health plans with regard to COVID-19 immunizations.

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

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

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

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

2. Legislative objectives: The Legislature granted the Governor broad powers to take necessary action in cases of emergency that threaten the health, safety, and general welfare of New Yorkers. Specifically, Executive Law Section 29-a authorizes the Governor to temporarily suspend or modify statutes, rules and regulations, or parts thereof, during a State disaster emergency. Governor Andrew M. Cuomo modified the IL when issuing EO 202.82 on December 13, 2020, as extended, in relation to coverage for COVID-19 immunizations by grandfathered health plans.

The statutory sections cited above establish the minimum standards for the form, content, and sale of accident and health insurance, including coverage for certain immunizations with no cost-sharing. This amendment implements EO 202.82, as extended, and accords with the public policy objectives that the Legislature sought to advance in the foregoing sections of the IL by requiring coverage for coronavirus disease 2019 ("COVID-19") immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the ACIP issues a recommendation for the COVID-19 immunization; (2) the USPSTF issues a recommendation with an "A" or "B" rating for the COVID-19 immunization; or (3) the Superintendent determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization. This amendment also prohibits copayments, coinsurance, annual deductibles, and any other out-of-pocket costs for such immunizations and the administration thereof.

3. Needs and benefits: COVID-19 has spread to millions of people worldwide, with more than 2,000,000 confirmed cases in New York State, of which over 50,000 have resulted in death. COVID-19 has devastated communities and has taken a huge economic toll on New York State. COVID-19 immunizations have been developed that are approximately at least 90% effective against COVID-19, and experts estimate that at least 70% of Americans must receive the COVID-19 immunization in order to achieve herd immunity and stop the spread of this deadly disease. As a result, it is essential that New Yorkers have coverage for COVID-19 immunizations and the administration thereof, including any visits necessary to obtain the immunization, so that there are no barriers to New Yorkers expeditiously obtaining the immunizations.

This amendment requires authorized insurers and health maintenance organizations (collectively, "health care plans") that issue a policy or contract that provides hospital, surgical, or medical care coverage, including a grandfathered health plan in accordance with Executive Order 202.82, as extended, to provide coverage of COVID-19 immunizations and the administration thereof immediately upon the earliest of the date on which: (1) the ACIP issues a recommendation for the COVID-19 im-

munization; (2) the USPSTF issues a recommendation with an “A” or “B” rating for the COVID-19 immunization; or (3) the Superintendent determines, in consultation with the Commissioner of Health, that a policy or contract must cover the COVID-19 immunization. Coverage for COVID-19 immunizations, and the administration thereof, and any visits necessary to obtain the immunizations at a provider’s office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization, will not be subject to annual deductibles, coinsurance, copayments, or any other out-of-pocket cost. There will be coverage for COVID-19 immunizations administered by non-participating providers until the expiration of the federally declared public health emergency or the disaster emergency declared by the New York State Governor pursuant to Executive Order 202, as extended, unless earlier rescinded by a concurrent resolution of the Legislature as provided in Ch. 171 of L. 2021.

The federal Departments of Health and Human Services, Treasury, and Labor (“federal Departments”) have issued Interim Final Rule 85 Fed. Reg. 71142 (November 6, 2020) (“federal rules”) that address coverage for COVID-19 immunizations and their administration. The federal rules require COVID-19 immunizations and their administration to be covered when provided by out-of-network providers for the duration of the federal public health emergency for COVID-19. The federal rules state that reimbursement for out-of-network providers must be made in an amount that is reasonable, as determined by comparison to prevailing market rates for such services. The preamble to the federal rules indicates that the federal Departments will consider the amount of payment to be reasonable if the health care plan pays the provider the amount that would be paid under Medicare for the service, although the federal Departments are seeking comments on this approach. The Department of Financial Services (“Department”) may address out-of-network provider reimbursement for COVID-19 immunizations and their administration in future rulemaking if the federal rules are finalized.

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

This amendment does not impose any costs on providers.

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

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

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

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

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

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

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

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

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

9. Federal standards: The amendment exceeds the minimum standards of the federal government for this subject area. This amendment requires: (1) grandfathered health plans to provide the coverage; (2) coverage for COVID-19 immunizations and the administration thereof at a provider’s office, facility, pharmacy, or other setting, including any provider or location authorized by New York State or the federal government to administer or host the administration of the immunization; (3) coverage immediately upon certain triggering events; and (4) coverage for COVID-19 immunizations administered by non-participating providers until the expiration of the federally declared public health emergency or the disaster emergency

declared by the New York State Governor pursuant to Executive Order 202, as extended, unless earlier rescinded by a concurrent resolution of the Legislature as provided in Ch. 171 of L. 2021.

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

Regulatory Flexibility Analysis

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

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

This amendment does not affect local governments.

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

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

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

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

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

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

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

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

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

7. Small business and local government participation: The Department of Financial Services (“Department”) notified trade associations representing health care plans that are small businesses that it intended to promulgate this amendment. Health care plans and providers that are small businesses also will have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department’s website.

Rural Area Flexibility Analysis

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

2. Reporting, recordkeeping, and other compliance requirements; and professional services: A health care plan, including a health care plan in a rural area, may be subject to additional reporting, recordkeeping, or other compliance requirements because the health care plan may need to file new policy or contract forms and rates with the Department of Financial Services (“Department”).

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

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

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

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

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

5. Rural area participation: The Department notified trade associations representing health care plans that are in rural areas that it intended to promulgate this amendment. Health care plans and providers in rural areas will also have an opportunity to participate in the rulemaking process when the amendment is published in the State Register and posted on the Department's website.

Job Impact Statement

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

Department of Health

EMERGENCY RULE MAKING

Enforcement of Social Distancing Measures

I.D. No. HLT-24-21-00001-E

Filing No. 632

Filing Date: 2021-05-26

Effective Date: 2021-05-26

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

Action taken: Amendment of Part 66 of Title 10 NYCRR.

Statutory authority: Public Health Law, sections 201, 206, 225; Executive Order 202.14

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

Specific reasons underlying the finding of necessity: The 2019 Coronavirus (COVID-19) is a disease that causes mild to severe respiratory symptoms, including fever, cough, and difficulty breathing. People infected with COVID-19 have had symptoms ranging from those that are mild (like a common cold) to severe pneumonia that requires medical care in a hospital and can be fatal. According to Johns Hopkins' Coronavirus Resource Center, to date, there have been over 163 million cases and 3 million deaths worldwide, with a disproportionate risk of severe illness for older adults and/or those who have serious underlying medical health conditions.

COVID-19 was found to be the cause of an outbreak of illness in Wuhan, Hubei Province, China in December 2019. Since then, the situation has rapidly evolved throughout the world, with many countries, including the United States, quickly progressing from the identification of travel-associated cases to person-to-person transmission among close contacts of travel-associated cases, and finally to widespread community transmission of COVID-19.

On January 30, 2020, the World Health Organization (WHO) designated the COVID-19 outbreak as a Public Health Emergency of International Concern. On a national level, the Secretary of Health and Human Services determined on January 31, 2020 that as a result of confirmed cases of COVID-19 in the United States, a public health emergency existed and had existed since January 27, 2020, nationwide. Subsequently, on March 13, 2020, former President Donald J. Trump declared a national emergency in response to COVID-19, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

New York State first identified cases on March 1, 2020 and has since become the national epicenter of the outbreak. On March 7, 2020, with widespread transmission rapidly increasing within certain areas of the state, Governor Andrew M. Cuomo issued an Executive Order declaring a state disaster emergency to aid in addressing the threat COVID-19 poses to the health and welfare of New York State residents and visitors. With over 580,000 deaths and over 33 million cases in the country, this pandemic has had a devastating effect on the United States. As part of ongoing efforts to address this pandemic, Governor Cuomo has issued Executive Orders to implement measures aimed at limiting the spread and/or mitigating the impact of COVID-19 within the state.

These regulations update previously filed emergency regulations to clarify that, for persons who are fully vaccinated, face-coverings are not required when outdoors and not in a crowded setting or venue, consistent with updated recommendations from the CDC.

In light of this situation, these regulations are necessary to further implement social distancing measures to control the spread of communicable disease, in situations in which the Governor has declared a state disaster emergency.

Subject: Enforcement of Social Distancing Measures.

Purpose: To control and promote the control of communicable diseases to reduce their spread.

Text of emergency rule: The title of Part 66 is amended as follows:

Immunizations and Communicable Diseases

A new Subpart 66-3, titled COVID-19 Emergency Regulations, is added to read as follows:

66-3.1 Duration and Applicability

The provision of this Subpart shall apply for the duration of any state disaster emergency declared pursuant to sections 28 and 29-a of the Executive Law related to the outbreak of COVID-19 in New York State. To the extent any provision of this Subpart becomes inconsistent with any Executive Order, the remainder of the provisions in this Subpart shall remain in effect and shall be interpreted to the maximum extent possible as consistent with such Executive Orders.

66-3.2 Face-Coverings

(a) Any person who is over age two and able to medically tolerate a face-covering shall be required to cover their nose and mouth with a mask or face-covering when in a public place and unable to maintain, or when not maintaining, social distance, unless such person is fully vaccinated, meaning two or more weeks have elapsed since such person received the final dose of any COVID-19 vaccine approved by the United States Food and Drug Administration (FDA) or authorized by the FDA for emergency use; provided the person is not present in a pre-kindergarten to twelfth grade school, public transit, homeless shelter, correctional facility, nursing home, health care setting, or other setting where mask use is otherwise required by federal or state law or regulation.

(b) Any employee who is present in the workplace and who is not fully vaccinated shall be provided and shall wear a mask or face-covering when in direct contact with customers or members of the public, or when unable to maintain social distance. Employees of food service establishments who are not fully vaccinated must wear a mask or face-covering at all times while at their place of work. Businesses must provide, at their expense, such face coverings for their employees.

(c)(i) Business operators and building owners, and those authorized on their behalf or otherwise authorized to use the building shall require unvaccinated patrons to wear face coverings consistent with this section, may require all patrons to wear a face covering, and may deny admittance to any person who fails to comply. This regulation shall be applied in a manner consistent with the federal American with Disabilities Act, New York State or New York City Human Rights Law, and any other applicable provision of law.

(ii) No business owner shall deny services to or discriminate against any person on the basis that such person elects to wear a face covering that is designed to inhibit the transmission of COVID-19, but that is not designed to otherwise obscure the identity of the individual.

(d) For purposes of this section:

(i) Face-coverings shall include, but are not limited to, cloth masks, surgical masks, and N-95 respirators.

(ii) A person shall be considered as maintaining social distancing when keeping at least six feet distance between themselves and any other persons, other than members of such persons' household.

66-3.3 Non-essential gatherings

(a) There shall be no non-essential gatherings of greater than the number of individuals as allowed by Executive Order issued pursuant to Executive Law Section 28 and 29-A.

(b) No person, business, or other entity, shall encourage or promote any non-essential gathering including those on public property such as streets, sidewalks, parking lots, parks, playgrounds, or beaches, that would violate subdivision (a) of this section.

(c) There shall be no non-essential gatherings on sidewalks, streets or other public property within 100 feet of any food service establishment, or any business entity holding a liquor license from the State Liquor Authority.

(d) All non-essential gatherings that are permitted pursuant to this section shall comply with social distancing protocols and cleaning and disinfection guidelines issued by the Department.

(e) Subdivision (a) of this section shall not apply to any essential business, as defined by the New York State Department of Economic Development d/b/a Empire State Development (ESD), pursuant to the authority provided in Executive 202.6, or as further defined in this Subpart.

66-3.4 Penalties

A violation of any provision of this Subpart is subject to all civil and criminal penalties as

provided for by law. Individuals or entities that violate this Subpart are subject to a maximum fine of \$1,000 for each violation; provided that individuals or entities who violate section 66-3.3(a) or (b) shall be subject to a maximum fine of \$15,000 for each violation. For purposes of civil penalties, each day that there is a non-essential gathering or that an entity operates in a manner inconsistent with the Subpart shall constitute a separate violation under this Subpart.

A new section 2.60 is added to read as follows:

2.60. Enforcement of Social Distancing Measures.

For purposes of civil enforcement, the provisions of Subpart 66-3 of this Title are incorporated herein, and a violation of the provisions of Subpart 66-3 shall be deemed a violation of this Chapter. All local health officers shall take such steps as may be necessary to enforce the provisions of Subpart 66-3 in accordance with the Public Health Law and this Chapter.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires August 23, 2021.

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

Regulatory Impact Statement

Statutory Authority:

The statutory authority for adding a new Subpart 66-3 is sections 201 and 206 of the Public Health Law. The statutory authority for adding new section 2.60 is section 225 of the Public Health Law.

Legislative Objectives:

The legislative objective of PHL § 201 includes authorizing the New York State Department of Health (“Department”) to control and promote the control of communicable diseases to reduce their spread. Likewise, the legislative objective of PHL § 206 includes authorizing the Commissioner of Health to take cognizance of the interests of health and life of the people of the state, and of all matters pertaining thereto and exercise the functions, powers and duties of the department prescribed by law, including control of communicable diseases. The legislative objective of Public Health Law § 225 is, in part, to protect the public health by authorizing PPHPC, with the approval of the Commissioner, to amend the State Sanitary Code to address public health issues related to communicable disease. Pursuant to Executive Order 202, the Commissioner may directly issue emergency regulations amending the State Sanitary Code.

Needs and Benefits:

The 2019 Coronavirus (COVID-19) is a disease that causes mild to severe respiratory symptoms, including fever, cough, and difficulty breathing. People infected with COVID-19 have had symptoms ranging from those that are mild (like a common cold) to severe pneumonia that requires medical care in a hospital and can be fatal. According to Johns Hopkins’ Coronavirus Resource Center, to date, there have been over 163 million cases and 3 million deaths worldwide, with a disproportionate risk of severe illness for older adults and/or those who have serious underlying medical health conditions.

COVID-19 was found to be the cause of an outbreak of illness in Wuhan, Hubei Province, China in December 2019. Since then, the situation has rapidly evolved throughout the world, with many countries, including the United States, quickly progressing from the identification of travel-associated cases to person-to-person transmission among close contacts of travel-associated cases, and finally to widespread community transmission of COVID-19.

On January 30, 2020, the World Health Organization (WHO) designated the COVID-19 outbreak as a Public Health Emergency of International Concern. On a national level, the Secretary of Health and Human Services determined on January 31, 2020 that as a result of confirmed cases of COVID-19 in the United States, a public health emergency existed and had existed since January 27, 2020, nationwide. Subsequently, on March 13, 2020, former President Donald J. Trump declared a national emergency in response to COVID-19, pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.

New York State first identified cases on March 1, 2020 and has since become the national epicenter of the outbreak. On March 7, 2020, with widespread transmission rapidly increasing within certain areas of the state, Governor Andrew M. Cuomo issued an Executive Order declaring a state disaster emergency to aid in addressing the threat COVID-19 poses to the health and welfare of New York State residents and visitors. With over 580,000 deaths and over 33 million cases in the country, this pandemic has had a devastating effect on the United States.

As part of ongoing efforts to address this pandemic, Governor Cuomo has issued Executive Orders to implement measures aimed at limiting the spread and/or mitigating the impact of COVID-19 within the state.

These regulations update previously filed emergency regulations to clarify that, for persons who are fully vaccinated, face-coverings are not required except in certain settings, consistent with updated recommendations from the CDC.

These regulations are necessary to further implement social distancing measures to control the spread of communicable disease, in situations in which the Governor has declared a state disaster emergency.

Costs:

Costs to Regulated Parties:

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, compliance with this regulation does not impose any additional costs to regulated parties.

Costs to Local and State Governments:

State and local government are authorized to enforce civil and criminal penalties related to the violation of these regulations, and there may be some cost of enforcement. Notably, pursuant to section 12-b of the PHL, any person who willfully violates these regulations may be subject to criminal penalties including imprisonment not exceeding one year, or a fine not exceeding \$10,000, or by both. However, pursuant to Executive Order 202.14, the criminal penalty for the willful violation of these regulations is currently limited to \$1,000. Further, pursuant to Executive Order 202.68, a violation of the prohibition against non-essential gatherings has a maximum civil penalty of \$15,000. Local governments are entitled to retain any penalty assessed due to a violation of Executive order pursuant to Executive Order 202.68.

Paperwork:

This regulation imposes no additional paperwork.

Local Government Mandates:

This regulation imposes no additional local mandates beyond what has already been required pursuant to Executive Orders.

Duplication:

The purpose of this regulation is to codify certain provision regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. There is no duplication of federal law.

Alternatives:

The alternative would be to not codify provisions of Executive Orders into the Department’s regulations. However, this alternative was rejected, as the Department believes that codification will facilitate increased awareness and enforcement.

Federal Standards:

States and local governments have primary authority for controlling disease within their respective jurisdictions. Accordingly, there are no federal statutes or regulations that apply to disease control within NYS.

Compliance Schedule:

The regulations will become effective upon filing with the Department of State.

Regulatory Flexibility Analysis

Effect of Rule:

As part of ongoing efforts to address the COVID-19 pandemic, Governor Cuomo has issued Executive Orders to implement measures aimed at limiting the spread and/or mitigating the impact of COVID-19 within the state, that have a significant impact on small business and local government.

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, compliance with this regulation does not impose any additional costs to regulated parties.

Compliance Requirements:

These regulations update previously filed emergency regulations to clarify that, for persons who are fully vaccinated, face-coverings are not required except in certain settings, consistent with updated recommendations from the CDC.

Professional Services:

It is not expected that any professional services will be needed to comply with this rule.

Compliance Costs:

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo

through several Executive Orders. Accordingly, compliance with this regulation does not impose any additional costs to regulated parties.

Economic and Technological Feasibility:

There are no economic or technological impediments to the rule changes.

Minimizing Adverse Impact:

As the proposed regulations codify existing provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders, any adverse impacts are expected to be minimal.

Small Business and Local Government Participation:

Due to the emergent nature of COVID-19, small business and local governments were not consulted.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

While this rule applies uniformly throughout the state, including rural areas, for the purposes of this Rural Area Flexibility Analysis (RAFA), "rural area" means areas of the state defined by Exec. Law § 481(7) (SAPA § 102(10)). Per Exec. Law § 481(7), rural areas are defined as "counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, and programs and such other entities or resources found therein. In counties of two hundred thousand or greater population 'rural areas' means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein."

The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010:

Allegany County	Greene County	Schoharie County
Cattaraugus County	Hamilton County	Schuyler County
Cayuga County	Herkimer County	Seneca County
Chautauqua County	Jefferson County	St. Lawrence County
Chemung County	Lewis County	Steuben County
Chenango County	Livingston County	Sullivan County
Clinton County	Madison County	Tioga County
Columbia County	Montgomery County	Tompkins County
Cortland County	Ontario County	Ulster County
Delaware County	Orleans County	Warren County
Essex County	Oswego County	Washington County
Franklin County	Otsego County	Wayne County
Fulton County	Putnam County	Wyoming County
Genesee County	Rensselaer County	Yates County
	Schenectady County	

The following counties of have population of 200,000 or greater, and towns with population densities of 150 person or fewer per square mile, based upon the United States Census estimated county populations for 2010:

Albany County	Monroe County	Orange County
Broome County	Niagara County	Saratoga County
Dutchess County	Oneida County	Suffolk County
Erie County	Onondaga County	

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

These regulations update previously filed emergency regulations to clarify that, for persons who are fully vaccinated, face-coverings are not required except in certain settings, consistent with updated recommendations from the CDC.

Compliance Costs:

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, this regulation generally imposes no additional costs to regulated parties.

The purpose of this regulation is to codify certain provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders. Accordingly, compliance with this regulation does not impose any additional costs to regulated parties.

Economic and Technological Feasibility:

There are no economic or technological impediments to the rule changes.

Minimizing Adverse Impact:

As the proposed regulations codify existing provisions regarding social distancing that have been issued by Governor Andrew M. Cuomo through several Executive Orders, any adverse impacts are expected to be minimal.

Rural Area Participation:

Due to the emergent nature of COVID-19, parties representing rural areas were not consulted.

Job Impact Statement

The Department of Health has determined that this regulatory change is necessary to prevent further complete closure of the businesses impacted, and therefore, while there may be lost revenue for many businesses, the public health impacts of continued spread of COVID-19 are much greater.

**EMERGENCY
RULE MAKING**

Investigation of Communicable Disease; Isolation and Quarantine

I.D. No. HLT-24-21-00004-E

Filing No. 638

Filing Date: 2021-05-28

Effective Date: 2021-05-28

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

Action taken: Amendment of Part 2, section 405.3; addition of section 58-1.14 to Title 10 NYCRR.

Statutory authority: Public Health Law, sections 225, 576 and 2803

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

Specific reasons underlying the finding of necessity: Where compliance with routine administrative procedures would be contrary to public interest, the State Administrative Procedure Act (SAPA) § 202(6) empowers state agencies to adopt emergency regulations necessary for the preservation of public health, safety, or general welfare. In this case, compliance with SAPA for filing of this regulation on a non-emergency basis, including the requirement for a period of time for public comment, cannot be met because to do so would be detrimental to the health and safety of the general public.

The 2019 Coronavirus (COVID-19) is a disease that has caused mild to severe respiratory symptoms, including fever, cough, and difficulty breathing. People infected with COVID-19 have had symptoms ranging from those that are mild (like a common cold) to severe pneumonia that requires medical care in a hospital and can be fatal.

COVID-19 was found to be the cause of an outbreak of illness in Wuhan, Hubei Province, China in December 2019. A short time later, on January 30, 2020, the World Health Organization (WHO) designated the COVID-19 outbreak as a Public Health Emergency of International Concern. On January 31, 2020, the Secretary of Health and Human Services determined that as a result of confirmed cases of COVID-19 in the United States, a public health emergency exists and has existed since January 27, 2020, nationwide.

The situation continues to rapidly evolve throughout the world and the United States. In particular, the United States has quickly progressed from identifying travel-associated cases and person-to-person transmission of COVID-19 among close contacts of travel-associated cases, to the identification of community spread of the disease in certain parts of California, Oregon, and Washington states.

Additionally, as of March 1, 2020 New York State has reported cases of COVID-19. Given the spread so far, the Centers for Disease Control and Prevention (CDC) expects that it is likely widespread transmission of COVID-19 will occur in the United States.

Given the emergent nature of the COVID-19 outbreak, these emergency regulations are necessary to clarify and strengthen the Department's authority and that of the local health departments to take specific actions to control the spread of disease, including actions related to investigation and response to a disease outbreak, as well as the issuance of isolation and quarantine orders.

Subject: Investigation of Communicable Disease; Isolation and Quarantine.

Purpose: Control of communicable disease.

Substance of emergency rule (Full text is posted at the following State website: <https://regs.health.ny.gov/regulations/emergency>): These regulations clarify the authority and duty of the New York State Department of Health ("Department") and local health departments to protect the public in the event of an outbreak of communicable disease, through appropriate public health orders issued to persons diagnosed with or exposed

to a communicable disease. These regulations also require hospitals to report syndromic surveillance data to the Department upon direction from the Commissioner and clarify reporting requirements for clinical laboratories with respect to communicable diseases.

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 August 25, 2021.

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

Regulatory Impact Statement

Statutory Authority:

The statutory authority for the regulatory amendments to Part 2 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is Section 225 of the Public Health Law (PHL), which authorizes the Public Health and Health Planning Council (PHHPC), subject to the approval of the Commissioner of Health (Commissioner), to establish and amend the State Sanitary Code (SSC) provisions related to any matters affecting the security of life or health or the preservation and improvement of public health in the State of New York. Additionally, Section 2103 of the PHL requires all local health officers to report cases of communicable disease to the New York State Department of Health (Department).

The statutory authority for the proposed new section 58-1.14 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is section 576 of the PHL, which authorizes the Department to adopt regulations prescribing the requirements for the proper operation of a clinical laboratory, including the methods and the manner in which testing or analyses of samples shall be performed and reports submitted.

The statutory authority for the proposed amendments to section 405.3 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is section 2803 of the PHL, which authorizes 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 § 225 is, in part, to protect the public health by authorizing PHHPC, with the approval of the Commissioner, to amend the SSC to address public health issues related to communicable disease.

The legislative objective of PHL § 576 is, in part, to promote public health by establishing minimum standards for clinical laboratory testing and reporting of test results, including to the Department for purposes of taking prompt action to address outbreaks of disease.

The legislative objective of PHL § 2803 includes among other objectives authorizing PHHPC, with the approval of the Commissioner, to adopt regulations concerning the operation of facilities licensed pursuant to Article 28 of the PHL, including general hospitals.

Needs and Benefits:

The 2019 Coronavirus (COVID-19) is a disease that has caused mild to severe respiratory symptoms, including fever, cough, and difficulty breathing. People infected with COVID-19 have had symptoms ranging from those that are mild (like a common cold) to severe pneumonia that requires medical care in a hospital and can be fatal.

COVID-19 was found to be the cause of an outbreak of illness in Wuhan, Hubei Province, China in December 2019. A short time later, on January 30, 2020, the World Health Organization (WHO) designated the COVID-19 outbreak as a Public Health Emergency of International Concern. On January 31, 2020, the Secretary of Health and Human Services determined that as a result of confirmed cases of COVID-19 in the United States, a public health emergency exists and has existed since January 27, 2020, nationwide.

The situation continues to rapidly evolve throughout the world and the United States. In particular, the United States has quickly progressed from identifying travel-associated cases and person-to-person transmission of COVID-19 among close contacts of travel-associated cases, to the identification of community spread of the disease in certain parts of California, Oregon, and Washington states.

As of March 1, 2020, New York State has reported cases of COVID-19. Given the rate spread to date, the Centers for Disease Control and Prevention (CDC) expects that it is likely widespread transmission of COVID-19 will occur in the United States.

In light of this situation, these regulations update, clarify and strengthen the Department's authority as well as that of local health departments to take specific actions to control the spread of disease, including actions related to investigation and response to a disease outbreak, as well as the issuance of isolation and quarantine orders.

The following is a summary of the amendments to the Department's regulations:

Part 2 Amendments:

- Relocate and update definitions, and add new definitions.
- Repeal and replace current section 2.6, related to investigations, to make existing clarify local health department authority.
- Sets forth specific actions that local health departments must take to investigate a case, suspect case, outbreak, or unusual disease.
- Requires individuals and entities subject to a public health investigation to cooperate with the Department and local health departments.
- Clarifies authority for the Commissioner to lead investigation activities.
- Codifies in regulation the requirement that local health departments send reports the Department during an outbreak.
- New section 2.13 added to clarify isolation and quarantine procedures.
- Clarify that the State Department of Health has the authority to issue isolation and quarantine orders, as do local departments of health.
- Clarifies locations where isolation or quarantine may be appropriate.
- Sets forth requirements for the content of isolation and quarantine orders.
- Specifies other procedures that apply when a person is isolated or quarantined.
- Explicitly states that violation of an order constitutes grounds for civil and/or criminal penalties.
- Relocates and updates existing regulatory requirements that require the attending physician to report cases and suspected cases to the local health authority, and to requires physicians to provide instructions concerning how to protect others.

Part 58 Amendments

- New section 58-1.14 added clarifying reporting requirements for certain communicable diseases.
- Requires the Commissioner to designate those communicable disease that require prompt action, and to make available a list of such disease on the State Department of Health website.
- Requires clinical laboratories to immediately report positive test results for communicable diseases identified as requiring prompt attention, in a manner and format identified by the Commissioner.
- Requires clinical laboratories to report all test result, including negative and indeterminate results, for communicable diseases identified as requiring prompt attention, via the Electronic Clinical Laboratory Reporting System (ECLRS).

Part 405 Amendments

- Mandates hospitals to report syndromic surveillance data during an outbreak of a highly contagious communicable disease.
- Permits the Commissioner to direct hospitals to take patients during an outbreak of a highly contagious communicable disease, which is consistent with the federal Emergency Medical Treatment and Labor Act (EMTALA).

Costs:

Costs to Regulated Parties:

The requirement that hospital submit syndromic surveillance reports when request during an outbreak is not expected to result in any substantial costs. Hospitals are already regularly and voluntarily submitting data to the Department, and nearly all of them submit such reports electronically. With regard to the Commissioner directing general hospitals to accept patients during an outbreak of a highly contagious communicable disease, hospitals are already required to adhere to the federal Emergency Medical Treatment and Labor Act (EMTALA). Accordingly, both of these proposed amendments will not impose any substantial additional cost to hospitals.

Clinical laboratories must already report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102. The regulation simply clarifies existing requirements and is not anticipated to imposes any substantial additional costs beyond those costs that laboratories would incur in the absence of these regulations.

Although there are costs associated with disease investigation and response for any outbreak, these regulations clarify and strengthen the existing authorities and responsibilities of local governments. As such, these regulations do not impose any substantial additional costs beyond what local health departments would incur in the absence of these regulations.

Costs to Local and State Governments:

Although there are costs associated with disease investigation and response for any outbreak, these regulations clarify and strengthen the existing authorities and responsibilities of local governments. As such, these regulations do not impose any substantial additional costs beyond what local health departments would incur in the absence of these regulations. Further, making explicit the Department's authority to lead investigation activities will result in increased coordination of resources, likely resulting in a cost-savings for State and local governments.

Any clinical laboratories operated by a local government must already

report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102. The regulation simply clarifies existing requirements and is not anticipated to impose any substantial additional costs beyond those costs that laboratories would incur in the absence of these regulations.

To the extent that the State Department of Health and local health departments issue isolation and quarantine orders in response to COVID-19, such actions will impose costs upon the state. As the scope of any outbreak is difficult to predict, the cost to the State of issuing such orders cannot be predicted at this time.

Paperwork:

Some hospitals may be required to make additional syndromic surveillance reports that they are not already making. Otherwise, these regulations do not require any additional paperwork.

Local Government Mandates:

Under existing regulation, local health departments already have the authority and responsibility to take actions to control the spread of disease within their jurisdictions. The proposed amendments clarify these existing authorities and duties.

Duplication:

There is no duplication in existing State or federal law.

Alternatives:

The alternative would be to leave in place the current regulations on disease investigation and isolation and quarantine. However, many of these regulatory provisions have not been updated in fifty years and should be modernized to ensure appropriate response to a disease outbreak, such as COVID-19.

Federal Standards:

States and local governments have primary authority for controlling disease within their respective jurisdictions. Accordingly, there are no federal statutes or regulations that apply to disease control within NYS.

Compliance Schedule:

The regulations will become effective upon filing with the Department of State.

Regulatory Flexibility Analysis

Effect of Rule:

Under existing regulation, local health departments already have the authority and responsibility to take actions to control the spread of disease within their jurisdictions. The proposed amendments clarify these existing authorities and duties.

Compliance Requirements:

Under existing regulation, local health departments already have the authority and responsibility to take actions to control the spread of disease within their jurisdictions. The proposed amendments clarify these existing authorities and duties. With respect to mandating syndromic surveillance reporting during an outbreak of a highly infectious communicable disease, hospitals are already reporting syndromic surveillance data regularly and voluntarily.

With respect to clinical laboratories, they must already report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102. The regulation simply clarifies existing requirements and is not anticipated to impose any substantial additional costs beyond those costs that laboratories would incur in the absence of these regulations.

Professional Services:

It is not expected that any professional services will be needed to comply with this rule.

Compliance Costs:

Although there are costs associated with disease investigation and response for any outbreak, these regulations clarify and strengthen the existing authorities and responsibilities of local governments. As such, these regulations do not impose any substantial additional costs beyond what local health departments would incur in the absence of these regulations.

Further, making explicit the Department’s authority to lead investigation activities will result in increased coordination of resources, likely resulting in a cost-savings for State and local governments.

Economic and Technological Feasibility:

There are no economic or technological impediments to the rule changes.

Minimizing Adverse Impact:

As the proposed regulations largely clarify existing responsibility and duties among regulated entities and individuals, any adverse impacts are expected to be minimal. The Department, however, will work with regulated entities to ensure they are aware of the new regulations and have the information necessary to comply.

Small Business and Local Government Participation:

Due to the emergent nature of COVID-19, small business and local governments were not consulted. If these regulations are proposed for permanent adoption, all parties will have an opportunity provided comments during the notice and comment period.

Rural Area Flexibility Analysis

Type and Estimated Numbers of Rural Areas:

While this rule applies uniformly throughout the state, including rural areas, for the purposes of this Rural Area Flexibility Analysis (RAFA), “rural area” means areas of the state defined by Exec. Law § 481(7) (SAPA § 102(10)). Per Exec. Law § 481(7), rural areas are defined as “counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, and programs and such other entities or resources found therein. In counties of two hundred thousand or greater population ‘rural areas’ means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein.”

The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010:

Allegany County	Greene County	Schoharie County
Cattaraugus County	Hamilton County	Schuyler County
Cayuga County	Herkimer County	Seneca County
Chautauqua County	Jefferson County	St. Lawrence County
Chemung County	Lewis County	Steuben County
Chenango County	Livingston County	Sullivan County
Clinton County	Madison County	Tioga County
Columbia County	Montgomery County	Tompkins County
Cortland County	Ontario County	Ulster County
Delaware County	Orleans County	Warren County
Essex County	Oswego County	Washington County
Franklin County	Otsego County	Wayne County
Fulton County	Putnam County	Wyoming County
Genesee County	Rensselaer County	Yates County
	Schenectady County	

The following counties of have population of 200,000 or greater, and towns with population densities of 150 person or fewer per square mile, based upon the United States Census estimated county populations for 2010:

Albany County	Monroe County	Orange County
Broome County	Niagara County	Saratoga County
Dutchess County	Oneida County	Suffolk County
Erie County	Onondaga County	

Reporting, Recordkeeping, and other Compliance Requirements; and Professional Services:

As the proposed regulations largely clarify existing responsibilities and duties among regulated entities and individuals, no additional recordkeeping, compliance requirements, or professional services are expected. With respect to mandating syndromic surveillance reporting during an outbreak of a highly infectious communicable disease, hospitals are already reporting syndromic surveillance data regularly and voluntarily. Additionally, the requirement for local health departments to continually report to the Department during an outbreak is historically a practice that already occurs. With respect to clinical laboratories, they must already report communicable disease testing results using the ECLRS and must also immediately report communicable diseases pursuant to PHL § 2102.

Compliance Costs:

As the proposed regulations largely clarify existing responsibility and duties among regulated entities and individuals, no initial or annual capital costs of compliance are expected above and beyond the cost of compliance for the requirements currently in Parts 2, 58 and 405.

Economic and Technological Feasibility:

There are no economic or technological impediments to the rule changes.

Minimizing Adverse Impact:

As the proposed regulations largely clarify existing responsibility and duties among regulated entities and individuals, any adverse impacts are expected to be minimal. The Department, however, will work with local health departments to ensure they are aware of the new regulations and have the information necessary to comply.

Rural Area Participation:

Due to the emergent nature of COVID-19, parties representing rural areas were not consulted. If these regulations are proposed for permanent adoption, all parties will have an opportunity provided comments during the notice and comment period.

Job Impact Statement

The Department of Health has determined that this regulatory change will not have a substantial adverse impact on jobs and employment, based upon its nature and purpose.

EMERGENCY RULE MAKING

Personal Caregiving and Compassionate Caregiving Visitors in Nursing Homes (NH's) and Adult Care Facilities (ACF's)

I.D. No. HLT-24-21-00010-E

Filing No. 640

Filing Date: 2021-06-01

Effective Date: 2021-06-01

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

Action taken: Amendment of section 415.3 of Title 10 NYCRR; addition of section 485.18 to Title 18 NYCRR.

Statutory authority: Public Health Law, sections 2801-h, 2803; Social Services Law, sections 461, 461-e and 461-u

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

Specific reasons underlying the finding of necessity: Chapter 108 of the Laws of 2021, which amended Public Health Law (PHL) § 2801-h and Social Services Law (SSL) § 461-u, requires nursing homes and adult care facilities (ACFs) to permit personal and compassionate caregiving visitations. The new law became effective immediately and required that regulations be promulgated within forty-five days after enactment. Thus, the law authorized the promulgation of emergency regulations.

The purpose of the new law is to benefit the health and general well-being of nursing home and ACF residents. This emergency rulemaking is necessary to satisfy the statutory requirement, provide clarity to facility operators and administrators as well as residents and their families regarding the process for implementing personal caregiving requirements under the newly enacted law.

Furthermore, throughout the COVID-19 pandemic, visitation guidance for long-term care facilities has been issued by several authorities, including the Department and federal Centers for Medicare & Medicaid Services (CMS). Facility outreach to the Department and surveillance activities show that many nursing homes and adult care facilities have not appropriately adhered to these guidance documents or have implemented their own form of personal caregiving visitation policies. This emergency rulemaking will protect resident rights to visitation and assist facilities in understanding their legal obligations with respect to visitation by providing additional information as to who may access a facility during periods of visitation closure, and what, if any, restrictions can be implemented on personal caregiving and compassionate caregiving visitation.

Subject: Personal Caregiving and Compassionate Caregiving Visitors in Nursing Homes (NH's) and Adult Care Facilities (ACF's).

Purpose: To require NH's and ACF's to establish policies and procedures relating to personal caregiving and compassionate caregiving visitors.

Substance of emergency rule (Full text is posted at the following State website: <https://regs.health.ny.gov/regulations/emergency>): These regulations are intended to implement section 2801-h of the Public Health Law (PHL) and section 461-u of the Social Services Law (SSL), as enacted by Chapter 108 of the Laws of 2021. These statutory amendments required the Commissioner of Health to promulgate regulations governing personal caregiving visitors in all licensed nursing homes and adult care facilities. According to the statute, a "personal caregiving visitor" means a family member, close friend, or legal guardian of a resident designated by such resident, or such resident's lawful representative, to assist with personal caregiving or compassionate caregiving for the resident. Personal caregiving is defined as care and support of a resident to benefit such resident's mental, physical, or social well-being, and compassionate caregiving is defined as personal caregiving provided in anticipation of the end of the resident's life or in the instance of significant mental, physical or social decline or crisis (see PHL § 2801-h[1][a-c], SSL § 461-u[1][a-c]).

In accordance with the statutory directive, the new regulatory sections amend 10 NYCRR 415.3(d) to add new paragraphs (3), (4), and (5) concerning, respectively, personal caregiving visitation, additional provisions relating to compassionate caregiving, and authority for the Department of Health to review a nursing home's personal caregiving visitation policies and procedures. Likewise, for adult care facilities, the regulation adds a new section 485.18 of 18 NYCRR to address general visitation rights in an adult care facility (section 485.18[b]), personal caregiving

visitation (section 485.18[c]), additional provisions relating to compassionate caregiving (section 485.18[d]), and authority for the Department of Health to review an adult care facility's personal caregiving visitation policies and procedures (section 485.18[e]).

More specifically, the regulatory amendments relating to personal caregiving visitation, as contained in the new 10 NYCRR 415.3(d)(3) and 18 NYCRR 485.18(c), provide that such visitation shall be permitted in a nursing home and adult care facility during a public health emergency declared under section twenty-four or section twenty-eight of the Executive Law, notwithstanding general visitation restrictions in the facility, and subject to certain limitations, including the need to limit or temporarily suspend personal caregiving visitation due to an increase in local infection rates, temporary inadequate staff capacity, an acute emergency situation such as loss of an essential service, or because the personal caregiving visitor poses a threat to the safety and well-being of the resident or any resident or personnel in the facility. The regulations governing personal caregiving visitation further: (i) set forth procedures for residents or their lawful representatives to designate and change their designation of personal caregiving visitors; (ii) provide that a resident shall be entitled to designate at least two personal caregiving visitors; (iii) require that all personal caregiving visitors follow infection prevention safety protocols required for nursing home and adult care facility staff, such as communicable disease testing, health screenings, and donning appropriate personal protective equipment; and (iv) set forth standards for a facility to determine the maximum frequency and duration of personal caregiving visits and the total number of personal caregiving visitors allowed to visit the facility at any one time.

The new 10 NYCRR 415.3(d)(4) and 18 NYCRR 485.18(d) establish additional provisions for compassionate caregiving provided by personal caregiving visitors. These sections set forth the situations in which a resident is eligible for a compassionate caregiving visitor and the requirements for screening compassionate caregiving visitors prior to their entry into the facility.

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 August 29, 2021.

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

Regulatory Impact Statement

Statutory Authority:

The statutory authority is provided under section 2801-h of the Public Health Law (PHL) and sections 461, 461-e, and 461-u of the Social Services Law (SSL).

PHL § 2801-h and SSL § 461-u specifically authorize the New York State Department of Health (Department) to promulgate regulations relating to personal caregiving visitors and compassionate caregiving visitors in nursing homes and adult care facilities (ACFs).

SSL § 461 requires the Department to promulgate regulations establishing general standards applicable to ACFs. SSL § 461-e authorizes the Department to promulgate regulations to require ACFs to maintain certain records with respect to the facilities' residents and the operation of the facility.

Legislative Objectives:

The legislative objective of PHL § 2801-h and SSL § 461-u is to ensure residents' rights to visitation are respected by allowing residents of nursing homes and ACFs to have access to their designated personal caregiving visitors and compassionate caregiving visitors during a declared State or local public health emergency, including the COVID-19 public health emergency declared under New York State Executive Order 202. Further, the legislative objective of SSL § 461 is to promote the health and well-being of residents of ACFs.

Needs and Benefits:

These regulations are necessary pursuant to the statutory directives in PHL § 2801-h and SSL § 461-u, which direct the Commissioner of Health to promulgate regulations governing personal caregiving visitation and compassionate caregiving visitation in nursing homes and ACFs during a declared State or local public health emergency.

These regulations are beneficial insofar as they will provide clarity to facility operators and administrators, residents, and their family members regarding whether certain visitors are permitted to access a nursing home or ACF during a declared local or State health emergency, notwithstanding any visitation restrictions currently in effect within the facility.

Costs:

Costs to Regulated Parties:

There are no anticipated costs to regulated parties. The regulations require facilities to establish policies and procedures regarding personal

caregiving visitation and compassionate caregiving visitation that comply with these regulations and the governing statutes, PHL § 2801-h and SSL § 461-u. Insofar as facilities are obligated to establish policies and procedures for other facility operations, this responsibility should be managed using existing resources.

Costs to Local and State Governments:

There are no anticipated costs to any regulated parties, including nursing homes and ACFs operated by a local or State government.

Costs to the Department of Health:

This regulation will not result in any additional operational costs to the Department of Health. Any increased surveillance and enforcement activities relating to this regulation will be handled with existing resources.

Paperwork:

This regulation requires facilities to develop and maintain visitation policies relating to personal caregiving visitation and compassionate caregiving visitation. However, this requirement is expected to be of minimal burden to facilities, which are currently obligated to develop and maintain other policies and procedures relating to facility operations, and the requirements for such visitation policies and procedures are thoroughly detailed in these regulations and the governing statutes, PHL § 2801-h and SSL § 461-u.

Local Government Mandates:

Nursing homes and ACFs operated by local governments will be affected and will be subject to the same requirements as any other nursing home licensed under PHL Article 28 or ACF licensed under SSL Article 7, Title 2. Currently, there are 21 nursing homes operated by local governments (counties and municipalities) and 6 nursing homes operated by the State. Additionally, there are currently two adult care facilities operated by county governments.

Duplication:

These regulations do not duplicate any State or federal rules.

Alternatives:

There are no viable alternatives. The alternative of not issuing these regulations was rejected given the statutory directive to promulgate these regulations, pursuant to PHL § 2801-h and SSL § 461-u.

Federal Standards:

The federal Centers for Medicare & Medicaid Services (CMS) has issued visitation guidance applicable to Medicaid- and Medicare-enrolled nursing homes, titled "Nursing Home Visitation - COVID-19 (REVISED)" (QSO-20-29-NH), dated March 10, 2021. This visitation guidance discusses general visitation in nursing homes including compassionate care visitation. The Department has reviewed this CMS guidance and finds that the proposed regulations are consistent with the CMS guidance insofar as they both relate to compassionate care visitation in nursing homes. No other federal standards apply.

Compliance Schedule:

The regulations will become effective upon filing with the Secretary of State.

Regulatory Flexibility Analysis

Effect of Rule:

This regulation will not impact local governments or small businesses unless they operate a nursing home or adult care facility (ACF). Currently, there are 21 nursing homes operated by local governments (counties and municipalities) and 6 nursing homes operated by the State. Additionally, there are currently two ACFs operated by county governments (Chenango and Warren Counties). Additionally, to date, 79 nursing homes in New York qualify as small businesses given that they have 100 or fewer employees. There are also 483 ACFs that have 100 or fewer employees and therefore qualify as small businesses.

Compliance Requirements:

This regulation requires nursing homes and ACFs to develop policies and procedures relating to compassionate caregiver visitation and personal caregiver visitation that are consistent with these regulations and the governing statutes, Public Health Law (PHL) § 2801-h and Social Services Law (SSL) § 461-u.

Professional Services:

No professional services are required by this regulation.

Compliance Costs:

There are no costs associated with this regulation.

Economic and Technological Feasibility:

There are no economic or technological impediments to the rule changes.

Minimizing Adverse Impact:

This regulation is consistent with resident right standards and current CMS and Department visitation guidance. Therefore, the Department expects no adverse impact to facilities given that nursing homes and ACFs are currently required to comply with similar standards and are expected to have already developed policies and procedures in accordance with those existing standards. In any event, the Department is required by PHL § 2801-h and SSL § 461-u to promulgate these regulations; as such, any

adverse impact on covered facilities cannot be avoided due to the statutory mandate.

Small Business and Local Government Participation:

Due to the emergent nature of COVID-19 and the 45-day period to implement these regulations pursuant to PHL § 2801-h and SSL § 461-u, facilities operated by small business and local governments were not directly consulted. However, facilities were put on notice of the forthcoming promulgation of these regulations upon the enactment of PHL § 2801-h and SSL § 461-u, as enacted by Chapter 108 of the Laws of 2021.

Rural Area Flexibility Analysis

Types and Estimated Numbers of Rural Areas:

Although this rule applies uniformly throughout the state, including rural areas, for the purposes of this Rural Area Flexibility Analysis (RAFA), "rural area" means areas of the state defined by Executive Law § 481(7) (SAPA § 102(10)). Per Executive Law § 481(7), rural areas are defined as "counties within the state having less than two hundred thousand population, and the municipalities, individuals, institutions, communities, and programs and such other entities or resources found therein. In counties of two hundred thousand or greater population 'rural areas' means towns with population densities of one hundred fifty persons or less per square mile, and the villages, individuals, institutions, communities, programs and such other entities or resources as are found therein."

The following 43 counties have a population of less than 200,000 based upon the United States Census estimated county populations for 2010:

Allegany County	Greene County	Schoharie County
Cattaraugus County	Hamilton County	Schuyler County
Cayuga County	Herkimer County	Seneca County
Chautauqua County	Jefferson County	St. Lawrence County
Chemung County	Lewis County	Steuben County
Chenango County	Livingston County	Sullivan County
Clinton County	Madison County	Tioga County
Columbia County	Montgomery County	Tompkins County
Cortland County	Ontario County	Ulster County
Delaware County	Orleans County	Warren County
Essex County	Oswego County	Washington County
Franklin County	Otsego County	Wayne County
Fulton County	Putnam County	Wyoming County
Genesee County	Rensselaer County	Yates County
	Schenectady County	

The following counties have populations of 200,000 or greater, and towns with population densities of 150 person or fewer per square mile, based upon the United States Census estimated county populations for 2010:

Albany County	Monroe County	Orange County
Broome County	Niagara County	Saratoga County
Dutchess County	Oneida County	Suffolk County
Erie County	Onondaga County	

Both licensed nursing homes and ACFs are located in these identified rural areas.

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

This regulation imposes no additional paperwork.

Compliance Costs:

There are no costs associated with this regulation.

Economic and Technological Feasibility:

There are no economic or technological impediments to the rule changes.

Minimizing Adverse Impact:

This regulation is consistent with resident right standards and current CMS and Department visitation guidance. Therefore, the Department expects no adverse impact to facilities given that nursing homes and ACFs are currently required to comply with similar standards and are expected to have already developed policies and procedures in accordance with those existing standards. In any event, the Department is required by PHL § 2801-h and SSL § 461-u to promulgate these regulations; as such, any adverse impact on covered facilities cannot be avoided due to the statutory mandate.

Rural Area Participation:

Due to the emergent nature of COVID-19 and the 45-day period to

implement these regulations pursuant to Public Health Law (PHL) § 2801-h and Social Services Law (SSL) § 461-u, operators and other parties representing rural areas were not directly consulted. However, facilities were put on notice of the forthcoming promulgation of these regulations upon the enactment of PHL § 2801-h and SSL § 461-u, as enacted by Chapter 108 of the Laws of 2021.

Job Impact Statement

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

Office for People with Developmental Disabilities

NOTICE OF ADOPTION

Repeal and Amendment to Outdated Rate Regulations

I.D. No. PDD-12-21-00007-A

Filing No. 639

Filing Date: 2021-06-01

Effective Date: 2021-06-16

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

Action taken: Amendment of Part 621, Subpart 641-2; repeal of sections 641-2.2, 641-2.10, 676.11, 680.12, 690.7; addition of section 681.14 to Title 14 NYCRR.

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

Subject: Repeal and amendment to outdated rate regulations.

Purpose: Repeal and amendment to outdated rate regulations.

Text or summary was published in the March 24, 2021 issue of the Register, I.D. No. PDD-12-21-00007-P.

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

Text of rule and any required statements and analyses may be obtained from: Mary Beth Babcock, Office for People With Developmental Disabilities, 44 Holland Avenue, Albany, NY, (518) 474-7100, email: rau.unit@pwdd.ny.gov

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

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-24-21-00005-P

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

Proposed Action: The Commission is considering the notice of intent of 18 Sixth Avenue Owner, LLC to submeter electricity at 18 Sixth Avenue, Brooklyn, New York.

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

Subject: Notice of intent to submeter electricity.

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

Substance of proposed rule: The Commission is considering the notice of intent, filed by 18 Sixth Avenue Owner, LLC (Owner) on April 19, 2021, to submeter electricity at new market-rate and income-based rental building located 18 Sixth Avenue, Brooklyn, New York, in the service territory of Consolidated Edison Company of New York, Inc. (Con Edison).

In the notice of intent, 18 Sixth Avenue Owner, LLC requests authorization to take electric service from Con Edison and then distribute and meter that electricity to its tenants. Submetering of electricity to residential tenants is allowed so long as it complies with the protections and requirements of the Commission's regulations in 16 NYCRR Part 96.

The full text of the notice of intent, and the full record of the proceeding may be reviewed online at the Department of Public Service web page: www.dps.ny.gov. The Commission may adopt, reject or modify, in whole or in part, the action proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website <http://www.dps.ny.gov/f96dir.htm>. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

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

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

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

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

(21-E-0244SP1)

Department of State

EMERGENCY RULE MAKING

Successor in Interest Registrations Under the Right of Publicity Law

I.D. No. DOS-13-21-00025-E

Filing No. 637

Filing Date: 2021-05-28

Effective Date: 2021-05-29

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

Action taken: Addition of Part 131 to Title 19 NYCRR.

Statutory authority: Civil Rights Law, section 50-f; L. 2020, ch. 304; Executive Law, section 91

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

Specific reasons underlying the finding of necessity: On November 30, 2020, Governor Cuomo signed into law Chapter 304, which was designed to protect an individual's rights, post-mortem, from being unfairly controlled. The law's sponsor noted: "[t]he most critical function of the Right of Publicity is control. The Right of Publicity, even though it is a property right, is not merely a property asset, like a painting or real estate, for estate tax purposes. The Right of Publicity ensures that if a person, or that person's successor in interest, does not seek to commercialize the right, they are not compelled to do so." NY LEGIS LEG. MEMO 304 (2020), 2020 Sess. Law News of N.Y. Legis. Memo Ch. 304 (McKINNEY'S).

The Department finds that an emergency rule is required to enable the registration of claims in coordination with the effective date of the law and with a new online system that will accommodate such filings, thereby carrying out the legislative mandate (i.e., to ensure the right to privacy) as soon as possible. This emergency rule will be effective only until an identical proposed rule, which was published in the State Register on March 31, 2021, may be made to be effective on a permanent basis. In the meantime, emergency action is needed to allow claims to be registered immediately

and to protect these critical rights without delay. This emergency rule therefore protects the general welfare of the public by preserving these rights and preventing the unfair commercialization and control of a deceased's personal characteristics.

Subject: Successor in interest registrations under the Right of Publicity law.

Purpose: To establish the fee and verification requirements to file a claim under the Right of Publicity law.

Text of emergency rule: New Part 131 of Title 19 of NYCRR is added as follows:

Part 131 Right of Publicity Registration

The fee for filing a registration of a person claiming to be a successor in interest to the rights of a deceased personality or a licensee thereof with the Department of State under Civil Rights Law Section 50-f is one hundred fifty dollars.

19 NYCRR 131.3

19 NYCRR 131.3 Verification by Affirmation

(a) The registration form for any person claiming to be a successor in interest to the rights of a deceased personality or a licensee thereof may be verified by affirmation under penalty of perjury.

(b) In the case of an agent, lawfully appointed, completing a registration form on behalf of a person claiming to be a successor in interest to the rights of a deceased personality or a licensee thereof, the agent shall be required to verify by affirmation, under the penalty of perjury, that such agent has been duly appointed to file such registration, knows the contents of such registration, and believes the same to be true.

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. DOS-13-21-00025-P, Issue of March 31, 2021. The emergency rule will expire August 25, 2021.

Text of rule and any required statements and analyses may be obtained from: David Mossberg, Esq., NYS Department of State, 99 Washington Ave., 5th Floor, NY 12231, (518) 473-2728, email: david.mossberg@dos.ny.gov

Regulatory Impact Statement

A regulatory impact statement is not submitted, but will be published in the *Register* within 30 days of the rule's effective date.

Regulatory Flexibility Analysis

A regulatory flexibility analysis is not submitted, but will be published in the *Register* within 30 days of the rule's effective date.

Rural Area Flexibility Analysis

A regulatory flexibility analysis is not submitted, but will be published in the *Register* within 30 days of the rule's effective date.

Job Impact Statement

A Job Impact Statement is not required for these regulations. It is apparent from their nature and the purpose that they will not have a substantial adverse impact on jobs and employment opportunities in either the public or private sectors.

Section 50-f of the Civil Rights Law requires, in part, that the Department establish the fee to file a claim as a successor in interest to the rights of a deceased personality or a licensee thereof. This rule achieves this statutory mandate by establishing a reasonable fee of \$150, which represents an annual cost of \$3.75 per year over the 40 years the claim is valid. The Department finds that this nominal per year cost to preserve one's interest is not likely to be objected to. Further, the rule simplifies the verification process, making it less burdensome to preserve these rights.

By reason of the foregoing, the Department finds that this rule will have no impact on jobs or employment opportunities.

NOTICE OF ADOPTION

Procedures and Requirements Related to the Filing of Certificates by the Department of State's Division of Corporations

I.D. No. DOS-48-20-00010-A

Filing No. 694

Filing Date: 2021-06-09

Effective Date: 2021-06-21

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

Action taken: Amendment of Parts 145, 150, 154 and 156 of Title 19 NYCRR.

Statutory authority: Executive Law, section 91

Subject: Procedures and requirements related to the filing of certificates by the Department of State's Division of Corporations.

Purpose: To clarify and update procedures related to the filing of certificates with the Division of Corporations.

Text or summary was published in the December 2, 2020 issue of the Register, I.D. No. DOS-48-20-00010-P.

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

Text of rule and any required statements and analyses may be obtained from: Krystal Cropsey, NYS Dept. of State, Division of Corporations, One Commerce Plaza, 99 Washington Ave, Albany, NY 12231-0001, (518) 473-7172, email: Krystal.Cropsey@dos.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2024, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

NOTICE OF ADOPTION

Successor in Interest Registrations Under the Right of Publicity Law

I.D. No. DOS-13-21-00025-A

Filing No. 676

Filing Date: 2021-06-02

Effective Date: 2021-06-16

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

Action taken: Addition of Part 131 to Title 19 NYCRR.

Statutory authority: Civil Rights Law, section 50-f; Executive Law, section 91

Subject: Successor in interest registrations under the Right of Publicity law.

Purpose: To establish the fee and verification requirements to file a claim under the Right of Publicity law.

Text or summary was published in the March 31, 2021 issue of the Register, I.D. No. DOS-13-21-00025-P.

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

Text of rule and any required statements and analyses may be obtained from: David Mossberg, Esq., NYS Dept. of State, 99 Washington Avenue, 11th FL, Albany, NY 12231, (518) 473-2728, email: david.mossberg@dos.ny.gov

Assessment of Public Comment

The agency received no public comment.

State University of New York

EMERGENCY/PROPOSED

RULE MAKING

NO HEARING(S) SCHEDULED

Gender Neutral Bathrooms

I.D. No. SUN-24-21-00002-EP

Filing No. 633

Filing Date: 2021-05-27

Effective Date: 2021-05-27

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

Proposed Action: Addition of Part 317 to Title 8 NYCRR.

Statutory authority: Education Law, section 355(2)(b) and (h)

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

Specific reasons underlying the finding of necessity: This rule will designate all SUNY state-operated campus single occupancy bathrooms as

gender neutral bathrooms. On December 23, 2020, Governor Cuomo signed into law Chapter 353 of the Laws of 2020, relating to the single-occupancy bathroom requirement. The law goes into effect March 23, 2021. In order to comply with this law, the SUNY Board of Trustees has determined that emergency adoption is necessary.

Subject: Gender Neutral Bathrooms.

Purpose: To conform with legislation requiring SUNY state-operated campuses to designate all single occupancy bathrooms as gender neutral.

Text of emergency/proposed rule: Part 317 Single Occupancy Bathrooms
317.1 Single Occupancy Bathrooms on State-operated Campuses

(a) All public single-occupancy bathroom facilities at each state-operated institution shall be designated as gender neutral for use by no more than one occupant at a time or for family or assisted use.

(b) Such gender neutral bathroom facilities shall be clearly designated by the posting of such on or near the entry door of each facility.

(c) For purposes of this section, single-occupancy bathroom shall have the same meaning as paragraph (d) of subdivision one of section one hundred forty-five of the public buildings law.

(d) This section shall constitute written adoption by each of the state-operated institutions of the requirements of subdivision twenty of section three hundred fifty-five of the education law.

This notice is intended: to serve as both a notice of emergency adoption and a notice of proposed rule making. The emergency rule will expire July 25, 2021.

Text of rule and any required statements and analyses may be obtained from: Lisa S. Campo, State University of New York, State University Plaza, Albany, NY 12246, (518) 320-1400, email:Lisa.Campo@SUNY.edu.

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

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

Regulatory Impact Statement

1. Statutory Authority: Education Law, Sections 355(2)(b) and 355(2)(h). Section 355(2)(b) authorizes the State University Trustees to make and amend rules and regulations for the overall governance of the State University and institutions therein. Section 355(2)(h) authorizes the State University Trustees to regulate the admission of students, tuition charges, other fees and charges, curricula, and all other matters pertaining to the operation and administration of each State-operated institution of the State University.

2. Legislative Objectives: Chapter 353 of the Laws of 2020 require SUNY state-operated campuses to designate all single occupancy bathrooms as gender neutral bathrooms.

3. Needs and Benefits: This landmark civil rights measure will help protect transgender, gender nonconforming, and non-binary (TGNCNB) individuals from discrimination and harassment by creating more inclusive spaces.

4. Costs: No additional direct costs to the State. It is anticipated that any revenue impact from this action will be managed within existing SUNY budgets and/or budgetary actions.

5. Local Government Mandates: This regulation does not impose any mandates on local governments.

6. Paperwork: No parties will experience any new reporting responsibilities. SUNY publications and documents containing maps and locations of bathrooms may need to be revised to reflect these changes.

7. Duplication: None.

8. Alternatives: No significant alternative proposals were considered.

9. Federal Standards: None.

10. Compliance Schedule: Chapter 353 of the Laws of 2021 takes effect March 23, 2021.

Regulatory Flexibility Analysis

No regulatory flexibility analysis is submitted with this notice because the proposed rule does not impose any requirements on small businesses and local governments. This proposed rule making will not impose any adverse economic impact on small businesses and local governments or impose any reporting, recordkeeping or other compliance requirements on small businesses and local governments.

Rural Area Flexibility Analysis

No rural area flexibility analysis is submitted with this notice because the proposed rule does not impose any requirements on rural areas. The rule will not impose any adverse economic impact on rural areas or impose any reporting, recordkeeping, professional services or other compliance requirements on rural areas.

Job Impact Statement

No job impact statement is submitted with this notice because the proposed rule does not impose any adverse economic impact on existing jobs,

employment opportunities, or self-employment. This regulation requires all SUNY state-operated campuses to designate all single occupancy bathrooms as gender neutral bathrooms and will not have any adverse impact on the number of jobs or employment.

**HEARINGS SCHEDULED
FOR PROPOSED RULE MAKINGS**

Agency I.D. No.	Subject Matter	Location—Date—Time
Agriculture and Markets, Department of		
AAM-23-21-00001-P	Regulated Commodity Labeling, Packaging and Method of Sale Requirements	WebEx, (518) 549-0500, Access: 161 509 994—July 7, 2021, 11:00 a.m.
Environmental Conservation, Department of		
ENV-19-21-00001-P	Set Monitoring, Operational and Reporting Requirements for the Oil and Natural Gas Sector	Electronic webinar—July 20, 2021, 2:00 p.m. and 6:00 p.m. Instructions on how to “join” the hearing webinar and provide an oral statement will be published on the Department’s proposed regulations webpage for 6 NYCRR Part 203 by May 12, 2021. The proposed regulations webpage for 6 NYCRR Part 203 may be accessed at: https://www.dec.ny.gov/regulations/propregulations.html Persons who wish to receive the instructions by mail or telephone may call the Department at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Part 203 public comment hearing. The Department will provide interpreter services for hearing impaired persons, and language interpreter services for individuals with difficulty understanding or reading English, at no charge upon written request submitted no later than June 29, 2021. The written request must be addressed to ALJ Lara Q. Olivieri, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to ALJ Olivieri at: ohms@dec.ny.gov
ENV-24-21-00008-P	Petroleum Bulk Storage (PBS)	Electronic webinar—August 17, 2021, 2:00 p.m. and 6:00 p.m. Instructions on how to “join” the hearing webinar and provide an oral statement will be published on the Department’s proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 by June 16, 2021. The proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 may be accessed at: https://www.dec.ny.gov/regulations/propregulations.html Persons who wish to receive the instructions by mail or telephone may call the Department at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Parts 597, 598, and 613 public comment hearing. The Department will provide interpreter services for hearing impaired persons, and language interpreter services for individuals with difficulty understanding or reading English, at no charge upon written request submitted no later than July 27, 2021. The written request must be addressed to Chief ALJ James T. McClymonds, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to Chief ALJ McClymonds at ohms@dec.ny.gov .
ENV-24-21-00009-P	Chemical Bulk Storage (CBS)	Electronic webinar—August 17, 2021, 2:00 p.m. and 6:00 p.m.

Instructions on how to “join” the hearing webinar and provide an oral statement will be published on the Department’s proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 by June 16, 2021. The proposed regulations webpage for 6 NYCRR Parts 597, 598, and 613 may be accessed at: <https://www.dec.ny.gov/regulations/proproregulations.html>

Persons who wish to receive the instructions by mail or telephone may call the Department at (518) 402-9003. Please provide your first and last name, address, and telephone number and reference the Parts 597, 598, and 613 public comment hearing.

The Department will provide interpreter services for hearing impaired persons, and language interpreter services for individuals with difficulty understanding or reading English, at no charge upon written request submitted no later than July 27, 2021. The written request must be addressed to Chief ALJ James T. McClymonds, NYS DEC Office of Hearings and Mediation Services, 625 Broadway, 1st Floor, Albany, NY 12233-1550 or emailed to Chief ALJ McClymonds at ohms@dec.ny.gov.

Public Service Commission

PSC-19-21-00009-P Major Electric Rate Filing

Teleconference—July 12, 2021, 10:30 a.m. and continuing daily as needed. (Evidentiary Hearing)*

*On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 21-E-0074.

PSC-19-21-00012-P Major Gas Rate Filing

Teleconference—July 12, 2021, 10:30 a.m. and continuing daily as needed. (Evidentiary Hearing)*

*On occasion, there are requests to reschedule or postpone hearing dates. If such a request is granted, notification of any subsequent scheduling changes will be available at the DPS website (www.dps.ny.gov) under Case 21-G-0073.

State, Department of

DOS-19-21-00014-P Minimum Standards for Administration and Enforcement of the Uniform Code and Energy Code

99 Washington Ave., Rm. 505, Albany, NY— July 15, 2021, 10:00 a.m.

Due to the ongoing pandemic, the public hearing scheduled to accept public comments may be held virtually only. Instructions for attendance online or by phone will be provided on the Department of State’s Division of Building Standards and Codes’ website at <https://dos.ny.gov/notice-proposed-rule-making> at least fourteen (14) days prior to the public hearing.

ACTION PENDING INDEX

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

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

For additional information concerning any of the proposals

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

Agency code	Issue number	Year published	Serial number	Action Code
AAM	01	12	0001	P

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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
AGRICULTURE AND MARKETS, DEPARTMENT OF			
*AAM-12-20-00006-P	07/24/21	Calibrating and testing of certain weights and measures standards and devices.	To allow the Dept. to increase the fees it charges in calibrating and testing certain weights & measures standards and devices.
AAM-21-21-00021-EP	05/26/22	Control of the European Cherry Fruit Fly	To help control the spread of the European Cherry Fruit Fly (ECFF), which renders cherries unmarketable if they are infested
AAM-23-21-00001-P	07/07/22	Regulated commodity labeling, packaging and method of sale requirements	Amend packaging, labeling & method of sale requirements for various commodities to align with industry & federal standards
ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, OFFICE OF			
ASA-28-20-00013-P	09/14/21	Patient Rights	To set-forth the minimum regulatory requirements for patient rights in OASAS certified, funded or otherwise authorized programs
ASA-28-20-00016-RP	09/14/21	Designated Services	To set-forth the minimum regulatory requirements for certified programs to seek an Office designation
ASA-24-21-00006-P	06/16/22	General provisions applicable to all OASAS programs	To identify those provisions that are required of all OASAS certified, funded or otherwise authorized programs
CHILDREN AND FAMILY SERVICES, OFFICE OF			
*CFS-04-20-00009-P	09/14/21	Host Family Homes	The proposed regulations would establish standards for the approval and administration of host family homes.
CFS-49-20-00006-EP	12/09/21	Maintenance reimbursement for residential CSE programs when a student has been absent from the program for more than 15 days.	Remove an existing regulatory barrier that precludes maintenance reimbursement for residential CSE programs.

Action Pending Index

NYS Register/June 16, 2021

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
*CVS-06-20-00004-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
*CVS-13-20-00015-P	09/14/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
*CVS-13-20-00016-P	09/14/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-24-20-00002-P	09/14/21	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-24-20-00003-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00004-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00005-P	09/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-24-20-00006-P	09/14/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-24-20-00007-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00008-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00009-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-24-20-00010-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-28-20-00004-P	09/14/21	Jurisdictional Classification	To classify positions in the exempt class
CVS-28-20-00005-P	09/14/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00006-P	09/14/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-28-20-00007-P	09/14/21	Jurisdictional Classification	To delete a position from the exempt class
CVS-28-20-00008-P	09/14/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00009-P	09/14/21	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-28-20-00010-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class.
CVS-28-20-00011-P	09/14/21	Jurisdictional Classification	To delete positions from and classify positions in the non-competitive class
CVS-28-20-00012-P	09/14/21	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-32-20-00003-P	09/14/21	Jurisdictional Classification	To classify a position in the exempt class

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-32-20-00004-P	09/14/21	Jurisdictional Classification	To classify positions in the exempt and the non-competitive classes
CVS-32-20-00005-P	09/14/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-32-20-00006-P	09/14/21	Jurisdictional Classification	To classify a position in the exempt class
CVS-06-21-00001-P	02/10/22	Jurisdictional Classification	To delete positions from and classify positions in the exempt class and to classify positions in the non-competitive class
CVS-06-21-00002-P	02/10/22	Jurisdictional Classification	To classify positions in the exempt class
CVS-06-21-00003-P	02/10/22	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-06-21-00004-P	02/10/22	Jurisdictional Classification	To delete positions from the non-competitive class
CVS-06-21-00005-P	02/10/22	Jurisdictional Classification	To classify a position in the non-competitive class
CVS-10-21-00001-P	03/10/22	Jurisdictional Classification	To delete a subheading and positions from and to classify a subheading and positions in the exempt and non-competitive classes
CVS-10-21-00002-P	03/10/22	Jurisdictional Classification	To classify a position in the exempt class and to classify a position from the non-competitive class
CVS-10-21-00003-P	03/10/22	Jurisdictional Classification	To classify a position in the exempt class
CVS-10-21-00004-P	03/10/22	Jurisdictional Classification	To classify a position in the exempt class
CVS-10-21-00005-P	03/10/22	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-21-00005-P	03/31/22	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-21-00006-P	03/31/22	Jurisdictional Classification	To classify a position in the exempt class
CVS-13-21-00007-P	03/31/22	Jurisdictional Classification	To classify positions in the non-competitive class
CVS-13-21-00008-P	03/31/22	Jurisdictional Classification	To classify positions in the exempt class
CVS-14-21-00001-P	04/07/22	Juneteenth Holiday	To add Juneteenth to the listing of holidays in the Attendance Rules
CVS-14-21-00002-P	04/07/22	Supplemental military leave benefits	To extend the availability of supplemental military leave benefits for certain New York State employees until December 31, 2021
CVS-19-21-00003-P	05/12/22	Jurisdictional Classification	To delete a position from and classify a position in the exempt class
CVS-19-21-00004-P	05/12/22	Jurisdictional Classification	To classify positions in the non-competitive class

Action Pending Index**NYS Register/June 16, 2021**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
CIVIL SERVICE, DEPARTMENT OF			
CVS-19-21-00005-P	05/12/22	Jurisdictional Classification	To delete a position from and classify positions in the non-competitive class
CVS-23-21-00006-P	06/09/22	Jurisdictional Classification	To classify positions in the exempt class
CVS-23-21-00007-P	06/09/22	Jurisdictional Classification	To classify a position in the exempt class
CVS-23-21-00008-P	06/09/22	Jurisdictional Classification	To delete positions from the exempt class
CVS-23-21-00009-P	06/09/22	Jurisdictional Classification	To classify a subheading and positions in the exempt class
COMMISSIONER OF PILOTS, BOARD OF			
COP-24-21-00011-P	exempt	Rate increases for pilot services	To offset costs being incurred by pilots by failure of users to properly assess assistance needed from pilots
CORRECTIONS AND COMMUNITY SUPERVISION, DEPARTMENT OF			
CCS-34-20-00001-P	08/26/21	Family Reunion Program	To clarify for logic and consistency, and make additional changes to the current Family Reunion Program
ECONOMIC DEVELOPMENT, DEPARTMENT OF			
EDV-48-20-00001-P	12/02/21	Employee Training Incentive Program	To update the administrative processes for the ETIP program
EDUCATION DEPARTMENT			
*EDU-17-19-00008-P	07/24/21	To require study in language acquisition and literacy development of English language learners in certain teacher preparation	To ensure that newly certified teachers enter the workforce fully prepared to serve our ELL population
*EDU-27-19-00010-P	07/24/21	Substantially Equivalent Instruction for Nonpublic School Students	Provide guidance to local school authorities to assist them in fulfilling their responsibilities under the Compulsory Ed Law
*EDU-20-20-00008-ERP	08/18/21	Addressing the COVID-19 Crisis	To provide flexibility for certain regulatory requirements in response to the COVID-19 crisis
EDU-08-21-00001-EP	02/24/22	Providing Flexibility Relating to Higher Education Regulatory Requirements in Response to the COVID-19 Crisis	To provide flexibility for certain higher education related regulatory requirements in response to the COVID-19 crisis
EDU-08-21-00002-P	02/24/22	The Definition of the Term "University"	To clarify and broaden the definition of the term "university"
EDU-13-21-00011-EP	03/31/22	Licensure requirements for Land Surveyors	Adding and amending licensure requirements for Land Surveyors
EDU-13-21-00012-P	03/31/22	Renaming the Languages Other Than English (LOTE) learning standards to "World Languages"	To rename the LOTE learning standards to "World Languages" and corresponding changes to the certificate title and tenure titles

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
EDUCATION DEPARTMENT			
EDU-13-21-00013-P	03/31/22	Eligibility of School Psychology Candidates for the Internship Certificate	To allow candidates enrolled in registered school psychology programs to be eligible for the Internship certificate
EDU-13-21-00014-EP	03/31/22	Addressing the COVID-19 Crisis	To provide regulatory flexibility in response to the COVID-19 crisis
EDU-17-21-00009-EP	04/28/22	Including Emergency Protocols in District-Wide School Safety Plans	To implement Chapter 168 of the Laws of 2020, as amended by Chapter 30 of the Laws of 2021
EDU-17-21-00010-EP	04/28/22	Students' Eligibility to Participate in Interscholastic Competition Until the Conclusion of the Interscholastic Spring Season	To ensure that eligible students are able to complete their interscholastic athletic spring season the year they graduate
EDU-17-21-00011-P	04/28/22	Education Law 310 Appeals to the Commissioner and Initiation Conduct of Proceedings for the Removal of School Officers	To make technical changes and other clarifying amendments to section 310 appeal procedures and requirements
EDU-17-21-00012-EP	04/28/22	Extending the edTPA Safety Net in Response to the COVID-19 Crisis	To extend the edTPA safety net in response to the COVID-19 crisis
EDU-21-21-00006-P	05/26/22	Civic Readiness Pathway to Graduation and the New York State Seal of Civic Readiness	To establish the civic readiness pathway to graduation and the New York State Seal of Civic Readiness
EDU-21-21-00007-EP	05/26/22	Providing flexibility for hands-only CPR instruction, the NYS Seal of Biliteracy, and health examinations and certificates	To provide regulatory flexibility in response to the COVID-19 crisis
EDU-21-21-00008-P	05/26/22	Requirements for Chiropractic Education Programs and Education Requirements for Licensure as a Chiropractor	To conform the Commissioner's regulations to national education standards for postsecondary education
EDU-21-21-00009-P	05/26/22	School Counselor Bilingual & Supplementary Bilingual Education Extension & Registration Requirements	To create the bilingual education extension, supplementary bilingual education extension, and registration requirements for programs leading to the bilingual education extension for initial and professional school counselor certificates
EDU-21-21-00010-P	05/26/22	Adding the Doctor of Business Administration (D.B.A.) Degree and Master of Theological Studies (M.T.S.) Degree in New York State	To add the D.B.A. degree and M.T.S. degree in New York State
ELECTIONS, STATE BOARD OF			
SBE-13-21-00015-P	03/31/22	Implementation of Cyber Security Requirements for Local Boards of Elections	Requires that that every county board of elections adhere to a minimum level of cyber-security standards
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-01-21-00003-ERP	01/06/22	Regulations governing recreational fishing for striped bass	To require circle hooks when fishing recreationally for striped bass using bait
ENV-03-21-00010-P	03/23/22	Application of Site-Specific Criteria to Class I and Class SD Waters	Add site-specific criteria to Class I and SD waters to provide additional water quality protection of the existing best uses

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
ENVIRONMENTAL CONSERVATION, DEPARTMENT OF			
ENV-04-21-00007-P	03/30/22	Chlorpyrifos prohibition	Prohibit distribution, sale, purchase, possession, or use of pesticides that contain the active ingredient chlorpyrifos
ENV-04-21-00008-P	04/07/22	Food Donation and Food Scraps Recycling	Required by Title 22 of Article 27, the rule increases food donation and the recycling of food scraps through composting
ENV-12-21-00004-P	03/24/22	Public use of Wildlife Management Areas, and areas with special regulations	To ensure that public use of WMAs and other sites does not interfere or conflict with intended purposes of those areas
ENV-16-21-00012-P	04/21/22	Regulations governing whelk management	To protect immature whelk from harvest and establish gear and reporting rules for marine resource protection and public safety
ENV-19-21-00001-P	07/20/22	Set monitoring, operational and reporting requirements for the oil and natural gas sector	Reduce emissions of methane and volatile organic compounds from the oil and natural gas sector
ENV-22-21-00001-EP	06/02/22	Peekamoose Valley Riparian Corridor	Protect public health, safety, general welfare and natural resources on the Peekamoose Valley Riparian Corridor
ENV-23-21-00011-P	06/09/22	Deer and Bear Hunting	Strategically increase antlerless deer harvest, expand hunting hours, simplify bear hunting seasons, and enhance hunter safety
ENV-24-21-00007-P	06/16/22	Amendments to permit requirements for trapping fisher and marten in New York State	To remove the requirement for a special fisher trapping permit, and to simplify marten trapping requirements
ENV-24-21-00008-P	08/17/22	Petroleum Bulk Storage (PBS)	To amend the PBS regulations, 6 NYCRR Part 613
ENV-24-21-00009-P	08/17/22	Chemical Bulk Storage (CBS)	To repeal existing 6 NYCRR Parts 596, 598, 599 and replace with new Part 598; and amend existing Part 597; for the CBS program
FINANCIAL SERVICES, DEPARTMENT OF			
*DFS-17-16-00003-P	exempt	Plan of Conversion by Commercial Travelers Mutual Insurance Company	To convert a mutual accident and health insurance company to a stock accident and health insurance company
*DFS-25-18-00006-P	exempt	Plan of Conversion by Medical Liability Mutual Insurance Company	To convert a mutual property and casualty insurance company to a stock property and casualty insurance company
*DFS-43-19-00017-RP	09/14/21	Independent Dispute Resolution for Emergency Services and Surprise Bills	To require notices and consumer disclosure information related to surprise bills and bills for emergency service to be provided
DFS-49-20-00011-P	12/09/21	Credit for Reinsurance	To conform to covered agreements entered into between the US and EU and the US and UK, and implement NAIC models.
DFS-13-21-00001-P	03/31/22	Enterprise Risk Management and Own Risk and Solvency Assessment	To require an entity subject to the rule to describe its ERM function in its enterprise risk report, among other things

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
FINANCIAL SERVICES, DEPARTMENT OF			
DFS-14-21-00007-P	04/07/22	Public Adjusters	To update the rule regarding public adjusters, including to conform to Chapter 546 of the Laws of 2013
GAMING COMMISSION, NEW YORK STATE			
SGC-34-20-00009-P	08/26/21	Qualification time in harness racing	To improve harness pari-mutuel wagering and generate reasonable revenue for the support of government
SGC-50-20-00007-P	12/16/21	Contactless payment methods for chances in charitable gaming	To promote public health and support of organizations authorized to operate games of chance
SGC-09-21-00014-P	03/03/22	Lasix administrations on race day	To enhance the safety and integrity of pari-mutuel racing
SGC-17-21-00001-P	04/28/22	Time, place and manner of Powerball drawings	To provide that the time, place and manner of Powerball drawings will be as authorized by the Multi-State Lottery Association
HEALTH, DEPARTMENT OF			
*HLT-14-94-00006-P	exempt	Payment methodology for HIV/AIDS outpatient services	To expand the current payment to incorporate pricing for services
*HLT-36-19-00006-P	09/14/21	Limits on Executive Compensation	Removes “Soft Cap” prohibition on covered executive salaries.
*HLT-46-19-00003-P	09/14/21	Tanning Facilities	To prohibit the use of indoor tanning facilities by individuals less than 18 years of age
*HLT-47-19-00008-P	09/14/21	Hospital Medical Staff - Limited Permit Holders	To repeal extra years of training required for limited permit holders to work in New York State hospitals.
*HLT-51-19-00001-P	09/14/21	Women, Infants and Children (WIC) Program	To support implementation of eWIC; clarify rules for violations, penalties & hearings & conform vendor authorization criteria.
*HLT-04-20-00003-RP	10/22/21	Applied Behavior Analysis	To include Applied Behavior Analysis in the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) benefit.
*HLT-11-20-00003-P	09/14/21	Adult Day Health Care (ADHC)	To allow for reimbursement of real property leases in certain situations when used for operations of an ADHC program
HLT-27-20-00006-P	09/14/21	Medicaid Managed Care State Fair Hearings and External Appeals Processes and Standards	To address & clarify rules of procedure & presentation of evidence for Medicaid managed care fair hearings & external appeals
HLT-28-20-00019-RP	09/14/21	Personal Care Services (PCS) and Consumer Directed Personal Assistance Program (CDPAP)	To implement a revised assessment process and eligibility criteria for PCS and CDPAP
HLT-31-20-00012-EP	exempt	Hospital Non-comparable Ambulance Acute Rate Add-on	Prevents duplicate claiming by Article 28 hospitals for the ambulance add-on regarding participation in the program

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Agency I.D. No.	Expires	Subject Matter	Purpose of Action
HEALTH, DEPARTMENT OF			
HLT-38-20-00006-P	09/23/21	Medicaid Transportation Program	Medicaid payment standards for emergency ambulance providers participating in an Emergency Triage, Treat & Transport (ET3) model
HLT-45-20-00002-RP	11/10/21	Cannabinoid Hemp	To create a licensing framework for cannabinoid hemp processors and cannabinoid hemp retailers
HLT-05-21-00011-P	02/03/22	Ingredient Disclosures for Vapor Products and E-Cigarettes	To provide for enhanced public awareness of the chemicals used in vapor products and electronic cigarettes
HLT-07-21-00012-P	02/17/22	Rate Setting for Residential Habilitation in Community Residences and for Non-State Providers of Day Habilitation	To amend rate methodologies limiting payments to IRA providers to conform to provisions in approved waiver
HLT-09-21-00009-EP	03/03/22	Surrogacy Programs and Assisted Reproduction Service Providers	To license and regulate surrogacy programs
HLT-19-21-00002-EP	05/12/22	Meeting Space in Transitional Adult Homes	Establish criteria for suitable meeting space to ensure privacy in conversations and submit a compliance plan to the Department
HLT-22-21-00003-P	06/02/22	Reducing Biannual Testing of Adult Care Facility Staff	To remove the requirement for biannual testing of adult care workers
HLT-22-21-00004-P	06/02/22	Hospice Residence Rates	To authorize Medicaid rate of payment to increase the Hospice Residence reimbursement rates by 10 percent
HLT-22-21-00005-P	06/02/22	Stroke Services	Amend transition period for existing stroke centers to allow the Dept. to extend the three year transition period, if necessary
HLT-22-21-00009-P	06/02/22	Managed Care Organizations (MCOs)	To maintain the contingent reserve requirement at 7.25% through 2022 applied to Medicaid Managed Care, HIV SNP & HARP programs
HLT-22-21-00010-P	06/02/22	Labeling Requirements Concerning Vent-Free Gas Space Heating Appliances	To adjust the current labeling requirements for unvented gas space heating appliances
HUMAN RIGHTS, DIVISION OF			
HRT-15-21-00005-P	04/14/22	Notice of tenants' rights to reasonable modifications and accommodations for persons with disabilities	To comply with the requirements of Executive Law section 170-d
JOINT COMMISSION ON PUBLIC ETHICS, NEW YORK STATE			
JPE-21-21-00002-P	05/26/22	Records access	To update regulations governing records access
LABOR, DEPARTMENT OF			
*LAB-46-19-00004-P	09/14/21	NY State Public Employees Occupational Safety and Health Standards	To incorporate by reference updates to OSHA standards into the NY State Public Employee Occupational Safety and Health Standards

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LABOR, DEPARTMENT OF			
LAB-49-20-00012-P	12/09/21	Sick Leave Requirements	To provide definitions and standards for the sick leave requirements contained in Section 196-b of the Labor Law
LAB-05-21-00003-EP	02/03/22	Unemployment Insurance (UI) definition of "day of total unemployment"	To prevent an additional financial burden on UI claimants seeking part-time work opportunities and help employers obtain talent
LAW, DEPARTMENT OF			
*LAW-18-20-00002-P	05/06/21	Designation of a Privacy Officer	Removal of a named Privacy Officer., along with their contact information
LIQUOR AUTHORITY, STATE			
LQR-12-21-00005-P	06/09/22	Minimum curriculum requirements for ATAP schools	To add information regarding sexual violence prevention to minimum curriculum requirements for ATAP schools
LONG ISLAND POWER AUTHORITY			
*LPA-08-01-00003-P	exempt	Pole attachments and related matters	To approve revisions to the authority's tariff
*LPA-41-02-00005-P	exempt	Tariff for electric service	To revise the tariff for electric service
*LPA-04-06-00007-P	exempt	Tariff for electric service	To adopt provisions of a ratepayer protection plan
*LPA-03-10-00004-P	exempt	Residential late payment charges	To extend the application of late payment charges to residential customers
*LPA-15-18-00013-P	exempt	Outdoor area lighting	To add an option and pricing for efficient LED lamps to the Authority's outdoor area lighting
*LPA-37-18-00013-P	exempt	The net energy metering provisions of the Authority's Tariff for Electric Service	To implement PSC guidance increasing eligibility for value stack compensation to larger projects
*LPA-37-18-00017-P	exempt	The treatment of electric vehicle charging in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on electric vehicle supply equipment.
*LPA-37-18-00018-P	exempt	The treatment of energy storage in the Authority's Tariff for Electric Service.	To effectuate the outcome of the Public Service Commission's proceeding on the NY Energy Storage Roadmap.
*LPA-09-20-00010-P	exempt	To update and implement latest requirements for ESCOs proposing to do business within the Authority's service territory.	To strengthen customer protections and be consistent with Public Service Commission orders on retail energy markets.
LPA-28-20-00033-EP	exempt	LIPA's late payment charges, reconnection charges, and low-income customer discount enrollment	To allow waiver of late payment and reconnection charges and extend the grace period for re-enrolling in customer bill discounts
LPA-37-20-00013-EP	exempt	The terms of deferred payment agreements available to LIPA's commercial customers	To expand eligibility for and ease the terms of deferred payment agreements for LIPA's commercial customers
LPA-12-21-00011-P	exempt	LIPA's Long Island Choice (retail choice) tariff	To simplify and improve Long Island Choice based on stakeholder collaborative input

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
LONG ISLAND POWER AUTHORITY			
LPA-14-21-00010-P	..... exempt	To increase participation in the NYSEDA GJGNY On-Bill Loan Installment program	To provide low-cost on-bill financing for customers investing in energy efficiency, DERs, and beneficial electrification
LONG ISLAND RAILROAD COMPANY			
LIR-39-20-00005-ERP	..... 09/30/21	Requiring wearing masks over the nose and mouth when using terminals, stations, and trains operated by Long Island Rail Road	To safeguard the public health and safety on terminals, stations and trains operated by Long Island Rail Road
MANHATTAN AND BRONX SURFACE TRANSIT OPERATING AUTHORITY			
MBA-39-20-00007-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by the MAbSTOA	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system
MENTAL HEALTH, OFFICE OF			
OMH-09-21-00001-EP	..... 03/03/22	Redesigning Residential Treatment Facilities (RTF)	To provide clarity and provide uniformity relating to RTF's and to implement Chapter 58 of the Laws of 2020
OMH-15-21-00001-EP	..... 04/14/22	Residential treatment facility leave of absence	Update requirements for leave of absence in RTFs; Implement State Plan Amendments effective 7/1/18 (attachment 4.16C (pg 2 & 3))
OMH-20-21-00006-P	..... 05/19/22	Establishment of Youth Assertive Community Treatment (ACT)	To include children in the populations eligible to receive ACT and other conforming changes
METRO-NORTH COMMUTER RAILROAD			
MCR-39-20-00004-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations, and trains operated by Metro-North Railroad	To safeguard the public health and safety by amending the rules to require use of masks when using Metro-North facilities
METROPOLITAN TRANSPORTATION AGENCY			
MTA-39-20-00009-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using the facilities and conveyances operated by MTA Bus Company	To safeguard the public health and safety by amending rules to require use of masks when using MTA Bus facilities and conveyance
MTA-16-21-00004-EP	..... 04/21/22	Requiring mask wearing when using the facilities and conveyances of the MTA and its operating affiliates and subsidiaries	To safeguard the public health and safety by adding a new all-agency rule requiring the use of masks in facilities and conveyances
MOTOR VEHICLES, DEPARTMENT OF			
MTV-21-21-00001-P	..... 05/26/22	Dealer Document Fee	Raises the dealer document fee from \$75 to \$175
NEW YORK CITY TRANSIT AUTHORITY			
NTA-39-20-00006-EP	..... 09/30/21	Requiring mask wearing covering the nose and mouth when using facilities and conveyances operated by NYC Transit Authority	To safeguard the public health and safety by amending existing rules to require use of masks when using the transit system

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
NIAGARA FALLS WATER BOARD			
*NFW-04-13-00004-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for the increased costs necessary to operate, maintain and manage the system, and to achieve covenants with bondholders
*NFW-13-14-00006-EP	..... exempt	Adoption of Rates, Fees and Charges	To pay for increased costs necessary to operate, maintain and manage the system and to achieve covenants with the bondholders
OGDENSBURG BRIDGE AND PORT AUTHORITY			
*OBA-33-18-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit.
*OBA-07-19-00019-P	..... exempt	Increase in Bridge Toll Structure	To increase bridge toll revenue in order to become financially self-supporting. Our bridge operations are resulting in deficit
PEOPLE WITH DEVELOPMENTAL DISABILITIES, OFFICE FOR			
PDD-15-21-00002-EP	..... 04/14/22	Billing for Day Program Duration	To allow providers of day hab and site-based prevocational services to bill for day program duration with greater flexibility
POWER AUTHORITY OF THE STATE OF NEW YORK			
*PAS-01-10-00010-P	..... exempt	Rates for the sale of power and energy	Update ECSB Programs customers' service tariffs to streamline them/include additional required information
PUBLIC SERVICE COMMISSION			
*PSC-09-99-00012-P	..... exempt	Transfer of books and records by Citizens Utilities Company	To relocate Ogden Telephone Company's books and records out-of-state
*PSC-15-99-00011-P	..... exempt	Electronic tariff by Woodcliff Park Corp.	To replace the company's current tariff with an electronic tariff
*PSC-12-00-00001-P	..... exempt	Winter bundled sales service election date by Central Hudson Gas & Electric Corporation	To revise the date
*PSC-44-01-00005-P	..... exempt	Annual reconciliation of gas costs by Corning Natural Gas Corporation	To authorize the company to include certain gas costs
*PSC-07-02-00032-P	..... exempt	Uniform business practices	To consider modification
*PSC-36-03-00010-P	..... exempt	Performance assurance plan by Verizon New York	To consider changes
*PSC-40-03-00015-P	..... exempt	Receipt of payment of bills by St. Lawrence Gas Company	To revise the process
*PSC-41-03-00010-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities
*PSC-41-03-00011-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries	To consider filings of various LDCs and municipalities

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-44-03-00009-P	..... exempt	Retail access data between jurisdictional utilities	To accommodate changes in retail access market structure or commission mandates
*PSC-02-04-00008-P	..... exempt	Delivery rates for Con Edison's customers in New York City and Westchester County by the City of New York	To rehear the Nov. 25, 2003 order
*PSC-06-04-00009-P	..... exempt	Transfer of ownership interest by SCS Energy LLC and AE Investors LLC	To transfer interest in Steinway Creek Electric Generating Company LLC to AE Investors LLC
*PSC-10-04-00005-P	..... exempt	Temporary protective order	To consider adopting a protective order
*PSC-10-04-00008-P	..... exempt	Interconnection agreement between Verizon New York Inc. and VIC-RMTS-DC, L.L.C. d/b/a Verizon Avenue	To amend the agreement
*PSC-14-04-00008-P	..... exempt	Submetering of natural gas service to industrial and commercial customers by Hamburg Fairgrounds	To submeter gas service to commercial customers located at the Buffalo Speedway
*PSC-15-04-00022-P	..... exempt	Submetering of electricity by Glenn Gardens Associates, L.P.	To permit submetering at 175 W. 87th St., New York, NY
*PSC-21-04-00013-P	..... exempt	Verizon performance assurance plan by Metropolitan Telecommunications	To clarify the appropriate performance level
*PSC-22-04-00010-P	..... exempt	Approval of new types of electricity meters by Powell Power Electric Company	To permit the use of the PE-1250 electronic meter
*PSC-22-04-00013-P	..... exempt	Major gas rate increase by Consolidated Edison Company of New York, Inc.	To increase annual gas revenues
*PSC-22-04-00016-P	..... exempt	Master metering of water by South Liberty Corporation	To waive the requirement for installation of separate water meters
*PSC-25-04-00012-P	..... exempt	Interconnection agreement between Frontier Communications of Ausable Valley, Inc., et al. and Sprint Communications Company, L.P.	To amend the agreement
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-43-04-00016-P	..... exempt	Accounts receivable by Rochester Gas and Electric Corporation	To include in its tariff provisions for the purchase of ESCO accounts receivable
*PSC-46-04-00012-P	..... exempt	Service application form by Consolidated Edison Company of New York, Inc.	To revise the form and make housekeeping changes
*PSC-46-04-00013-P	..... exempt	Rules and guidelines governing installation of metering equipment	To establish uniform statewide business practices
*PSC-02-05-00006-P	..... exempt	Violation of the July 22, 2004 order by Dutchess Estates Water Company, Inc.	To consider imposing remedial actions against the company and its owners, officers and directors
*PSC-09-05-00009-P	..... exempt	Submetering of natural gas service by Hamlet on Olde Oyster Bay	To consider submetering of natural gas to a commercial customer
*PSC-14-05-00006-P	..... exempt	Request for deferred accounting authorization by Freeport Electric Inc.	To defer expenses beyond the end of the fiscal year
*PSC-18-05-00009-P	..... exempt	Marketer Assignment Program by Consolidated Edison Company of New York, Inc.	To implement the program
*PSC-20-05-00028-P	..... exempt	Delivery point aggregation fee by Allied Frozen Storage, Inc.	To review the calculation of the fee
*PSC-25-05-00011-P	..... exempt	Metering, balancing and cashout provisions by Central Hudson Gas & Electric Corporation	To establish provisions for gas customers taking service under Service Classification Nos. 8, 9 and 11
*PSC-27-05-00018-P	..... exempt	Annual reconciliation of gas costs by New York State Electric & Gas Corporation	To consider the manner in which the gas cost incentive mechanism has been applied
*PSC-41-05-00013-P	..... exempt	Annual reconciliation of gas expenses and gas cost recoveries by local distribution companies and municipalities	To consider the filings
*PSC-45-05-00011-P	..... exempt	Treatment of lost and unaccounted gas costs by Corning Natural Gas Corporation	To defer certain costs
*PSC-46-05-00015-P	..... exempt	Sale of real and personal property by the Brooklyn Union Gas Company d/b/a KeySpan Energy Delivery New York and Steel Arrow, LLC	To consider the sale
*PSC-47-05-00009-P	..... exempt	Transferral of gas supplies by Corning Natural Gas Corporation	To approve the transfer
*PSC-50-05-00008-P	..... exempt	Long-term debt by Saratoga Glen Hollow Water Supply Corp.	To obtain long-term debt
*PSC-04-06-00024-P	..... exempt	Transfer of ownership interests by Mirant NY-Gen LLC and Orange and Rockland Utilities, Inc.	To approve of the transfer
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-06-00019-P	..... exempt	Hourly pricing by National Grid	To assess the impacts
*PSC-22-06-00020-P	..... exempt	Hourly pricing by New York State Electric & Gas Corporation	To assess the impacts
*PSC-22-06-00021-P	..... exempt	Hourly pricing by Rochester Gas & Electric Corporation	To assess the impacts
*PSC-22-06-00022-P	..... exempt	Hourly pricing by Consolidated Edison Company of New York, Inc.	To assess the impacts
*PSC-22-06-00023-P	..... exempt	Hourly pricing by Orange and Rockland Utilities, Inc.	To assess the impacts
*PSC-24-06-00005-EP	..... exempt	Supplemental home energy assistance benefits	To extend the deadline to Central Hudson's low-income customers
*PSC-25-06-00017-P	..... exempt	Purchased power adjustment by Massena Electric Department	To revise the method of calculating the purchased power adjustment and update the factor of adjustment
*PSC-34-06-00009-P	..... exempt	Inter-carrier telephone service quality standards and metrics by the Carrier Working Group	To incorporate appropriate modifications
*PSC-37-06-00015-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-37-06-00017-P	..... exempt	Procedures for estimation of customer bills by Rochester Gas and Electric Corporation	To consider estimation procedures
*PSC-43-06-00014-P	..... exempt	Electric delivery services by Strategic Power Management, Inc.	To determine the proper mechanism for the rate-recovery of costs
*PSC-04-07-00012-P	..... exempt	Petition for rehearing by Orange and Rockland Utilities, Inc.	To clarify the order
*PSC-06-07-00015-P	..... exempt	Meter reading and billing practices by Central Hudson Gas & Electric Corporation	To continue current meter reading and billing practices for electric service
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*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.
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-08-00008-P	..... exempt	Petition requesting rehearing and clarification of the commission's April 25, 2008 order denying petition of public utility law project	To consider whether to grant or deny, in whole or in part, the May 7, 2008 Public Utility Law Project (PULP) petition for rehearing and clarification of the commission's April 25, 2008 order denying petition of Public Utility Law Project
*PSC-25-08-00007-P	..... exempt	Policies and procedures regarding the selection of regulatory proposals to meet reliability needs	To establish policies and procedures regarding the selection of regulatory proposals to meet reliability needs
*PSC-25-08-00008-P	..... exempt	Report on Callable Load Opportunities	Rider U report assessing callable load opportunities in New York City and Westchester County during the next 10 years
*PSC-28-08-00004-P	..... exempt	Con Edison's procedure for providing customers access to their account information	To consider Con Edison's implementation plan and timetable for providing customers access to their account information
*PSC-31-08-00025-P	..... exempt	Recovery of reasonable DRS costs from the cost mitigation reserve (CMR)	To authorize recovery of the DRS costs from the CMR
*PSC-32-08-00009-P	..... exempt	The ESCO referral program for KEDNY to be implemented by October 1, 2008	To approve, reject or modify, in whole or in part, KEDNY's recommended ESCO referral program
*PSC-33-08-00008-P	..... exempt	Noble Allegany's request for lightened regulation	To consider Noble Allegany's request for lightened regulation as an electric corporation
*PSC-36-08-00019-P	..... exempt	Land Transfer in the Borough of Manhattan, New York	To consider petition for transfer of real property to NYPH
*PSC-39-08-00010-P	..... exempt	RG&E's economic development plan and tariffs	Consideration of the approval of RG&E's economic development plan and tariffs
*PSC-40-08-00010-P	..... exempt	Loans from regulated company to its parent	To determine if the cash management program resulting in loans to the parent should be approved
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-48-08-00008-P	..... exempt	Petition for the master metering and submetering of electricity	To consider the request of Bay City Metering, to master meter & submeter electricity at 345 E. 81st St., New York, New York
*PSC-48-08-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of PCV/ST to submeter electricity at Peter Cooper Village & Stuyvesant Town, New York, New York
*PSC-50-08-00018-P	..... exempt	Market Supply Charge	A study on the implementation of a revised Market Supply Charge
*PSC-51-08-00006-P	..... exempt	Commission's October 27, 2008 Order on Future of Retail Access Programs in Case 07-M-0458	To consider a Petition for rehearing of the Commission's October 27, 2008 Order in Case 07-M-0458
*PSC-51-08-00007-P	..... exempt	Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078	To consider Petitions for rehearing of the Commission's October 27, 2008 Order in Cases 98-M-1343, 07-M-1514 and 08-G-0078
*PSC-53-08-00011-P	..... exempt	Use of deferred Rural Telephone Bank funds	To determine if the purchase of a softswitch by Hancock is an appropriate use of deferred Rural Telephone Bank funds
*PSC-53-08-00012-P	..... exempt	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY	Transfer of permanent and temporary easements at 549-555 North Little Tor Road, New City, NY
*PSC-53-08-00013-P	..... exempt	To transfer common stock and ownership	To consider transfer of common stock and ownership
*PSC-01-09-00015-P	..... exempt	FCC decision to redefine service area of Citizens/Frontier	Review and consider FCC proposed redefinition of Citizens/Frontier service area
*PSC-02-09-00010-P	..... exempt	Competitive classification of independent local exchange company, and regulatory relief appropriate thereto	To determine if Chazy & Westport Telephone Corporation more appropriately belongs in scenario 1 rather than scenario 2
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-12-09-00010-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-12-09-00012-P	..... exempt	Charges for commodity	To charge customers for commodity costs
*PSC-13-09-00008-P	..... exempt	Options for making additional central office codes available in the 718/347 numbering plan area	To consider options for making additional central office codes available in the 718/347 numbering plan area
*PSC-14-09-00014-P	..... exempt	The regulation of revenue requirements for municipal utilities by the Public Service Commission	To determine whether the regulation of revenue requirements for municipal utilities should be modified
*PSC-16-09-00010-P	..... exempt	Petition for the submetering of electricity	To consider the request of AMPS on behalf of Park Imperial to submeter electricity at 230 W. 56th Street, in New York, New York
*PSC-16-09-00020-P	..... exempt	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity	Whether SUNY's core accounts should be exempt from the mandatory assignment of local distribution company (LDC) capacity
*PSC-17-09-00010-P	..... exempt	Whether to permit the use of Elster REX2 solid state electric meter for use in residential and commercial accounts	To permit electric utilities in New York State to use the Elster REX2
*PSC-17-09-00011-P	..... exempt	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes	Whether Brooklyn Navy Yard Cogeneration Partners, L.P. should be reimbursed by Con Edison for past and future use taxes
*PSC-17-09-00012-P	..... exempt	Petition for the submetering of gas at commercial property	To consider the request of Turner Construction, to submeter natural gas at 550 Short Ave., & 10 South St., Governors Island, NY
*PSC-17-09-00014-P	..... exempt	Benefit-cost framework for evaluating AMI programs prepared by the DPS Staff	To consider a benefit-cost framework for evaluating AMI programs prepared by the DPS Staff
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-22-09-00011-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-25-09-00005-P	..... exempt	Whether to grant, deny, or modify, in whole or in part, the petition	Whether to grant, deny, or modify, in whole or in part, the petition
*PSC-25-09-00006-P	..... exempt	Electric utility implementation plans for proposed web based SIR application process and project status database	To determine if the proposed web based SIR systems are adequate and meet requirements needed for implementation
*PSC-25-09-00007-P	..... exempt	Electric rates for Consolidated Edison Company of New York, Inc	Consider a Petition for Rehearing filed by Consolidated Edison Company of New York, Inc
*PSC-27-09-00011-P	..... exempt	Interconnection of the networks between Vernon and tw telecom of new york l.p. for local exchange service and exchange access.	To review the terms and conditions of the negotiated agreement between Vernon and tw telecom of new york l.p.
*PSC-27-09-00014-P	..... exempt	Billing and payment for energy efficiency measures through utility bill	To promote energy conservation
*PSC-27-09-00015-P	..... exempt	Interconnection of the networks between Oriskany and tw telecom of new york l.p. for local exchange service and exchange access	To review the terms and conditions of the negotiated agreement between Oriskany and tw telecom of new york l.p.
*PSC-29-09-00011-P	..... exempt	Consideration of utility compliance filings	Consideration of utility compliance filings
*PSC-32-09-00009-P	..... exempt	Cost allocation for Consolidated Edison's East River Repowering Project	To determine whether any changes are warranted in the cost allocation of Consolidated Edison's East River Repowering Project
*PSC-34-09-00016-P	..... exempt	Recommendations made in the Management Audit Final Report	To consider whether to take action or recommendations contained in the Management Audit Final Report
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-51-09-00029-P	..... exempt	Rules and guidelines for the exchange of retail access data between jurisdictional utilities and eligible ESCOs	To revise the uniform Electronic Data Interchange Standards and business practices to incorporate a contest period
*PSC-51-09-00030-P	..... exempt	Waiver or modification of Capital Expenditure condition of merger	To allow the companies to expend less funds for capital improvement than required by the merger
*PSC-52-09-00006-P	..... exempt	ACE's petition for rehearing for an order regarding generator-specific energy deliverability study methodology	To consider whether to change the Order Prescribing Study Methodology
*PSC-52-09-00008-P	..... exempt	Approval for the New York Independent System Operator, Inc. to incur indebtedness and borrow up to \$50,000,000	To finance the renovation and construction of the New York Independent System Operator, Inc.'s power control center facilities
*PSC-05-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of University Residences - Rochester, LLC to submeter electricity at 220 John Street, Henrietta, NY
*PSC-05-10-00015-P	..... exempt	Petition for the submetering of electricity	To consider the request of 243 West End Avenue Owners Corp. to submeter electricity at 243 West End Avenue, New York, NY
*PSC-06-10-00022-P	..... exempt	The Commission's Order of December 17, 2009 related to redevelopment of Consolidated Edison's Hudson Avenue generating facility	To reconsider the Commission's Order of December 17, 2009 related to redevelopment of the Hudson Avenue generating facility
*PSC-07-10-00009-P	..... exempt	Petition to revise the Uniform Business Practices	To consider the RESA petition to allow rescission of a customer request to return to full utility service
*PSC-08-10-00007-P	..... exempt	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847	Whether to grant, deny, or modify , in whole or in part, the rehearing petition filed in Case 06-E-0847
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-19-10-00022-P	..... exempt	Whether National Grid should be permitted to transfer a parcel of property located at 1 Eddy Street, Fort Edward, New York	To decide whether to approve National Grid's request to transfer a parcel of vacant property in Fort Edward, New York
*PSC-22-10-00006-P	..... exempt	Requirement that Noble demonstrate that its affiliated electric corporations operating in New York are providing safe service	Consider requiring that Noble demonstrate that its affiliated electric corporations in New York are providing safe service
*PSC-22-10-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of 48-52 Franklin Street to submeter electricity at 50 Franklin Street, New York, New York
*PSC-24-10-00009-P	..... exempt	Verizon New York Inc. tariff regulations relating to voice messaging service	To remove tariff regulations relating to retail voice messaging service from Verizon New York Inc.'s tariff
*PSC-25-10-00012-P	..... exempt	Reassignment of the 2-1-1 abbreviated dialing code	Consideration of petition to reassign the 2-1-1 abbreviated dialing code
*PSC-27-10-00016-P	..... exempt	Petition for the submetering of electricity	To consider the request of 9271 Group, LLC to submeter electricity at 960 Busti Avenue, Buffalo, New York
*PSC-34-10-00003-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*PSC-34-10-00005-P	..... exempt	Approval of a contract for \$250,000 in tank repairs that may be a financing	To decide whether to approve a contract between the parties that may be a financing of \$250,000 for tank repairs
*PSC-34-10-00006-P	..... exempt	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program	The modification of Central Hudson Gas & Electric Corporation's Enhanced Powerful Opportunities Program
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-44-10-00003-P	..... exempt	Third and fourth stage gas rate increase by Corning Natural Gas Corporation	To consider Corning Natural Gas Corporation's request for a third and fourth stage gas rate increase
*PSC-51-10-00018-P	..... exempt	Commission proceeding concerning three-phase electric service by all major electric utilities	Investigate the consistency of the tariff provisions for three-phase electric service for all major electric utilities
*PSC-11-11-00003-P	..... exempt	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service	The proposed transfer of 55.42 acres of land and \$1.4 million of revenues derived from the rendition of public service
*PSC-13-11-00005-P	..... exempt	Exclude the minimum monthly bill component from the earnings test calculation	Exclude the minimum monthly bill component from the earnings test calculation
*PSC-14-11-00009-P	..... exempt	Petition for the submetering of electricity	To consider the request of 83-30 118th Street to submeter electricity at 83-30 118th Street, Kew Gardens, New York
*PSC-19-11-00007-P	..... exempt	Utility price reporting requirements related to the Commission's "Power to Choose" website	Modify the Commission's utility electric commodity price reporting requirements related to the "Power to Choose" website
*PSC-20-11-00012-P	..... exempt	Petition for the submetering of electricity	To consider the request of KMW Group LLC to submeter electricity at 122 West Street, Brooklyn, New York
*PSC-20-11-00013-P	..... exempt	Determining the reasonableness of Niagara Mohawk Power Corporation d/b/a National Grid 's make ready charges	To determine if the make ready charges of Niagara Mohawk Power Corporation d/b/a National Grid are reasonable
*PSC-22-11-00004-P	..... exempt	Whether to permit the use of the Sensus accWAVE for use in residential gas meter applications	To permit gas utilities in New York State to use the Sensus accWAVE diaphragm gas meter
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-40-11-00010-P	..... exempt	Participation of regulated local exchange carriers in the New York Data Exchange, Inc. (NYDE)	Whether to partially modify its order requiring regulated local exchange carriers' participation NYDE
*PSC-40-11-00012-P	..... exempt	Granting of transfer of plant in-service to a regulatory asset	To approve transfer and recovery of unamortized plant investment
*PSC-42-11-00018-P	..... exempt	Availability of telecommunications services in New York State at just and reasonable rates	Providing funding support to help ensure availability of affordable telecommunications service throughout New York
*PSC-43-11-00012-P	..... exempt	Transfer of outstanding shares of stock	Transfer the issued outstanding shares of stock of The Meadows at Hyde Park Water-Works Corporation to HPWS, LLC
*PSC-47-11-00007-P	..... exempt	Remedying miscalculations of delivered gas as between two customer classes	Consideration of Con Edison's proposal to address inter-class delivery imbalances resulting from past Company miscalculations
*PSC-48-11-00007-P	..... exempt	Transfer of controlling interests in generation facilities from Dynegy to PSEG	Consideration of the transfer of controlling interests in electric generation facilities from Dynegy to PSEG
*PSC-48-11-00008-P	..... exempt	Petition for the submetering of electricity	To consider the request of To Better Days, LLC to submeter electricity at 37 East 4th Street, New York, New York
*PSC-01-12-00007-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-01-12-00008-P	..... exempt	Transfer of real property and easements from NMPNS to NMP3	Consideration of the transfer of real property and easements from NMPNS to NMP3
*PSC-01-12-00009-P	..... exempt	Recovery of expenses related to the expansion of Con Edison's ESCO referral program, PowerMove	To determine how and to what extent expenses related to the Expansion of Con Edison's ESCO referral program should be recovered
*PSC-11-12-00002-P	..... exempt	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff	Whether to grant, deny or modify, in whole or part, Hegeman's petition for a waiver of Commission policy and Con Edison tariff
*PSC-11-12-00005-P	..... exempt	Transfer of land and water supply assets	Transfer the land and associated water supply assets of Groman Shores, LLC to Robert Groman
*PSC-13-12-00005-P	..... exempt	Authorization to transfer certain real property	To decide whether to approve the transfer of certain real property
*PSC-19-12-00023-P	..... exempt	Petition for approval pursuant to Section 70 for the sale of goods with an original cost of less than \$100,000	To consider whether to grant, deny or modify, in whole or in part, the petition filed by Orange and Rockland Utilities, Inc.
*PSC-21-12-00006-P	..... exempt	Tariff filing requirements and refunds	To determine if certain agreements should be filed pursuant to the Public Service Law and if refunds are warranted
*PSC-21-12-00011-P	..... exempt	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47	Whether to grant, deny or modify, in whole or part, the petition for waiver of tariff Rules 8.6 and 47

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-12-00007-P	..... exempt	The approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility	To consider the approval of a financing upon a transfer to Alliance of upstream ownership interests in a generation facility
*PSC-23-12-00009-P	..... exempt	Over earnings sharing between rate payers and shareholders	To establish an Earnings Sharing Mechanism to be applied following the conclusion of Corning's rate plan
*PSC-27-12-00012-P	..... exempt	Implementation of recommendations made in a Management Audit Report	To consider implementation of recommendations made in a Management Audit Report
*PSC-28-12-00013-P	..... exempt	Exemption of reliability reporting statistics for the purpose of the 2012 Reliability Performance Mechanism	Consideration of Orange and Rockland Utilities request for exemption of the 2012 reliability reporting statistics
*PSC-29-12-00019-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Hamden to waive certain preliminary franchising procedures to expedite the franchising process.
*PSC-30-12-00010-P	..... exempt	Waiver of 16 NYCRR 894.1 through 894.4	To allow the Town of Andes to waive certain preliminary franchising procedures to expedite the franchising process
*PSC-33-12-00009-P	..... exempt	Telecommunications companies ability to attach to utility company poles	Consideration of Tech Valley's ability to attach to Central Hudson poles
*PSC-37-12-00009-P	..... exempt	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers	Proposed modification by Con Edison of its procedures to calculate estimated bills to its customers
*PSC-42-12-00009-P	..... exempt	Regulation of Gypsy Trail Club, Inc.'s long-term financing agreements	To exempt Gypsy Trail Club, Inc. from Commission regulation of its financing agreements
*PSC-45-12-00008-P	..... exempt	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff	Whether to grant, deny or modify, in whole or part, ESHG's petition for a waiver of Commission policy and RG&E tariff
*PSC-45-12-00010-P	..... exempt	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District	Whether to grant, deny or modify, in whole or in part the petition of Con Edison to grant easements to Millwood Fire District
*PSC-50-12-00003-P	..... exempt	Affiliate standards for Corning Natural Gas Corporation	To resolve issues raised by Corning Natural Gas Corporation in its petition for rehearing
*PSC-04-13-00006-P	..... exempt	Expansion of mandatory day ahead hourly pricing for customers of Orange and Rockland Utilities with demands above 100 kW	To consider the expansion of mandatory day ahead hourly pricing for customers with demands above 100 kW
*PSC-04-13-00007-P	..... exempt	Authorization to transfer certain real property.	To decide whether to approve the transfer of certain real property.
*PSC-06-13-00008-P	..... exempt	Verizon New York Inc.'s retail service quality	To investigate Verizon New York Inc.'s retail service quality
*PSC-08-13-00012-P	..... exempt	Filing requirements for certain Article VII electric facilities	To ensure that applications for certain electric transmission facilities contain pertinent information

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-08-13-00014-P	..... exempt	Uniform System of Accounts - Request for Accounting Authorization	To allow the company to defer an item of expense or capital beyond the end of the year in which it was incurred
*PSC-12-13-00007-P	..... exempt	Protecting company water mains	To allow the company to require certain customers to make changes to the electrical grounding system at their homes
*PSC-13-13-00008-P	..... exempt	The potential waiver of 16 NYCRR 255.9221(d) completion of integrity assessments for certain gas transmission lines.	To determine whether a waiver of the timely completion of certain gas transmission line integrity assessments should be granted.
*PSC-18-13-00007-P	..... exempt	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes	Whether Demand Energy Networks energy storage systems should be designated technologies for standby rate eligibility purposes
*PSC-21-13-00003-P	..... exempt	To consider policies that may impact consumer acceptance and use of electric vehicles	To consider and further develop policies that may impact consumer acceptance and use of electric vehicles
*PSC-21-13-00005-P	..... exempt	To implement an abandonment of Windover's water system	To approve the implementation of abandonment of Windover's water system
*PSC-21-13-00008-P	..... exempt	Rates of National Fuel Gas Distribution Corporation	To make the rates of National Fuel Gas Distribution Corporation temporary, subject to refund, if they are found to be excessive
*PSC-21-13-00009-P	..... exempt	Reporting requirements for natural gas local distribution companies	To help ensure efficient and economic expansion of the natural gas system as appropriate
*PSC-22-13-00009-P	..... exempt	On remand from New York State court litigation, determine the recovery of certain deferred amounts owed NFG by ratepayers	On remand, to determine the recovery of certain deferral amounts owed NFG from ratepayers
*PSC-23-13-00005-P	..... exempt	Waiver of partial payment, directory database distribution, service quality reporting, and service termination regulations	Equalize regulatory treatment based on level of competition and practical considerations
*PSC-25-13-00008-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-25-13-00009-P	..... exempt	Provision by utilities of natural gas main and service lines.	To help ensure efficient and economic expansion of the natural gas system as appropriate.
*PSC-25-13-00012-P	..... exempt	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.	To deny, grant or modify, in whole or in part, Central Hudson's rehearing request.
*PSC-27-13-00014-P	..... exempt	Columbia Gas Transmission Corporation Cost Refund	For approval for temporary waiver of tariff provisions regarding its Columbia Gas Transmission Corporation cost refund.
*PSC-28-13-00014-P	..... exempt	Provision for the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces	To consider the recovery and allocation of costs of transmission projects that reduce congestion on certain interfaces
*PSC-28-13-00016-P	..... exempt	The request of NGT for lightened regulation as a gas corporation.	To consider whether to approve, reject, or modify the request of Niagara gas transport of Lockport, NY LLC.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-28-13-00017-P	..... exempt	The request by TE for waiver of regulations requiring that natural gas be odorized in certain gathering line segments	Consider the request by TE for waiver of regulations that gas be odorized in certain lines
*PSC-32-13-00009-P	..... exempt	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices	To consider the definition of “misleading or deceptive conduct” in the Commission’s Uniform Business Practices
*PSC-32-13-00012-P	..... exempt	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion	To consider whether NYSEG should be required to undertake actions to protect its name and to minimize customer confusion
*PSC-33-13-00027-P	..... exempt	Waive underground facility requirements for new construction in residential subdivisions to allow for overhead electric lines.	Determine whether Chapin Lumberland, LLC subdivision will be allowed overhead electric distribution and service lines.
*PSC-33-13-00029-P	..... exempt	Deferral of incremental costs associated with the restoration of steam service following Superstorm Sandy.	To consider a petition by Con Edison to defer certain incremental steam system restoration costs relating to Superstorm Sandy.
*PSC-34-13-00004-P	..... exempt	Escrow account and surcharge to fund extraordinary repairs	To approve the establishment of an escrow account and surcharge
*PSC-42-13-00013-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-42-13-00015-P	..... exempt	Failure to Provide Escrow Information	The closure of the Escrow Account
*PSC-43-13-00015-P	..... exempt	Petition for submetering of electricity	To consider the request of 2701 Kingsbridge Terrace L.P. to submeter electricity at 2701 Kingsbridge Terrace, Bronx, N.Y.
*PSC-45-13-00021-P	..... exempt	Investigation into effect of bifurcation of gas and electric utility service on Long Island.	To consider a Petition for an investigation into effect of bifurcation of gas and electric utility service on Long Island.
*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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-51-13-00009-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00010-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-51-13-00011-P	..... exempt	Consolidated Edison proposing to use data from a test period ending September 30, 2013 to support its next rate filing.	To ensure there is a reasonable basis for data submitted in support of a request for a change in rates.
*PSC-52-13-00012-P	..... exempt	The development of reliability contingency plan(s) to address the potential retirement of Indian Point Energy Center (IPEC).	To address the petition for rehearing and reconsideration/motion for clarification of the IPEC reliability contingency plan(s).
*PSC-52-13-00015-P	..... exempt	To enter into a loan agreement with the banks for up to an amount of \$94,000.	To consider allowing Knolls Water Company to enter into a long-term loan agreement.
*PSC-05-14-00010-P	..... exempt	The New York State Reliability Council's revisions to its rules and measurements	To adopt revisions to various rules and measurements of the New York State Reliability Council
*PSC-07-14-00008-P	..... exempt	Petition for submetering of electricity	To consider the request of Greater Centennial Homes 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-17-14-00003-P	..... exempt	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2013 performance under the Electric Service Reliability Performance Mechanism
*PSC-17-14-00004-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-17-14-00007-P	..... exempt	To consider petitions for rehearing, reconsideration and/or clarification	To consider petitions for rehearing, reconsideration and/or clarification

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-17-14-00008-P	..... exempt	To consider certain portions of petitions for rehearing, reconsideration and/or clarification	To consider certain portions of petitions for rehearing, reconsideration and/or clarification
*PSC-19-14-00014-P	..... exempt	Market Supply Charge	To make tariff revisions to the Market Supply Charge for capacity related costs
*PSC-19-14-00015-P	..... exempt	Whether to permit the use of the Sensus accuWAVE for use in residential and commercial gas meter applications	To permit gas utilities in New York State to use the Sensus accuWAVE 415TC gas meter
*PSC-22-14-00013-P	..... exempt	Petition to transfer and merge systems, franchises and assets.	To consider the Comcast and Time Warner Cable merger and transfer of systems, franchises and assets.
*PSC-23-14-00010-P	..... exempt	Whether to permit the use of the GE Dresser Series B3-HPC 11M-1480 rotary gas met for use in industrial gas meter applications	To permit gas utilities in New York State to use the GE Dresser Series B3-HPC 11M-1480 rotary gas meter
*PSC-23-14-00014-P	..... exempt	Waiver of the negative revenue adjustment associated with KEDLI's 2013 Customer Satisfaction Performance Metric	Consideration of KEDLI's waiver request pertaining to its 2013 performance under its Customer Satisfaction Metric
*PSC-24-14-00005-P	..... exempt	To examine LDC's performance and performance measures.	To improve gas safety performance.
*PSC-26-14-00013-P	..... exempt	Waiver of RG&E's tariffed definition of emergency generator.	To consider waiver of RG&E's tariffed definition of emergency generator.
*PSC-26-14-00020-P	..... exempt	New electric utility backup service tariffs and standards for interconnection may be adopted.	To encourage development of microgrids that enhance the efficiency, safety, reliability and resiliency of the electric grid.
*PSC-26-14-00021-P	..... exempt	Consumer protections, standards and protocols pertaining to access to customer data may be established.	To balance the need for the information necessary to support a robust market with customer privacy concerns.
*PSC-28-14-00014-P	..... exempt	Petition to transfer systems, franchises and assets.	To consider the Comcast and Charter transfer of systems, franchise and assets.
*PSC-30-14-00023-P	..... exempt	Whether to permit the use of the Sensus iPERL Fire Flow Meter.	Pursuant to 16 NYCRR Part 500.3 , it is necessary to permit the use of the Sensus iPERL Fire Flow Meter.
*PSC-30-14-00026-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of Renaissance Corporation of to master meter electricity at 100 Union Drive,Albany, NY.
*PSC-31-14-00004-P	..... exempt	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross	To transfer 100% of the issued and outstanding stock from Vincent Cross to Bonnie and Michael Cross
*PSC-32-14-00012-P	..... exempt	Whether to grant or deny, in whole or in part, the Connect New York Coalition's petition	To consider the Connect New York Coalition's petition seeking a formal investigation and hearings
*PSC-35-14-00004-P	..... exempt	Regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY	To consider regulation of a proposed electricity generation facility located in the Town of Brookhaven, NY
*PSC-35-14-00005-P	..... exempt	Whether to permit the use of the Sensus iConA electric meter	Pursuant to 16 NYCRR Parts 92 and 93, Commission approval is necessary to permit the use of the Sensus iConA electric meter

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-36-14-00009-P	..... exempt	Modification to the Commission’s Electric Safety Standards.	To consider revisions to the Commission’s Electric Safety Standards.
*PSC-38-14-00003-P	..... exempt	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.	Whether to approve, reject or modify, in whole or in part a time-sensitive rate pilot program.
*PSC-38-14-00004-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00005-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-38-14-00007-P	..... exempt	Whether to expand Con Edison’s low income program to include Medicaid recipients.	Whether to expand Con Edison’s low income program to include Medicaid recipients.
*PSC-38-14-00008-P	..... exempt	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.	The study and petition of Con Edison regarding use, accounting and ratemaking treatment for 11-23 and 2-28 Hudson Ave. Brooklyn.
*PSC-38-14-00010-P	..... exempt	Inter-carrier telephone service quality standard and metrics and administrative changes.	To review recommendations from the Carrier Working Group and incorporate appropriate modifications to the existing Guidelines.
*PSC-38-14-00012-P	..... exempt	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.	Action on the report and petition of Con Edison regarding the Storm Hardening and Resiliency Collaborative, Phase 2.
*PSC-39-14-00020-P	..... exempt	Whether to permit the use of the Mueller Systems 400 Series and 500 Series of water meters	Pursuant to 16 NYCRR section 500.3, whether to permit the use of the Mueller Systems 400, and 500 Series of water meters
*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

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-42-14-00004-P	..... exempt	Winter Bundled Sales Service Option	To modify SC-11 to remove language relating to fixed storage charges in the determination of the Winter Bundled Sales charge
*PSC-48-14-00014-P	..... exempt	Considering the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.	To consider the recommendations contained in Staff's electric outage investigation report for MNRR, New Haven Line.
*PSC-52-14-00019-P	..... exempt	Petition for a waiver to master meter electricity.	Considering the request of 614 South Crouse Avenue, LLC to master meter electricity at 614 South Crouse Avenue, Syracuse, NY..
*PSC-01-15-00014-P	..... exempt	State Universal Service Fund Disbursements	To consider Edwards Telephone Company's request for State Universal Service Fund disbursements
*PSC-08-15-00010-P	..... exempt	Request pertaining to the lawfulness of National Grid USA continuing its summary billing program.	To grant, deny, or modify URAC Rate Consultants' request that National Grid cease its summary billing program.
*PSC-10-15-00007-P	..... exempt	Notification concerning tax refunds	To consider Verizon New York Inc.'s partial rehearing or reconsideration request regarding retention of property tax refunds
*PSC-10-15-00008-P	..... exempt	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes	Whether to waive Policy on Test Periods in Major Rate Proceedings and provide authority to file tariff changes
*PSC-13-15-00024-P	..... exempt	Whether Leatherstocking should be permitted to recover a shortfall in earnings	To decide whether to approve Leatherstocking's request to recover a shortfall in earnings
*PSC-13-15-00026-P	..... exempt	Whether to permit the use of the Sensus Smart Point Gas AMR/AMI product	To permit the use of the Sensus Smart Point Gas AMR/AMI product
*PSC-13-15-00027-P	..... exempt	Whether to permit the use of the Measurlogic DTS 310 electric submeter	To permit the use of the Measurlogic DTS 310 submeter
*PSC-13-15-00028-P	..... exempt	Whether to permit the use of the SATEC EM920 electric meter	To permit necessary to permit the use of the SATEC EM920 electric meter
*PSC-13-15-00029-P	..... exempt	Whether to permit the use the Triacta Power Technologies 6103, 6112, 6303, and 6312 electric submeters	To permit the use of the Triacta submeters
*PSC-17-15-00007-P	..... exempt	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million	To consider the petition of Leatherstocking Gas Company, LLC seeking authority to issue long-term debt of \$2.75 million
*PSC-18-15-00005-P	..... exempt	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism	Con Edison's Report on its 2014 performance under the Electric Service Reliability Performance Mechanism
*PSC-19-15-00011-P	..... exempt	Gas Safety Performance Measures and associated negative revenue adjustments	To update the performance measures applicable to KeySpan Gas East Corporation d/b/a National Grid
*PSC-22-15-00015-P	..... exempt	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)	To consider the request for waiver of the individual residential unit meter requirements and 16 NYCRR 96.1(a)

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-23-15-00005-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-23-15-00006-P	..... exempt	The modification of New York American Water's current rate plan	Whether to adopt the terms of the Joint Proposal submitted by NYAW and DPS Staff
*PSC-25-15-00008-P	..... exempt	Notice of Intent to Submeter electricity.	To consider the request of 165 E 66 Residences, LLC to submeter electricity at 165 East 66th Street, New York, New York.
*PSC-29-15-00025-P	..... exempt	Joint Petition for authority to transfer real property located at 624 West 132nd Street, New York, NY	Whether to authorize the proposed transfer of real property located at 624 West 132nd Street, New York, NY
*PSC-32-15-00006-P	..... exempt	Development of a Community Solar Demonstration Project.	To approve the development of a Community Solar Demonstration Project.
*PSC-33-15-00009-P	..... exempt	Remote net metering of a demonstration community net metering program.	To consider approval of remote net metering of a demonstration community net metering program.
*PSC-33-15-00012-P	..... exempt	Remote net metering of a Community Solar Demonstration Project.	To consider approval of remote net metering of a Community Solar Demonstration Project.
*PSC-34-15-00021-P	..... exempt	Petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs	To consider the petition by NYCOM requesting assistance with obtaining information on CLECs and ESCOs
*PSC-35-15-00014-P	..... exempt	Consideration of consequences against Light Power & Gas, LLC for violations of the UBP	To consider consequences against Light Power & Gas, LLC for violations of the UBP
*PSC-37-15-00007-P	..... exempt	Submetered electricity	To consider the request of 89 Murray Street Ass. LLC, for clarification of the submetering order issued December 20, 2007
*PSC-40-15-00014-P	..... exempt	Whether to permit the use of the Open Way 3.5 with cellular communications	To consider the use of the Open Way 3.5 electric meter, pursuant to 16 NYCRR Parts 92 and 93
*PSC-42-15-00006-P	..... exempt	Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.	Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.
*PSC-44-15-00028-P	..... exempt	Deferral of incremental expenses associated with new compliance requirements	Consideration of Central Hudson's request to defer incremental expenses associated with new compliance requirements
*PSC-47-15-00013-P	..... exempt	Whitepaper on Implementing Lightened Ratemaking Regulation.	Consider Whitepaper on Implementing Lightened Ratemaking Regulation.
*PSC-48-15-00011-P	..... exempt	Proposal to retire Huntley Units 67 and 68 on March 1, 2016.	Consider the proposed retirement of Huntley Units 67 and 68.
*PSC-50-15-00006-P	..... exempt	The reduction of rates.	To consider the reduction of rates charged by Independent Water Works, Inc.
*PSC-50-15-00009-P	..... exempt	Notice of Intent to submeter electricity.	To consider the request to submeter electricity at 31-33 Lincoln Road and 510 Flatbush Avenue, Brooklyn, New York.
*PSC-51-15-00010-P	..... exempt	Modification of the EDP	To consider modifying the EDP

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-01-16-00005-P	..... exempt	Proposed amendment to Section 5, Attachment 1.A of the Uniform Business Practices	To consider amendment to Section 5, Attachment 1.A of the Uniform Business Practices
*PSC-04-16-00007-P	..... exempt	Whether Hamilton Municipal Utilities should be permitted to construct and operate a municipal gas distribution facility.	Consideration of the petition by Hamilton Municipal Utilities to construct and operate a municipal gas distribution facility.
*PSC-04-16-00012-P	..... exempt	Proposal to mothball three gas turbines located at the Astoria Gas Turbine Generating Station.	Consider the proposed mothball of three gas turbines located at the Astoria Gas Turbine Generating Station.
*PSC-04-16-00013-P	..... exempt	Proposal to find that three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.	Consider whether three gas turbines located at the Astoria Gas Turbine Generating Station are uneconomic.
*PSC-06-16-00013-P	..... exempt	Continued deferral of approximately \$16,000,000 in site investigation and remediation costs.	To consider the continued deferral of approximately \$16,000,000 in site investigation and remediation costs.
*PSC-06-16-00014-P	..... exempt	MEGA's proposed demonstration CCA program.	To consider MEGA's proposed demonstration CCA program.
*PSC-14-16-00008-P	..... exempt	Resetting retail markets for ESCO mass market customers.	To ensure consumer protections with respect to residential and small non-residential ESCO customers.
*PSC-18-16-00013-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00014-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00015-P	..... exempt	Petitions for rehearing of the Order Resetting Retail Energy Markets and Establishing Further Process.	To ensure consumer protections for ESCO customers.
*PSC-18-16-00016-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-18-16-00018-P	..... exempt	Amendments to the Uniform Business Practices of ESCOs.	To ensure consumer protection for ESCO customers.
*PSC-20-16-00008-P	..... exempt	Consideration of consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).	To consider consequences against Global Energy Group, LLC for violations of the Uniform Business Practices (UBP).
*PSC-20-16-00010-P	..... exempt	Deferral and recovery of incremental expense.	To consider deferring costs of conducting leak survey and repairs for subsequent recovery.
*PSC-20-16-00011-P	..... exempt	Enetics LD-1120 Non-Intrusive Load Monitoring Device in the Statewide Residential Appliance Metering Study.	To consider the use of the Enetics LD-1120 Non-Intrusive Load Monitoring Device.
*PSC-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-25-16-00009-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.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-25-16-00025-P	..... exempt	Acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.	To consider acquisition of all water supply assets of Woodbury Heights Estates Water Co., Inc. by the Village of Kiryas Joel.
*PSC-25-16-00026-P	..... exempt	Use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter, in residential fire service applications.	To consider the use of the Badger E Series Ultrasonic Cold Water Stainless Steel Meter in fire service applications.
*PSC-28-16-00017-P	..... exempt	A petition for rehearing of the Order Adopting a Ratemaking and Utility Revenue Model Policy Framework.	To determine appropriate rules for and calculation of the distributed generation reliability credit.
*PSC-29-16-00024-P	..... exempt	Participation of NYPA customers in surcharge-funded clean energy programs.	To consider participation of NYPA customers in surcharge-funded clean energy programs.
*PSC-32-16-00012-P	..... exempt	Benefit-Cost Analysis Handbooks.	To evaluate proposed methodologies of benefit-cost evaluation.
*PSC-33-16-00001-EP	..... exempt	Use of escrow funds for repairs.	To authorize the use of escrow account funds for repairs.
*PSC-33-16-00005-P	..... exempt	Exemption from certain charges for delivery of electricity to its Niagara Falls, New York facility.	Application of System Benefits Charges, Renewable Portfolio Standard charges and Clean Energy Fund surcharges.
*PSC-35-16-00015-P	..... exempt	NYSRC's revisions to its rules and measurements	To consider revisions to various rules and measurements of the NYSRC
*PSC-36-16-00004-P	..... exempt	Recovery of costs for installation of electric service.	To consider the recovery of costs for installation of electric service.
*PSC-40-16-00025-P	..... exempt	Consequences pursuant to the Commission's Uniform Business Practices (UBP).	To consider whether to impose consequences on Smart One for its apparent non-compliance with Commission requirements.
*PSC-47-16-00009-P	..... exempt	Petition to use commercial electric meters	To consider the petition of Itron, Inc. to use the Itron CP2SO and CP2SOA in commercial electric meter applications
*PSC-47-16-00010-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00013-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00014-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-47-16-00016-P	..... exempt	Standby Service rate design	To consider the report filed and the recommendations therein
*PSC-02-17-00010-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for RG&E.
*PSC-02-17-00012-P	..... exempt	Implementation of the four EAMs.	To consider the implementation of EAMs for NYSEG.
*PSC-18-17-00024-P	..... exempt	A petition for rehearing or reconsideration of the Order Addressing Public Policy Transmission Need for AC Transmission Upgrades	To determine whether Public Policy Transmission Need/Public Policy Requirements continue to exist.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-18-17-00026-P	..... exempt	Revisions to the Dynamic Load Management surcharge.	To consider revisions to the Dynamic Load Management surcharge.
*PSC-19-17-00004-P	..... exempt	NYAW's request to defer and amortize, for future rate recognition, pension settlement payout losses incurred in 2016.	Consideration of NYAW's petition to defer and amortize, for future rate recognition, pension payout losses incurred in 2016.
*PSC-20-17-00008-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid NY regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-20-17-00010-P	..... exempt	Compressed natural gas as a motor fuel for diesel fueled vehicles.	To consider a report filed by National Grid regarding the potential for adoption of compressed natural gas as a motor fuel.
*PSC-21-17-00013-P	..... exempt	The establishment and implementation of Earnings Adjustment Mechanisms.	To consider the establishment and implementation of Earnings Adjustment Mechanisms.
*PSC-21-17-00018-P	..... exempt	Proposed agreement for the provision of water service by Saratoga Water Services, Inc.	To consider a waiver and approval of terms of a service agreement.
*PSC-22-17-00004-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives	To consider the proposed Interconnection Survey Process and Earnings Adjustment Mechanisms
*PSC-24-17-00006-P	..... exempt	Development of the Utility Energy Registry.	Improved data access.
*PSC-26-17-00005-P	..... exempt	Notice of Intent to submeter electricity.	To consider the Notice of Intent to submeter electricity at 125 Waverly Street, Yonkers, New York.
*PSC-34-17-00011-P	..... exempt	Waiver to permit Energy Cooperative of America to serve low-income customers	To consider the petition for a waiver
*PSC-37-17-00005-P	..... exempt	Financial incentives to create customer savings and develop market-enabling tools, with a focus on outcomes and incentives.	To consider the revised Interconnection Survey Process and Earnings Adjustment Mechanisms.
*PSC-39-17-00011-P	..... exempt	Whether to direct New York State Electric & Gas to complete electric facility upgrades at no charge to Hanehan.	To determine financial responsibility between NYSEG and Hanehan for the electric service upgrades to Hanehan.
*PSC-42-17-00010-P	..... exempt	Petition for rehearing of negative revenue adjustment and contents of annual Performance Report.	To consider NFGD's petition for rehearing.
*PSC-48-17-00015-P	..... exempt	Low Income customer options for affordable water bills.	To consider the Low Income Bill Discount and/or Energy Efficiency Rebate Programs.
*PSC-50-17-00017-P	..... exempt	New Wave Energy Corp.'s petition for rehearing.	To consider the petition for rehearing filed by New Wave Energy Corp.
*PSC-50-17-00018-P	..... exempt	Application of the Public Service Law to DER suppliers.	To determine the appropriate regulatory framework for DER suppliers.
*PSC-50-17-00019-P	..... exempt	Transfer of utility property.	To consider the transfer of utility property.
*PSC-50-17-00021-P	..... exempt	Disposition of tax refunds and other related matters.	To consider the disposition of tax refunds and other related matters.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-51-17-00011-P	..... exempt	Petition for recovery of certain costs related to the implementation of a Non-Wires Alternative Project.	To consider Con Edison's petition for the recovery of costs for implementing the JFK Project.
*PSC-04-18-00005-P	..... exempt	Notice of intent to submeter electricity.	To consider the notice of intent of Montante/ Morgan Gates Circle LLC to submeter electricity.
*PSC-05-18-00004-P	..... exempt	Lexington Power's ZEC compliance obligation.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-06-18-00012-P	..... exempt	To consider further proposed amendments to the original criteria to grandfathering established in the Transition Plan	To modify grandfathering criteria
*PSC-06-18-00017-P	..... exempt	Merger of NYAW and Whitlock Farms Water Corp.	To consider the merger of NYAW and Whitlock Farms Water Company into a single corporate entity
*PSC-07-18-00015-P	..... exempt	The accuracy and reasonableness of National Grid's billing for certain interconnection upgrades.	To consider AEC's petition requesting resolution of their billing dispute with National Grid.
*PSC-11-18-00004-P	..... exempt	New York State Lifeline Program.	To consider TracFone's petition seeking approval to participate in Lifeline.
*PSC-13-18-00015-P	..... exempt	Eligibility of an ESCO to market to and enroll residential customers.	To consider whether Astral should be allowed to market to and enroll residential customers following a suspension.
*PSC-13-18-00023-P	..... exempt	Reconciliation of property taxes.	To consider NYAW's request to reconcile property taxes.
*PSC-14-18-00006-P	..... exempt	Petition for abandonment	To consider the abandonment of Willsboro Bay Water Company's water system
*PSC-17-18-00010-P	..... exempt	Petition for use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
*PSC-18-18-00009-P	..... exempt	Transfer of control of Keene Valley Video Inc.	To ensure performance in accordance with applicable cable laws, regulations and standards and the public interest
*PSC-23-18-00006-P	..... exempt	Whether to impose consequences on Aspiry for its non-compliance with Commission requirements.	To ensure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-24-18-00013-P	..... exempt	Implementation of program rules for Renewable Energy Standard and ZEC requirements.	To promote and maintain renewable and zero-emission electric energy resources.
*PSC-28-18-00011-P	..... exempt	Storm Hardening Collaborative Report.	To ensure safe and adequate gas service.
*PSC-29-18-00008-P	..... exempt	Participation in Targeted Accessibility Fund	To encourage enhanced services for low-income consumers
*PSC-29-18-00009-P	..... exempt	Overvaluing real property tax expense recovery in water rates	To prevent unjust and unreasonable water rates
*PSC-34-18-00015-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and energy efficiency protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-34-18-00016-P	..... exempt	Deferral of pre-staging and mobilization storm costs.	To ensure just and reasonable rates for ratepayers and utility recovery of unexpected, prudently incurred costs.
*PSC-35-18-00003-P	..... exempt	Con Edison's 2018 DSIP and BCA Handbook Update.	To continue Con Edison's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00005-P	..... exempt	NYSEG and RG&E's 2018 DSIP and BCA Handbook Update.	To continue NYSEG and RG&E's transition to modern utilities acting as Distributed System Platform Providers.
*PSC-35-18-00006-P	..... exempt	National Grid's 2018 DSIP and BCA Handbook Update.	To continue National Grid's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00008-P	..... exempt	Central Hudson's 2018 DSIP and BCA Handbook Update.	To continue Central Hudson's transition to a modern utility serving as a Distributed System Platform Provider.
*PSC-35-18-00010-P	..... exempt	O&R's 2018 DSIP and BCA Handbook Update.	To continue O&R's transition to a modern utility acting as a Distributed System Platform Provider.
*PSC-39-18-00005-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-40-18-00014-P	..... exempt	Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To review the gas utilities' reconciliation of Gas Expenses and Gas Cost Recoveries for 2018.
*PSC-42-18-00011-P	..... exempt	Voluntary residential beneficial electrification rate design.	To provide efficient rate design for beneficial technologies in New York State that is equitable for all residential customers.
*PSC-42-18-00013-P	..... exempt	Petition for clarification and rehearing of the Smart Solutions Program Order.	To address the increased demand for natural gas in the Con Edison's service territory and the limited pipeline capacity.
*PSC-44-18-00016-P	..... exempt	Petition for approval of gas metering equipment.	To ensure that customer bills are based on accurate measurements of gas usage.
*PSC-45-18-00005-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place
*PSC-01-19-00013-P	..... exempt	Order of the Commission related to caller ID unblocking.	To require telephone companies to unblock caller ID on calls placed to the 311 municipal call center in Suffolk County.
*PSC-03-19-00002-P	..... exempt	DPS Staff White Paper for who must be trained in 16 NYCRR Part 753 requirements and how the Commission will approve trainings.	To reduce damage to underground utility facilities by requiring certain training and approving training curricula.
*PSC-04-19-00004-P	..... exempt	Con Edison's petition for the Gas Innovation Program and associated budget.	To pursue programs that continue service reliability and meet customer energy needs while aiding greenhouse gas reduction goals.
*PSC-04-19-00011-P	..... exempt	Update of revenue targets.	To ensure NYAW's rates are just and reasonable and accurately reflect the needed revenues.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-06-19-00005-P	..... exempt	Consideration of the Joint Utilities' proposed BDP Program.	To to expand opportunities for low-income households to participate in Community Distributed Generation (CDG) projects.
*PSC-07-19-00009-P	..... exempt	Whether to impose consequences on AAA for its non-compliance with Commission requirements.	To insure the provision of safe and adequate energy service at just and reasonable rates.
*PSC-07-19-00016-P	..... exempt	Participation in New York State Lifeline Program.	To encourage enhanced services for low-income customers.
*PSC-09-19-00010-P	..... exempt	Non-pipeline alternatives report recommendations.	To consider the terms and conditions applicable to gas service.
*PSC-12-19-00004-P	..... exempt	To test innovative pricing proposals on an opt-out basis.	To provide pricing structures that deliver benefits to customers and promote beneficial electrification technologies.
*PSC-13-19-00010-P	..... exempt	New Commission requirements for gas company operator qualification programs.	To make pipelines safer with improved training of workers who perform construction and repairs on natural gas facilities.
*PSC-19-19-00013-P	..... exempt	Proposed merger of three water utilities into one corporation.	To determine if the proposed merger is in the public interest.
*PSC-20-19-00008-P	..... exempt	Reporting on energy sources	To ensure accurate reporting and encourage clean energy purchases
*PSC-20-19-00010-P	..... exempt	Compensation policies for certain CHP projects	To consider appropriate rules for compensation of certain CHP resources
*PSC-31-19-00013-P	..... exempt	Implementation of Statewide Energy Benchmarking.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00015-P	..... exempt	Proposed major rate increase in KEDNY's gas delivery revenues by \$236.8 million (13.6% increase in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-31-19-00016-P	..... exempt	Proposed major rate increase in KEDLI's gas delivery revenues of approximately \$49.4 million (or 4.1% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
*PSC-32-19-00012-P	..... exempt	Standby Service Rates and Buyback Service Rates	To ensure just and reasonable rates, including compensation, for distributed energy resources
*PSC-38-19-00002-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
*PSC-39-19-00018-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-41-19-00003-P	..... exempt	A voluntary residential three-part rate that would include fixed, usage and demand charges.	To provide qualifying residential customers with an optional three-part rate.
*PSC-44-19-00003-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00005-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-44-19-00006-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00007-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-44-19-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-44-19-00009-P	..... exempt	Proposed revisions to Standby Service Rates and Buyback Service Rates.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
*PSC-46-19-00008-P	..... exempt	Wappingers Falls Hydroelectric LLC's facility located in Wappingers Falls, New York.	To promote and maintain renewable electric energy resources.
*PSC-46-19-00010-P	..... exempt	To test innovative rate designs on an opt-out basis.	To implement alternative innovative rate designs intended to assess customer behaviors in response to price signals
*PSC-52-19-00006-P	..... exempt	Authorization to defer pension settlement losses.	To address the ratemaking related to the pension settlement losses.
*PSC-03-20-00009-P	..... exempt	Changes to the Utility Energy Registry	To determine appropriate rules for data availability
*PSC-07-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
*PSC-08-20-00003-P	..... exempt	PSC regulation 16 NYCRR § 86.3(a)(2) and 86.3(b)(2).	To consider a waiver of certain regulations relating to the content of an application for transmission line siting.
*PSC-10-20-00003-P	..... exempt	The Commission's statewide low-income discount policy.	To consider modifications to certain conditions regarding utility low-income discount programs.
*PSC-12-20-00008-P	..... exempt	Delivery rates of Corning Natural Gas Corporation.	Whether to postpone the implementation of a change in rates that would otherwise become effective on June 1, 2020.
*PSC-15-20-00011-P	..... exempt	To modify the terms and conditions under which gas utilities provide service to electric generators.	To provide clarity and uniformity to the provision of gas service to electric generators.
*PSC-15-20-00013-P	..... exempt	Ownership of New York American Water Company, Inc.	To consider whether a proposed transfer of ownership of New York American Water Company, Inc. is in the public interest.
*PSC-16-20-00004-P	..... exempt	Disposition of a state sales tax refund.	To determine how much of a state sales tax refund should be retained by Central Hudson.
*PSC-18-20-00012-P	..... exempt	The purchase price of electric energy and capacity from customers with qualifying on-site generation facilities.	To revise the price to be paid by the Company under Service Classification No. 10. for qualifying purchases of unforced capacity
*PSC-18-20-00015-P	..... exempt	Participation of Eligible Telecommunications Carriers (ETCs) in New York State Lifeline Program.	Commission will consider each petition filed by an ETCs seeking approval to participate in the NYS Lifeline program.
*PSC-19-20-00004-P	..... exempt	Clarification of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether energy service companies should be permitted to bank RECs to satisfy their renewable energy requirements.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
*PSC-19-20-00005-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To provide cost recovery for new DLM programs and prevent double compensation to participating customers.
*PSC-19-20-00009-P	..... exempt	Cost recovery associated with Day-Ahead-DLM and Auto-DLM programs, and elimination of double compensation.	To consider revisions to P.S.C. No. 10 - Electricity, and P.S.C. No. 12 - Electricity.
*PSC-21-20-00008-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
*PSC-23-20-00008-P	..... exempt	Disposition of sales tax refund and other related matters.	To consider the appropriate allocation of the sales tax refund proceeds while balancing ratepayer and shareholder interests.
PSC-25-20-00010-P	..... exempt	Whitepaper regarding energy service company financial assurance requirements.	To consider the form and amount of financial assurances to be included in the eligibility criteria for energy service companies.
PSC-25-20-00016-P	..... exempt	Modifications to the Low-Income Affordability program.	To address the economic impacts of the COVID-19 pandemic.
PSC-27-20-00003-P	..... exempt	To make the uniform statewide customer satisfaction survey permanent.	To encourage consumer protections and safe and adequate service.
PSC-28-20-00022-P	..... exempt	Compensation of distributed energy resources.	To ensure just and reasonable rates, including compensation, for distributed energy resources.
PSC-28-20-00034-P	..... exempt	Petition to implement Section 7(5) of the Accelerated Renewable Energy Growth and Community Benefit Act	To develop the bulk transmission investments necessary to achieve the Climate Leadership and Community Protection Act goals
PSC-31-20-00008-P	..... exempt	Submetering of electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-34-20-00004-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-34-20-00005-P	..... exempt	Petition to provide a renewable, carbon-free energy option to residential and small commercial full-service customers.	To increase customer access to renewable energy in the Consolidated Edison Company of New York, Inc. service territory.
PSC-37-20-00006-P	..... exempt	Con Edison's petition for a proposed Non-Pipeline Solutions portfolio and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
PSC-38-20-00004-P	..... exempt	The annual Reconciliation of Gas Expenses and Gas Cost Recoveries.	To consider filings of LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.
PSC-40-20-00003-P	..... exempt	NYSEG's petition for a proposed Non-Pipeline Alternatives portfolio of projects and associated budget.	To provide for continued service reliability and to meet customer energy needs while addressing greenhouse gas reduction goals.
PSC-40-20-00004-P	..... exempt	Minor rate filing.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-40-20-00006-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-41-20-00010-P	..... exempt	Disposition of a \$50 million municipal tax refund	To consider a disposition of a municipal tax refund for customer and company benefit
PSC-42-20-00006-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$41.8 million (or 9.8% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-42-20-00008-P	..... exempt	Availability of gas leak information to the public safety officials.	Facilitate availability of gas leak information to public safety officials by gas corporations.
PSC-42-20-00009-P	..... exempt	Proposed major rate increase in National Grid's delivery revenues of approximately \$100.4 million (or 3.2% in total revenues).	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-43-20-00003-P	..... exempt	The use of \$50 million to support residential and commercial customers experiencing financial hardship	To consider whether the proposed support of ratepayers is in the public interest
PSC-44-20-00007-P	..... exempt	Establishment of the regulatory regime applicable to an approximately 90.5 MW electric generating facility.	Consideration of a lightened regulatory regime for an approximately 90.5 MW electric generating facility.
PSC-44-20-00009-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-45-20-00003-P	..... exempt	Petition to submeter electricity	To ensure adequate submetering equipment and consumer protections are in place
PSC-45-20-00004-P	..... exempt	Major gas rate filing	To consider an increase in Central Hudson's gas delivery revenues
PSC-45-20-00005-P	..... exempt	Major electric rate filing	To consider an increase in Central Hudson's electric delivery revenues
PSC-46-20-00005-P	..... exempt	The recommendations of the DPS Staff report to improve Hudson Valley Water's service.	To determine if approving the DPS Staff's recommendations is in the public interest.
PSC-47-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-47-20-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-20-00004-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-48-20-00005-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether Chief Energy Power, LLC should be permitted to offer green gas products to mass market customers.
PSC-48-20-00007-P	..... exempt	Tariff modifications to change National Fuel Gas Distribution Corporation's Monthly Gas Supply Charge provisions.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-49-20-00007-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-51-20-00006-P	..... exempt	Notice of intent to submeter electricity and waiver of energy audit requirement.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-20-00007-P	..... exempt	Whitepaper on the ACOS method used by utilities in developing Standby and Buyback Service rates.	To standardize the utility ACOS methods and resulting rates, and to enable stand-alone energy storage systems.
PSC-51-20-00009-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether petitioner should be permitted to offer its "Energy Savings Program" to mass market customers.
PSC-51-20-00010-P	..... exempt	Petition to submeter electricity and request for waiver.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-51-20-00014-P	..... exempt	Electric system needs and compensation for distributed energy resources.	To ensure safe and adequate service and just and reasonable rates, including compensation, for distributed energy resources.
PSC-52-20-00002-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-52-20-00003-P	..... exempt	Notice of intent to submeter electricity and waiver request.	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-52-20-00004-P	..... exempt	Use of pipeline refund.	To consider how a pipeline refund of \$2.26 million will be utilized by National Fuel.
PSC-52-20-00008-P	..... exempt	Transfer of a natural gas pipeline and the associated certificate, and application of lightened and incidental regulation.	To determine whether the requested transfers and regulatory treatment are consistent with the law and the public interest.
PSC-52-20-00009-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-52-20-00011-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-01-21-00004-P	..... exempt	Partial waiver of the Order Adopting Changes to the Retail Access Energy Market and Establishing Further Process.	To consider whether petitioner should be permitted to offer its Home Warranty product to mass market customers.
PSC-01-21-00006-P	..... exempt	A debt financing arrangement with respect to an electric transmission line under development.	To review the proposed financing and consider whether it is within the public interest.
PSC-01-21-00007-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-02-21-00006-P	..... exempt	Disposition of a sales tax refund received by New York American Water, Inc.	To determine the disposition of tax refunds and other related matters.
PSC-03-21-00006-P	..... exempt	Comprehensive study to identify distribution and transmission investments in accordance with the AREGCB Act.	To support distribution and local transmission investments necessary to achieve the State's climate goals.
PSC-03-21-00007-P	..... exempt	Waiver of certain rules, i.e., 7-day installation requirements pertaining to cable television franchise.	To determine whether to waive any rules and regulations.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-04-21-00016-P	..... exempt	Request for a waiver.	To consider whether good cause exists to support a waiver of the Commission's Test Period Policy Statement.
PSC-04-21-00017-P	..... exempt	Funding and management of the the Clean Energy Fund portfolio.	To review NYSEERDA's proposed modifications to the Clean Energy Fund portfolio and determine whether the changes are acceptable.
PSC-04-21-00020-P	..... exempt	NFG's Implementation Plan and audit recommendations.	To consider to implement the management audit recommendations.
PSC-05-21-00004-P	..... exempt	Alternative proposal for net crediting billing.	To facilitate development of and participation in Community Distributed Generation projects.
PSC-05-21-00005-P	..... exempt	The applicable regulatory regime under the Public Service Law for the owner of a merchant electric generating facility.	Consideration of a lightened regulatory regime for the owner of an approximately 100 MW electric generating facility.
PSC-05-21-00006-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-05-21-00007-P	..... exempt	Petition to amend bill estimation procedures.	To consider the petition of Central Hudson Gas & Electric Corporation to amend its current bill estimation procedures.
PSC-05-21-00008-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-05-21-00012-P	..... exempt	The electric utilities' 2021 Electric Emergency Response Plans.	To consider the adequacy of the proposed 2021 Electric Emergency Response Plans.
PSC-06-21-00009-P	..... exempt	Disposition of a property tax refund received by New York American Water, Inc.	To determine the disposition of tax refunds and other related matters.
PSC-06-21-00011-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-07-21-00005-P	..... exempt	Staff Whitepaper recommending modifications to the utility's energy affordability program.	To consider updates and enhancements to the utility's low-income energy affordability program.
PSC-07-21-00007-P	..... exempt	Conditioned pre-approval of stock transactions of regulated entities.	To consider allowing stock transactions within statutory parameters without Commission approval for individual transactions.
PSC-08-21-00003-P	..... exempt	Utility-owned ESR participation in the New York Independent System Operator, Inc. (NYISO) administered wholesale markets.	To consider if National Grid should use a ESR in NYISO markets, and whether any conditions are appropriate for such use.
PSC-08-21-00006-P	..... exempt	Transfer of street lighting facilities.	To determine whether to transfer street lighting facilities and the proper accounting for the transaction.
PSC-09-21-00002-P	..... exempt	Gas moratorium procedures	To consider procedures and criteria to minimize customer hardships in the unlikely event of a future gas moratorium
PSC-09-21-00003-P	..... exempt	Proposed filing to modify language to reflect upgrades being made to its Legacy Customer Information System.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-09-21-00004-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-09-21-00005-P	..... exempt	Utility capital expenditure proposal.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-09-21-00006-P	..... exempt	Long-term gas system planning.	To consider a process to review gas distribution utilities' long-term system planning.
PSC-09-21-00007-P	..... exempt	Proposed filing to modify language to reflect upgrades being made to its Legacy Customer Information System.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-10-21-00007-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-10-21-00008-P	..... exempt	Waiver of tariff rules and a related Commission regulation.	To consider whether a waiver of tariff rules and a Commission regulation are just and reasonable and in the public interest.
PSC-10-21-00009-P	..... exempt	Gas Demand Response Pilot Program.	To provide promote natural gas system reliability by encouraging reductions of natural gas demand during peak gas demand days.
PSC-11-21-00003-P	..... exempt	NYSEG and RG&E's petition for a waiver of its customer service quality performance.	To determine if NYSEG and RG&E's petition for waiver is in the public interest.
PSC-11-21-00004-P	..... exempt	Pre-authorization to transfer certain cybersecurity related equipment to other utilities participating in the CMA program.	To enhance the reliability of the energy system by enabling transfers of certain equipment to other participating utilities.
PSC-11-21-00005-P	..... exempt	Peition concerning tariff amendments regarding billing of transformer losses.	To ensure that the National Grid tariff contains appropriate provisions for the billing of transformer losses.
PSC-12-21-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-12-21-00009-P	..... exempt	Transfer of ownership interests and facilities associated with three nuclear generating units, funds, and storage facilities.	To ensure appropriate regulatory review, oversight, and action concerning the proposed transfer to serve the public interest.
PSC-13-21-00016-P	..... exempt	Revised distribution strategies and reallocation of remaining funding.	To ensure the appropriate use of funding reserved for gas safety programs.
PSC-13-21-00017-P	..... exempt	The applicable regulatory regime under the Public Service Law for the owner of an energy storage facility.	Consideration of a lightened regulatory regime for the owner of an approximately 100 MW energy storage facility.
PSC-13-21-00018-P	..... exempt	Compensation of and incentives for distributed energy resources.	To encourage the development of and ensure just and reasonable rates for distributed energy resources.
PSC-13-21-00019-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-13-21-00020-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-13-21-00021-P	..... exempt	Headroom analyses of local transmission and distribution system to support additional renewable energy generation.	To support distribution and local transmission investments necessary to achieve the the State's climate goals.
PSC-13-21-00022-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-13-21-00023-P	..... exempt	Petition for the use of steam metering equipment.	To ensure that consumer bills are based on accurate measurements of steam usage.
PSC-14-21-00003-P	..... 04/07/22	More specific requirements for Operator Qualification to work on pipelines. Allows applications for "special permits."	To make the provision of natural gas service safer in New York State with better qualified pipeline workers.
PSC-14-21-00008-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-14-21-00009-P	..... exempt	Tariff amendments regarding the Clean Energy Standard Supply Surcharge.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-15-21-00006-P	..... exempt	Proposed sale of the Company's stock to the Buyers.	To determine if sale of the Company's stock to the Buyers is in the public interest.
PSC-15-21-00007-P	..... exempt	The applicable regulatory regime under the Public Service Law for the owner of a merchant electric generating facility.	Consideration of a lightened regulatory regime.
PSC-15-21-00008-P	..... exempt	Transfer easement of transmission right-of-way.	To consider the proposed easement and the proper accounting treatment.
PSC-15-21-00009-P	..... exempt	Proposed filing to account for the acquisition of DTI by EGTS.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-15-21-00010-P	..... exempt	Proposed filing to account for the acquisition of DTI by EGTS.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-15-21-00011-P	..... exempt	Tariff rate modifications for net metered distributed energy resources.	To implement just and reasonable rates for distributed energy resources.
PSC-16-21-00005-P	..... exempt	Tier 2 Maintenance Tier Program of the Renewable Energy Standard.	To promote and maintain renewable electric energy resources.
PSC-16-21-00006-P	..... exempt	The appropriate level of community credit capacity for distributed energy generation projects in the territory.	Consideration of an increase in the community credit capacity for distributed generation projects in the territory.
PSC-16-21-00007-P	..... exempt	Accounting-related rules for utilities implementing the Integrated Energy Data Resource.	To consider cost recovery of capital expenditures and budget allocations of costs between affiliated companies.
PSC-16-21-00008-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-16-21-00009-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-16-21-00010-P	..... exempt	Petition to submeter electricity and request for waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-16-21-00011-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-17-21-00002-P	..... exempt	Changes to PSL Section 66-p relating to billing information for residential rental premises.	To establish provisions as necessary to effectuate PSL Section 66-p.
PSC-17-21-00003-P	..... exempt	Notice of intent to submeter electricity and waiver of 16 NYCRR § 96.5(k)(3).	To ensure adequate submetering equipment, consumer protections and energy efficiency protections are in place.
PSC-17-21-00004-P	..... exempt	Waiver of tariff rules.	To consider whether a waiver of tariff rules is just and reasonable and in the public interest.
PSC-17-21-00005-P	..... exempt	Submetering equipment.	To consider use of submetering equipment and if it is in the public interest.
PSC-17-21-00006-P	..... exempt	Community Choice Aggregation and Community Distributed Generation.	To consider permitting opt-out Community Distributed Generation to be offered as the sole product in an aggregation.
PSC-17-21-00007-P	..... exempt	Utility studies of climate change vulnerabilities.	To assess the need for utilities to conduct distinct studies of their climate change vulnerabilities.
PSC-17-21-00008-P	..... exempt	Issuance of securities and other forms of indebtedness.	To provide funding for capital needs, including construction, refinancing of maturing debt.
PSC-18-21-00004-P	..... exempt	Community Choice Aggregation programs.	To modify and improve Community Choice Aggregation programs in New York State.
PSC-18-21-00005-P	..... exempt	Proposed transfer of the Company's capital stock to the Purchaser.	To determine if transfer of the Company's capital stock to the Purchaser is in the public interest.
PSC-18-21-00006-P	..... exempt	Community Choice Aggregation renewable products.	To consider waiving the locational and delivery requirements for RECs purchased to support renewable CCA products.
PSC-18-21-00007-P	..... exempt	System modernization tracker (SMT) recovery period amendment.	To determine whether to extend the recovery period associated with the SMT's leak prone pipe replacement costs.
PSC-18-21-00008-P	..... exempt	RG&E's Economic Development Programs and exemption from funding limits.	To consider RG&E to grant up to \$5.25 million in ED funding to Project Block to the benefit of ratepayers.
PSC-19-21-00006-EP	..... exempt	Waiver of a tariff rule.	To financially assist customers in a time of hardship.
PSC-19-21-00007-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-19-21-00008-P	..... exempt	Community Choice Aggregation (CCA) and Community Distributed Generation (CDG).	To consider permitting Upstate Power, LLC to serve as a CCA administrator offering an opt-out CDG focused program.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-19-21-00009-P	..... exempt	Major electric rate filing.	To consider an increase in O&R's electric delivery revenues.
PSC-19-21-00010-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-19-21-00011-P	..... exempt	Debt financing arrangement.	To review the proposed financing and consider whether authorization is within the public interest.
PSC-19-21-00012-P	..... exempt	Major gas rate filing.	To consider an increase in O&R's gas delivery revenues.
PSC-19-21-00013-P	..... exempt	The proposed transfer of ownership interests and debt financing arrangement related to certain electric generating facilities.	To determine whether the proposed transfer of ownership interests and financing arrangement are in the public interest.
PSC-20-21-00003-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-20-21-00004-P	..... exempt	Regulatory approvals in connection with a 437 MW electric generating facility.	To ensure appropriate regulatory review, oversight, and action, consistent with the public interest.
PSC-21-21-00012-P	..... exempt	Petition for the use of gas metering equipment.	To ensure that consumer bills are based on accurate measurements of gas usage.
PSC-21-21-00013-P	..... exempt	The Competitive Tier 2 program adopted in the Commission's Order Adopting Modifications to the Clean Energy Standard.	To determine the process for the resale of environmental attributes procured under the Competitive Tier 2 program.
PSC-21-21-00014-P	..... exempt	Transfer of excess development rights associated with utility property.	To determine whether to authorize the transfer of excess development rights associated with utility property.
PSC-21-21-00015-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-21-21-00016-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-21-21-00017-P	..... exempt	Petition to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-21-21-00018-P	..... exempt	Transfer of street lighting facilities.	To determine whether to authorize the transfer street of lighting facilities and the proper accounting for the transaction.
PSC-21-21-00019-P	..... exempt	Utility capital expenditure proposal.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-21-21-00020-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
PSC-22-21-00006-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
PUBLIC SERVICE COMMISSION			
PSC-22-21-00007-P	..... exempt	The applicable regulatory regime under the Public Service Law for the owner of a merchant electric generating facility.	Consideration of a lightened regulatory regime for the owner of an approximately 7.6 mile, 13 kV AC electric cable.
PSC-22-21-00008-P	..... exempt	Cost allocation for project(s) to meet a Public Policy Transmission Need/Public Policy Requirement.	To address the cost allocation methodology for use by the New York Independent System Operator, Inc. (NYISO).
PSC-23-21-00002-P	..... exempt	Waiver for allocation of natural gas to commercial and industrial economic development customers.	To provide commercial and industrial economic development customers access to natural gas.
PSC-23-21-00003-P	..... exempt	Petitions for rehearing of the Order Adopting a Data Access Framework and Establishing Further Process.	To consider modifications and/or clarifications to the Order Adopting a Data Access Framework and Establishing Further Process.
PSC-23-21-00004-P	..... exempt	Establishing an alternative recovery mechanism for certain types of fees.	To ensure safe and adequate service at just and reasonable rates charged to customers without undue preferences.
PSC-23-21-00005-P	..... exempt	Issuance of securities and other forms of indebtedness.	To provide funding for capital needs, including construction, refinancing of maturing debt.
PSC-23-21-00010-P	..... 06/09/22	Technical amendments of state regulations and administrative corrections.	To make the provisions of natural gas service safer in New York State.
PSC-24-21-00005-P	..... exempt	Notice of intent to submeter electricity.	To ensure adequate submetering equipment and consumer protections are in place.
STATE, DEPARTMENT OF			
DOS-05-21-00013-P	..... 02/03/22	Requirements and procedures related to filing, review and publication of financial reports filed with the Department of State	To provide procedures related to the filing, review and publication of financial reports filed with the Department of State
DOS-12-21-00010-P	..... 05/27/22	New York State Uniform Fire Prevention and Building Code (the Uniform Code)	To amend the existing Uniform Code to add specific provisions applicable to rail stations
DOS-19-21-00014-P	..... 07/15/22	Minimum standards for administration and enforcement of the Uniform Code and Energy Code	To revise the minimum standards applicable to a program for administration and enforcement of the Uniform Code and Energy Code
STATE UNIVERSITY OF NEW YORK			
*SUN-53-19-00005-P	..... 07/24/21	Proposed amendments to the traffic and parking regulations at State University Agricultural and Technical College at Morrisville	Amend existing regulations to update traffic and parking regulations
SUN-29-20-00004-EP	..... 07/24/21	State basic financial assistance for the operating expenses of community colleges under the program of SUNY and CUNY	To modify limitations formula for basic State financial assistance and remove an operating support "floor"
SUN-29-20-00005-EP	..... 07/24/21	Student Assembly Elections, Student Assembly Officers, Campus Government Elections, Student Activity Fees	To postpone voting on student activity fees and elections of Student Assembly representatives and officers until Fall 2020
SUN-11-21-00006-EP	..... 03/17/22	Gender Neutral Bathrooms	To conform with legislation requiring SUNY state-operated campuses to designate all single occupancy bathrooms as gender neutral

Action Pending Index**NYS Register/June 16, 2021**

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
STATE UNIVERSITY OF NEW YORK			
SUN-17-21-00014-EP	04/28/22	Holiday Leave	To designate Juneteenth as a holiday for SUNY employees
SUN-17-21-00015-EP	04/28/22	Appointment of Employees; Eligibility	To allow for the addition of one year to the service limits for faculty hired between May 20, 2020 - June 30, 2021
SUN-20-21-00005-EP	05/19/22	State basic financial assistance for the operating expenses of community colleges under the programs of SUNY and CUNY	To modify limitations formula for basic State financial assistance and establish a funding floor
SUN-24-21-00002-EP	06/16/22	Gender Neutral Bathrooms	To conform with legislation requiring SUNY state-operated campuses to designate all single occupancy bathrooms as gender neutral
STATEN ISLAND RAPID TRANSIT OPERATING AUTHORITY			
SIR-39-20-00008-EP	09/30/21	Requiring mask wearing covering the nose and mouth when using terminals, stations and trains operated by SIRTOA.	To safeguard the public health and safety by amending rules to require the use of masks when using terminals and stations.
TAXATION AND FINANCE, DEPARTMENT OF			
TAF-46-20-00003-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period January 1, 2021 through March 31, 2021
TAF-21-21-00005-P	exempt	Fuel use tax on motor fuel and diesel motor fuel and the art. 13-A carrier tax jointly administered therewith	To set the sales tax component and the composite rate per gallon for the period July 1, 2021 through September 30, 2021
TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF			
TDA-13-21-00010-P	03/31/22	Establishment of parentage	To amend state regulations for the establishment of paternity to reflect federal and recently-enacted state statutory requirements, to coordinate and update terminology used by the Child Support Program, and to conform regulatory citations with state laws
TRANSPORTATION, DEPARTMENT OF			
TRN-14-21-00004-P	04/07/22	Regulation of commercial motor carriers in New York State	The rule making updates Title 49 CFR provisions incorporated by reference pursuant to regulation of commercial motor carriers
WORKERS' COMPENSATION BOARD			
WCB-28-20-00003-EP	07/24/21	Adding COVID-19 diagnosis by a health care provider as a serious health condition for purposes of Paid Family Leave	To clarify that employees may take PFL to care for a family member with COVID-19
WCB-42-20-00004-P	10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs
WCB-42-20-00005-RP	10/21/21	Medical Treatment Guidelines	To add PTSD and acute stress disorder, and major depressive disorder MTGs

Agency I.D. No.	Expires	Subject Matter	Purpose of Action
WORKERS' COMPENSATION BOARD			
WCB-06-21-00013-P	02/10/22	Medical Treatment Guidelines	To update back, neck, shoulder, knee, and NAP MTGs
WCB-13-21-00002-EP	03/31/22	Ambulatory surgery services fees	To update fees for ambulatory surgery services fees, especially due to the COVID-19 pandemic
WCB-13-21-00003-EP	03/31/22	Designated contact information	To provide a compliance date for carriers, self-insured employers, or TPAs to designate points of contact in the PAR process
WCB-13-21-00004-EP	03/31/22	Notice as required for compliance with the Formulary	To provide a compliance date for carriers, self-insured employers, or TPAs to provide notice as required by 12 NYCRR 441.3(f)
WCB-13-21-00009-P	03/31/22	Updating the prescription drug formulary prior authorization process	To include medical marijuana in the prior authorization process
WCB-15-21-00003-P	04/14/22	Medical Treatment Guidelines	To update the NAP MTGs
WCB-21-21-00011-P	05/26/22	PFL intermittent leave	To clarify the number of intermittent leave days eligible employees can take

GUIDANCE DOCUMENTS

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)].

New York State Thruway Authority

Document Name	Document Number
Appendix A “Construction Contracts and Federally Funded Procurement Contracts”	TAP-327
Application for an Extension of Completion Date	TA-E44135
ASSISST Program Application/Permit	TA-E4109
Authorized Service Provider E-ZPass Revenue Plan	TA-E63230
Authorized Service Provider Non-Revenue E-ZPass Application/ChangeNotice	TA-E63229
Diversity Questionnaire - Broker/Dealer	TA-E3209
Farm Market Criteria	None
Procession Pre-Authorization	TA-E63231
Return of Report of Assistance by Fire/Ambulance Service	TA-E68171
Special Hauling Permit Application	TA-6801
Surviving Spouse Non-Revenue E-ZPass Tag Application/Change Notice	TA-5076-9
Traffic Safety Violation Appeal	TA-E6869
Twelve-Month Renewable Permit to Transport Class 1. Division 1.1 - 1.3 Explosives	TA-E6899
Undertaking for Bank Deposits and Assignment of Securities	TA-E5112

SECURITIES OFFERINGS

STATE NOTICES

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

DEALERS; BROKERS

740 Plankinton JV Investors, LLC
6250 N. River Rd., Suite 2033, Ros Mont, IL 60018
State or country in which incorporated — Delaware limited liability company

Assured Information Security, Inc.
153 Brooks Rd., Rome, NY 13441
State or country in which incorporated — New York

Brinker Capital Destinations Trust
1055 Westlakes Dr., Suite 250, Berwyn, PA 19312
State or country in which incorporated — Delaware

Clean Vision Corporation
2711 Sepulveda Blvd., Manhattan Beach, CA 90266
State or country in which incorporated — Nevada

CX Multifamily Portfolio Depositor, LLC
4890 W. Kennedy Blvd., Suite 200, Tampa, FL 33609
State or country in which incorporated — Delaware

E-Valuator Funds Trust
7760 France Ave. S, Suite 620, Bloomington, MN 55437
State or country in which incorporated — Delaware

Epiphany Capital, LP
c/o Epiphany Capital Management, LLC, 2980 NE 207th St., Suite
334, Aventura, FL 33180
Partnership — Epiphany Capital Management, LLC

Inland Securities Corporation
2901 Butterfield Rd., Oak Brook, IL 60523
State or country in which incorporated — Delaware

La Deara Crest 246 LLC
9935-D Rea Rd., Charlotte, NC 28277
State or country in which incorporated — North Carolina

Mathoda Partners LP
c/o Mathoda Capital LLC, 49 Clayton Blvd., #1711, Baldwin Place,
NY 10505
Partnership — Mathoda Capital LLC

Phoenix Realty Group LLC
551 Madison Ave., 8th Fl., New York, NY 10022

Portrait Investor, LLC
5728 Lyndon B Johnson Fwy., Suite 400, Dallas, TX 75240

Private Shares Fund, The
1150 Bayhill Dr., San Bruno, CA 94066
State or country in which incorporated — Delaware

Raadr, Inc.
One W. Deer Valley Rd., Suite 105, Phoenix, AZ 85027
State or country in which incorporated — Nevada

Regency Park Associates, LLC
1600 SW Cedar Hills Blvd., Suite 101B, Portland, OR 97225
State or country in which incorporated — Oregon limited liability company

River Oaks Apartments Lafayette, LLC
6811 E. Olive Ave., Fresno, CA 93727
State or country in which incorporated — Texas

Sage Hall Partners Fund I LP
430 Claflin Ave., Mamaroneck, NY 10543
Partnership — Sage Hall Partners Fund I GP LLC

SLF Fixed Income Fund I, LLC
16829 W. 116th St., Lenexa, KS 66219
State or country in which incorporated — Kansas limited liability Company

Tap Naga Portfolio LLC
135 Rockaway Tpke., Suite 105, Lawrence, NY 11559
State or country in which incorporated — South Carolina

Valiant Eagle, Inc.
6320 Canoga Ave., Suite 1564, Woodland Hills, CA 91367
State or country in which incorporated — Delaware

Vivo Apartments Bloomington LLC
16150 SW Upper Boones Ferry Rd., Portland, OR 97224
State or country in which incorporated — Delaware

Vivo Apartments Omaha LLC
16150 SW Upper Boones Ferry Rd., Portland, OR 97224
State or country in which incorporated — Delaware

Wait What Inc.
395 Hudson St., 8th Fl., New York, NY 10014
State or country in which incorporated — Delaware

ADVERTISEMENTS FOR BIDDERS/CONTRACTORS

SEALED BIDS

REPLACE ROOF

New York State Capitol
Albany, Albany County

Sealed bids for Project Nos. 45723-C, 45723-E and 45723-H, comprising separate contracts for Construction Work, Electrical Work, and HVAC Work, Replace Roof, Center Courtyard, Main Floor, New York State Capitol, State Street, Albany (Albany County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of General Services, until 2:00 p.m. on Thursday, July 1, 2021, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$149,600 for C, \$15,600 for E, and \$14,700 for H).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$5,000,000 and \$6,000,000 for C, between \$100,000 and \$250,000 for E, and between \$100,000 and \$250,000 for H.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting, on the OGS website, in a newspaper of general circulation, or in the Contract Reporter of written notice, advertisement or solicitation of offers through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862, John Lewyckyj, Acting Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650, and Douglas Arena of Bell & Spina. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for contract award and in the event of two findings within a four-year period, the bidder will be debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <http://www.ogs.ny.gov/aboutOGS/regulations/defaultAdvisoryCouncil.html>

The substantial completion date for this project is December 31, 2022. Due to the tightness of the construction schedule, bidders should consider the necessity for an increased work force and shift operations.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or af-

ter January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

Project commenced design before January 1, 2020. Not subject to provision.

Project commenced design on or after January 1, 2020. Subject to provision.

As a condition of award, within 48 hours of receipt of the proposed Contract Agreement from the State, the apparent low bidder shall return the Contract Agreement to the State, properly executed, along with the Bonds if required by said Agreement. Low bidders who cannot meet these provisions may be subject to disqualification and forfeiture of the bid security.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at the following scheduled days/times: June 17, 2021 and June 18, 2021 at either 8:00 a.m., 10:00 a.m., or 1:00 p.m. Prospective bidders are urged to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles will be subject to search.

Phone the office of Sharon Schumann, (518) 474-5584 a minimum of 72 hours in advance of the date to provide the names of those who will attend the pre-bid site visit. Refer to Document 002218 – Supplementary Instructions to Bidders - Pre-Bid Site Visit for additional requirements.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority- and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work and an overall goal of 10% for MWBE participation, 5% for Minority-Owned Business Enterprises ("MBE") participation and 5% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Electrical Work and HVAC Work. The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available on compact disc (CD) only and may be obtained for an \$8.00 deposit per set, plus a \$2.00 per set shipping and handling fee. Pursuant to

State Finance Law § 143(1), effective January 11, 2020, the required deposit will be waived upon request by any Minority- and Women-Owned Business Enterprise certified pursuant to Article 15-A of the Executive Law or any Service-Disabled Veteran-Owned Business Enterprise certified pursuant to Article 17-B of the Executive Law. Contractors and other interested parties can order CDs on-line through a secure web interface available 24 hours a day, 7 days a week. Please use the following link at the OGS website for ordering and payment instructions: <https://ogs.ny.gov/design-construction/construction-contractors>

Due to the sensitivity of the project location, all entities requesting Bidding and Contract Documents must certify that copies of Bidding and Contract Documents provided on CD will not be shared with non-affiliated entities. If copies are distributed or shared with non-affiliated entities (subcontractors and/or suppliers), it is the responsibility of the entity that purchased the CD to provide an amended certification stating the name and address of the non-affiliated entity that has been provided Bidding and Contract Documents. The form of certification will be provided prior to the release of the requested Bidding and Contract Documents.

For questions about purchase of bid documents, please send an e-mail to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By *John D. Lewyckyj, Deputy Director*
OGS - Design & Construction Group

PROVIDE
WATER TREATMENT SYSTEM
Camp Smith Training Site
Cortlandt Manor, Westchester County

Sealed bids for Project No. 47054-C and 47054-E, comprising a contract for Construction Work and Electrical Work, Provide Water Treatment System, Camp Smith Training Site, 11 Bear Mountain Bridge Road, Cortlandt Manor (Westchester County), NY will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Division of Military and Naval Affairs, until 2:00 p.m. on Wednesday, June 30, 2021, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$ 44,400 for C, and \$7,600 for E).

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract estimated to be between \$1,000,000 and \$2,000,000 for C, and between \$50,000 and \$100,000 for E.

Pursuant to State Finance Law §§ 139-j and 139-k, this solicitation includes and imposes certain restrictions on communications between OGS D&C and a bidder during the procurement process. A bidder is restricted from making contacts from the earliest posting on the OGS website, in a newspaper of general circulation, or in the Contract Reporter, of written notice, advertisement or solicitation of offers, through final award and approval of the contract by OGS D&C and the Office of the State Comptroller ("Restricted Period") to other than designated staff, unless it is a contact that is included among certain statutory exceptions set forth in State Finance Law § 139-j(3)(a). Designated staff are John Pupons, Jessica Hoffman and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862, and John Lewyckyj, Acting Director, Design & Construction Group, telephone (518) 474-0201, fax (518) 486-1650. OGS D&C employees are also required to obtain certain information when contacted during the restricted period and to make a determination of the responsibility of the bidder pursuant to these two statutes. Certain findings of non-responsibility can result in rejection for

contract award and in the event of two findings within a four-year period, the bidder is debarred from obtaining governmental Procurement Contracts. Bidders responding to this Advertisement must familiarize themselves with the State Finance Law requirements and will be expected to affirm that they understand and agree to comply on the bid form. Further information about these requirements can be found within the project manual or at: <https://ogs.ny.gov/ACPL/>

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

Project commenced design before January 1, 2020. Not subject to provision.

Project commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 421 days after the Agreement is approved by the Comptroller.

As a condition of award, within 48 hours of receipt of the proposed Contract Agreement from the State, the apparent low bidder shall return the Contract Agreement to the State, properly executed, along with the Bonds if required by said Agreement. Low bidders who cannot meet these provisions may be subject to disqualification and forfeiture of the bid security.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be on June 16, 2021 at 9:00 a.m., 11:00 a.m. and 1:30 p.m. at 11 Bear Mountain Bridge Rd, Water Treatment Plant, Cortlandt Manor, NY. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply, and all vehicles will be subject to search.

Phone the office of Matthew Vondras; (914) 727-0143 a minimum of 72 hours in advance of the date to provide the names of those who will attend the pre-bid site visit. Only contractors that schedule a visit at least 72 hours in advance will be allowed to participate in the pre-bid site visit. Refer to Document 002218 for any additional requirements for attendance at the pre-bid site visit.

Pursuant to New York State Executive Law Article 15-A and the rules and regulations promulgated thereunder, OGS is required to promote opportunities for the maximum feasible participation of New York State-certified Minority and Women-owned Business Enterprises ("MWBEs") and the employment of minority group members and women in the performance of OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs) for Construction Work. The total contract goal can be obtained by utilizing any combination of MBE and/or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 17-B of the New York State Executive Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 6% for the C trade contractor and 0% for the E

trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make “good faith efforts” to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Office of General Services reserves the right to reject any or all bids.

The Bidding and Contract Documents for this Project are available for viewing and downloading from OGS Design & Construction’s plan room hosting service, Bid Express. Vendors wishing to view and/or download bid documents must complete a one-time registration for the Bid Express service. There is no cost to register for Bid Express. Registration along with viewing and downloading of documents can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number: <https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

By John D. Lewyckyj, Deputy Director
OGS - Design & Construction Group

MISCELLANEOUS NOTICES/HEARINGS

Notice of Abandoned Property Received by the State Comptroller

Pursuant to provisions of the Abandoned Property Law and related laws, the Office of the State Comptroller receives unclaimed monies and other property deemed abandoned. A list of the names and last known addresses of the entitled owners of this abandoned property is maintained by the office in accordance with Section 1401 of the Abandoned Property Law. Interested parties may inquire if they appear on the Abandoned Property Listing by contacting the Office of Unclaimed Funds, Monday through Friday from 8:00 a.m. to 4:30 p.m., at:

1-800-221-9311
or visit our web site at:
www.osc.state.ny.us

Claims for abandoned property must be filed with the New York State Comptroller's Office of Unclaimed Funds as provided in Section 1406 of the Abandoned Property Law. For further information contact: Office of the State Comptroller, Office of Unclaimed Funds, 110 State St., Albany, NY 12236.

NOTICE OF PUBLIC HEARING Department of State

SUBJECT: Legislative Hearing to Review the Community Services Block Grant (CSBG) Program.

PURPOSE: To review the Community Services Block Grant Program within the State of New York.

Date: June 16, 2021
Time: 10:00 a.m.

Online: <https://assembly.state.ny.us/leg/?sh=hear>

The Community Services Block Grant (CSBG) is a federal program created by Congress for the purpose of alleviating poverty nationwide. The CSBG is administered at the Federal level by the Office of Community Services (OCS), a branch of the Administration for Children and Families (ACF) within the Department of Health and Human Services (DHHS). In New York State, the Secretary of State is charged by Article 6-D of the NY Executive Law with administration of the CSBG program in the state, including distribution of New York's federal CSBG allocation and monitoring of the recipients of those funds.

This hearing will focus on the CSBG program within the State of New York as administered by the New York State Department of State, including, but not limited to, the development of the New York State Department of State's CSBG Management Plan. The Management Plan delineates the manner in which funds will be expended and how the State will meet the federal CSBG program requirements.

Copies of the Department of State's CSBG Management Plan may be obtained from the Department of State website at: <https://dos.ny.gov/reports-management-plans-and-guides>

or by contacting: Manuel Rosa, Department of State, Division of Community Services, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-5741

Persons wishing to present pertinent testimony to the Committees at

the above hearing should contact: Jennifer Marrero, Rm. 442 - Capitol, Albany, NY 12248, (518) 455-4371, Fax: (518) 455-4693, email: marreroj@nysassembly.gov

PUBLIC NOTICE Department of State F-2021-0217

Date of Issuance – June 16, 2021

The New York State Department of State (DOS) is required by Federal regulations to provide timely public notice for the activities described below, which are subject to the consistency provisions of the Federal Coastal Zone Management Act of 1972, as amended.

The applicant has certified that the proposed activity complies with and will be conducted in a manner consistent with the approved New York State Coastal Management Program. The applicant's consistency certification and accompanying public information and data are available for inspection on the New York State Department of State's website at: <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2021-0217A.pdf> and <http://www.dos.ny.gov/opd/programs/pdfs/Consistency/F-2021-0217B.pdf>

In F-2020-0217, or the "Oak Orchard Harbor Dredging Project", the applicant – New York State Office of General Services – proposes to dredge the channel to +235.3 feet, IGLD85 (-8.0 feet LWD) in the Entrance Channel and Lake Approach Channel (LAC)-West and +236.3 feet, IGLD85 (-7.0 feet LWD) in the LAC-East, plus a 1-foot overdredge allowance. Dredged material will be placed in a nearshore placement area east of the outlet that has been utilized by the USACE during previous dredging activities and at elevations not to exceed +238.3 feet, IGLD85. The proposed project is to dredge up to approximately 8,076 cubic yards (CY) of material within the 2.91-acre dredge limits. The nearshore placement area encompasses 25.7-acres. Material will be dredged by mechanical or hydraulic methods, loaded onto transport scows and other equipment (if mechanically dredged) and placed within the placement area, or piped directly (if hydraulically dredged).

The purpose of the proposed project is to dredge the outlet of Oak Orchard Harbor to Lake Ontario and place dredged material within the Lake Ontario littoral drift system in order to maintain navigation within the channel, supplement the USACE ongoing operations and maintenance efforts with a one-time dredge event and retain sediment within the littoral drift system to support the natural longshore sediment transport. The project will occur at the outlet channel between Oak Orchard Harbor and Lake Ontario, in the Town of Carlton, Orleans County.

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, July 1, 2021.

Comments should be addressed to: Consistency Review Unit, Department of State, Planning, Development and Community Infrastructure, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-6000, fax (518) 473-2464. Electronic submissions can be made by email at: CR@dos.ny.gov

This notice is promulgated in accordance with Title 15, Code of Federal Regulations, Part 930.

PUBLIC NOTICEDepartment of State
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2021-0272 Matter of Woodhull Expediting, Amy Devito, 1031 Main Street, Port Jefferson, NY 11777, for a variance concerning safety requirements, including the ceiling height and the required height under a girder/soffit. Involved is an existing one-family dwelling located at 76 North Howells Pt. Road, Village of Bellport, NY 11713, County of Suffolk, State of New York.

2021-0273 Matter of Lidia Ruiz Raboso, 89 Charles Street, Floral Park, NY 11001, for a variance concerning safety requirements, including the required height under a girder/soffit. Involved is an existing one-family dwelling located at 89 Charles Street, Inc Village of Floral Park, NY 11001, County of Nassau, State of New York.

2021-0274 Matter of JL Drafting, Inc., John Lagoudes, 707 Route 110, Farmingdale, NY 11735, for a variance concerning safety requirements, including minimum shower dimensions. Involved is an existing one-family dwelling located at Two Collector Lane, Town of Hempstead, County of Nassau, State of New York.

2021-0275 Matter of JL Drafting Inc., John Lagoudes, 707 Route 110, Farmingdale, NY 11735, for a variance concerning safety requirements, including the ceiling height and the required height under a girder/soffit. Involved is an existing one-family dwelling located at 88 Algonquin Avenue, Massapequa, Town of Oyster Bay, NY 11758, County of Nassau, State of New York.

PUBLIC NOTICEDepartment of State
Uniform Code Variance/Appeal Petitions

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2021-0278 In the matter of Brian Corbin, Unit Four, 404 North Cayuga Street, Ithaca, NY 14850, for a variance for diminutive code issues concerning handrail and guardrail height at 402 North Cayuga Street, City of Ithaca, Tompkins County, State of New York.

2021-0279 In the matter of Brian Corbin, Unit Four, 404 North Cayuga Street, Ithaca, NY 14850, for a variance for diminutive code issues concerning handrail and guardrail height at 404 North Cayuga Street, City of Ithaca, Tompkins County, State of New York.

PUBLIC NOTICEDepartment of State
Uniform Code Variance/Appeal Petitions

Pursuant to 19 NYCRR Part 1205, the variance and appeal petitions below have been received by the Department of State. Unless otherwise indicated, they involve requests for relief from provisions of the New York State Uniform Fire Prevention and Building Code. Persons wishing to review any petitions, provide comments, or receive actual notices of any subsequent proceeding may contact Brian Tollisen or Neil Collier, Building Standards and Codes, Department of State, One Commerce Plaza, 99 Washington Ave., Albany, NY 12231, (518) 474-4073 to make appropriate arrangements.

2021-0280 Matter of Buffalo Niagara Airport located at 4200 Genessee Street, Town of Cheektowaga (County of Erie), NY, for a variance concerning egress unit door locking system requirements. (Board Variance)